



# 2013

## ANNUAL REPORT



ΕΠΙΤΡΟΠΗ  
ΚΕΦΑΛΑΙΑΓΟΡΑΣ  
ΚΥΠΡΟΥ

CYPRUS SECURITIES AND EXCHANGE COMMISSION

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This is an unofficial translation of Annual Report. The official language is Greek.

# ABBREVIATIONS

- AIFM** : Alternative Investment Fund Manager  
**AIFMD** : Alternative Investment Fund Managers Directive  
**AIFs** : Alternative Investment Funds  
**ASPs** : Administrative Service Providers  
**CIF** : Cypriot Investment Firm  
**CIPA** : Cyprus Investment Promotion Agency  
**CRAs** : Credit Rating Agencies  
**CSE** : Cyprus Stock Exchange  
**CySEC** : Cyprus Securities and Exchange Commission  
**EBA** : European Banking Authority  
**EIOPA** : European Insurance and Occupational Pensions Authority  
**ESMA** : European Securities and Markets Authority  
**ESRB** : European Systemic Risk Board  
**EU** : European Union  
**ICF** : Investors' Compensation Fund  
**ICPAC** : The Institute of Certified Public Accountants of Cyprus  
**IF** : Investment Firm  
**IOSCO** : International Organization of Securities Commissions  
**MTF** : Multilateral Trading Facility  
**UCITS** : Undertakings for Collective Investments in Transferable Securities  
**UNSC** : United Nations Security Council  
**EU** : European Union



The year 2013 was for Cyprus, the economy and for each one of us separately, a very difficult year, during which the Cyprus Securities and Exchange Commission (CySEC), was faced with overwhelming negative developments and unprecedented risks, which was called to handle. The Eurogroup's decisions in March forced us to review our priorities and find ways to respond promptly and effectively to the new challenges. The recovery of the confidence of the investors and of the public and the reinstatement of the reliability of our financial system internationally remains our first goal.

The assessment performed in this annual report includes the most important work that CySEC has done towards this goal during 2013, the priorities set for 2014 and for the next years.

Our efforts focused on minimizing the negative impact to the Cyprus economy and the relief of the entities supervised by CySEC from the adverse side effects of the Eurogroup's decision. We monitored closely and constantly the developments and informed the supervised entities on the issues that concerned them. We provided every possible assistance and mediation to solve the problems that affected the operation of the CIFs after the decisions taken in March, mainly regarding the unfreezing of their clients' funds and the recognition of the deposits maintained by CIFs as clients' funds for the purposes of the 'hair-cut' of the deposits.

Furthermore, we contributed to the smoothing of the situation by participating in forums in Cyprus and abroad which aimed at the promotion of the Cyprus capital market, we investigated, through a questionnaire, the problems faced by the professionals of the investment services sector and attempted to achieve solutions, where this was possible. At the same time, we contacted the respective Competent Authorities abroad and the European Securities and Markets Authority in order to inform them about the true state of the Cyprus Economy and face any distorting references of international media.

At the same time, we actively proceeded in a documented and impartial investigation of the cases that fall within CySEC's responsibility in order to achieve full transparency and to define responsibilities, where applicable, to enable the banking system to reinstate its credibility and the investors' confidence to the institutions. The investigations shall continue in 2014 and we aim to complete most of the investigations on issuers of securities listed in CSE, which operate in the banking sector, within the year.

In 2013, CySEC has implemented the objective set to intensify the inspections in our supervised entities regarding regulatory compliance issues. Many inspections took place for various issues that relate to the regulatory obligations of the entities supervised by CySEC. Furthermore, emphasis was given to the implementation of the modern supervision tool which is based on the risk based principle (Risk Based Supervision Framework). This tool, which shall be fully implemented by 2015, shall contribute significantly to the improvement of the supervision framework and shall assist CySEC to focus on the entities that entail the highest risks.

To ensure the smooth operation of the investment services market, CySEC, through the engagement of qualified executives, proceeded in the establishment of a new framework regarding the certification of the persons employed or wish to be employed in Cyprus Investment Firms (CIFs), Credit Institutions, Management Companies and Variable Capital Investment Companies. This project aimed to modernise the examination procedure and the creation of a public register of certified persons. Furthermore, CySEC introduced the

Continuous Professional Education obligation for these persons which aims to ensure the better compliance of the supervised entities and professionals of the sector with their legal obligations.

At the same time, in 2013, we proceeded in the implementation of the objectives set by the Council of CySEC within the context of the Strategic Planning that was prepared for this purpose.

In 2014, CySEC will mainly focus in six areas:

- Continuing the efforts to minimize the negative impact from the Eurogroup decisions.
- To complete the investigations in order to assign responsibilities and reinstate the credibility of the system.
- To ensure the compliance of the supervised entities with their obligations.
- To enhance the soundness of the regulatory framework and the effective supervision of the market.
- To upgrade the investors' education.
- To modernise the CySEC though simplifying and computerising its operations.

In spite of the difficulties and the damage in the reputation of our Country internationally, we ought to remain optimists. With the appropriate actions, we may reinstate the confidence of the markets and the investors, because, as jurisdiction, we have substantial benefits, which we should enhance and highlight.

I would like to thank the staff of CySEC for their hard work and contribution towards the fulfilment of CYSEC' objectives and express my sincere appreciation for the demanding work carried out. The support and assistance of the Vice-Chairman, the other Members of the Council of CySEC and of the Central Bank Representative have been, indisputably, valuable and I would, also, like to express my sincere thanks to them.

**Demetra Kalogerou**

Chairwoman of Cyprus Securities and Exchange Commission

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## THE COMMISSION

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The Cyprus Securities and Exchange Commission (CySEC) is a public independent supervisory Authority, responsible for the supervision of the investment services market in transferable securities and of the transactions in transferable securities carried out in the Republic of Cyprus or from the Republic of Cyprus. The CySEC was established in accordance with section 5 of the Securities and Exchange Commission (Establishment and Responsibilities) Law of 2001 as a legal entity of public Law. The operation of the CySEC is under the scope of the Law that Regulates the Structure, Responsibilities, Powers, Organisation of the Securities and Exchange Commission and Other Related Matters (L73(I)/2009), as amended.

## 2.1 VISION, MISSION AND STRATEGIC OBJECTIVES

The vision of CySEC is to establish the Cyprus capital market as one of the safest, reliable and attractive investment destinations.

The mission of CySEC is the exercise of effective supervision that ensures the protection of the investors and the sound development of the capital market.

For the achievement of its vision and the implementation of its mission, as well as the fulfilment of its legal obligations, the CySEC focuses to the implementation of five Strategic Objectives, which are the following:

- **The continuous reform of the legal and supervisory framework that governs the Cyprus capital market, in accordance with Directives, EU Regulations and the international practice.**

The implementation of this strategic objective shall ensure the high degree of investors' protection and the smooth operation of the market, as well as the compliance of the legal framework of the capital market with the European acquis.

- **To ensure the full compliance of our supervised entities with their obligations in accordance with the relevant regulatory framework**

The implementation of this strategic objective shall result in the effective supervision of our supervised entities and shall assist in the enhancement of the market confidence in the Cyprus financial system.

- **The contribution and continuous development of the investors' education system**

The implementation of this strategic objective shall improve the level of knowledge of the investors regarding investments' issues and its ability to make appropriate investment decisions.

- **The contribution to the promotion of new, sound and dynamic financial organisations**

The implementation of this strategic objective, shall contribute in the improvement of the reputation and credibility of Cyprus as investment centre and shall highlight its prospects to become an international financial centre.

- **The continuous improvement and modernisation of the operations of CySEC**

The implementation of this strategic objective shall lead to an increase in the efficiency, effectiveness and transparency of the operations and procedures of CySEC, and aims to reduce the beaurocracy and the time of execution of operations.

## 2.2 ROLE AND RESPONSIBILITIES

In accordance with the Securities and Exchange Commission Law of 2009, the CySEC is responsible to ensure the smooth operation and systematic development of the capital market and the monitoring of the transactions



in transferable securities carried out in the Republic of Cyprus. The scope of the CYSEC' supervision is, also, extended out of the Republic, regarding transactions which are performed by IF under CYSEC' supervision.

In accordance with the Cyprus Securities and Exchange Commission Law of 2009, the CySEC is responsible for the assurance of the smooth operation and systematic development of the capital market and the monitoring of the transactions in transferable securities performed in the Republic of Cyprus. The scope of its supervision is extended abroad regarding the transactions performed by the CIFs under its supervision. The CySEC exercises the powers and competencies assigned to it by the legal framework and its task is to study, suggest measures to other Competent Authorities and take measures to ensure the integrity of the performed stock exchange transactions and, in general, the assurance of the effectiveness of the capital market and its fair operation.

In order to operate properly, effectively and efficiently so that, among other things, the sufficient protection of investors is ensured, a capital market needs to have detailed rules regarding its operation and, in general, an appropriate and sufficient legal framework. This framework governs the operation of the market and all those that operate therein, for example, the issuers of securities (public companies), investment firms (IFs), investment funds, as well as the investors themselves. The supervision of the compliance with those rules and with the legal framework in general, is assigned to the SEC, which is responsible for the monitoring of the market and taking precautionary and suppressive measures to achieve the legal objectives and purposes.

The main competencies and responsibilities of the CySEC are stated in Section 25 of the Law that Regulates the Structure, Competencies, Powers, Organisation of the Securities and Exchange Commission and Other Related Matters (L73(I)/2009) and may be summarised as follows:

- To examine applications and grant authorisations to the entities under its supervision, as well as, to suspend and revoke the relevant authorisations.
- To supervise and control the operation of the Cyprus Stock Exchange and of other regulated markets of the Republic and the transactions performed in those markets.
- To supervise and perform audits to the entities under its supervision in order to ensure their compliance with the legislation that governs their operation.
- To conduct the necessary investigations for the exercise of the competencies assigned to it by law and on behalf of other foreign Competent Authorities.
- To require and collect information necessary or useful for the exercise of the competencies assigned to it by law and demand in writing the provision of the information from any natural or legal person or entity that it considers to be in a position to provide the required information.
- To impose the administrative and disciplinary penalties provided by the law.
- To demand the cessation of practises against the relevant legislation.
- To apply to a competent court for the issuance of an order to block or charge or freeze of assets or to prevent the alienation of or transaction in assets.
- To issue Directives and Decisions of regulatory content.
- To cooperate and exchange documents and information with other public authorities of the Republic, with Competent Supervisory Authorities abroad and other organisations.

Besides the competencies described above, the CySEC is assigned with the exercise of powers and competencies as these are provided in the following laws:

- The Public Offer and Prospectus Laws of 2005-2013
- The Laws on Insider Dealing and Market Manipulation (Market Abuse) of 2005 - 2013
- The Take Over Laws of 2007-2009
- The Transparency Requirements (Transferable Securities Admitted to Trading on a Regulated Market) Laws of 2007-2013
- The Law regulating the Companies Providing Administrative Services and Related matters of 2012

## 2.3 ADMINISTRATION AND STRUCTURE

### 2.3.1 The Council

The CySEC is governed by a five members' Council which is comprised by the Chairman/Chairwoman and the Vice-Chairman/Chairwoman, which provide their services on an exclusive and full time basis and three non-executive members. A representative of the Governor of Central Bank of Cyprus participates in the Council meetings and has the right to place items on the agenda, to participate in the discussions and express his/her views, but does not have any voting rights. The members of the Council are appointed by the Council of Ministers after a proposal by the Minister of Finance and their office is for five years with a right of renewal for five additional years.

The Council of CySEC is comprised by the following persons:

CYSEC COUNCIL ON 31/12/2013		
Name	Position	Apointment Date
Demetra Kalogerou	Chairman of CySec	15/9/2011
Andreas Andreou	Vice-Chairman	28/9/2011
Andreas Christodoulou	Member	28/9/2011
Christos Vakis	Member	28/9/2011
George Theocharides	Member	29/11/2013
Elena Grigoriadou	Representative of the Governor of the Central Bank of Cyprus	20/6/2011

\* The member of the Council Mr. Andreas Christodoulou has been replaced by Mr. Kypros Ioannides at the 22nd of September 2014.



#### **Chairwoman Demetra Kalogerou**

Mrs. Kalogerou was appointed Chairwoman of the Securities and Exchange Commission in September 2011. Ms Kalogerou is also member of the Committee of Public Supervision which has been established to supervise the Audit Firms. Since September of 2013, Ms Kalogerou is a member of the Resolution Authority whose purpose is the assurance of the proper resolution of the banking institutions. Mrs. Kalogerou was previously employed at the Cyprus Stock Exchange (CSE) as Senior Officer and her duties included the supervision of transactions in transferable securities and the various CSE markets, the monitoring of compliance of listed public companies with their continuous obligations such as the preparation of Annual Financial Statements and their compliance with the International Accounting Standards and the Code of Corporate Governance, the research and development of new products, as well as the promotion of financial markets. As a result of the above duties, during her fifteen years of employment with the CSE Mrs. Kalogerou developed an in-depth knowledge on all aspects of the securities market and acquired an extensive experience in matters relating to the smooth and orderly development of securities markets and investor protection. Mrs. Kalogerou holds a BSc in Economics and Business Administration from the University of Wales, an MSc in Economics of Public Policy the University of Leicester and an MPhil in Finance from City University Business School, UK.



**Vice-Chairman**  
**Andreas Andreou**

Mr. Andreas Andreou was appointed Vice-Chairman of the Securities and Exchange Commission in September 2011. He has extensive work experience both in the legal and the broader financial sectors. He was the head of the legal department and Secretary of the Board of a large investment firm. From 2005 he served as Senior Legal Counsel in an investment firm and other companies under the same group. Mr. Andreou holds a Law degree and an MSc in European and International Commercial Law from the University of Leicester in England. In 1995 he became a Barrister, member of Lincoln's Inn in London, and in 1996 he joined the Cyprus Bar Association. He is also a founding member of the Cyprus Association of Directors.



**Member**  
**George Theocharides**

George Theocharides is an Associate Professor of Finance at Cyprus International Institute of Management (CIIM) in Nicosia, Cyprus. He is also the Programme Director of the MSc in Financial Services. Before joining CIIM he spent almost four years as an Assistant Professor of Finance at Sungkyunkwan University in Korea. Prior to that, he served as an International Faculty Fellow at the Massachusetts Institute of Technology's Sloan School of Management. Dr. Theocharides holds a B. Eng. (Hons) degree in Electrical Engineering and Electronics from University of Manchester (U.M.I.S.T.), M.B.A. from the University of San Diego in California, as well as a Ph.D. in Finance from the University of Arizona. Dr. Theocharides research and teaching interests are in the field of fixed income markets, investments, international finance, and derivatives.



**Member**  
**Christos Vakis**

Mr. Christos Vakis was appointed Member of the Board of the Cyprus Securities and Exchange Commission in September 2011. Since 1999, he is the director of his own company Cymiva Management Consultants Ltd, a Company Consultants firm. He has served as Director in a number of public companies as well as in other Cypriot and foreign companies. He worked for Touche Ross & Co. in London and later became a Chartered Accountant. He then worked in Cyprus for the audit firm KPMG – Metaxas, Loizides, Syrimis & Co, from where he left as a Partner. From 1995 until 1998 he was the Managing Director of a private group of companies with operations abroad. Mr. Christos Vakis studied Economics at the University of Manchester.



**Member**  
**Andreas Christodoulou**

Mr. Andreas Christodoulou was appointed Member of the Board of the Cyprus Securities and Exchange Commission in September 2011 and is a Senior Officer at the Authority for the Supervision and Development of Cooperative Societies. Until September of 2013, when the supervision of the Cooperative Societies was transferred to Central Bank of Cyprus, he was the supervisor of the Sector of Regulation of Cooperative Credit Institutions, whereas he is now responsible for regulatory issues. Furthermore, Mr. Christodoulou worked at the Cyprus Securities and Exchange Commission as an Officer in the period 1996-1999. He holds a degree in Economics and has attended several seminars and training courses both in Cyprus and abroad on the regulation and supervision of credit institutions and the securities market.

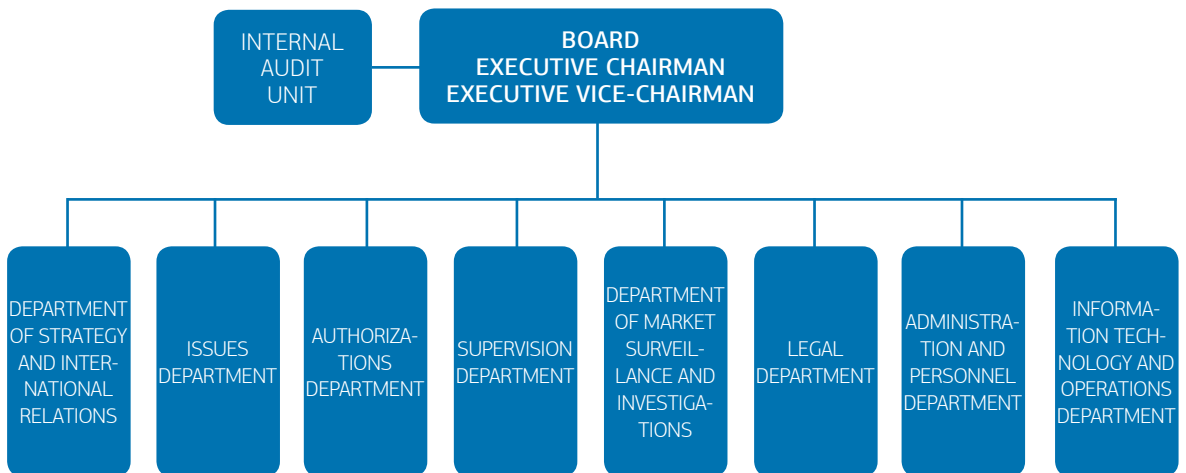


**Representative of the Governor of the Central Bank of Cyprus**  
**Elena Gregoriadou**

Mrs. Elena Gregoriadou has been employed at the Central Bank of Cyprus since 1983 and has been appointed Representative of the Governor of the Central Bank of Cyprus to the meetings of the Board of the Cyprus Securities and Exchange Commission in June 2011. She worked at the Bank Supervision Department and was involved for several years in the licensing of offshore banks, financial firms and international collective investment schemes. She is currently the Head of the Bank Supervision and Regulation Department of the Central Bank of Cyprus. Mrs. Elena Gregoriadou holds a BSc and an MSc in Economics from the London School of Economics.

**2.3.2 Organisational Chart.**

In order to respond to its increased responsibilities, including the increase in the number, size and complexity of the supervised entities, CySEC has proceeded in internal reorganisation, which started in 2012 and was completed in 2013. As a result of this reorganisation, the eight Departments which comprise CYSEC' management include, the Department of Strategy and International Relations, the Issuers' Department, the Authorisations' Department, the Supervision Department, the Administration and Personnel Department and the IT and Operations Department. Furthermore, an Internal Control Unit has been established to assist in the most effective and efficient operation of CySEC. The reforms appear in the following organisational chart:



### 2.3.3 Departments

#### **Internal Control Unit**

The mission of the Internal Control Unit is to provide independent, objective assurances and consultative services which aim to add value and improve the functions of CySEC and assist CySEC to achieve its objectives with the adoption of a systematic and disciplined approach in order to evaluate and improve the effectiveness of the risk management and control procedures and governance.

#### **Department of Strategy and International Relations**

The Department of Strategy and International Relations is responsible for the strategic planning of CySEC, the internal and external communication and promotion of the work of CySEC, the international relations, the education of the public on capital market issues and on investment services in transferable securities and the support of the Chairwoman and the Vice-Chairman on the relevant issues.

#### **Issuers' Department**

The Issuers' Department is mostly responsible to monitor the compliance of companies whose shares are listed in a regulated market with their continuous obligations, as these are defined in applicable law, the examination of applications for prospectus approval for a public offer of transferable securities and their listing in a regulated market in accordance with the Public Offer and Prospectus Law, monitoring of the implementation of the Public Offer and Prospectus Law, the examination of Public Takeover Bid documents for the acquisition of companies whose securities are listed in a regulated market, as well as monitoring the implementation of the Public Takeover Bids Law of 2007.

#### **Authorisations Department**

The Authorisations Department is responsible for the examination of applications for granting authorisation to entities that fall under the supervision of CySEC. Furthermore, the Department examines various applications such as applications for the extension of the authorisation of the relevant entities, for changes in their shareholding structure and for changes in the persons that manage their activities, notifications for the cross border provision of services either through the free provision of services or by the establishment of a branch, notifications of UCITS Management Companies or AIFMs for the marketing of UCITS or AIFs (Alternative Investment Funds) in other EU Member States etc.

#### **Supervision Department**

The duties of the Supervision Department include the supervision of the entities regulated by CySEC regarding their continuous legal obligations, their compliance with the Money Laundering Law, the supervision of the branches established in the Republic by regulated entities established in other EU Member States regarding their behaviour in the course of the provision of investment services, the supervision regarding the compliance of the relevant entities with their obligations for the marketing of units of foreign UCITS and AIFs in the Republic, the monitoring of the cross border provision of services in Cyprus by UCITS Management Companies established in other EU Member States, the monitoring of the compliance of the foreign UCITS and AIFs and their distributors with their continuous obligations regarding the cross border provision of services and the education of the supervised entities regarding the issues mentioned above.

#### **Department of Investigations and Market Surveillance**

The Department of Investigations and Market Surveillance is responsible, among others, to investigate the complaints submitted to CySEC, to conduct investigations at its own initiative, to conduct investigations on behalf of a foreign supervisory Authority and to issue of warnings regarding companies that provide investment services in the Republic without being authorised by CySEC.

#### **Legal Department**

The duties of the Legal Department include, mainly, the monitoring of the Legal Framework of the capital market, the drafting of laws, the preparation and submission of suggestions regarding amendments of the relevant laws which aim to their improvement and modernisation, the maintenance of a register of the cases of CySEC pending at court, the monitoring, coordination and cooperation with CYSEC' legal advisors, the secretarial support of the

CySEC Council, including, keeping the minutes, the filing of cases, the maintenance of a registry regarding the composition of the Council and the preparation of announcements regarding the Council's decisions, the legal support of CySEC (internal legal opinions to the Staff and review of documents), the provision of legal advice/answers to the questions received by CySEC, the harmonisation of the national law with EU and the day-to-day legal support of CySEC and its various departments.

### Administration and Personnel Department

The duties of the Administration and Personnel Department include issues relating to the preparation of the budget, monitoring and control of the expenses of the organisation, the preparation of invitations for tenders and the delegation of public contracts, the monitoring of Staff Rules, issues related to staff training, the conduct of studies regarding staff needs and the filling in of vacancies and other operations such as the maintenance of accounting records and the register of the Provident Fund of CYSEC staff. Furthermore, the Department deals with other current issues such as the monitoring of the equipment and with issues regarding the maintenance of the building. In addition to the above, it also provides secretarial support to the CIFs' Investors' Compensation Fund. In 2013 the Department was assigned with the maintenance of the public register of the certified persons and the conduct of the examinations for the certifications.

### IT and Operations Department

The IT and Operations Department is responsible for the management and upgrading of the technological infrastructure of the organisation, of the website and the internal network and other issues regarding the adoption by CySEC of modern information and communication technologies in order to ensure effectiveness and security of data management and of the communication performed in the course of the exercise of its activities.

#### 2.3.4 Staff

At the end of 2013 (and 2012), CySEC employed on a permanent basis 6 Senior Officers, 34 Officers, 12 Assistants Clerical Officers and 1 Office Assistant. The analysis of the CySEC staff by Department is presented on the following table:

Department/Unit	Senior Officers	Officers	Assistant Clerical Officers	Office Assistants	Total
Strategy and International Relations	1	2	0	0	3
Issuers	1	5	1	0	7
Authorisations	1	3	1	0	5
Supervision	1	10	2	0	13
Investigations and Market Surveillance	1	5	2	0	8
Legal	1	4	0	0	5
Staff and Administration	0	2	2	1	5
IT and operations	0	2	0	0	2
Internal Audit	0	1	0	0	1
Support Chairpersons/ Reception/Filing	0	0	4	0	4
<b>Total</b>	<b>6</b>	<b>34</b>	<b>12</b>	<b>1</b>	<b>53</b>

As at the end of 2013, one of the four Officers of the Legal Department of CySEC was (since the 1st of July of 2011) seconded in the Permanent Representation of Cyprus in EU in Brussels for the purposes of the Cypriot Presidency of the Council of the EU.

Due to the necessity to reinforce CYSEC' staff, a special Memorandum of Cooperation has been signed by CySEC and the CSE in 2012. In accordance with this Memorandum, one officer of the CSE is employed in the Department of Investigations and Market Surveillance, two officers and an Assistant Clerical Officer are employed in the Department of Authorisations and two Officers are dealt with internal organisation issues and the organisation of the Archive.

Furthermore, in 2013, the CySEC participated in the scheme developed by the Human Resource Development Authority regarding the employment of unemployed graduates to acquire work experience in businesses and organisations. In the context of that scheme, six graduates have been employed in various departments of the CySEC, who acquired substantial experience and assisted in the CYSEC' work.

## **2.4 HISTORICAL BACKGROUND**

### **Period 1996 – 2000**

The CySEC was initially established in 1996 by virtue of section 8 of the Securities and the Cyprus Stock Exchange Law as an “Administrative Collective Supervisory Body”. It had five members and was comprised by the Government Commissionaire, the representative of the Central Bank of Cyprus and other 3 members. All of its members were non-executive.

It should be noted that until 2000 only two Laws governing the securities market were in place, the Securities and the Cyprus Stock Exchange Laws and Regulations (including the Public Takeover Bids and Company Mergers Regulations), and the Possession, Use and Disclosure of Privileged Confidential Information Law. By the end of 1999, the staffing was insufficient, as the CySEC employed on four employees (three Officers and one Secretary).

### **Period 2001 – July 2009**

The CySEC was established on 20th April 2001 pursuant to the provisions of the Cyprus Securities and Exchange Commission (Establishment and Responsibilities) Law, with a clearly defined structure, responsibilities, powers and organisation. As a result, the old Commission was abolished and its competences were transferred to the new CySEC.

The new CySEC is a public corporate body. It is assigned with the responsibility of supervising the capital market, ensuring its smooth operation and steady development as well as monitoring the transactions in transferable securities carried out in the Republic. Today, the CySEC is an independent public supervisory Authority and is one of the four Authorities that supervise the financial sector of Cyprus with the Central Bank of Cyprus, the Audit Service of Cooperative Institutions and the Supervisory Authority of Professional Pension Funds. In accordance with the new Law, CySEC is governed by a five members Council, where the Chairman and Vice-Chairman provide their services on a full time basis.

### **Period July 2009 – Today**

On 10 July 2009, the new Cyprus Securities and Exchange Commission Law of 2009 (Law. 73(I)/2009) (the “Law”) came into force abolishing the Cyprus Securities and Exchange Commission (Establishment and Responsibilities) Laws of 2001 to 2007.

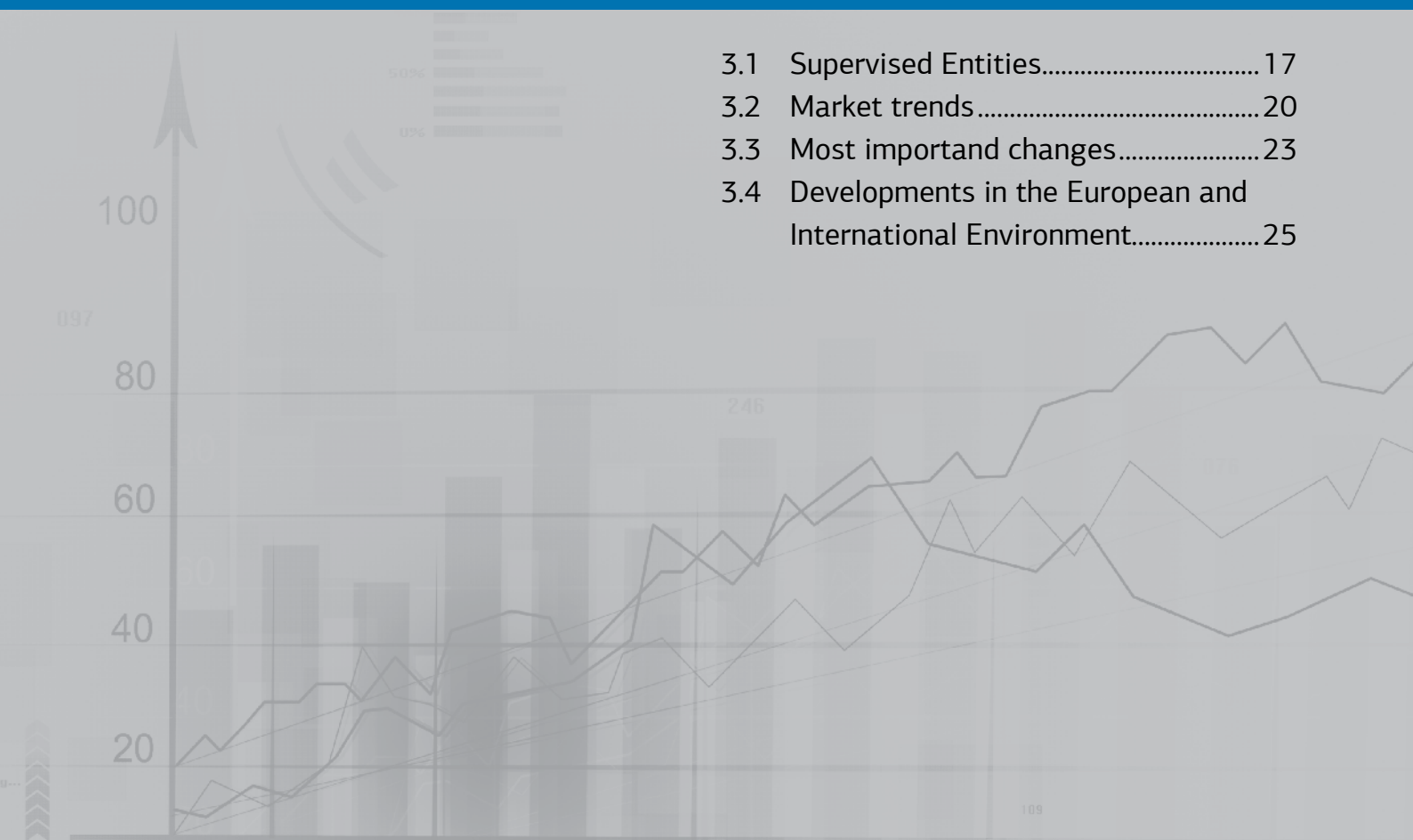
Contrary to the past, the CySEC now has the necessary tools both dissuasive and repressive to ensure the compliance of the supervised entities with the relevant legal framework, the supervision and enforcement of which, has been assigned to it. When a violation is established, the CySEC has now the power to impose sanctions. The legislator, having recognised the severity of some types of violations, has provided for the power to impose very stringent administrative and criminal sanctions. Furthermore, in accordance with the new Law, CySEC has now the following significant new powers:

- To proceed with immediate confiscation of books and documents in case their holders refuse to avail them to the CySEC;
- To request the cessation of a practice that is contrary to the legislation under its supervision;
- To apply to the competent court of law for the issue of an order to block, encumber, freeze or prevent the alienation or the transaction involving certain assets;
- To collect information and conduct inspections and investigations on behalf of other supervisory authorities abroad.

# 3

## THE CYPRUS CAPITAL MARKET

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### 3.1 REGULATED ENTITIES

The CySEC is responsible for the supervision of the operations and ensuring the compliance of groups of organisations with the relevant legislation which governs their operation and which are presented on the table below (Table 1).

**Table 1: Entities Regulated by the Securities and Exchange Commission**

ENTITIES
Cyprus Investment Firms (CIFs)
Cypriot Branches of Investment Firms (IFs) established in other EU member-states
Tied Agents of CIFs
Undertakings for Collective Investments in Transferable Securities (UCITS)
UCITS Management Companies
Persons engaged in the marketing of UCITS
UCITS Depositaries
Cypriot Branches of UCITS Management Companies established in other EU member-states
Administrative Service Providers
Variable Capital Investment Companies
Alternative Investment Fund Managers
Regulated Markets
Central Counterparties for the Clearing and Settlement of OTC derivatives
Repositories of OTC derivatives transactions

By the end of 2013, the CySEC had under its supervision:

- 152 Cyprus Investment Firms (CIFs)
- 1 Regulated Market (CSE) and 1 Multilateral Trading Facility
- 3 Undertakings for Collective Investments In Transferable Securities (UCITS) (two single schemes and one umbrella with 14 investment compartments)
- 2 UCITS Management Companies
- 19 Administrative Service Providers
- 105 Issuers of listed securities on CSE and 13 issuers of securities listed in other regulated markets abroad

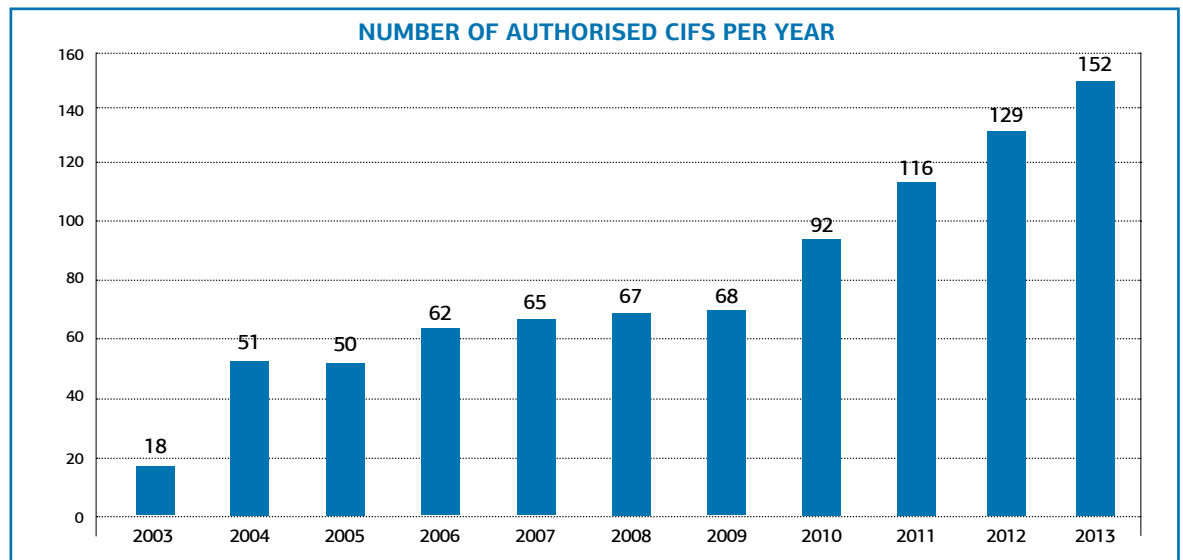
<sup>1</sup> Other than the exempted persons, which in accordance with the Law Regulating Companies Providing Administrative Services and Related Matters Law of 2012, include (a) a lawyer and/or a company of lawyers within the meaning of the Advocates' Law, a general partnership or a limited partnership whose general partners are lawyers or a limited liability company of lawyers and a subsidiary company which belongs, either directly or indirectly to any of the above, which is regulated by the Board of the Cyprus Bar Association in its capacity as a supervisory Authority pursuant to the Prevention and Suppression of Money Laundering and Terrorist Financing Law, (b) members of the Institute of Certified Public Accountants' of Cyprus (ICPAC), a general partnership or a limited partnership or a limited liability company whose majority of general partners or of its shareholders and directors are members of the ICPAC, a subsidiary company, which belongs, either directly or indirectly to anyone of the above, which is regulated by the Board of ICPAC in its capacity as a supervisory Authority pursuant to the Prevention and Suppression of Money Laundering and Terrorist Financing Law.

At the same time, at the end of 2013, the CySEC had to examine about 200 applications for authorisation, which included:

- 168 applications for authorisation of Administrative Service Providers;
- 29 applications for new CIFs
- 1 application for registration of a new UCITS
- 1 application for authorisation of an Alternative Investments Fund Manager (AIFM)

The interest for operating in the financial services sector in Cyprus and abroad remains high, as it appears from the continuous submission of applications for the establishment, registration and authorisation of new CIFs to CySEC. As a result the number of authorised CIFs in Cyprus during the last ten years is constantly increasing (Diagram 1).

**Diagram 1: Number of authorised CIFs per year**



The number of foreign harmonised UCITS in 2013 in relation to 2012 is reduced by 22 to 18 UCITS (single schemes), whereas the number of foreign harmonised UCITS with multiple investment compartments (umbrella schemes) was reduced in 2013 from 30 to 27. During the year under review, 2 foreign harmonised UCITS (umbrella schemes) have been registered with CySEC, while the marketing of 9 foreign UCITS (4 single schemes και 5 umbrella schemes) in the Republic has been terminated due to their merger with other UCITS or due to the lack of demand for their units in the Republic (Table 2).

**Table 2: Foreign harmonised UCITS:**

Number of foreign harmonised UCITS:	2013	2012
Single schemes	18	22
Umbrella schemes	27	30
<b>Total</b>	<b>45</b>	<b>52</b>

The home member states of the foreign UCITS are mostly Greece, Luxembourg and Ireland. (Table 3)

**Table 3: Home Member State of foreign UCITS**

Home Member State of harmonised UCITS	2013	2012
Number of harmonised UCITS		
Greece	16	20
Luxembourg	24	26
Ireland	4	5
France	1	1
<b>Total</b>	<b>45</b>	<b>52</b>

The total number of sub-funds under the umbrella schemes in 2013 was 513 (2012 – 519) (Table 4).

**Table 4: UCITS Investment Compartments**

Total number of Investment Compartments – sub-funds	2013	2012
Harmonised UCITS	513	519
Non-harmonized UCITS	0	0
<b>Total</b>	<b>513</b>	<b>519</b>

The number of registered Agents with CySEC in 2013 was 12, in relation to 15 in 2012. Specifically, during 2013 one new agent of harmonised UCITS was registered in the UCITS Agents' Registry maintained by the CySEC and 4 existing agents have been removed from the Register.

During 2013, CySEC received one notification for the provision of cross border services in the Republic by harmonised UCITS Management Companies established in an EU member-state other than the Republic. Furthermore, during 2013 two Management Companies established in an EU member-state other than the Republic, have been removed from the Register of CySEC. At the end of 2013, CySEC supervised 13 (2012 – 14) Management Companies established in an EU member-state other than the Republic. Table 5 states the member-states where the relevant Management Companies have been established.

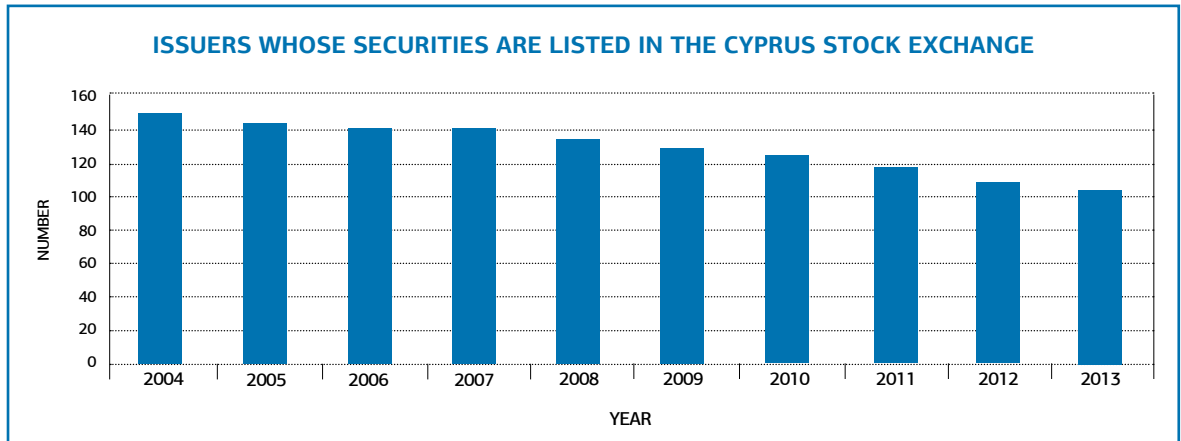
**Table 5: Home Member-States of UCITS Management Companies**

Home Member-States of UCITS Management Companies	2013	2012
France	5	6
Luxembourg	3	3
Belgium	0	1
Lichtenstein	1	1
Greece	4	3
<b>Total</b>	<b>13</b>	<b>14</b>

In 2013, the CySEC supervised two UCITS Management Companies authorised in accordance with section 121(1) (a) of the Open-Ended Companies in Collective Investments Law of 2012.

Furthermore, CySEC supervises the only authorised regulated market established in the Republic of Cyprus, the Cyprus Stock Exchange (CSE). In addition to that, CySEC supervises CSE as manager of a Multilateral Trading Facility (MTF). The number of Cypriot companies whose securities were traded in the CSE, and were subject to the supervision of CySEC, became, by the end of 2013 to 105. (Diagram 3).

**Diagram 3: Number of issuers whose securities are traded in the CSE**



As shown in the diagram, this number follows a decreasing trend the last years, mainly due to acquisitions which lead to the de-listing of the securities of the acquired companies from the CSE and due to the de-listing of government bonds. The relevant issuers had 162 issued securities by the end of 2013.

### 3.2 MARKET TRENDS

During 2013, the course of the stock market reflected the conditions of the general economy of the country which moved to the aftermath of the adverse economic developments deployed in the previous year.

Specifically, Cyprus became, in June of 2012, the fifth member-state of the Eurozone, after Greece, Ireland, Portugal and Spain, that submitted an application for economic assistance to the European Stability Mechanism, in order to support the banking sector of the country. That requirement was the result of the large exposure of the two Cypriot commercial banks in Greek government bonds and their impairment, the consecutive downgrade of the Cypriot economy to high risk status by the international credit rating agencies and the consequential inability of the government to refinance the public debt by borrowing from the international markets.

Unfortunately, the above circumstances lead to the unprecedented decision of the EuroGroup to impose the rescue of the banking system of Cyprus through the “bail-in”, by using the uninsured deposits in the two Cypriot banks. This historic and highly controversial decision resulted in the closing of the Cypriot banks for at least 2 weeks and to the imposition of temporary restrictions to the movement of capital within the country and abroad.

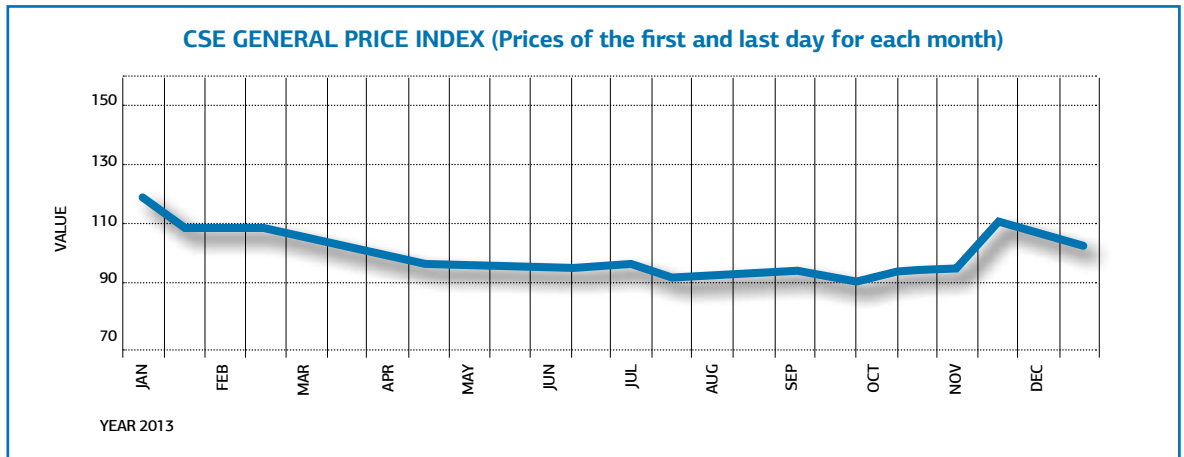
As a result of the strict austerity measures and the intense insecurity that followed the facts mentioned above, the GDP was reduced by 5, 4% in 2013 after a fall on 2, and 4% in 2012. The real numbers were better than Troika’s projections, which expected a reduction of 8, 7%. This proved that the Cypriot economy is more resilient than expected.

In accordance with the rescue package signed on the 26th of March 2013 between the Cyprus Government and the international lenders, the European Commission, the European Central Bank, the International Monetary Fund, Cyprus shall receive a financial assistance of €10 billion. The financial assistance is part of a program, which includes the recapitalization of the banking sector, the fiscal reorganisation of the state budget and a series of important structural reforms.

In the months that followed, the Government moved to the implementation of a series of reforms, which aimed to the improvement and revitalization of the economy, including the gradual removal of restrictions in transactions in order to limit their effect to the operation of the market. It must be noted that, under special provisions, the foreign economic entities have been exempted by the restrictions in capital movements imposed on Cypriot banks, in order to limit the consequences for the international transactions.

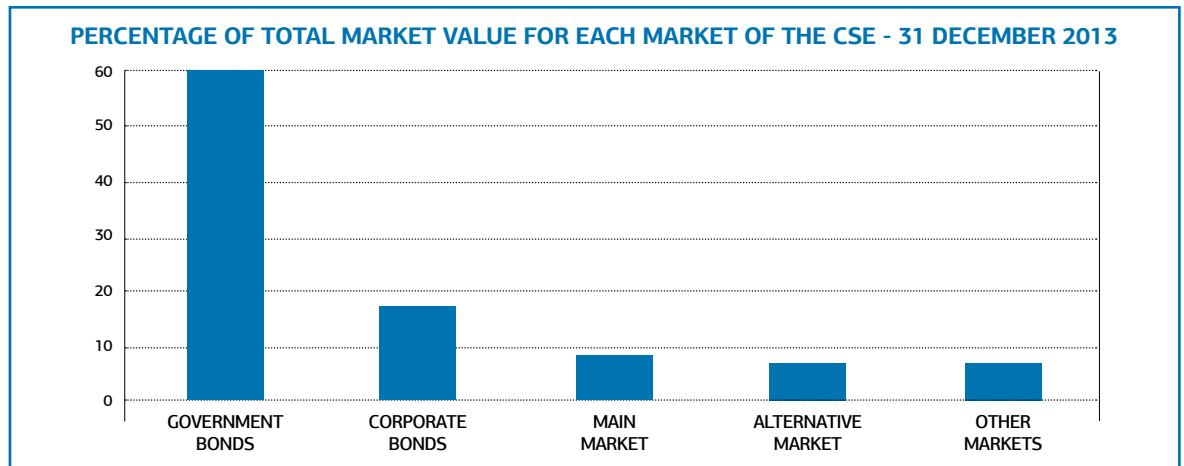
As a result of the above, unprecedented turbulences in the economy of Cyprus, during 2013 the stock market experienced low volumes and a reducing trend in prices (Diagram 4). The General Price Index of the CSE closed in 103.31 units noting an annual fall of 10, 06% in relation to the closing prices of the previous year.

**Diagram 4: General Price Index of the CSE for 2013**



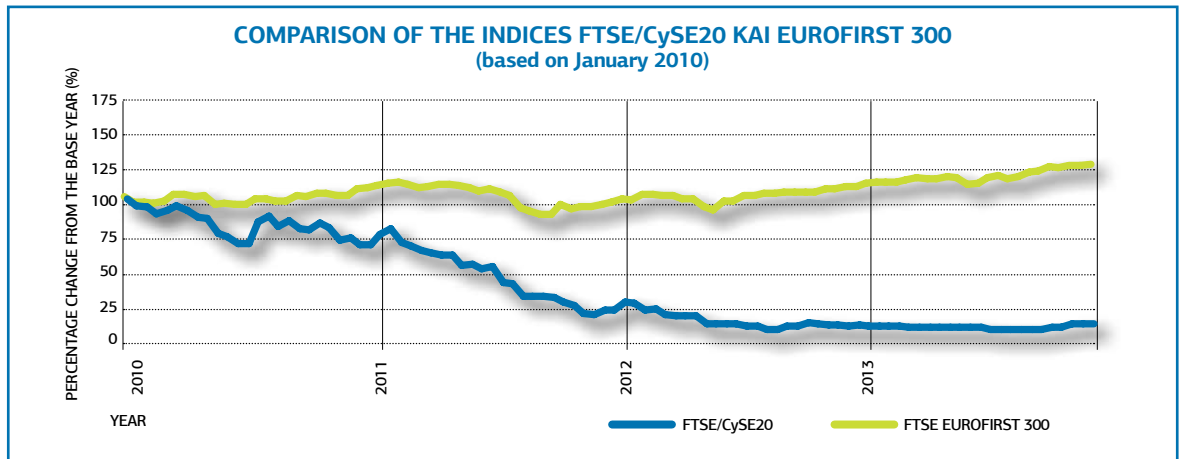
At the end of the year, the total market capitalization of the CSE was €7,395 bn, noting a reduction of 10,73% in relation to the respective value at the end of 2012, which was €8,284 bn. The exceptionally difficult conditions in the economy of the country were reflected in the volume of transactions of the stock market where the annual volume of transactions for 2013 was €0,06 bn, noting an exceptional decrease of 75,73% in relation to 2012, where the annual volume of transactions was €0,26 bn. The greatest share of the total volume of transactions in the last month of the year, concentrated in government bonds, with a percentage of 59,78%, while at the last day of the year this percentage was 60,62% of the total market value, as stated in Diagram 5.

**Diagram 5: Percentage of Total Market Value for each Market of the CSE (31 Dec. 2013)**



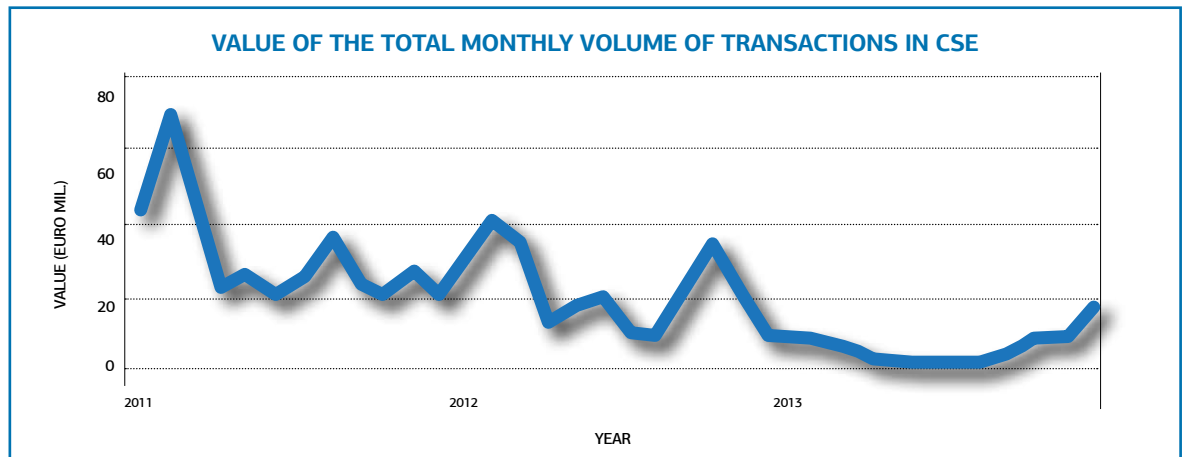
The index FTSE/CySE20, which is comprised by a representative sample of 20 securities of the Cypriot stock market, showed a small increase of 15% between December 2012 and December 2013. This increase complies with the trends of stabilization of the securities' prices in Europe as it appears by the increase of 16% of the pan European index FTSE Eurofirst 300 between December 2012 and December 2013, which measures the return of the 300 companies with the highest capitalization in Europe. The following diagram (Diagram 6), illustrates the percentage changes of the two indices mentioned above within the last for years using January 2010 as the basis.

Diagram 6: Comparison of the Indices FTSE/CY20 and EuroFirst 300



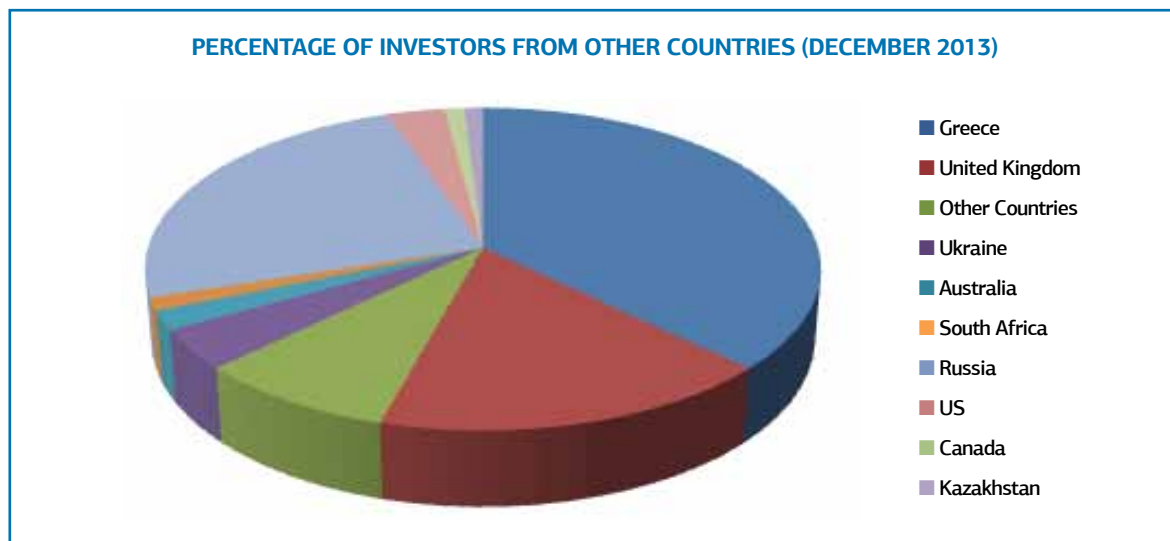
The breakdown of the confidence of the investors in the course of the market and the economy, in general, lead to a reduction in prices of transferable securities and in the transactions performed in the stock market. The total number of transactions in 2013 was 35,983, in relation to 171,222 transactions performed in 2012, having realised a reduction of 78.98%. Furthermore, the total monthly volume of stock exchange transactions in CSE in Euro in 2013 moved in low prices in relation to the previous years. (Diagram 7)

Diagram 7: Value of the Total Monthly Volume of Transactions in CSE



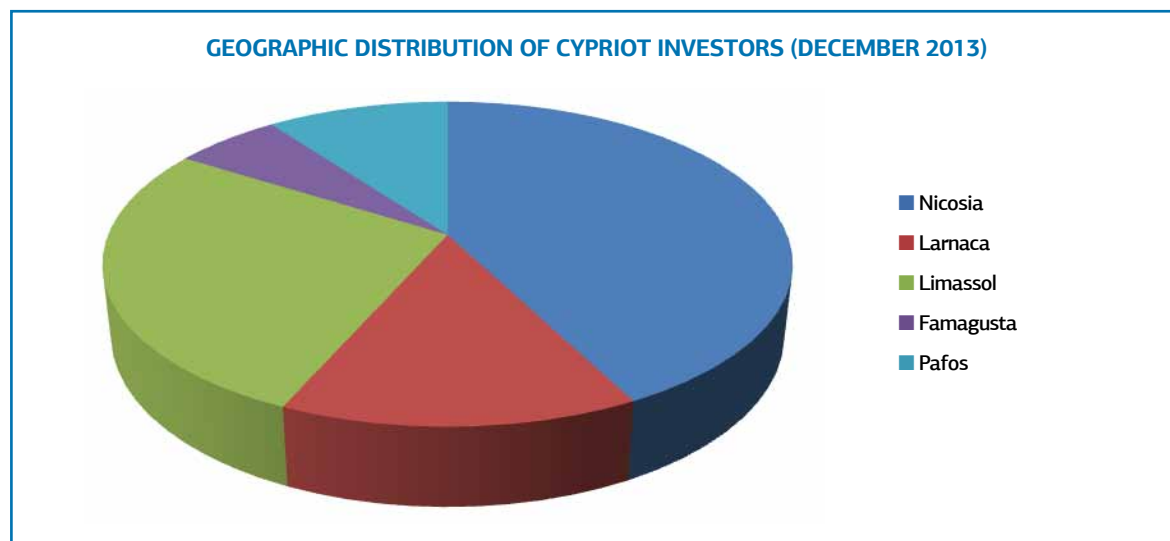
The contribution of investors from abroad in the market capitalization by the end of December 2013 was 26.7%, which came from various countries, such as Greece, United Kingdom, Ukraine, Russia, Australia, USA, Belarus and South Africa (Diagram 8).

Diagram 8: Percentage of investors from other countries (December 2013)



Regarding the investors from Cyprus, the majority of those investors, a percentage of 42,40%, live in Nicosia (Diagram 9).

Diagram 9: Geographic distribution of Cypriot investors (December 2013)



### 3.3 MOST IMPORTANT CHANGES

#### The Alternative Investment Fund Managers Law

On the 5th of July 2013, the Law regulating the Alternative Investment Funds Managers (known as AIFMs) came into effect after its publication in the Official Gazette of the Republic, as the Alternative Investment Fund Managers Law of 2013, (L.56(I)/2013). The relevant Law harmonised the national legal framework with the European Directive 2011/61/EU (the Alternative Investment Fund Managers Directive – AIFMD). The Law regulates the establishment and operation of the AIFMs which manage all types of collective investment schemes that are not UCITS and fall within the category of Alternative Investment Funds (AIFs). The harmonisation of the National legal framework with the relevant Directive and with the European Directive regarding the Open Ended Undertakings in Collective Investments (UCITS IV), which was harmonised in the national legal framework and entered into force with the publication of the Open Ended Undertakings in Collective Investments Law in the

Official Gazette of the Republic on 15 June 2012, is expected to contribute in the development of the alternative investments' sector and the collective investment schemes registered in Cyprus.

The Alternative Investment Fund Managers (AIFMs) are responsible for the management of an important amount of invested assets within European Union and for substantial amounts of trading transactions in markets for financial instruments and may exercise significant influence in the companies in which they invest. Therefore the AIFM Law defines the requirements regarding the authorisation and supervision of the AIFMs, including those that have their registered office in an EU member-state and those that have their registered office in a third country. All AIFMs which manage all types of collective investment schemes that do not fall within the scope of application of the European Directive 2009/65/EC regarding the Open Ended Undertakings in Collective Investments (UCITS) fall within the scope of the AIFM Law.

At the same time, the preparation of a legislation regarding the establishment and operation of Alternative Investment Funds that are not UCITS is at its final stages. The Alternative Investment Funds are currently known as ICIS and are under the supervision of the Central Bank of Cyprus. Once the new legislation is passed by the Parliament, which is expected in 2014, the supervision of those entities shall be assigned to CySEC, so that all collective investment schemes are supervised by the same competent authority.

### **Certification of Persons and Certified Persons' Registry**

In 2013 the conduct of the certification exams for the persons employed in CIFs, Credit Institutions and are engaged in the provision of investment services, the persons employed in Management Companies and Variable Capital Investment Companies, has been assigned to a consortium after an invitation for tender launched by CySEC within the previous year. The CySEC has been designated as the new competent Authority for the conduct of the examinations for the certification of persons in accordance with the provisions of section 53 of the Investment Services and Activities and Regulated Markets Laws of 2007-2012, with the enactment of the Law L154 (I)/2012 on the 9th of November 2012, which replaced the Examinations' Committee which previously organised and conducted the relevant exams. The relevant new legal framework for the conduct of the examinations for the certification of persons and registration in the public register has been defined by the CySEC with a Directive regarding the Certification of Persons and the Public Register (R.A.D. 499/2012), which was published in the Official Gazette of the Republic on the 30th of November 2012.

The new framework introduces the obligation to the persons employed in CIFs, credit institutions, management companies and variable capital investment companies for continuous professional education, through targeted education in matters related with the provision of investment services and multiple benefits are expected for the sector. The continuous update and professional education of those persons in matters related with the legal framework of the investment services sector is an important innovation of the new framework. The improvement in the level of knowledge of the certified persons in relation with the rules for the provision of investment services and the exercise of investment activities, upgrades the quality of the offered services and at the same time introduces a compliance culture to the supervised entities and, consequently to the market. Therefore, the modernization of the certifications' framework is included in the efforts of CySEC for enhanced supervision and the regaining of the confidence of the local and foreign investors. Furthermore, the new framework increases the market transparency, since the investors will be able to check whether the persons they cooperate with, are certified and eligible to be employed in the above mentioned organisations and to offer investment services, through the public registries maintained on CYSEC' website.

More information and details regarding the new framework are included in section 5.2.6 of this report, under the title "Certified Persons Register, continuous professional education and examinations".

### **Examination of applications for Companies Providing Administrative Services**

During 2013, 189 applications for authorisation of Companies Providing Administrative Services have been submitted to the CySEC. The examination of the applications has been concluded and authorisations were granted to 21 Companies. The Law that regulates the Companies Providing Administrative Services (broadly known as Trustees and Fiduciary Service Providers) passed by the Parliament and put into effect on the 21st



December 2012, as the Law Regulating the Companies Providing Administrative Services and Related Matters of 2012 (L.196(I)/2012). The relevant Law provided for a deadline of two months to notify the CySEC about their intention for the submission of an application for authorisation as an administrative service provider and of four months from the notification date for the submission of the original application. This Law regulates, for the first time, the supervision of those entities by CySEC. At the same time it substantially reinforced the legal framework regarding the prevention of the money laundering coming from illegal activities.

In accordance with this Law, in 2013, the CySEC prepared Regulations, procedures and Directives regarding the authorisation and regulation of the Companies Providing Administrative Services, in order to provide guidelines to the market and create a complete framework for the operation of those organisations. The legal framework that has been established and the provisions regarding the maintenance of a trusts' register is expected to contribute to the enhancement of the credibility of the financial sector and will become a weapon against adverse publicity that connect Cyprus with money laundering activities. The above mentioned actions regarding the regulation and authorisation of these companies and the enhancement of their supervision are part of the implementation of the action plan agreed with Troika regarding the prevention of money laundering and terrorist financing.

### **3.4 DEVELOPMENTS IN THE EUROPEAN AND INTERNATIONAL ENVIRONMENT**

The CySEC follows closely the procedures at the European and international legislative environment and contributes to the formation of the legislation, especially at the European level through its participation in various committees and sub-committees with which it shares information, expertise and experience. Furthermore, through announcements on its website, public presentations to interested parties or targeted seminars to groups of supervised entities, informs the market participants for prospective legislative reforms which are at an advanced stage, especially if these are going to affect the local market.

In 2013, the operations of the European Securities and Markets Authority focused in the provision of advice to the European Commission in relation to the development of new legislation, which aims to improve the legislative framework and provide solutions to weaknesses appeared due to the financial crisis. At the same time, ESMA proceeded to the establishment of technical standards and to the implementation of standards and guidelines by the Competent Authorities for the uniform regulation of the markets in financial instruments and the enhancement of the protection of investors.

#### **Credit Rating Agencies (CRA II)**

In order to establish a policy at the area of Credit Rating Agencies (CRAs), ESMA issued Guidelines in June 2013 in order to establish the scope of application of the European Directive regarding the CRAs. The aim of the draft Guidelines was to provide clarifications in relation to certain aspects of the scope of application of the CRAs' Regulation regarding registered CRAs, other market participants that operate within the sphere of that sector and the national Competent Authorities of the regulated markets. In addition to that, ESMA published a list of the authorised CRAs, questions and answers regarding the application of the CRA III Regulation and advice regarding the equivalence between the regulatory systems of EU regarding CRAs and of the respective legal and supervisory frameworks of Argentina, Brazil, Mexico, Hong-Kong and Singapore.

#### **European Market Infrastructure Regulation regarding OTC derivatives, central counterparties and Trade Repositories (EMIR)**

Following the adoption of technical standards regarding the regulation of ESMA by the European Commission on December 2012 and February 2013, respectively, ESMA published on March of 2013 questions and answers in order to ensure the uniformity in the implementation of the Regulation of the European Parliament and the Council regarding OTC derivatives, central counterparties and trade repositories (648/2012), which have been updated four times during the year. The relevant Regulation, which entered into force on the 16th of August 2012 and since then is implemented gradually, is widely known as "EMIR" and it aims to improve the operation

of OTC derivatives markets in the European Union and reduce the risks derived from their operation. This is expected to be achieved through the central clearing and risk mitigation techniques, by increasing transparency through the registration of the transactions in trade repositories and ensuring robust central counterparties.

Due the fact that OTC derivative contracts lack transparency as they are privately negotiated contracts and any information concerning them is usually only available to the contracting parties, the necessity to increase the transparency in these contracts is very important. Furthermore, the complex web of interdependence created by these contracts makes it difficult to identify the nature and level of risks on financial stability and increases the uncertainty in times of market stress. For these reasons, EMIR lays down conditions for mitigating those risks and improving the transparency of derivative contracts. Specifically, the relevant Regulation provides for (a) the authorisation and supervision of Central Counterparties, (b) the authorisation and supervision of Trade Repositories and (c) the clearing of all OTC derivative contracts pertaining to a class of OTC derivatives that has been declared subject to the clearing obligation through a Central Counterparty and the reporting of all derivative transactions to a Trade Repository. As far as Cyprus is concerned, the CySEC has been designated as the Competent Authority regarding points (a) and (c), above, regarding the monitoring of the compliance of its supervised entities regarding these issues. In order to assist the regulated entities in their preparation to comply with the above obligations, it has issued a Guide regarding the EMIR Regulation.

### **European Directive and Regulation regarding the Markets in Financial Instruments (MiFID II/MiFIR)**

The Markets in Financial Instruments Directive – MiFID is one of the cornerstones of the legislative framework regarding the financial market in EU and its review is considered as a response of the EU in the financial crisis. The review of the Directive, (known as MiFID II) includes a new, ambitious set of rules which are expected to enhance the security and transparency of the markets within EU and increase the degree of harmonization by ensuring equivalent conditions for all market participants. MiFID II Directive is supplemented by a new Regulation (Markets in Financial Instruments Regulation – MiFIR) which enhances the relevant demands of MiFID for the protection of investors. The Directive and the Regulation, MiFID II/MiFIR, have been discussed through the Trilogues within 2013 and it is expected that the European co-legislations shall reach a political agreement within 2014.

### **European Short Selling Regulation (SSR)**

On the 1st of November 2012, the Regulation on the short selling of financial instruments (Short Selling Regulation –SSR) entered into force at the European Union. The most important provisions introduced by the Regulation are, inter alia: the obligation for the notification of the net short selling positions when these exceed certain minimum limits, the empowerment of the Competent Authorities to restrict short selling in cases unusual volatility is observed in the market and the restrictions on entering into uncovered sovereign credit default swap positions. Within 2013, ESMA issued an updated version of the Questions and Answers report in relation to the application of the SSR which aimed to promote uniform supervisory practices within EU member states and address any questions of the public, the market participants and the national Competent Authorities. Furthermore, in February 2013 ESMA published a call for evidence on the evaluation of the Regulation on short selling and certain aspects of the credit default swaps, whose purpose was to receive comments regarding the review of the Short Selling Regulation.

### **European Market Abuse Regulation (MAR)**

In September 2013 a political agreement was reached on the Market Abuse Regulation – MAR between the European Parliament and the Council. As a result, ESMA started working on the preparation of technical standards and advice to national Competent Authorities regarding its practical application. At the same time, ESMA launched a Consultation Document to all interested parties in order to gather views and concerns in relation to the main issues of the technical advice and the draft technical standards to be submitted to the European Commission by ESMA.

The Market Abuse Directive - MAD, was adopted at the beginning of 2003 and introduced a complete framework on confidential information and market manipulation practices. The Directive aims to increase the investors' confidence and integrity of the market by forbidding to persons that have access to confidential information the trading in relevant financial instruments ("use of confidential information"), and forbidding market manipulation through practices such as dissemination of misleading information or rumours and the conduct of transactions that leads to distortion of prices ("market manipulation").

The Market Abuse Regulation updates and reinforces the existing framework in order to ensure the integrity of the market and the protection of investors derived from the Market Abuse Directive (2003/6/EC), and ensuring that the legal framework is in line with the market developments and strengthens the Competent Authorities in the investigation of alleged violations and the punishment of the violators.

### **European Regulation and Directive on the Prudential Supervision of Credit Institutions and Investment Firms (CRR/CRD IV)**

The Directive 2013/36/EU and the Regulation 575/2013 on the Capital Requirements (Capital Requirements Regulation/ Capital Requirements Directive IV) set stricter provisions on the prudential supervision of the credit institutions and investment firms in relation with the existing provision. The legislative proposal regarding the establishment of a Directive and a Regulation which replaces the European Capital Adequacy Directives (2006/48 and 2006/49) for the reinforcement of the regulation of the banking sector, was submitted by the European Commission in 2011 and it is an important step towards the creation of a better and safer financial system. The Directive and the Regulation are expected to enter into force on the 1st of January 2014.

### **Other Legislative Developments**

On the 6th of November 2013 the Directive 2013/50/EU of the European Parliament and the Council amending the Directive 2004/109/EC of the European Parliament and the Council regarding the harmonisation of the transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, Directive 2003/71/EC of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading and the Commission Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC was issued.

On the 8th of August the Commission Delegated Regulation (EU) No. 759/2013 of 30 April 2013 amending Regulation (EC) No 809/2004 as regards the disclosure requirements for convertible and exchangeable debt securities was published.

# 4

## GENERAL ASSESSMENT OF OPERATIONS

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# 4

## GENERAL ASSESSMENT OF OPERATIONS

### 4.1 PROJECTS IMPLEMENTED IN 2013

The primary objective of the CySEC is the protection of investors through the effective regulation and supervision of the Cypriot capital market in accordance with the European Directives and the international practices and through the assurance of the complete compliance of the supervised entities with their legal obligations. To be able to respond to its duties, within 2013, CySEC implemented a series of projects and promoted improvements in various sectors within the context of its competencies.

In January 2013, the CySEC hosted a working breakfast to journalists during which the Chairwoman presented CYSEC' objectives for 2014 and for the following years, while she also made a review of the most important tasks and projects completed in 2013.

In 2013, CySEC contributed, within the context of its competencies, in the collective effort to minimize the negative effects of the adverse developments in the banking sector in the Cypriot economy, by taking enough initiatives to restore the smooth operation of the financial services market the soonest possible.

The CySEC, has, inter alia, contacted the respective competent Authorities of EU member-states and of other countries informing them about the real condition of the Cypriot economy to address any adverse reports of the international media. At the national level, the CySEC monitored closely the developments, from the beginning and kept open communication lines with the supervised entities and other market participants to achieve an interactive communication on issues that concerned them in order to provide any possible assistance and mediation to solve the problems presented in their operations after the decisions of March, mainly the unfreezing of their clients' funds.

As an example, through its contacts with all Competent Authorities, CySEC achieved the recognition of the bank deposits of the CIFs for the benefit of their clients, as funds belonging to the relevant clients and not the CIFs themselves in the relevant Decrees and before the deposits' haircut being finalised, which resulted in the avoidance of the haircut of those deposits up to the amount of €100,000. The CySEC has also, dynamically, contributed in the smooth clearing of CSE transactions, which could not be conducted due to the suspension of its operations on March 2013.

In relation to this matter, the CySEC hosted a reception at the end of 2013 in Limassol, with the presence of the President of the Republic, where the senior managers of investment firms and administrative service providers had the opportunity to discuss with CYSEC' officers and other market participants and listen, at first hand, the commitments of the Government for the support of the economy, the stemming of the crisis and the fast return to economic growth.

The CySEC promotes the drafting and implementation of legislations which aim to enhance further the supervisory framework of the Cypriot capital market in order to ensure investors' protection and to improve the regulatory and supervisory framework of the Cyprus capital market in accordance with the European Directives and Regulations and the international practice.

For that purpose, within 2013, the CySEC prepared rules, procedures and directives in relation to the authorisation and regulation of Companies Providing Administrative Services (ASPs), also known as Trustees/Fiduciary Services, in accordance with the Law that entered into force in December of 2012. This legislation regulates a previously unregulated sector of the financial services industry. The newly established operational framework and the provisions in relation to the maintenance of Trusts Registree shall contribute to the enhancement of the credibility of the financial sector and shall confront any negative publicity that relates Cyprus with money laundering activities. During 2013, 189 applications for authorisation as ASPs have been submitted to CySEC and 21 authorisations have been granted.

Furthermore, the CySEC has proceeded, in cooperation with the other national Competent Authorities and the Ministry of Finance to the preparation of a draft law in relation to pyramids. The draft law has been submitted to the Legal Service of the Republic to be included in the Criminal Code. This draft law is very important as it will enhance the investors' protection in Cyprus and shall assist in the effective handling of complaints regarding investment schemes that guarantee unjustifiable great returns and which could be considered as pyramids.

The other action which shall substantially reinforce the legal framework is the regulation of investors' loans. That is the provision of credits with a margin granted to investors by the CIFs for the conduct of transactions in a stock exchange (margin accounts). Within 2013, the CySEC proceeded in the preparation of a draft Directive which sets restrictions in the provision of these credits.

Furthermore, the amendment of Laws in relation to Prospectuses and Transparency requirements has been completed, which aimed to the harmonisation of the national law with the respective European Directives.

The CySEC has also proceeded in the completion of the important project of the establishment of a complete regulatory framework, which is expected to encourage the development of the mutual funds' sector (known as collective investment schemes) in Cyprus. In July 2013, the Alternative Investment Fund Managers Law entered into force, which had been prepared by the CySEC and transposed into national law the relevant European Directive. The harmonisation with the AIFMD and with the European Directive in relation to Open-Ended Undertakings in Collective Investments in Transferable Securities (UCITS IV) which was transposed in national law in 2012 are expected to contribute substantially in the development of this sector. With the voting of the Alternative Investment Fund Managers Law, our country was the second member-state harmonised with the Directive, way ahead the harmonisation deadline set by the EU. Furthermore, the CySEC proceeded in the signature of Memorandums of Understanding and Cooperation with 38 Competent Authorities of Third Countries in order to facilitate the cross border supervision of the entities established in those countries and foster the ability provided by the legislation in relation to the marketing of collective investment schemes in those countries.

To ensure the full compliance of the supervised entities with their legal obligations, within 2012, the CySEC implemented its objective to conduct more intensive audits to supervised entities in relation to regulatory compliance issues. Specifically, 53 audits have been conducted in relation to the advertising announcements of CIFs to the investors, 13 on the spot inspections in relation to the efficiency of the supervisory and compliance functions conducted by the management, 9 on the spot investigations in relation to the compliance of the CIFs and ASPs with money laundering and terrorist financing issues and audits in relation to the capital adequacy and credit exposures and the financial statements of the CIFs as to their compliance with the relevant provisions of the legislation.

Furthermore, due to the difficult conditions of 2013, the audits and the monitoring of the compliance of the Issuers whose securities were listed in the CSE were also intensified. Many problems have been observed in their compliance and mainly with their obligation for publication of periodic reports and therefore, the CySEC proceeded in investigation of enough cases and imposed administrative sanctions.

At the same time, in 2013, the CySEC, after a relevant competition, assigned to an external advisor the design and development of a complete supervision framework which will be based on the assessment of the risks of the supervised entities (Risk Based Supervision Framework), which is expected to be fully implemented by 2015. This framework is one of the most important priorities of CySEC as it will result in the substantial improvement of the supervision, since its use includes the identification and assessment of the risks of every supervised entity based on its importance, in order to be able to focus the supervision to the entities that carry the most important risks.

With the above mentioned actions and the intensification of the supervision, CySEC implemented the schedule of actions agreed with Troika in relation to money laundering and terrorist financing issues.

Furthermore, driven by the modernisation and the enforcement of the supervision of the financial section in Cyprus, the CySEC has conducted a study about the structure of the financial supervision in other member-states of the EU and has submitted its views in the Government, while it expressed its readiness to contribute its knowhow in issues related with the restructuring the supervisory framework in Cyprus.

Regarding the investigations' section, in spite of the multiple investigations that was called to conduct within

the year, the CySEC investigated a large number of complicated cases in relation to the banking system which aimed to achieve full transparency and to attribute responsibilities so that the reliability of the banking system is reinstated. These investigations focused on 3 areas: (a) the non-timely publication of confidential information in relation to investments in Greek government bonds, (b) misleading statements made by a senior member of the management of a credit institution and (c) the non-publication of important information in relation to the capital adequacy of a credit institution which should have been published in order to inform investors. The total administrative sanctions imposed to the issuer and to the members of its Board of Directors, at the conclusion of the investigations, were €850,000.

The rest of the investigations in relation to the banking sector continue in 2014, while the CySEC is still conducting investigations, either at its own initiative or after complaints in relation to violations of the applicable law. As a result of a Court Decision in 2011, the CySEC had to recall many of its decisions to impose administrative sanctions; the CySEC had, unfortunately, to bear the burden of the re-examination of a large number of cases of alleged violations that had to be investigated with the new ones.

To ensure the proper functioning of the investment services' market through the employment of suitable, qualified staff, the CySEC assigned to an external advisor the preparation of the examinations within the context of the system in relation with the certification of the persons employed in investment firms. In 2012, the CySEC has undertaken and completed the reform of the legislation regarding this issue, including the modernisation of the procedure of the conduct of the examinations. Regarding the same issue, in 2013, the public register of certified persons has been established and posted on CYSEC' website for easy access. Furthermore, the CySEC introduced the requirement for the Continuous Professional Education of the persons registered in the public register. The purpose for this requirement is to ensure the better compliance of the supervised entities and of the professionals with their legal obligations. In this context, the CySEC has conducted 6 seminars.

In 2013, the CySEC held presentations of draft Legislations to the supervised entities, the market participants and interested parties, such as persons engaged in the activity of ASPs, AIFs, AIFMs, in order to have the opportunity to submit questions and suggestions regarding the final formulation of the relevant to them applicable legislation.

In the context of the improvement of the system of investors' education in Cyprus, the CySEC, in cooperation with the Pan Cyprian Consumers' Accusation, conducted two educational seminars and published three informative articles and warnings for the protection of the investors. Basic objective of the CySEC is to enhance investors' knowledge in capital market issues to be able to avoid any misleading investment options and take proper investment decisions.

Since the autumn of 2013, CySEC was requested to participate through its Chairwoman, to the Resolution Authority with the Governor of the Central Bank of Cyprus and the Minister of Finance. For this purpose an expert group was created within CySEC in order to productively contribute to the achievement of the objectives of the Resolution Authority.

In order to contribute to the promotion and attraction of new, healthy and dynamic financial institutions in the Cypriot capital market, but mainly the earliest restoration of the credibility of Cyprus abroad, CySEC cooperated with the Cyprus Investment Promotion Agency (CIPA), by participating, within 2013, in 6 conferences in Cyprus and abroad regarding the promotion of the Cypriot capital market. In those conferences, CySEC presented the applicable supervisory and regulatory framework and explained how it ensures the investors' protection and the smooth operation of the market in Cyprus.

The CySEC was actively involved, at its own initiative, with the issues of the misleading promotion of bonds, within the context of its general role in relation to the investors' protection. It formed and submitted a suggestion for the out of court settlement of the disputes through arbitration tribunals. The relevant draft Law is at the Legal Service of the Republic for legal vetting. The latest development regarding this issue at the end of 2013 was the establishment of a committee composed by CySEC, the Central Bank and the General Attorney's office in order to assist in the establishment of an arbitration tribunal that will examine the complaints made by the bond holders.

Furthermore, the close cooperation of CySEC with competent Authorities and other organisations abroad to process the increasing volume of demands regarding investigations and collection of information continued. The

exchange of information and the provision of mutual assistance between the supervisory Authorities is important as it enhances the effective exercise of supervision and the investigation of alleged violations of the legislation. In 2013 CySEC had received 177 incoming requests and sent 98 outgoing requests.

In 2013, the CySEC has received a positive evaluation by the European Securities and Markets Authority (ESMA) within the context of the evaluation of the supervisory practices applied by the National Competent Authorities in the European Economic Area regarding the enforcement of the provisions of the Directive regarding insider dealing and market manipulation. In accordance with the evaluation, CySEC fully complies (100%) with the rules and applies fully the provisions of the EU Directive in relation to market manipulation as the practices followed are within the framework of best practices.

Regarding the improvement and modernisation of CySEC through substantial simplifications and automation of its procedures, within 2013, CySEC proceeded with the implementation of various projects as the preparation of a modern system for Central Registry and documents management. In 2013 the electronic signatures system to be used by the regulated entities to submit documents to CySEC electronically, quickly and easily was designed and implemented. At the same time, the design of the Portal of CySEC began. The Portal will be used by the supervised entities in combination with the Electronic Signatures System for the faster submission of their documents.

During the first months of 2013, the internal reorganisation in the structure of CySEC was completed. After the reorganisation two Departments have been abolished and two new Departments have been created; the Authorisations and Supervision Department and an Internal Control Unit, making the CySEC even more transparent and more efficient towards the fulfilment of its role.

Finally, in 2013 the 'housing' problem of CySEC was tackled with its transfer to a new, functional and safe building that assists in the smooth operation of the CySEC and its future development.

## **4.2 MOST IMPORTANT GOALS OF 2014**

The main objectives to be implemented in 2014, mainly concern the conclusion of the investigations that are still in progress and which relate with the banking sector, the enhancement of market supervision and the provision of more guidance to the supervised entities and the preparation of legislative measures that will encourage the development and the progress of the market.

Specifically, CySEC has set as one of its priorities for 2014, the conclusion of most of the investigations, mainly in relation to issuers in the banking sector, which are ongoing since 2012. The conclusion of most of these investigations shall contribute to the assignment of responsibilities, where these apply and to the restoration of the credibility of the financial system and the public confidence in the institutions.

For 2014, the CySEC has also set between its most important objectives, the enhancement of the supervision of the market through the conduct of more audits in all supervisory sectors, the conclusion of the preparation of a risk based framework and the provision of more guidance to the supervised entities in accordance with the weaknesses spotted during the audits of the CySEC, in order to improve their regulatory compliance. The Risk Based Supervision Framework shall introduce substantial changes in the supervisory practices. The purpose of this framework is to identify and assess the risks entailed in every supervised entity based on its significance in order to focus the supervision on the entities that entail the most important risks. The Risk Base Supervision Framework is, currently, under preparation.

Furthermore, in 2014 and in the following years, it is expected to complete enough legislative reforms that are, currently, being prepared at a European level and will have to be incorporated in National Law. Some of them is the proposal for a Regulation in relation to the Credit Rating Agencies, the proposal for a Directive in relation to Sanctions, the proposal for a Regulation regarding Insider Dealing and Market Abuse (MAR), the proposal for a Directive regarding UCITS (UCITS V) and the proposal for a Directive and regulation regarding the Markets in Financial Instruments (MiFID/MiFIR). The aim of CySEC is the fastest possible harmonisation of the new European Directives in national law.

An important step towards the improvement of the regulatory framework of the Cypriot capital market is



to complete the relevant legislation regarding the Alternative Investment Funds that are not UCITS and are categorised as Alternative Investment Funds (AIFs) which is expected in 2014. This legislation shall transfer the supervision of those entities from the Central Bank of Cyprus to CySEC. With the voting of the relevant legislation in 2014, CySEC will have to prepare a series of circulars and directives in accordance with this legislation in order to guide and inform the interested market participants on the new authorisation procedures and supervision of those entities.

Among the big internal projects to be implemented in 2014, is the implementation of the Central Registry of CySEC which will organise and automate enough internal procedures of CySEC departments, eliminating the requirement of the filing of a large volume of documents handled on a daily basis.

Other objectives of CySEC for 2014, include the continuation and conclusion of an internal operations manual for each department of CySEC which shall ensure the uniform handling of various subjects and the effective monitoring of its implementation by the staff, both by the management and the Auditor General of the Republic, the preparation and implementation of the Internal Control Unit of CySEC and the complete improvement and modernisation of CYSEC' website.

### **4.3 THE NEED TO REAPPOINT THE COUNCIL OF CYSEC**

The revocation of the decisions of CySEC at the beginning of 2013 regarding cases in relation to an issuer of the banking sector with listed securities on CSE, directly related with the legal doubts resulting from a Court Decision issued in 2012 in relation to the administrative council of another legal person of public law.

Specifically, on the 15.03.2012, the Supreme Court issued a decision to the Appeal No. 570/2009, Michael Andreou -v- the Republic of Cyprus, through the Council of Ministers, with which it cancelled the decision of the Council of Ministers. The reason for the cancellation was the fact that during the meeting of the Council of Ministers, where the disputed decision was made, the Deputy Minister to the President and the Government Spokesman attended, while they were not members of the Council of Ministers and their presence constituted a breach of the principles regarding the operation of the Council of Ministers.

On the 20.06.2012, the Council of Ministers, taking into consideration the decision to the Appeal No. 570/2009, revoked the appointments of all the Members of the CySEC due to the fact that during its meetings dated 14.09.2011 and 27.09.2011, the Deputy Minister to the President and the Government Spokesman attended and therefore, their decisions regarding the relevant appointments were vitiated because of a breach of the principles regarding the operation of the administrative body. Furthermore, the Council of Ministers, with its decisions dated 20.6.2012 and 03.09.2012 proceeded in the reappointment of the Members of CySEC Council.

Taking into consideration the development mentioned above, to avoid any legal problems on the basis that the decisions taken by the Board of CySEC were taken by persons not legally appointed in this due to the composition of the Council of Ministers that decided their appointment, the revocation of the previous decisions of the CySEC was considered necessary for their handling which have been taken the 14.09.2014 (initial date of the Board's appointment) until the 20.06.2012 (date of appointment of the new Board).

Unfortunately, and even the legal grounds which were the result of the Supreme Court's decisions, are not related with any actions or omissions of the CySEC itself, since the issue of the legal structure and establishment of the CYSEC' Council is an exclusive competency of the Council of Ministers, have affected the operations of CySEC and undermined its credibility. The revocation of the decisions of CySEC resulted in increased costs in work volume, delays and working hours which burdened the already understaffed departments of CySEC in a period where its operations were already enhanced due to the radical developments in the financial sector of Cyprus. As a consequence, the CySEC was not in a position to respond to the increasing work volume and the numerous and complicated investigations that was called to conduct and therefore, it was not possible to conclude its investigations within the time schedules set and had to continue during the following year.

# 5

## OPERATIONS OF THE CYPRUS SECURITIES AND EXCHANGE COMMISSION



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# 5

## OPERATIONS OF THE CYPRUS SECURITIES AND EXCHANGE COMMISSION

The principal operations of the CySEC include:

- the monitoring of the compliance of issuers with listed securities on CSE or on another regulated markets and their home member-state is the Republic of Cyprus, with their continuous obligations in general and specifically with those that relate with issues of financial information (e.g. the publication of annual and semi-annual financial reports, indicative results etc.), the timely and complete publication of substantial information, corporate governance issues etc.;
- the approval of prospectuses for public offer of transferable securities or their admission to trading on a regulated market;
- the supervision of public takeover bids and the monitoring of the application of the Takeover Bids Law of 2007;
- the examination of applications for authorisation of CIFs or IFS of third countries for the establishment of a branch in the Republic and the monitoring of their compliance with the provisions of the legislation that regulates their operation;
- the examination of applications for authorisation of regulated markets and the monitoring of their compliance with the provisions of the legislation that regulates their operation;
- the examination of applications for authorisation of CRAs and the monitoring of their compliance with the provisions of the legislation that regulates their operation;
- the exercise of the competencies of CySEC derived by the law for the prevention and suppression of money laundering;
- the examination of applications for the authorisation of UCITS, UCITS Management Companies and the monitoring of their compliance with the provisions of the legislation that regulates their operation;
- the examination of notifications for the cross border provision of services and the establishment of a branch by UCITS management companies established in other EU member-states in the Republic;
- the examination of notifications and applications for the marketing of foreign UCITS through Representatives in the Republic and the supervision and implementation of the Open Ended Undertakings in Collective Investments in Transferable Securities (UCITS) and Related Issues Law;
- the conduct of investigations in relation to cases concerning, inter alia, CIFs or companies that have securities listed in CSE/regulated market ;
- the monitoring of the stock market and the transactions;
- the supervision and application of the Insider Dealing and Market Abuse Law;
- issues regarding the reform of the legislation that regulates the capital market, the conduct of studies and the preparation and submission of draft laws;
- the study, preparation and issue of Directives in accordance with the applicable law in relation to CySEC and the capital market in general;
- administrative issues in relation to the operation of CySEC;
- the conduct of studies in relation to issues that concern CySEC and the capital market in general;
- the update and education of the investors in relation to issues that concern the capital market;
- The participation in committees and technical committees at national and European level that relate with CySEC' competencies.

## 5.1 AUTHORISATION AND APPROVAL

### 5.1.1 Applications

The applications submitted to CySEC in 2013 are summarised on the following table (Table 6):

**Table 6: Applications submitted to CySEC in 2013**

SUBMITTED APPLICATIONS	2013	2012
Authorisation of CIFs	25	52
Extension of authorization of CIFs	17	21
Free provision of services by Ifs	45	55
Establishment of a CIF branch	5	2
Tied agents' registration	3	6
Changes in CIF information	Large number	Large number
Termination of CIF authorisation	8	12
Registration of CRAs	0	1
Authorisation to Companies Providing Administrative Services	19	0
Authorisation of Cypriot UCITS	3	0

#### 5.1.1.1 Applications for CIF authorisation

During 2013, the new applications submitted to CySEC include; 25 new applications for authorisation of CIF authorisation (2012 – 52 new applications). Apart from the above applications, during 2013, the examination of 40 applications for CIF authorisation that had been submitted in the previous years, was in process. The CySEC granted 31 CIF authorisations (2012 – 27 authorisations). Furthermore, 3 companies withdrew their CIF application at their own initiative. Regarding the rest of the applications, their examination began in 2013, but the decision regarding the authorisation is or will be taken in 2014.

#### 5.1.1.2 Applications to extend the CIF authorisation

During 2013, the CySEC examined 17 applications for extension of CIF authorisation and the provision of additional investment or/and ancillary services or/and financial instruments (2012 – 21 applications).

#### 5.1.1.3 Applications/notifications for the free provision of cross border services and the establishment of a branch by CIFs and IFs

During 2013, the CySEC examined 45 applications of CIFs in relation to the free provision of cross border services to other EU member-states or/and third countries (2012 – 55 applications) and 5 applications from CIFs for the establishment of a branch in other EU member-states (2012 – 2 applications). Furthermore, CySEC received a substantial number of notifications from IFs of EU member-states to freely provide cross border services in the Republic. Finally, the CySEC has not examined any notification for the establishment of a branch in the Republic by IFs established in other EU member-states (2012 – 1).

#### 5.1.1.4 Applications for registration of tied agents of CIFs

During 2013, the CySEC has examined 1 application for registration of a tied agent to the public registry, established in the Republic and acting on behalf of a CIF (2012 – 3). Furthermore, the CySEC cooperated with the relevant competent authorities of the respective member states for the assessment of 2 applications of tied agents established in the relevant member states but act on behalf of CIFs (2012 – 3).

#### 5.1.1.5 Applications for other amendments of CIF information

During 2013, the CySEC examined a large number of applications in relation to changes in CIF information in relation to their holding structure, their organisational structure, their internal operations manual, their activities and the way of their operation. Where the above changes have been assessed as non-compliant with the relevant legislation their implementation was forbidden.

#### 5.1.1.6 Applications for withdrawal of CIF authorisation

During 2013, 8 CIF authorisations have been withdrawn (2012 – 12) due to their voluntary renouncement (6 CIFs), due to non-activation (1 CIF) and due to noncompliance with their continuous legal obligations (1 CIF).

#### 5.1.1.7 Application for the registration of a CRA

During 2013, no applications have been submitted for registration of a CRA, as in 2012, due to the fact that this competency has been assigned to ESMA in accordance with the European Regulation (EU) No. 513/2011 of the 11th May 2011. During 2013, no authorisation of a CRA has been granted (2012 – 1).

#### 5.1.1.8 Applications for authorisation of Companies Providing Administrative Services

During 2013, the CySEC examined 19 applications for authorisation of Companies Providing Administrative Services.

#### 5.1.1.9 Applications for granting authorisation to Cypriot UCITS

During 2013, the CySEC examined 3 applications for authorisation of Cypriot UCITS (2 single schemes και 1 umbrella scheme with fourteen sub-funds).

### 5.1.2 Prospectuses and other applications in relation with Public Takeover Bids

#### 5.1.2.1 Applications for approval of Prospectuses for public offer or listing of securities on a regulated market

The CySEC is the competent authority for the approval of Prospectuses for public offer or listing of securities on a regulated market in all the cases where Cyprus is the issuer's member state of establishment. The power is derived by the Public Offer and Prospectus Law of 2005 – L.144 (I)/2005, as applicable, which harmonises the European Directive 2003/71/EC in relation to Prospectuses. In accordance with this Law, the CySEC approves the Prospectus if its content is in compliance with the provisions of the Law and the regulatory acts issued pursuant to it.

The examination of the applications for the Prospectus approval in accordance with the applicable legal framework includes the assessment of the completeness of the Prospectus and, specifically, whether the Prospectus contains all the necessary information in accordance with the Public Offer and Prospectus Law and the Regulation 809/2004 of the European Commission in relation with the content of the Prospectus, as amended, which shall be in coherence and comprehensible.

During 2013, two applications for Prospectus approval have been submitted to the CySEC (2012 – 11) for public offer or/and listing of securities in a regulated market within the context of the Public Offer and Prospectus Law. The CySEC examined the relevant applications and approved the Prospectuses (2012 – 8 approvals).

During 2013, no applications have been submitted to the CySEC for the approval of a Supplement to the Prospectus in accordance with the relevant Law, while during 2012 five applications have been submitted to the Commission, which have been examined and approved.

One of the above mentioned approved Prospectuses (2012 – 4 Prospectuses and the respective Supplements to the Prospectuses) was notified, at the issuer's request, to the competent Authorities of two host EU member-states, where the public offer of the relevant securities would be implemented or/and their listing in a regulated market.

### 5.1.2.2 Transfer of the competency of Prospectus approval

During the end of 2013 the applications of two issuers (2012 -3), whose home member state in accordance with the Public Offer and Prospectus Law is the Republic of Cyprus, have applied to the CySEC to transfer the approval of their Prospectus to the Competent Authority of the other member-state. The CySEC has examined the applications and decided, in accordance with Section 26(8) of the Public Offer and Prospectus Law to transfer the approval of the 2 relevant Prospectuses (2012-3) to the competent Authority of the other member-state as requested by the issuers, provided that each competent authority accepted the transfer.

### 5.1.2.3 Documents of Public Takeover Bid

In accordance with the Law in relation to the Public Takeover Bids for the acquisition of securities of companies and other related issues (the Takeover Bid Law of 2007), the CySEC is the competent authority for the supervision of the Public Takeover Bid, in case the company under acquisition has its registered office and its securities are listed and traded on a regulated market in the Republic. Furthermore, the CySEC is the competent Authority of Public Takeover Bids for securities which are not listed and traded in a regulated market in the member-state where the company has its registered office, where certain provisions defined in the Law apply. The relevant Law harmonises the European Directive 2004/25/EC in relation with the public takeover bids and the scope of its application derives from the relevant directive.

The Public Takeover Bid documents are assessed as to their compliance with the general principles governing every public offer and the conditions as defined in the Public Take Over Bids Law of 2007, and the assessment of the completeness of the provided information within the context of the relevant Law and the Directive DI41-2007-03 of the CySEC in relation to the content of the Public Takeover Bid Document.

During 2013, two Public Offer Documents have been submitted to the Commission (2012 – 5 Documents) after an announcement by the Acquirers, for voluntary public takeover bids for the acquisition of 100% of the securities of the respective number of issuers with securities listed on the CSE.

The CySEC has examined the relevant Documents and one Document submitted in 2012 and decided to allow the publication of the three Documents (2012 – 4 approvals).

During 2013, a Revised Public Takeover Bid Document was also submitted to the CySEC (2012-none) in relation to one of the approved Public Takeover Bid Documents, after a relevant announcement by the Acquirer. The CySEC has examined the relevant Document of the Revised Takeover Bid, after the relevant announcement by the Acquirer. The CySEC has examined the relevant Revised Takeover Bid Document and decided to allow its publication.

During 2013 the CySEC, also assisted there competent authorities of two other member states in three public takeover bids concerning Cypriot companies whose securities were listed and traded in a regulated market of the relevant member states in relation to issues concerning the legislation of Cyprus and fall within the competencies of CySEC.

### 5.1.2.4 Prospectus equivalent documents

In 2013 and 2012 no Documents equivalent to Prospectus have been submitted for granting an exemption as provided by the Public Takeover Bids and Prospectus Law.

### 5.1.2.5 Exemptions from the obligation to conduct a Public Takeover Bid

During 2013 twelve (2012 – 12) applications have been submitted to the CySEC for granting an exemption from the obligation to conduct a Public Takeover Bid. The CySEC examined the relevant applications, as well as an application submitted in 2012 and issued a relevant decision (of approval or rejection) for the 13 applications.

### 5.1.2.6 Applications to exercise the squeeze out right

During 2013 three applications (2012 -3) have been submitted to CySEC by the Offeror to exercise the squeeze out right in relation to the shares of the acquired companies which had not been obtained in the

course of the Public Takeover Bids from their shareholders. The CySEC examined and approved all the applications.

### **5.1.3 Decisions in relation with the smooth operation of the Stock Market**

#### **5.1.3.1 Delisting / suspension of trading**

During 2013, the CySEC approved, in six cases (2012 – 6 cases) the decisions of the CSE Council in relation with the delisting from CSE of the securities of the respective number of issuers. With respect to five of those issuers, the delisting was due to the fact that the conditions of the smooth operation of the stock market in relation to those securities no longer applied, while one of those cases concerned the non-dispersion of the share capital of the relevant issuer after a public takeover bid.

Furthermore, in the case of an issuer (2012 – none), the CySEC decided, pursuant to the power granted to it by section 127(2) of the Investment Services and Activities and Regulated Markets Law of 2007 to 2012, to request the Council of the CSE to delist all securities of an issuer from the CSE. The CySEC reached the above mentioned decision, as it considered that the conditions for the smooth operation of the market in relation to the securities of the relevant issuer no longer applied.

During 2013, the CySEC also approved in the cases of twenty issuers (2012 – 11 issuers), the decision of the CSE Council to prolong the suspension of trading of the securities of the relevant issuers. Furthermore, in relation with eighteen of the above mentioned issuers, the CySEC, after taking into consideration the fact the CSE had no authority to prolong the suspension of the trading of the securities of the relevant issuers, decided, pursuant to the authority granted to it by the section 127(2) of the Investment Services and Activities and Regulated Markets Law of 2007 to 2012, to request the CSE Council to suspend the trading of the securities of the relevant companies until their compliance with their continuous obligations or their probable delisting.

## **5.2 SUPERVISION AND MARKET SURVEILLANCE**

### **5.2.1 Monitoring of CIFs compliance**

The CySEC monitored the compliance of the CIFs with their regulatory obligations, either by conducting on the spot inspections at their offices, or by examining the documents submitted to the CySEC by Law.

#### **5.2.1.1 Conduct of on the spot inspections**

During 2013, the CySEC conducted:

- 9 on the spot investigations to CIFs and 2 on the spot investigations to Companies Providing Administrative Services to determine their regulatory compliance with their continuous obligations and with the money laundering and terrorist financing procedures;
- 13 on the spot investigations to determine the operation of the supervisory function (Board of Directors and senior management) and the compliance function.

During 2012 the CySEC conducted 15 on the spot investigations in relation with the above mentioned issues. The CySEC had conducted 15 on the spot inspections in relation with the matters mentioned above.

During 2013, the CySEC conducted 15 on the spot investigations to determine the compliance of the supervised entities with their continuous obligations (2012 – 2 on the spot investigations).

#### **5.2.1.2 Desk based audits**

During 2013, the CySEC conducted:

- 53 audits in relation to documents concerning the information that CIFs addressed in the investors (advertisements).
- Inspection to the financial statements of all CIFs.
- Inspection of the form submitted by CIFs in relation to their own funds and the operational risk.

- Inspection of the report regarding the appropriateness of the arrangements made by the CIFs in relation to the clients' assets.
- Inspection of the report regarding the fair presentation of the CIF publications in relation to their capital adequacy.
- Desk audits to a large sample of monthly, quarterly and semi-annual reports submitted in relation to the capital adequacy of the CIFs and of their large exposures.
- Desk audits to a large sample of CIFs' monthly prudential reports of significant cash transactions in cash

### 5.2.1.3 Sanctions

Where the CySEC established the non-compliance of the supervised entities with their continuous obligations, decided, after weighing the importance of the violations, the following:

- Set a deadline for compliance to a number of CIFs.
- Impose administrative penalties to 4 CIFs (2012-3).
- Revoke the authorisation of one CIF.
- Suspend the authorisation of one CIF.

## 5.2.2 Monitoring the Compliance of Issuers of Listed Securities on a Regulated Market

### 5.2.2.1 Monitoring the application of the Public Offer and Prospectus Law

During 2013, Officers of the Issuers department continued the monitoring, on a continuous basis, of the announcements of issuers in relation to the issue/public offer of transferable securities or the listing of transferable securities on a regulated market to ensure their compliance with the Public Offer and Prospectus Law in respect of their obligation to issue a Prospectus or a Supplement or whether they fell within the exemptions of the Law.

Furthermore, the Issuers' Department monitors, on a continuous basis, the notifications of approved prospectuses from the competent Authorities of other member states, which concern, mainly, public offers of transferable securities of issuers established in another member state, in the Republic. The relevant notifications are posted on CYSEC' website. During 2013, five Prospectuses (2012 – 8) have been notified to CySEC by the competent Authorities of other member states and thirteen supplements to the notified Prospectuses (2012 -26).

In the cases, where, at the course of the examination of applications for approval of Prospectuses or the relevant announcement, matters emerged, which might constitute violations of the Stock Market legislation and of the relevant legislation of the capital market, those have been referred to the Department of Investigations and Market Surveillance for further investigation.

### 5.2.2.2 Monitoring of the implementation of the Public Takeover Bids Law of 2007

Officers of the Issuers Department continued the monitoring, on a continuous basis, of the announcements/publications in order to ensure the compliance of the parties involved with the Public Takeover Bids Law.

During 2013, the Issuers Department proceeded in the investigation of two cases that concerned alleged violations of the Public Takeover Bids Law (L.41 (I)/2007, as amended) as follows:

#### (a) Alleged violation of sections 5(d), 34(1) (a) και 34(2) (b) of the L.41 (I)/2007, as amended

The CySEC decided that there was a violation of section 34(2) (b) of the L.41 (I)/2007 in relation to the obligations of the board of directors of the offeree company. Regarding the violation, the CySEC decided not to impose an administrative fine, but rather to draw the attention of the board of directors of the offeree company to the provisions of the L.41 (I)/2007 concerning the limitations to the authority of the board of directors of the offeree company during the takeover period and to require its compliance with the relevant provisions to avoid any future penalties.

Regarding the alleged violation of sections 5(d) and 34(1) (a) of the Law, the CySEC, after the examination of the evidence, decided not to proceed to any further action on the issue.



**(b) Alleged violation of section 13(10) of the L.41 (I)/2007 regarding the obligation to conduct a takeover bid**

The relevant case concerned a Cypriot company whose shares were listed, at that time, on a regulated market of another EU member state.

The CySEC decided that there was a violation of section 13(10) of the L.41 (I)/2007 by the acquirer, due to the fact that he did not comply, at that time, with his obligation to conduct a takeover bid to the shareholders of the company for the acquisition of the 100% of its share capital which resulted from the increase in his percentage holding in the share capital and the voting rights of the company as a result of a buy back conducted by the company. In relation with the relevant violation, the CySEC decided not to impose an administrative fine, but rather to draw his attention to the provisions of the L.41 (I)/2007, regarding the obligation to conduct a takeover bid, taking into consideration, inter alia, the fact that the acquirer conducted, at a later stage, a public takeover bid for the acquisition of the 100% of the share capital of the relevant company.

**5.2.2.3 Monitoring the compliance of the Transparency Requirements (Transferable Securities Admitted to Trading on a Regulated Market) Law of 2007**

The CySEC is the competent Authority in relation to the supervision and ensuring the application of the Transparency Requirements (Transferable Securities Admitted to Trading on a Regulated Market) Law of 2007, as it applies, which provides for the Transparency Requirements in relation to information that concern an issuer whose transferable securities are admitted to trading on a regulated market. The relevant Law harmonises the Directive 2004/109/EC of the European Parliament and of the Council in relation to the harmonisation of the transparency requirements. The relevant Law concerns the issuers whose home member state is the Republic and their transferable securities are admitted to trading on a regulated market in the Republic or in another Member State. The purpose of the relevant Law is to establish the conditions for the publication of periodic and ongoing information of issuers whose transferable securities are admitted to trading on a regulated market.

Within the monitoring of the compliance of the issuers whose transferable securities are listed on a regulated market, with their continuous obligations in accordance with the Transparency Requirements (Transferable Securities Admitted to Trading on a Regulated Market) Law of 2007, the CySEC examined their compliance with the provisions of the law and specifically, with their obligation for publication of their Indicative Result for the full financial year, the Annual Financial Report, the Half-yearly Financial Report, the Interim Management Statement and the content of the above mentioned reports/announcements and, specifically, whether the financial information has been prepared in accordance with the relevant provisions of the Law.

**Indicative Result for the full financial year**

Within the content of the examination of the compliance of the issuers with their obligation regarding the publication of the Indicative Result for 2012, the CySEC proceeded in the investigation of seven cases regarding the alleged violation of section 13(1) of the Transparency Requirements (Transferable Securities Admitted to Trading on a Regulated Market) Law of 2007, due to the non-publication of the Indicative Result within the deadline specified in section 13(3) of the same Law in relation to the content of the Report attached to the Indicative Result and of section 37(2)(a) of the same Law for the non-submission of the Indicative Result to CySEC. The examination of the cases was completed in 2013 and CySEC decided to impose administrative fines to three of the seven cases as follows:

- An administrative fine to an issuer for violation of sections 13(1) and 37(2)(a) of the relevant Law;
- An administrative fine to an issuer for violation of section 13(1);
- An administrative fine to an issuer for violation of section 37(2)(a) of the relevant Law;

In relation to the rest of the cases, the CySEC decided to draw the attention of the issuers to the provisions of the Law regarding the Indicative Result (is not announced yet).

Within the same examination, the CySEC also sent letters to a number of issuers who presented insignificant

omissions as to the publication of their Indicative Result for the year 2012, or deficiencies as to its content, drawing their attention to the provisions of the Law regarding the Indicative Result, its publication and the content of the Report.

### **Annual Financial Report**

Within the context of the examination of the compliance of the issuers with their obligation regarding the publication of their Annual Financial Report for the year 2011, the CySEC proceeded in the investigation of fourteen cases concerning the alleged violation of section 9(1) the Transparency Requirements (Transferable Securities Admitted to Trading on a Regulated Market) Law of 2007, due to the non-publication of the Annual Financial Report within the deadline specified in the Law, or/and of section 37(2)(a) of the same Law regarding the non-submission of the Annual Financial Report to CySEC. The examination of the cases was completed in 2013, and the CySEC decided to impose administrative fines to the twelve from the fourteen cases as follows:

- An administrative fine to ten issuers for the violation of section 9(1) of the Law;
- An administrative fine to two issuers for the violation of sections 9(1) and 37(2) (a) of the relevant Law.

In relation to the rest of the cases, the CySEC decided to draw the attention of the issuers to the provisions of the Law regarding the Annual Financial Report and its publication.

During 2013, the CySEC commenced the examination of the compliance of the issuers with their obligation for publication of the Annual Financial Report for the year 2012. Within the context of the relevant examination, the CySEC proceeded in the investigation of twenty one cases regarding the alleged violation of section 9(1) of the Transparency Requirements (Transferable Securities Admitted to Trading on a Regulated Market) Law of 2007, due to the non-publication of the Annual Financial Report within the deadline specified in the Law, or/and of section 37(2) (a) of the same Law regarding the non-submission of the Annual Financial Report to CySEC. The CySEC, also, proceeded in the investigation of three cases concerning the alleged violation of section 9(4)(c) of the same Law, due to that fact that the annual accounts of the holding companies have not been included in the Annual Financial Reports of the relevant issuers. The relevant investigation was concluded within 2014 and the CySEC decided to impose administrative fines to eighteen issuers for the violation of section 9(1) of the relevant Law.

In the context of the same investigation, the CySEC also sent letters to a large number of issuers in relation to minor omissions or deficiencies encountered in the course of the publication of their Annual Financial Report for the year 2012, drawing their attention to the provisions of the legislation regarding the Annual Financial Report and its publication.

### **Half-yearly Financial Report**

Within the context of the examination of the compliance of the issuers with their obligation regarding the publication of their Half-yearly Financial Report for the first semester of 2012, the CySEC proceeded in the investigation of nine cases concerning the alleged violation of section 10(1) of the Transparency Requirements (Transferable Securities Admitted to Trading on a Regulated Market) Law of 2007, due to the non-publication of the Half-yearly Financial Report within the deadline specified in the Law. The examination of the cases was completed in 2013, and the CySEC decided to impose administrative fines to the five out of the nine cases. In relation to the rest of the cases, the CySEC decided to draw the attention of the issuers to the provisions of the Law regarding the Half-yearly Financial Report.

Furthermore, in the context of the same examination, the CySEC sent letters to a large number of issuers in relation to minor omissions or deficiencies encountered in the course of the publication of their Half-yearly Financial Report for the first semester of 2012, drawing their attention to the provisions of the legislation regarding the Half-yearly Financial Report and its publication.

Furthermore, during 2013, the CySEC commenced an examination in relation to the compliance of the issuers with their obligation for the publication of the Half-yearly Report for the first semester of the financial year 2013. The relevant examination continued in 2014.

## **Content of the Financial Information**

In relation with the examination of whether the financial information required by the Transparency Requirements (Transferable Securities Admitted to Trading on a Regulated Market) Law, has been prepared in accordance with the provisions of the relevant Law, the CySEC proceeded in the assessment of the Financial Statements for the years 2011, 2012 or/and the semi-annual report ended on the 30th June 2013, of a number of companies whose securities are listed on CSE.

The selection of the Financial Statements assessed was performed on a sample basis and the purpose of the evaluation was the determination of compliance of the relevant Financial Statements with the International Financial Reporting Standards. In some cases a limited thematic review of the Financial Statements was conducted in relation with a specific accounting treatment.

The results of the evaluations have been notified by the CySEC, where it was considered necessary, to the relevant companies in order to provide the relevant explanations or/and be taken into consideration in the course of the preparation of their following financial statements.

### **5.2.3 Market surveillance**

The market surveillance is conducted by the CySEC on a continuous basis in order to prevent and investigate abusive or illegal practices to the markets of transferable securities. Furthermore, the surveillance and supervision of the market assists in the identification of possible deficiencies in the systems and procedures of controls that the supervised entities are obliged to maintain in order to ensure the protection of their clients.

The market surveillance helps to ensure the smooth operation of the markets so that the market participants feel safe and secure for their integrity and reliability. Therefore, the smooth and integral operation of the markets encourages the investments and strengthens the economic development.

Generally, the market surveillance by CySEC, is conducted through the monitoring on real time and on a continuous basis of the regulated markets with the use of a specially adapted electronic system and applications provided from the provider of the platforms. Furthermore, in the context of the market surveillance, historic data from the databases of the transaction orders, transactions and shareholders' information which are maintained internally are analysed and examined.

Furthermore, inter alia, the CySEC conducts on the spot investigations to ensure that a company maintains a local presence in Cyprus and audits through the websites of companies to determine whether a company seems to provide investment services through its website without having the necessary authorisation by CySEC.

At the same time, relevant Department of CySEC, responsible for the market surveillance, carries out on a daily and continues basis to the review of news and announcements at the Media, including websites, in Cyprus and Abroad, which may concern the entities regulated by CySEC and the Cypriot investment services market.

### **5.2.4 Improvement of the compliance of the Regulated Entities**

In order to improve the compliance of the supervised entities with the relevant legislation, the CySEC carries out seminars for the supervised persons and open lectures for all interested parties. The aim of these seminars and lectures is to present new legislations or changes in the legal framework and explain the basic legal provisions and the obligations of the supervised entities which derive from those changes.

For that purpose, within 2013, the CySEC has conducted 11 seminars addressed to CIFs in Nicosia and Limassol. During these seminars the prospective changes derived from the Directive and the Guidelines to CIFs in relation to the Internal Capital Adequacy Assessment Process, ICAAP and the Supervisory Review and Evaluation Process, SREP, have been explained.

On the 12th of March 2013, the CySEC, in cooperation with the Ministry of Finance presented the new legal framework that will govern the Alternative Investment Funds in the conference hall of the Ministry of Finance in Nicosia. During the presentation, a general overview of the draft Law in relation to the Alternative Investment

Funds and Collective Investment Schemes with Limited Number of Person was conducted and the most important provisions and innovations introduced in the legal framework that governs the Alternative Investment Funds and Collective Investment Schemes with Limited Number of Persons and the transitional provisions regarding the existing international collective investment schemes, supervised by the Central Bank have been explained. At the presentation attended 150 persons from CIFs, law offices, audit and consultative houses, financial institutions and other interested parties from the Cypriot capital market, which submitted many questions and suggestions for the improvement of the provisions of the draft Law.

Furthermore, 6 presentations/seminars have been conducted to supervised entities in relation to the Law regulating Administrative Services and Related Matters of 2012 (L.196(I)/2012).

### 5.2.5 Risk Based Supervision Framework

The risk management is the process by which the organisations approach methodically and systematically the risks related with their activities. The effective risk management assumes the existence of a framework which facilitates and supports all the risk management processes. The majority of the competent Authorities in the most important financial centres in the world, identifying the requirement for coordinated supervision, based on the assessment of the risks they are facing in relation to their strategic objectives, have developed and implemented risk based supervision frameworks.

The CySEC, following the example of other competent Authorities abroad, decided to proceed in the establishment of a supervisory framework with which it shall supervise the entities under its supervision on the basis of their risks. The Risk Based Supervision Framework, 'RBS-F', shall enable CySEC to define the way it shall exercise the supervision taking into consideration and evaluating the risks faced by each supervised entity, on the basis of its importance, in order to focus its supervision on the entities that entail the highest risk.

The benefits from the implementation of the RBS-F, shall be important for the supervised entities and the CySEC itself. The RBS-F aims to assist CySEC with the following:

- (i) To make better decisions based on risk management.
- (ii) To impose immediate and comparable/uniform supervisory measures, where necessary.
- (iii) To the conduct of supervisory tasks in accordance with their priority.
- (iv) To strengthen the ability of the CySEC to take effective supervisory measures.
- (v) To enhance the capacity, efficiency and transparency in supervision, with the focus on the high risk entities.
- (vi) To the more efficient allocation of CySEC resources.
- (vii) To adopt a consistent and constant way of risk evaluation for all supervised entities.
- (viii) To adopt a supervisory framework, comparable with the systems applied by other competent Authorities abroad, within EU and through the world.
- (ix) To the better understanding of the operations and risks of the supervised entities.
- (x) To the encouragement of the regular and open communication between the supervised entities and the CySEC.
- (xi) To the development of the culture of the supervised entities to comply with the new supervisory framework and their encouragement regarding the adaptation of their own risk management systems.

On July 2013, the CySEC invited tenders regarding the «Design and development of a Risk Based Supervision Framework and related Supervisory and Software tools for the Cyprus Securities and Exchange Commission». The successful bidder has undertaken the task to establish this Framework in cooperation with the CySEC, based on the specifications of the tender. The Framework to be established shall include procedures, methodologies and tools that CySEC shall use to supervise the supervised entities under its supervision.

The functions for the establishment of the Project have begun in the mid December 2012 and are expected to last for a period longer than 12 months. The aim is that the Project shall include the departments of Authorisation, Supervision, Issuers and Investigations and it is expected to be concluded in five phases as follows:

- Phase A – Evaluation of the existing operations and supervision conducted by CySEC
- Phase B – Design and development of the framework
- Phase C – Implementation of the RBS-F
- Phase D - Roll - out
- Phase E - Continuous support

Within 2014, phases A and B have been completed in relation to the Departments of Authorisation and Supervision. The CySEC also started Phase C, which is the implementation of the supervision framework, initially, for a group of the supervised entities. It is expected that by the end of 2014, the Framework shall be implemented for all supervised entities. Furthermore, it is expected to complete Phase D, within the first quarter of 2015, and CySEC shall have at its disposal a complete framework for all the supervised entities for the Departments of Supervision and Authorisation, as well as, the necessary supervisory tools, such as the software, the audit programs, the procedures manual, etc. Within 2015, it is expected that the Framework will also include the Issuers and the Market Surveillance Departments.

### **5.2.6 Certified persons Register, continuous professional education and examinations**

In November 2012, CySEC undertook the task of the simplification of the procedure of the certification of persons, the conduct of the examinations for the certification of persons that may be employed in CIFs, credit institutions and engage in the provision of investment services, Management Companies and Variable Capital Investment Companies and the maintenance of the certified persons register. In November 2013, the procedures in relation to the new framework that governs the above issues have been completed.

After a relevant decision of CySEC, the registers that shall include the names of the persons that have succeeded in CySEC examinations and have, therefore, been certified and may be employed in the above mentioned organisations have been established. The registers shall be maintained by CySEC and shall be updated regularly, provided that the registered persons prove that they have fulfilled their obligations in relation to their continuous professional development. To maintain its registration, a person must complete a specific number of training hours each year. Each certified person included in the register has been given a personal certification number. In accordance with the legislation, the certified persons have the legal obligation to renew, annually, their registration in the public register, which is posted on CYSEC' website for easy access by everybody, in order to enhance the transparency in the market.

In other words, the CySEC introduced the concept of the compulsory Continuous Professional Education of the persons that may be employed in the above mentioned organisations in the investment services' sector. The aim of this concept is to ensure the better compliance of the supervised entities and of the professionals employed therein with their legal obligations. In this context, the CySEC organised and performed 6 one-day seminars in relation with the Continuous Professional Education of the certified persons during the period October – December 2013. The thanatology of the seminars included, inter alia, (a) Analysis of the Alternative Investment Fund Managers obligations and (b) Analysis of the obligations of UCITS Management Companies and a comparison between the two. The registered persons, in order to maintain their registration in the Register, have the obligation to submit to CySEC information in relation to their Continuous Professional Development and pay the relevant fee, in accordance with the Directive in relation to the Certification of Persons and the Public Register. In April 2013, the CySEC issued a Circular in relation with the obligation of Continuous Professional Education of the certified persons, while it provided information and answered questions through the phone or via email in order to assist further the interested persons during the transition in the new framework.

The relevant new framework of the conduct of the examinations for certification of persons and the registration in the public register, has been defined by the CySEC by a Directive in relation to the Certification of Persons and the Public Register (R.D.A 499/2012), which was published in the Official Gazette of the Republic on the 30th of November 2012. In accordance with the new framework, the old structure of the examinations has been abolished and replaced by two examinations, the Basic Examination and the Advanced Examination. The Basic Examination, which assumes a basic knowledge of the legal framework in relation to the capital market, concerns the persons that wish to be certified for the investment services of reception and transmission and execution of orders. The

Advanced Examination, which assumes a very good knowledge of the legal framework in relation to the capital market, concerns the persons that wish to be certified for all the investment services/activities.

For the conduct of the first examinations for the certification of persons in accordance with the new legal framework, on July 2013, the CySEC was assigned the preparation of the examinations to a consortium, after an invitation to tender which has been conducted by the Commission in 2012. In accordance with the established timeframe, the aim is the conduct of the first examinations within 2014. The examinations shall be conducted electronically, on a weekly basis, giving the opportunity to the interested parties to choose their examination date. The CySEC has been designated as the new competent authority for the conduct of the examinations of certified persons in accordance with the provisions of section 53 of the Investment Services and Activities and Regulated Markets Laws of 2007-2012, with the voting of the Law L154 (I)/2012 on the 9th of November 2012, replacing the Examinations Committee which was responsible for the relevant examinations.

The new framework improves, inter alia, the level of the knowledge of the certified persons in relation to the latest developments and changes in the legal framework that governs the securities' market, reduces the risk of noncompliance with the legal obligations of the supervised entities, improves the professional expertise of the certified persons in specific sectors of the provision of investment services, giving them the ability to face any weaknesses or discrepancies identified by the competent Authority and assists in keeping updated with the latest developments in the legal framework, the persons which may have not been employed for a sometime. Furthermore, it enhances the quality of the investment services provided and promotes a compliance culture to each supervised entity and to the market in general, which shall contribute substantially to the development and prosperity of the investment services sector in Cyprus.

## 5.3 CONDUCT OF INVESTIGATIONS

### 5.3.1 Investigation of Alleged Violations

During 2013, the Investigations and Market Surveillance Department, proceeded in the investigation of cases in relation to alleged violations of the relevant legislation. The investigated cases during 2013 are mentioned below. It is important to note that the conclusion of the investigation of several cases has been affected by substantial delays due to the legal issues that came up during 2012, which lead to the reappointment of the Council of the CySEC (more details are referred in section 4.3 of this report under the title "The need to reappoint the Council of CySEC) and resulted in the recall of large number of investigations at an advanced stage.

#### 5.3.1.1 Investigation in relation to alleged violations of the relevant legislation that governs the capital market by the two bigger Cypriot credit institutions regarding their investments in Greek government bonds.

These investigations commenced in July of 2012, but, due to the legal barriers which made the reappointment of the Council of CySEC necessary (explained in section 4.3 of this report under the title "The need to reappoint the Council of CySEC), the CySEC had to recommence them at the beginning of 2013, after the reappointment of the Council. As a result these investigations recommenced in February 2013 and the investigation of some of them continuous in 2014.

#### 5.3.1.2 Investigations of alleged violations in relation to the Insider Dealing and Market Manipulation (Market Abuse) Law, L.116(I)/2005 ('the Market Abuse Law').

In this category, the cases in relation to the possession, use and announcement of privileged information, the market manipulation, the announcement of substantial information by the issuers, the transactions of the issuers' directors etc., are examined.

**Alleged violation of Section 9(1) (a) of the Market Abuse Law where it is forbidden to the persons that possess confidential information, to use that information in order to acquire or sell on their own account or on behalf of third parties, directly or indirectly, financial instruments.**

The Investigations and Market Surveillance Department, has investigated two cases in relation to section 9(1) (a) of the Market Abuse Law. The CySEC decided to file the first case, due to the fact that, inter alia, a substantial period of time lapsed from the conduct of the alleged violation and that the re-examination of this case would result in the commitment of the Investigations Department on this case and thus not being able to engage effectively in serious cases which emerged at the given time. At the second case, the CySEC decided that there was no violation of the relevant article.

**Alleged violation of Section 19, as it is specified by section 20(1) (c) of the Market Abuse Law, according to which, market manipulation by any natural or legal person is forbidden.**

The Investigations and Market Surveillance Department, has investigated two cases in relation to section 19 of the Market Abuse Law. In relation to the first case, the investigation is continued in 2014. The CySEC decided to file the second case due to the lapse of a large period of time from the conduct of the alleged violation and CySEC could not ensure that the investigation shall be conducted “the soonest possible” in accordance with the Securities and Exchange Commission Law and that the re-examination of the case would result in the Investigations Department not being able to engage effectively in serious cases that emerged at the given time.

**Alleged violation of section 11(1)(a) of the Market Abuse Law, according to which the issuers of financial instruments, inter alia, are obliged to publish the soonest possible the confidential information that directly concerns them and ensure that these are posted on their website for a time period of, at least, five years, provided that the issuers maintain a website.**

The Investigations and Market Surveillance Department, has investigated three cases in relation to section 11(1) (a) of the Market Abuse Law. The investigation of the first case continued after the end of the relevant year. In relation to the second case, the CySEC decided that the Company was in violation of (I) section 11(1)(a) of the L. 116(I)/2005 on the 13.1.2010 and (II) section 11(1)(a) του L.116(I)/2005 on the 28.04.2010 and decided to impose administrative penalties as follows:

1. To the Company, due to the fact that:

- a. the amount of the investments of the Company in Greek government bonds at 12.01.2010, satisfied the provisions of section 5(1) of the L.116(I)/2005 (definition of confidential information) and should have been announced «the soonest possible», that is, the following day, on the 13.1.2010.
- b. the amount of the investments of the Company in Greek government bonds at 27.04.2010, satisfied the provisions of section 5(1) of the L.116(I)/2005 (definition of confidential information) and should have been announced at the CSE «the soonest possible», that is, the following day, at 28.04.2010.

2. To the Executive and Managing Director of the Company, Member of the Risk Management Committee of the Group, whose responsibility was the monitoring of the decisions of the ALCO Committee and Member of the ALCO (Asset Liability Committee) of the Company, whose responsibility was to set the investment limits of the Company in bonds, due to the fact that:

- a. due to his position as Executive and Managing Director, he had the ability to have access to all the relevant information concerning the Company;
- b. he ought to be informed about the purchases in Greek government bonds, so that, due to the multiple functions he performed, to be in position to ensure that the Company would issue the announcement of the 13.01.2010 and 28.04.2013, when the investment in Greek government bonds, which entailed risk, had reached a high level (in relation to the own funds of the company), and therefore an announcement should be issued to the public;
- c. he participated in the meeting of the risk management Committee of the Group on the 15.03.2010, where the investment in Greek government bonds of 2.2 bn, at the relevant time, was mentioned;

d. due to his position as a member of the Risk Management Committee, had or ought to have specific knowledge in relation to the risk management which was relevant with the announcement that the Company should have issued on the 13.01.2010 and 28.04.2010; and

e. once he was informed (or ought to be informed due to his capacity) about the downgrading of the Greek government bonds by the credit rating agency Standard and Poor's to BB+ (that is, to non-investment grading "garbage") on the 27.10.2010, did not make any efforts to be informed about the exact amount of the investment in Greek government bonds, which he ought to know since the 15.03.2010, that it was 2.2 bn, so that, due to his multiple responsibility positions, to be in the position to ensure that the Company would issue an announcement on the 28.04.2010.

3. To the Executive Director of the Company and substitute Managing Director of the Group, Corporate Governance Compliance Officer, Member of the ALCO of the company, whose responsibility was, inter alia, to set the investment limits of the Company in bonds, due to the fact that:

a. due to his position as Executive Director and substitute Managing Director, had the ability to have access to all the relevant information concerning the Company. Furthermore, hierarchically, his position has under the CEO of the Company;

b. due to his position as Compliance Officer with the Corporate Governance Code, had the duty to ensure the publication of announcements that the Company had the obligation to publish in accordance with section 11(1)(a) of the L.116(I)/2005;

c. did not ensure, as he should, to be informed on the purchases of Greek government bonds, in order to be able to fulfil his duties as Compliance Officer, Executive Director and Replacement CEO and therefore, be in position to issue the announcement of the 13.01.2014 and 28.04.2010, when the investment in Greek government bonds which entailed risk had reach a high level in relation to the own funds of the Company and

d. when he was informed (or should have been informed due to his capacity) about the downgrade of the Greek government bonds in the grade BB+ (trash) by Standard and Poor's on the 27.04.2010 did not make all reasonable efforts to be informed on the exact amount of the investment in Greek government bonds, which, according to his knowledge on 19.02.2010, was at about €2 bn, to be able to issue the announcement of the 28.04.2010.

4. To the Members of the Risk Management Committee of the Group, because:

a. due to their position as members of the Risk Management Committee the relevant persons, had or should have special knowledge on risk management which was relevant with the announcement that the Company should have issue on the 28.04.2010,

b. the relevant persons participated in the Group Risk Management Committee meeting of the 15.03.2010, during which the investment in Greek Government Bonds was mentioned and which, at that time, amounted to €2,2 bn; and

c. once informed (or should have been informed due to their capacity) about the downgrade of the Greek Government Bonds by the rating agency Standard and Poor's, at the grade BB+ (trash) on the 27.04.2014, did not make all reasonable efforts to be informed on the exact amount of the investment in Greek government bonds, which according to their knowledge on 15.03.2010 was €2,2 bn and to ensure, due to their positions, that the announcement of the 28.04.2010 would be issued by the Company.

In relation with the non-executive directors, the CySEC was satisfied that the violations of section 11(1)(a) of the L.116(I)/2005 by the Company, was not due to their own fault, deliberate violation or negligence.

Finally, in relation with the third case the CySEC decided to impose the following administrative penalties:

1. On the Company, for the violation of section 11(1)(a) of L116(I)/2005 on the 15.06.2012, because did not



proceed to a publication, the soonest possible, that is, on the 15.06.2012, of the “confidential information “ that directly concerned it and specifically, that the capital requirements of the Company to cover the requirements of the European Banking Authority (EBA), increased from €200 mn (after the expected profitability until the 30.06.2012 – announcement 10.05.2012) to €400mn with the possibility of further increase due to probable additional provisions.

2. To the Executive Director and CEO of the Group, because:

- a. due to his position as Executive Director and CEO of the Company was able to have access to all the relevant information concerning the Company;
- b. as the head of the Executive Director and Replacement CEO of the Group, should make sure that the Executive Director and Replacement CEO of the Group conducted his duties properly;
- c. he participated in the meeting of the Board of Directors of the Company on the 14.06.2012, during which the capital requirements of the Company have been extensively discussed;
- d. had or should have the special expertise, due to the responsibility positions he held, to understand, based on the information he held, that on the 15.06.2012, the Company should have preceded in the announcement of the “confidential information” which was directly and specifically related with it that the capital requirements of the Company to cover the requirements of the EBA, had been increased from €200 mn (after the expected profitability until the 30.06.2012 – announcement 10.05.2012) to €400mn with the possibility of further increase due to probable additional provisions; and
- e. did not ensure, as he should, that the Company would issue the announcement of the 15.06.2012, in order to fulfil the duties of the responsibility positions he held.

3. To the Executive Director, Replacement CEO and Corporate Governance Compliance Officer, because:

- a. due to his position was able to have access to all the relevant information concerning the Company. Furthermore, hierarchically he was below the CEO of the Group and the First Replacement CEO of the Group;
- b. due to his position as Corporate Governance Compliance Officer, had the duty to ensure the issue of the announcements, the Company should issue in accordance with section 11(1)(a) of the L.116(I)/2005
- c. he participated in the meeting of the Board of Directors of the Company on the 14.06.2012, during which the capital requirements of the Company have been extensively discussed;
- d. he had or should have the special expertise, due to the positions of responsibility he held, to understand, based on the information he held, that on the 15.06.2012, the Company should have proceeded in the announcement of the “confidential information” which was directly and specifically related with it that the capital requirements of the Company to cover the requirements of the EBA, had been increased from €200 mn (after the expected profitability until the 30.06.2012 – announcement 10.05.2012) to €400mn with the possibility of further increase due to probable additional provisions; and
- e. did not ensure, as he should, that the company proceed with the announcement of the 15.06.2012, in order to fulfil the duties of his position (Compliance Officer, Executive Director and Replacement CEO of the Group).

4. To the Executive Director of the Company and First Replacement CEO of the Group, because:

- a. due to his position as Executive Director of the Company and First Replacement CEO of the Group had access to all relevant information of the Company. Furthermore, hierarchically, he was only below the CEO of the Group,
- b. he participated in the Midi Greece Committee meeting on the 12.06.2012 and therefore, he was aware of the reasonable increase in the capital requirements of the Company.
- c. He participated in the meeting of the Board of Directors of the Company of the 14.06.2012, where the capital requirements of the company have been discussed extensively,

d. he had or should have the special expertise, due to the position of responsibility he held, to understand, based on the information he held, that on the 15.06.2012, the Company should have proceeded in the announcement of the “confidential information” which was directly and specifically related with it, that the capital requirements of the Company to cover the requirements of the EBA, had been increased from €200 mn (after the expected profitability until the 30.06.2012 – announcement 10.05.2012) to €400mn with the possibility of further increase due to probable additional provisions; and

e. did not ensure, as he should, that the company proceed with the announcement of the 15.06.2012, in order to fulfil the duties of his position.

5. To the Chairman of the Board of Directors, because:

a. due to his position, he had access to all the relevant information of the Company;

b. he participated in the meeting of the Board of Directors of the Company on the 14.06.2012, during which the capital requirements of the Company have been discussed extensively. He had or should have the expertise, due to the position of responsibility he held, to understand, based on the information he held, that on the 15.06.2012, the Company should have proceeded in the announcement of the “confidential information” which was directly and specifically related with it, that the capital requirements of the Company to cover the requirements of the EBA, had been increased from €200 mn (after the expected profitability until the 30.06.2012 – announcement 10.05.2012) to €400mn with the possibility of further increase due to probable additional provisions;

c. he did not ensure, as he should, that the Company proceed to the announcement of the 15.06.2012, in order to fulfil the duties of the position of responsibility he held, as these were specifically defined in the Code of Corporate Governance that the Company adopted;

d. as the Chairman of the Board of Directors, should ensure that all the Directors of the Company, during the meeting of the 14.06.2012, were appropriately informed about the requirement to disclose, on the 15.06.2012 the “confidential information” which was directly related with the Company and specifically that the capital requirements of the Company to cover the requirements of the EBA, had been increased from €200 mn (after the expected profitability until the 30.06.2012 – announcement 10.05.2012) to €400mn with the possibility of further increase due to probable additional provisions, which he didn't do.

In relation to the non-executive directors, the CySEC was satisfied by their written representations that the violation of section 11(1)(a) of the L.116(I)/2005 on the 15.06.2012, was not due to their of the Company was not due to their fault, wilful omission or negligence.

**Alleged violation of section 11(2)(b) of the Market Abuse Law, according to which, it is prohibited to the directors of the issuer or to its chief executive officers, in the provision of information in relation to the financial position of the issuer and its prospects, to make a statement, promise or prediction which is false, misleading or fraudulent, or conceal anything material.**

In relation to section 11(2)(b) of the Market Abuse Law, the Department of Investigations and Market Surveillance investigated a case, where the CySEC decided to impose an administrative penalty to the Managing Director of the Company because he made a misleading statement about the Company.

Application by an Issuer to delay in publishing confidential information in accordance with section 12(1) of the Market Abuse Law, where in case an issuer judges that the public disclosure of inside information may prejudice its legitimate interests, he is obliged to inform the Commission, which has the power, in justified cases, to allow the delay of publication of the said information, provided that, (a) it is satisfied that the public disclosure of this information is contrary to the public interest, or results in serious damage for the issuer; (b) the non-disclosure is not capable of misleading the public as regards to the facts and the circumstances which are essential for the appreciation of the relevant instruments; and (c) the issuer may safeguard their confidentiality.

In relation to section 12(1) of the Market Abuse Law, the Department of Investigations and Market Surveillance examined an application, where the CySEC decided to allow the Company not to proceed immediately to the

public disclosure of the confidential information which concerned discussions between a subsidiaries of the company with another company, because:

- a. the public disclosure might prejudice the legitimate interests of the Company and had detrimental results to the sales of its products and to the cooperation with its customers;
- b. the non-disclosure of the relevant confidential information was not capable of misleading the public as regards to the facts and the circumstances which were essential for the appreciation of the securities of the Company; and
- c. the Company committed to safeguard the confidentiality and require the secrecy of the banks of the two companies in relation to the relevant confidential information. Finally, the Commission decided to draw the attention of the Company to its obligation in accordance with section 12(1) of the Law, to safeguard the confidentiality of the information under public disclosure and its immediate public disclosure when the conditions that satisfy the delay of its publication cease to exist.

5.3.1.3 During 2013, the Department of Investigations and Market Surveillance, proceeded in the investigation of cases in relation with alleged violations of the Law that Regulates the Structure, Responsibilities, Powers, Organisation of the Securities and Exchange Commission and Other Related Issues, L.73(I)/2009

This category includes cases of violations of the obligations of every natural or legal person regarding the timely, complete and accurate provision of information to the CySEC. These violations are governed by Part VI (Sections 32-40) and Part VII (Section 41) of the Securities and Exchange Commission Law of 2009 (L.73(I)/2009).

**Alleged violation of section 32(3) of the Securities and Exchange Commission Law L.73(I)/2009, where any person to whom the request of the Commission for the collection of information shall be addressed, shall be bound to provide the requested information timely, fully and accurately, provided that the request shall not concern the inspection and collection of texts constituting correspondence or communication, in which case the person who is under investigation shall have the right to refuse the provision of that information to the Commission.**

Regarding section 32(3) of the Law, the Department of Investigations and Market Surveillance, during 2013 commenced the investigation of a case, which continued in 2014.

**Alleged violation of section 41 of the Securities and Exchange Commission Law, L.73(1)/2009, where a person, in the course of providing information for any of the purposes of this Law, or the relevant legislation, makes a false, misleading or deceitful statement as to any fact thereon, or conceals a fact or fails to submit facts or in any way impedes the immediate provision of information or the immediate carrying out of an inspection or entry or investigation of the Commission, shall commit a criminal offence and shall be subject to a penalty of imprisonment not exceeding five years or to a fine up to one hundred and seventy thousand euro or to both penalties: Provided that a person acting in the way of this section shall be assumed to be acting knowingly.**

Regarding section 41 of the Law, the Department of Investigations and Market Surveillance, during 2013, investigated three cases. Regarding the first case, the investigation continued after the end of the referenced year. Regarding the second case the CySEC decided to impose the Company an administrative penalty because the Company proceeded in false or/and misleading statements and concealed or/and omitted the provision of documents in the course of the provision of information to the Commission, within the collection of information procedure.

5.3.1.4 During 2013, the Department of Investigations and Market Surveillance investigated cases in relation to alleged violations of the Investment Services and Activities and Regulated Markets and Other Related Issues Law (L.144(I)/2007)

This category includes cases of violations by companies which provide or appear to provide investment services without being duly authorised by CySEC. Those violations are regulated by sections 4 and 5 of the Investment

Services and Activities and Regulated Markets Law (L.144(I)/2007). Furthermore, it includes cases of violations in relation to the operation of a CIF. Those violations are regulated by Part III, Part IV and Part V of the Investment Services and Activities and Regulated Markets Law (L.144(I)/2007).

### **Alleged violations of section 4(I) of the L.144(I)/2007 in relation to the right to provide investment services, the exercise of investment activities and the operation of a Regulated Market**

Regarding section 4(1) of the L.144(I)/2007, the Investigations and Market Surveillance Department, during 2013, investigated fourteen cases. For five of those cases the investigation continued in 2014.

In one of those cases, the CySEC decided not to impose an administrative penalty, but rather reprimand the company, taking into consideration the following mitigating factors: the website of the Company seemed to appear on the internet by mistake. The Company had neither had, nor accepted any clients due to the display of its website on the internet. A certification was given that the Company had not promoted its operations within EU and had not accepted any EU or Cypriot clients. The website of the Company had been withdrawn from the internet.

In relation to one case, the CySEC decided not to impose an administrative penalty to the Company but to draw its attention to the provisions of the relevant legislation with which it shall comply. In relation to the other case, the CySEC decided not to proceed to any further actions due to the fact that the Company submitted an application to the Registrar of Companies for deregistration from the Register and the interested parties were abroad.

In relation to another case, the CySEC decided to impose an administrative penalty to the Company due to the fact that it provided investment services in binary options on the professional basis in the Republic and, also, appeared to provide investment services in binary options, through its website on a professional basis in the Republic, without being authorised as a CIF in accordance with the L.144(I)/2007.

In relation to another case, the CySEC decided to refer the case to the Central Bank of Cyprus by bringing into its consideration all the information in relation to the case in accordance with section 25(1)(ia) of the Securities and Exchange Commission Law, for any action as the Company might have provided systems and payment services, an activity which falls within the supervisory authority of the Central Bank.

In relation to another case, the CySEC decided not to proceed to any further actions on the issue because the references in the various documents between the Company and its clients were very general and it could not be concluded that the company proposed an investment in an investment fund as it provided, at the same time, an alternative proposal in such a way that the final decision whether they wish to proceed with the investment in an investment fund remained with the investors.

In relation to another case, the CySEC decided not to proceed with any further action, because from the information in its disposal, could not be concluded that the company was presented and or/and provided investment services in binary options.

In relation to another case, the CySEC proceeded with a settlement with the company for the payment of €50.000, because the Company was presented to provide investment services on a professional basis, without being authorised as a CIF in accordance with the Law.

Finally, the CySEC decided to proceed with the filing of another case, because the person that made the complaint had withdrawn her claim against the Company and the owner of the Company, which was the reason for the beginning of the investigation. The Company no longer acts as a tied agent of CIFs. Furthermore, the re-examination of the case would result in the Investigations Department not being able to engage effectively in serious cases that emerged at the given time.

### **Alleged violations in relation to the operation of a CIF in accordance with the Investment Services and Activities and Regulated Markets and Related Issues Law (L.144(I)/2007)**

In 2013, the Department of Investigations and Market Surveillance proceeded in the investigation of eleven cases of alleged violations in relation to the operation of CIFs. For five cases, the investigation continued in 2014.

In relation to one case, the CySEC, in the exercise of its powers in accordance with section 37(4) of the Securities and Exchange Commission Law, proceeded with a compromise of the alleged violations of the Investment Services and Activities and Regulated Markets Law and of the Directives issued pursuant to it with the Company, for the amount of €100.000.

In relation to one case, the CySEC, proceeded with a compromise of the alleged violations of the Investment Services and Activities and Regulated Markets Law for the amount of €50.000.

In relation to one case, the CySEC proceeded with a compromise of the alleged violations of section 36 of the CIF Law for the amount of €80.000.

In relation to one case, the CySEC decided to impose an administrative fine to a company, because it did not adequately and comprehensively inform its client about the applicable cost/charge, as it should in accordance with section 36(1)(b)(ii) and 36(1)(g) of the Law.

In relation to one case, the CySEC decided that there was no violation of section 36(1)(a) of the CIF Law. The CySEC reached the above mentioned decision, because it was satisfied by the explanations of the company that the references of its employee to a client could not be characterised as misleading as it did not contain misleading or false information.

Finally, in relation to a case in relation to an alleged violation of section 6(8) of the CIF Law, CySEC decided not to proceed to any further action and file the case, taking into consideration the following: (a) In accordance with section 10 of the General Principles of Administrative Law Act (L.158(I)/99), the issue of a new decision in relation to this case, 4 years after the alleged violation, seemed to contravene section 10 of the L.158(I)/99, because it was not up to date in relation to the actual facts to which it referred. (b) The investigation of the case was initiated by the CySEC staff, without having a complaint by investors about this issue. Furthermore, no complaints have been filed since then in relation to this issue.

5.3.1.5 In 2013, the Department of Investigations and Market Surveillance proceeded in the investigation of cases in relation to alleged violations of the Law Providing for Transparency Requirements in Relation to Information about Issuers who's Securities are admitted to Trading on a Regulated Market L.190(I)/2007.

This category includes cases of violations of issuers regarding the provision or/and confirmation of false or misleading data or information or/and concealing data and information and violations in relation with the preparation of the annual financial statements.

#### **Alleged violation of section 40(1) of the L.190(I)/2007 in relation to false or misleading data and information or concealing data and information**

In relation to section 40(I) of the L.190(I)/2007, the Department of Investigations and Market Surveillance during 2013, began the investigation of a case. Its investigation continued in 2014.

#### **Alleged violation of section 28 of the L.190(I)/2007 in relation to the obligations of persons, in the cases of acquisition or disposal of shares of an issuer carrying voting rights**

In relation with section 28 of the L.190(I)/2007, the Department of Investigations and Market Surveillance, in 2013, investigated a case, which, the CySEC decided to file for the following reasons: 1. The relevant case, concerned alleged violations that took place during the period December 2007 – September 2010 and its investigation was very difficult due to the lapse of significant time from the relevant time of the alleged violation. 2. The natural and legal persons acting in concert on behalf of a particular person, within the scope of a public offer by a company for the acquisition of the 100% of the share capital of the issuer, proceeded in the disposal of their shares and this resulted in the relevant person cease to possess directly or indirectly shares of the company. 3. The company possessed the 95,61% of the share capital of the issuer since the 27.06.2011. 4. Against the relevant person, a Court order was issued for the confiscation of its property. 5. The re-examination of the case would result in the Investigations Department not being able to engage effectively in serious cases

that emerged at the given time. 6. Any contact with the relevant person was very difficult to impossible (he declares permanent resident abroad). 7. The case was, also, investigated by the Central Bank which imposed administrative penalties to persons related with the relevant person.

Furthermore, the CySEC decided, in accordance with section 50(1) of the Securities and Exchange Commission Law (L.73(I)/2009) to assign to an external audit office the conduct of an investigation in relation with alleged violations of the Law Providing for Transparency Requirements in Relation to Information about Issuers whose Securities are Admitted to Trading on a Regulated Market. The investigation of the case continuous in 2014.

#### 5.3.1.6 In 2013, the Department of Investigations and Market Surveillance proceeded in the investigation of cases in relation to alleged violations of the Public Take Overs Law (L.41(I)/2007).

This category includes cases of violations where a person, as a result of his/her acquisition or the acquisition by persons acting in concert with him/her, holds securities of a Company, which added to any holdings of those securities of his/hers and the holdings of those securities of persons acting in concert with him/her, directly or indirectly give him/her a percentage of thirty per cent (30%) or more of existing voting rights in that company at the date of the acquisition and does not make a mandatory public takeover bid. This violation is covered by section 13(1) of the Public Takeover Bids Law (L.41(I)/2007).

#### **Alleged violation of section 13(1) of the L.41(I)/2007 in relation to the mandatory public takeover bid**

In relation with section 13(I) of the L.41(I)/2007, the Department of Investigations and Market Surveillance investigated one case. The CySEC to file that case for the following reasons: 1. The relevant case was about violations that took place during the period December 2007 – September 2010 and its investigation was very difficult due to the lapse of significant time from the relevant time of the alleged violation. 2. The natural and legal persons acting in concert on behalf of a particular person, within the scope of a public offer by a company for the acquisition of the 100% of the share capital of the issuer, proceeded in the disposal of their shares and this resulted in the relevant person cease to possess directly or indirectly shares of the company. 3. The Company possessed the 95, 61% of the share capital of the issuer since the 27.06.2011. 4. Against the relevant person, a Court order was issued for the confiscation of its property. 5. The re-examination of the case would result in the Investigations Department not being able to engage effectively in serious cases that emerged at the given time. 6. Any contact with the relevant person was very difficult to impossible (he declares permanent resident abroad). 7. The case was, also, investigated by the Central Bank which imposed administrative penalties to persons related with the relevant person.

#### 5.3.1.7 During 2013, the Department of Investigations and Market Surveillance proceeded in the investigation of cases in relation to alleged violations of the Securities and Stock Exchange Law L.14(I)/1993.

This category includes cases of violations in relation to the obligations of issuers whose securities are admitted to trading on the CSE.

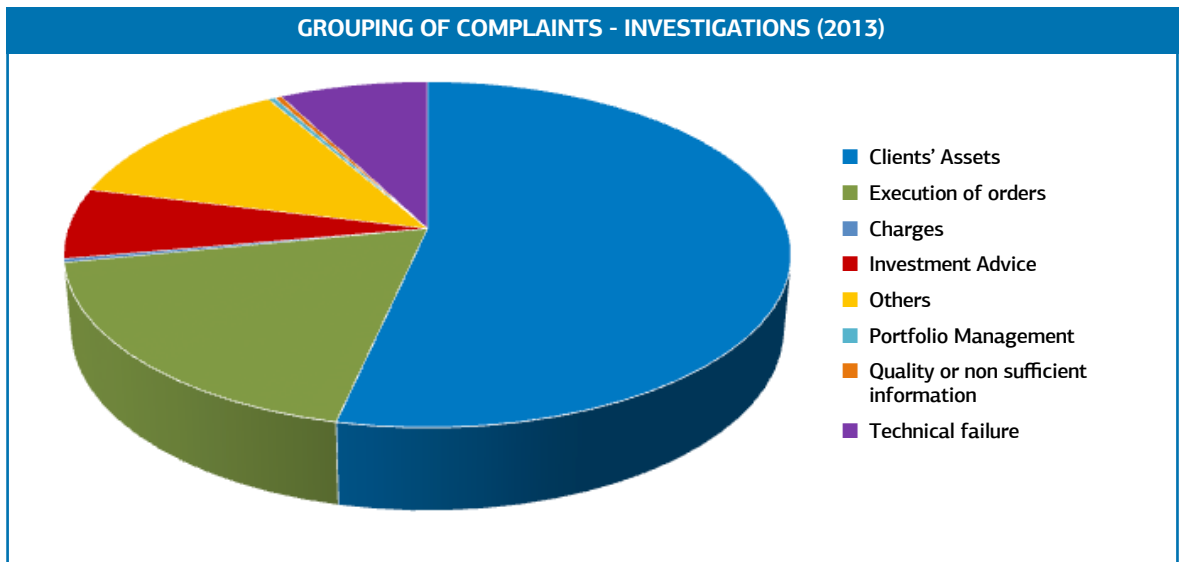
#### **Alleged violation of section 130, where the Issuer provides for and ensures the equal treatment of the shareholders under these circumstances**

In relation to section 130 of the L.14(I)/1993, in 2013 the Department of Investigations and Market Surveillance investigated a case, which the CySEC decided to file for the following reasons: 1. The case was about an alleged violation that took place on the 1.9.2009, that is on a date where the Securities and Exchange Commission Law, L.73(I)/2009 applied. In accordance with a legal opinion taken for the purposes of the examination of another case, it would not be possible to impose administrative penalties to the directors who bared the responsibility, but only to the Company. 2. There was a lapse of significant time from the relevant time of the alleged violation. 3. The company had been delisted from the CSE on the 19.11.2010. 4. The re-examination of the case would result in the Investigations Department not being able to engage effectively in serious cases that emerged at the given time.

### 5.3.2 Investigation of Investors' Complaints

In case the investors believe that they have suffered a loss by specific actions or omissions of a financial institution under CySEC' supervision, they may file a complaint to the CySEC. The CySEC receives complaints by investors against Cyprus Investment Firms (CIFs), issuers whose securities are listed in the stock exchange and about any other issue and proceeds in their investigation. During 2013, the CySEC received 288 complaints by investors (2012 -157) against CIFs, in relation to various issues (Diagram 10).

Diagram 10: Complaints submitted to CySEC in 2013



In relation to 257 cases, the investigation continued after the end of the year under examination. In relation to 30 investigated cases, there was no violation, either because the case did not need to be investigated further, or because the complainant did not provide sufficient information to be able to proceed to further investigation, or because, the complainant received satisfactory explanations by the CIF and withdrew his/her complaint.

In 2013, the CySEC received 102 complaints by investors (2012 - 112) against companies that illegally, appeared to provide investment services in the Republic. In relation to these investigations, the Department of Investigations and Market Surveillance conducts on site investigations to determine whether there is a natural presence of a company in Cyprus, in also conducts investigations through the website of those companies to determine whether a company appears to provide investment services through its website, without having a CIF authorisation and proceeds to the collection of information by sending relevant letters to persons which are seem to be in a position to provide useful information to CySEC.

In cases where it is established that a Company provides, or appears to provide investment services in the republic without being authorised as a CIF, the CySEC issues a warning to the public. In 2013, nine warnings have been issued in relation to companies that did not hold a CIF authorisation and were neither banking institutions, nor cooperative credit institutions established in the Republic, nor a relevant notification for the provision of cross border services has been received by a competent Authority of an EU member state in relation to those companies (Table 7).

**Table 7: Warnings issued by the Securities and Exchange Commission in 2013**

WARNINGS	ISSUE DATE
Aston Markets <a href="http://www.astonmarkets.bg/">http://www.astonmarkets.bg/</a>	14/6/2013
HFX Global Ltd <a href="http://www.hfx.com">http://www.hfx.com</a>	29/7/2013
<a href="http://www.cfinvestltd.com">http://www.cfinvestltd.com</a>	2/8/2013
TRADERXP LTD <a href="http://www.traderxp.com">http://www.traderxp.com</a>	19/9/2013
FOREX PLACE LTD <a href="http://www.4xp.com">http://www.4xp.com</a>	2/10/2013
<a href="http://www.depahofx.com/gl/index.html">http://www.depahofx.com/gl/index.html</a>	10/10/2013
NRG Capital (CY) LTD <a href="http://www.nrgbinary.com">http://www.nrgbinary.com</a>	18/10/2013
FERROFORTIA LTD <a href="http://www.planetoption.com">http://www.planetoption.com</a>	25/11/2013
Sycamore Options Ltd <a href="http://www.sycamoreoptions.com">http://www.sycamoreoptions.com</a>	27/11/2013

In 2013, the CySEC received seven complaints by investors against Issuers with listed securities in the CSE. In relation to six investigated cases, no violation occurred, whereas in relation with one case, the investigation continued after the end of the examining year.

### 5.3.3 Lifting of Banking Secrecy

In 2013, the CySEC proceeded in twenty two liftings of banking secrecy for the purposes of its investigations.

### 5.3.4 Submission of information to the Law Office of the Republic

The CySEC, pursuant to section 35(1)(a) of the Securities and Exchange Commission Law of 2009, (L.73(I)/2009), where the alleged violation, may, on the face of it, constitute a criminal offence, shall issue a report, or statement of facts and submits it, with all the evidence in its possession to the General Attorney of the Republic in order to decide whether, the companies or other natural persons, conducted a criminal offence.

### 5.3.5 Cooperation with other Supervisory Authorities for the Conduct of Investigations

In 2013, the CySEC received 180 requests for assistance from foreign competent authorities (2012 – 49). The 99 requests have been handled by the Department of Investigations and Market Surveillance. Due to these requests, the CySEC may proceed in collection of information and lifting of banking secrecy in relation to legal and natural persons, as provided by section 32(4) of the Securities and Exchange Commission Law of 2009 (L.73(I)/2009) in order to collect information on behalf of those competent Authorities.

## 5.4 IMPROVEMENTS IN THE LEGAL FRAMEWORK

### 5.4.1 Laws

#### European Directive in relation to the Alternative Investment Fund Managers

In the context of the harmonisation of the Cypriot legal framework with the European Directive 2011/61/EU in relation to the Alternative Investment Fund Managers, a Draft Law has been prepared and carried forward, which was voted as the Alternative Investment Fund Managers Law of 2013, (L.56(I)/2013).

For the purposes of the application of the above mentioned law, the following Directives in relation to the AIFMs have been published:

- (a) Directive in relation with the procedure, the terms and conditions for the authorisation of an Alternative Investment Funds Manager and the submission of an application for authorisation of an Alternative Investment Funds Manager (DI56-2013-01)



(b) Directive in relation with the fees payable and the annual contributions of AIFMs (DI56-2013-02)

The AIFM Directive pursues the establishment of a common market for the Alternative Investment Funds Managers and of a unified and strict regulatory and supervisory framework which shall govern their activities within EU, regardless whether the AIFMs have been established in an EU member state or in a third country. Furthermore, the AIFMD introduces important innovations in relation to the regulation of the AIFMs, as it is the introduction of the 'passport', the regulation of the custody, the regulation of the remunerations etc.

The harmonisation deadline for the EU member states was July 2013. It must be noted that Cyprus was the second member state that harmonised the AIFM Directive into National Law in July 2013.

### **The Securities and Exchange Commission Law of 2009**

The amendments of the Securities and Exchange Commission Law of 2009 have been prepared and carried forward. The relevant amendments provide for: (a) the explicit power of conduct of investigations, so that the CySEC will be able to establish that, as a consequence of a specific action, or sequence of actions, the investors have been adequately protected; and (b) the provision in relation to the representation of the Governor of the Central Bank to the meetings of the Council of CySEC is removed.

### **The Law that regulates the Companies Providing Administrative Services**

In 2013, the CySEC proceeded in proposed amendments of the Law regulating the Companies Providing Administrative Services and Other Related Issues of 2012 (L.196(I)/2012) (known as Trustees and Fiduciary Service Providers). The relevant amendments of the Law entered into force on the 9th of September 2013 and mainly regulate the obligations of the relevant Companies to notify the Commission about the trusts that they manage and the creation of a trusts' Registry by the Commission.

The relevant forms have been circulated by the Legal Department of the CySEC, while recommendations have been made about the submission of applications in accordance with the relevant Law. For the provision of assistance and guidance to interested parties, 25 informative announcements have been issued and 50 Questions and Answers have been posted on CYSEC' website. Furthermore, the Legal Department has replied to more than 800 emails in relation to this Law, through an electronic communication line. On September 9, 2013, the first amendment of the relevant Law was published. This amendment mainly concerns the establishment and maintenance of a trusts' Registry. Further amendments have been prepared and carried forward, which had to be negotiated with Troika.

The Law entered into force in December 2012, to regulate the professional activities carried out in relation with the administration of private companies by other entities. This law regulates a part of the services sector which has been totally unregulated. All registered ASPs that are supervised by CySEC are listed on a public register, which is maintained by CySEC and it is posted on its website for easy access by all interested parties.

### **Market Abuse Law**

On July 12, 2013, the Law on Insider Dealing and Market Manipulation (Market Abuse) (Amending) Law of 2013 (L. 61(I)/2013), which amended the definition 'close link' for the purpose of better transposition of the European Directive 2004/72/EC in National Law, has been prepared. The relevant Directive implements the European Directive 2003/6/EC of the European Parliament and of the Council as regards accepted market practices, the definition of inside information in relation to derivatives on commodities, the drawing up of lists of insiders, the notification of managers' transactions and the notification of suspicious transactions.

### **European Directive regarding the Prospectus and the Transparency Requirements**

In the context of the harmonisation of the Cypriot legal framework with the European Directive 2010/73/EU, as regards the prospectus and the transparency requirements, relevant draft Laws have been prepared and carried forward which were voted as:

- The Transparency Requirements (Transferable Securities admitted to Trading on a Regulated Market) Amending Law of 2013 (L.60(I)/2013); and
- The Public Offer and Prospectus Amending Law of 2013 (L.63(I)/2013)

### **The Alternative Investment Funds draft Law**

In the context of the completion of the Cypriot legal framework in relation with the alternative investment funds sector, a draft Law regarding the establishment and operation of the Alternative Investment Funds, has been prepared and carried forward. It is expected that the relevant Law will enter into force within 2014. With the establishment of the new legislation, the supervision of the AIFs shall be transferred from the Central Bank of Cyprus to the Securities and Exchange Commission, thus, bringing all the collective investment products (UCITS, AIFs) and their managers (UCITS Management Companies, AIFMs, CIFs) under the supervision of the same Authority and ensuring a smoother regulation and supervision.

### **The Open Ended Undertakings for Collective Investments Law**

In 2013, CySEC prepared proposed amendments to the Open Ended Undertakings for Collective Investments and Related Issues Law of 2012, (L.78(I)/2012) and have been submitted to the Law Office of the Republic for legal vetting.

#### **5.4.2 Directives**

In 2013, CySEC issued the following Directives:

- Directive (DI56-2013-01) regarding the Authorisation of an AIFM.
- Directive (DI56-2013-02) regarding the fees payable and annual contributions of AIFMs.
- Directive (DI196-2012-01) regarding the fees payable and annual contributions of ASPs.
- Directive (DI144-2007-02) and Directive (DI144-2007-02(A) regarding the professional conduct of CIFs.
- Directive (DI190-2007-07) regarding the Annual Fees of Issuers whose securities are admitted to trading on a Regulated Market.

#### **5.4.3 Circulars**

During 2013, 28 circulars have been prepared and circulated in relation to CIFs. The most important ones are:

- Foreign Account Tax Compliance ACT-FATCA
- Consolidated Supervision by CySEC
- CIF Electronic Record
- Compliance with the legal obligations regarding the compliance function
- Issue of the European Directive 2013/36/EU and of the Regulation 575/2013
- Compliance with the legal obligations in relation with money laundering and terrorist financing
- Guidelines in relation to remuneration policies and practices
- Monthly prevention statement regarding the Prevention of Money Laundering and Terrorist Financing
- Marketing Communications
- Calculation of capital adequacy for the 31 March 2013
- Release of the amount below €100.000 in the bank accounts of the CIFs
- Procedure for un-freezing clients' money bank accounts
- Clients' money bank accounts
- Ccontracts for Differences - Warning
- Free provision of services to other EU member states

During the year, a number of announcements and circulars has been issued to the issuers whose securities were admitted to trading on a regulated market, which covered, inter alia, the following:

- The publication of ESMA Registry regarding enforcement decisions in relation to the International Financial Reporting Standards.
- The common positions of the competent Authorities and Frequent Asked Questions in relation to the Prospectuses (ESMA - Questions and Answers - Prospectuses).
- The Public Statement of ESMA, dated 20 December 2012, in relation to the forbearance practices in the Financial Statements prepared in accordance with IFRS (ESMA Public Statement on the 'Treatment of Forbearance Practices in the IFRS Financial Statements of Financial Institutions').
- The ESMA Report in relation to the evaluation of the European Competent Authorities regarding the impairment of goodwill and other non-tangible assets, in the Financial Statements prepared in accordance with the IFRSs.
- The Semi-Annual Financial Reports for the first semester of the fiscal year 2013 and the Risks and uncertainties for the second semester of 2013.
- ESMA Public Statement dated 11 November 2013, regarding the "European common enforcement priorities for 2013 financial statements".
- ESMA Public Statement, dated 12 November 2013, regarding the "Information on shareholder cooperation and acting in concert under the Takeover Bids Directive".
- The ESMA Report, dated 18 November 2013, with subject: "Review of Accounting Practices – Comparability of IFRS Financial Statements of Financial Institutions in Europe".

Furthermore, in 2013, the Circular CI56-2013-01 in relation to the registration procedure of the AIFMs that do not exceed the thresholds of section 4(2) of the Law 56(I)/2013, has been published.

#### 5.4.4 Guidelines

During 2013, guidelines have been published in relation to the following subjects:

- Remuneration policies and practices
- Guidelines on systems and controls in an automated trading environment for trading platforms and CIFs
- Guidelines of suitability requirements

#### 5.4.5 Consultation Papers

In 2013, a consultation paper has been prepared and circulated by CySEC, in relation with the Alternative Investment Funds and Collective Investment Schemes with Limited Number of Persons. Furthermore, a consultation paper has been prepared and circulated by CySEC in relation to the publication of Directives for the implementation of the Alternative Investment Funds and Collective Investment Schemes with Limited Number of Persons draft Law.

#### 5.4.6 Forms

In 2013, amendments have been made to the forms regarding the prevention of money laundering and terrorist financing, the annual fees and capital adequacy. Furthermore, new forms have been prepared and issued by CySEC regarding the submission of applications for the authorisation of ASPs and AIFMs. With the establishment of the new pricing policy regarding the CIFs, which was published in the Official Gazette of the Republic on December 2012, a new form has been issued for the calculation of the annual fees and a relevant explanatory circular for that subject. In 2013, a Questions and Answers (Q+A) Document has been prepared and posted on CySEC website in relation to the authorisation and organisation of the ASPs.

## 5.5 INTERNATIONAL AND NATIONAL COOPERATION

### 5.5.1. International Cooperation

#### 5.5.1.1 Permanent Representation of the Republic in Brussels

An Officer of the Legal Department is seconded to the Permanent Representation of the Republic in Brussels (Financial Services Attaché) in order to handle all the issues of the Council of the EU in relation to the financial services which relate with the Competencies of the CySEC. During the Cyprus Presidency of the Council of the EU, the Officer had work systematically for the preparation and study of the issues that concerned the Cyprus Presidency, took an active part in the preparation of the Presidency and of tasks of the working groups in relation to the financial services, in cooperation with the Officers of the Ministry of Finance and chaired a number of working groups.

The Officer of the Legal Department remained at the Permanent Representation in Brussels as a Financial Services Attaché, after the end of the Cyprus Presidency, in order to exploit her experience and technical expertise gained during the Presidency in relation to the handling of the issues related with the CySEC Competencies and of other Governmental Departments.

#### 5.5.1.2 European Securities and Markets Authority

The European Securities and Market Authority – ESMA is an independent Authority of the EU that contributes to the stability of the financial system of the EU and ensuring the integrity, transparency, efficiency and the smooth operation of the securities markets and the enhancement of the protection of investors. ESMA enhances the cooperation between the capital market Authorities, and the reinforcement of the protection of investors. ESMA enhances the cooperation between the capital market Authorities and between the various financial sectors by cooperating closely with the other European Competent Authorities in the banking and the insurance section and the professional pension schemes.

The role of ESMA is to act as the Competent Authority within the European System of Financial Supervision by assisting in the establishment of the technical details of the European legislation in relation to transferable securities and ensuring greater consistency to the daily application of the European legislation and cooperation among its members.

As an ESMA member, CySEC is involved, both at the highest level and at experts' level, in various standing committees established within the operation of ESMA. ESMA members are the Authorities of each member state, which are responsible for the supervision of the capital markets. CySEC participates, at the highest level, in the meetings of the Board of Supervisors, which is one of the decision making bodies of ESMA, through its Chairwoman, whereas, officers of CySEC participate in the various standing committees at an experts level. The governing bodies of ESMA and the committees in which CySEC participates are described below.

#### **Board of Supervisors and the Management Board**

The ESMA Board of Supervisors is composed of the heads of 28 national authorities, with one observer from the European Commission, Norway, Iceland and Liechtenstein, a representative of EBA and EIOPA and a representative of the ESRB.

The main role of the Board of Supervisors is to take all the policy decisions concerning ESMA, as for example, the compliance with the community legislation, the practical application of the community legislation by the national competent Authorities, taking decisions in crisis situations, the approval of the draft technical standards, guidelines, peer evaluations and any other relevant reports.

The Board of Supervisors meets, about seven times per year to discuss significant issues that affect the securities markets in EU and the CySEC participates through its Chairwoman.

The Management Board of ESMA is composed by the ESMA Chair, and a number of representatives of national competent Authorities. Furthermore, a representative of the European Commission participates as an observer. The Management Board ensures that ESMA accomplishes its mission.

## **Review Panel**

The ESMA Review Panel, contributes in the supervisory convergence through the consistent and timely implementation of the community legislation by EU member states and the identification of areas for regulation and supervision, where there is room for further convergence.

The Review Panel achieves this objective by fostering effective cooperation between National Competent Authorities, by carrying out peer reviews in relation to the practical application of the EU legislation and the ESMA standards and guidelines in the national jurisdictions and promoting best practices.

A senior officer of CySEC, participates in the meetings of the Review Panel, which account to eight every year. At the same time, the CySEC submits periodic information to the Review Panel in relation with the above issues, to be assessed on the basis of the level and the efficiency of the practical application of the EU legislation in the Cypriot market of transferable securities.

## **European Systemic Risk Board**

The European Systemic Risk Board (ESRB) is an independent body of the EU, whose mandate is to oversee the macro prudential oversight of the financial system of the EU as a whole. The establishment of this body, to concentrate the responsibility of the oversight of the systemic risks in all financial sectors, was deemed necessary due to the internationalization of the financial markets and the contagion risk of financial crises.

The ESRB aims to contribute to the prevention or mitigation of the systemic risks that threaten the financial stability in EU that arise from developments within the financial system and taking into account macroeconomic developments so as to avoid serious negative consequences in the financial system and the economy, in general. The CySEC participates in the meetings of the ESRB, as an observer, through its Vice-Chairman or through a Senior Officer.

## **Investors Protection and Intermediaries Standing Committee, Secondary Markets Standing Committee and Post-Trading Standing Committee**

One Senior Officer and two Officers of the CIFs Department participated in the three permanent committees of ESMA, which are responsible for the study and agreement of the common application of the European Directives and the preparation and publication of guidelines for the implementation of the European Directives 2004/39/EC regarding the Markets in Financial Instruments, 2006/73/EC regarding the implementation of the Directive 2004/39/EC (Implementing Directive of 2004/39/EC) and of the European Regulation 1060/2009 regarding the Credit Rating Agencies. In 2013, the persons mentioned above participated in 5 meetings.

## **Market and Integrity Standing Committee**

The Market and Integrity Standing Committee undertakes ESMA's Work on issues relating to market surveillance, enforcement of securities laws, and facilitation of cooperation of national authorities and exchange of information in market abuse investigations. Regarding surveillance, the Standing Committee works in order to enhance the efficiency and effectiveness of the market surveillance activities of national authorities, including the use of various market surveillance tools (including analysis of transaction reports). The Standing Committee also provides a forum in which national authorities may share their experiences concerning their market surveillance and enforcement activities. In the area of cooperation, the Standing Committee works to ensure efficient and timely cooperation in cross-border cases and facilitates sharing of information under ESMA MoU. Finally, the Standing Committee has responsibility for elaborating advice to the European Commission and the issue of technical standards, guidelines and recommendations on issues relating to the integrity of markets and short selling. Two officers of the Market Surveillance and Investigations Department, participated in the meetings of the relevant Standing Committee.

### **Corporate Reporting Standing Committee**

The Corporate Reporting Standing Committee is dealing with issues related with the endorsement process and the enforcement of the International Financial Reporting Standards in EU, with issues in relation to the audit of the financial statements and the issues regarding the periodic financial disclosures in accordance with the Transparency Directive. In 2012, Officers of the Issuers' Department participated in two meetings of the Standing Committee and in one teleconference. (2012 – 1 meeting and 2 teleconferences).

### **Corporate Finance Standing Committee**

The Corporate Finance Standing Committee is dealing with issues relating to the Prospectus Directive and Corporate Governance and with certain issues relating to the Transparency Directive, as the major shareholding disclosures. In relation to the Prospectus Directive the Standing Committee discusses issues which emerge from the practical application of the Directive and, where applicable, develops Questions and Answers with the common positions of the competent authorities, members of ESMA ('ESMA- Questions and Answers - Prospectuses'). In 2013, one Officer of the Issuers Department participated in two meetings and a teleconference of the relevant committee (2012 – 4 meetings).

### **European Enforcers Coordination Sessions**

The relevant Standing Committee was established in accordance with Standard No. 2 (Standard No.2 on financial information – coordination of enforcement activities), and it is composed by the Competent Authorities of the EU Member States that are responsible for the enforcement of the financial information regardless they are members of ESMA or not. At the meetings of the relevant Committee, among other issues, important enforcement cases taken by each competent Authority are discussed in relation with the enforcement of the International Financial Reporting Standards. During 2013 Officers from the Issuers Department participated in four meetings of the relevant Committee (2012 – 6 meetings).

### **Takeover Bids Network**

An Officer of the Issuers' Department is also following the proceedings of the Takeover Bids Network of ESMA which deals with issues of Public Takeover Bids in cooperation with the Legal Department. The aim of the relevant Network is the exchange of information and experiences arising from the practical application of the Directive regarding the Public Takeover Bids. During 2013, the Issuers' Department did not participate in the meetings of the Network (2012 – 1 meeting).

### **Investment Management Standing Committee**

The Investment Management Standing Committee deals with issues regarding the collective management of investments in relation to harmonised and non-harmonised investment funds. During the year, an Officer of the Legal Department of CySEC participated in the meetings of the relevant Committee during which issues in relation to the legal frameworks regarding the collective investment schemes have been discussed.

### **Committee for Economic & Markets Analysis**

The Committee for Economic & Markets Analysis has the responsibility to cover the following areas: (a) financial markets monitoring and assessment from a micro prudential level of trends, potential risks and vulnerabilities in financial markets, including financial innovations and incentives related to market practises; and (b) the impact assessments of the existing and proposed regulations and supervisory practises. The CySEC monitors and is kept informed about the work of the relevant committee without participating in its meetings.

### **Group about the Exchange of Staff between ESMA Members**

The CySEC through the Department of Staff and Administration, participates in the group of ESMA which is responsible for the development of a common culture and cooperation between the Markets Authorities of EU member states. In the context of this group, the task for the creation of a common policy regarding the exchange of staff between ESMA members has been implemented. Furthermore, in cooperation with the other two competent Authorities of the financial sector in EU, the European Banking Authority, which is responsible for the credit institutions and the European Insurance and Occupational Pensions Authority, which is responsible for the insurance sector and the occupational pension schemes. The study about the development of a policy regarding CYSEC' staff education has been conducted in the above context.

### **Information Technology Management Group**

An Officer of the Department of Information Technology of CySEC participates in ESMA Group regarding Information Technology Management, which deals with important IT projects on a European level. This Committee meets 4-5 times per year.

#### **5.5.1.3 International Organisation of Securities Commissions**

The International Organization of Securities Commissions – IOSCO is the international body that promotes the international cooperation among the securities regulators and it is the recognised global standards setter for the securities sector.

#### **5.5.1.4 Memorandums of Understanding and Cooperation**

The signature of a Memorandum between the competent authorities of two countries sets a benchmark for cross border cooperation that facilitates the exchange of information between the competent authorities which assists in the better promotion of their objectives and especially in the supervision of the transactions and activities in the securities markets. The signature of the relevant Memorandum, leads to the establishment of efficient procedures that assist in the exchange of experiences, knowhow and good practices that contribute to the expansion and strengthening of the supervisory procedures and practices. Furthermore, the signature of the Memorandums proves the mutual spirit of cooperation between the CySEC and the national competent Authorities of the other Countries and the outward orientation of their economies and contributes in the fruitful business relationships between Cyprus and the respective countries to the benefit of their financial markets.

To this date, CySEC has signed 19 bilateral Memorandums of Understanding and Cooperation, while it is a co-signatory to the Multilateral Memorandums of Understanding of ESMA and IOSCO.

### **Signature of Memorandums of Understanding and Cooperation between the Cyprus Securities and Exchange Commission and other Third Country Competent Authorities under the AIFM Directive**

In the context of the Alternative Investment Fund Managers Law, which was voted on the 4th of July 2013, for the harmonisation of the European Directive 2011/61/EU regarding the Alternative Investment Fund Managers (AIFM) to national legislation and of the promotion of investments in this sector, the CySEC proceeded in the signature of MoUs for the reinforcement of the supervision of the Alternative Investment Fund Managers, with 39 non-EU competent Authorities.

The existence of MoUs between the EU competent Authorities and their respective non-EU competent Authorities, is a precondition of the AIFM Directive, to allow Managers established in third countries to have access in the EU markets or provide the service of collective portfolio management in EU.

ESMA has negotiated the content of the relevant Memorandums, but they have been signed bilaterally, between the EU competent Authorities and their respective non-EU competent Authorities. The list of the 39 non-EU competent Authorities, with which CySEC has already co-signed the MoU is presented in Annex A.

The aim of the signature of the MoUs is to facilitate the cross-border supervision of the entities that fall under the scope of the AIFM Directive and become an important step for the development of the collective portfolio management sector, as it allows non-EU AIFMs to market the AIFs they manage in EU.

Furthermore, it is expected that the relevant MoUs shall contribute to the closer supranational cooperation between the competent Authorities, by facilitating the exchange of information, the cross-border on site investigations and the provision of mutual assistance in the monitoring of the compliance of the relevant entities with the application of the respective national laws.

The CySEC expects that the direct harmonisation of the national regulatory framework with the AIFM Directive and the cooperation on this sector shall assist in the development of the collective portfolio management sector in Cyprus and shall offer many possibilities for the promotion of alternative investment products.

#### 5.5.1.5 Cooperation and Exchange of Information between the National Competent Authorities

In the context of the international cooperation between the competent Authorities of the national capital markets and, in particular, in accordance with the bilateral or multilateral MoUs signed by the CySEC with other countries, there is a requirement for the processing of an increasing volume of requests for assistance and exchange of information.

The exchange of information concerns the regulated entities which conduct cross border activities. For the most of these requests, an investigation and collection of information is required by the respective national competent Authority, including the requirement of lifting of bank secrecy for the entities or persons under investigation. In accordance with the Memorandum signed by the CySEC with the respective national competent Authorities and with various securities regulators and other bodies abroad, CySEC also asks for information about the activities of entities and persons abroad, which are under its supervision for the purposes of its investigations. In many of those requests information is sought about the fitness and properness of persons during the examination of applications for authorisation in order to form a proper opinion.

Within 2013, the cooperation of CySEC with the competent Authorities and bodies abroad has been intensified due to the increased volume of requests for investigation and collection of information pursuant to the bilateral or multilateral MoUs. The increasing activity of the companies that provide investment services, mainly within Europe, either through the cross-border provision of services or through a tied agent or a branch, has created the necessity for even closer cooperation and coordination between the competent authorities.

The exchange of information and provision of mutual assistance between the competent authorities is important because it reinforces the efficient exercise of supervision and investigation of alleged violations of the legislation. In several cases, there was a requirement for the lifting of bank secrecy for entities or persons under investigation. Furthermore, during the examination of applications for authorisation and in cases of changes in the shareholding structure and appointment of new directors, numerous requests for the provision of information are sent to other competent Authorities that assist in forming an opinion in relation with the fitness and properness of shareholders and directors.

Specifically, in 2013, the CySEC has received 177 requests (2012-40). That is, requests submitted to CySEC from competent Authorities abroad and has sent 98 requests (2012 – 51). That is, requests submitted by the CySEC to other competent Authorities abroad, in cases it required information for its purposes.

#### 5.5.1.6 Participation in International Assessments and Questionnaires

##### **ESMA assessment in relation with market abuse regulation**

In 2013, the CySEC was included in a peer review regarding the supervisory practices applied by National Competent Authorities in the European Economic Area (EEA) in relation to the enforcement of the requirements of the Directive regarding the criminal penalties for the use of confidential information and market manipulation practices – Market Abuse Directive (MAD). The relevant Directive is about the prevention of the dissemination of misleading information, the violation of the obligations regarding the submission of reports and market manipulation. In the relevant Assessment Report, the CySEC has received a positive evaluation from ESMA.



Specifically, in accordance with the report, the CySEC is 100% compliant with the EU market manipulation rules and applies correctly all the provisions of the MAD, which results in the practices used by the CySEC being an example of best practices. Through these assessments, the National Competent Authorities are learning through the experiences of each other and, where applicable, re-examine and adjust their practices for better monitoring of the regime in their jurisdiction and, in this way, contributing in a more consistent approach within EU.

### **ESMA Questionnaire in relation with the activities performed by CIFs in the European Economic Area**

In April of 2013, the CySEC, in cooperation with ESMA, proceeded in the collection of information from all the CIFs that provide cross-border services in other EU member states, either through the free provision of services or through the establishment of a branch. The aim of the questionnaire was the analysis of the consequences of the Eurogroup decision and their impact to the investment services provided by the CIFs in the EU member states.

## **5.5.2. National Cooperation**

### **5.5.2.1 Participation in Cypriot Committees and Authorities**

The CySEC cooperates closely with all the competent Authorities of the financial services sector of Cyprus and other Authorities, while it maintains excellent relationships of cooperation with other interested parties and bodies. This ensures the improved cooperation and exercise of their duties and responsibilities, the exchange of information and the provision of assistance between the national competent Authorities.

Especially, the CySEC cooperates very closely with the Control Bank of Cyprus, the Ministry of Finance and the Unit for Combating Money Laundering (MOKAS). Furthermore, the CySEC participates in High Level Meetings of the Competent Authorities of the Cyprus Financial Sector, with the Central Bank, the Insurance Authority and the Service for the Supervision and Development of Cooperative Institutions which aim to the exchange of information on issues related with their duties and responsibilities regarding the supervision of the financial sector.

In the exercise of its responsibilities, the CySEC may also cooperate with the Legal Service of the Republic, the Police and the Office of Financial Crime Investigation, the Companies Registrar, the Courts etc.

The CySEC is in constant communication, consultation and receives the views and suggestions from organised groups, bodies and associations, such as the Pan Cyprian Investors' Association, the CIFs Association, the Cyprus Bar Association, the Institute of Certified Public Accountants of Cyprus and many others. Furthermore, the CySEC has cooperated with the Cypriot Consumers' Association in the context of its programs for the investors' education in capital market issues.

There is also a close cooperation between CySEC and the Cyprus Investment Promotion Agency, CIPA, regarding issues in relation to the proper promotion of the capital market and its legal framework abroad.

The CySEC participates in the Consultative Committee regarding the application of the sanctions resulting from the United Nations Security Council resolutions and the restrictive measures of the EU Regulations. Furthermore, a Senior Officer of CySEC is the Vice-Chairman of the Council of the Financial Services Ombudsman as a representative of CYSEC' Chairwoman.

In November of 2013, the CySEC participated in the coordination meetings of the Ministry of Foreign Affairs with the other competent Authorities and Services of the Republic of Cyprus in relation with issues regarding the sanctions of the United Nations Security Council resolutions. The purpose of those meeting was the proper preparation and coordination regarding visit of the competent Experts Group of the UNSC for the monitoring of the application of the sanctions against Iran, in accordance with the relevant Resolutions. The meeting of the competent Experts' Group of the UNSC with the competent Authorities of the financial sector, where CySEC also participated, took place on the 25th of November 2013 and the results of the consultations were positive.

Representatives of CySEC participate in the Administrative Committee of the Investors' Compensation Fund, which is responsible for the management of the CIFs' and IFs' Investors' Compensation Fund; in the Consultative Authority regarding issues of money laundering and terrorist financing and in the Technical Committee of the

Competent Authorities which examines issues in relation with the supervision of the financial sector regarding money laundering and terrorist financing.

One Officer of the Legal Department of CySEC participated in the technical group of support of the Resolution Authority and especially of the Chairwoman of CySEC, which was appointed as a member of the Resolution Authority in accordance with the amending Law, L.97(I)/2013.

#### 5.5.2.2. Cooperation agreement for the provision of services to CySEC

In 2013, the cooperation agreement regarding the provision of services to CySEC signed with the CSE, continued as it was originally agreed with its signature in October 2012.

In the context of the relevant agreement, CSE Officers provided specialised services to CySEC, which concern the examination of applications for CIF authorisations and the upgrading of the special systems of supervision and filing of the data of the regulated entities. The services are provided in accordance with the requirements of the CySEC and the ability of the CSE to provide the necessary staff, within the predetermined period of two years.

This agreement resulted in the access of CySEC to staff with technical knowledge in the sector and in the contribution of assistance to the high work load of CySEC.

## 5.6 INVESTORS' PROTECTION

The CySEC ensures the protection of the investors with various ways and it attempts, in various ways to upgrade the methods and tools that shall enhance the protection of investors which conduct transactions in transferable securities in the Republic and abroad through the CIFs.

### 5.6.1 Harmonisation of the National legislation with the European Directives

One way of investors' protection is the harmonisation of the national regulatory framework with the European Directives, the soonest possible. This practice ensures that the regulatory framework of the provision of investment services in Cyprus and the level of investors' protection is on the same standards which apply to the other EU member states.

Examples of the most important European Directives harmonised in the national legal framework include: the Transparency Directive, the Prospectus Directive, the Market Abuse Directive, the MiFID, CRD, the UCITS Directive and the Directive that regulates the operation of the Alternative Investment Fund Managers, the AIFMD.

### 5.6.2 Regulatory framework in accordance with MiFID

The provision of investment services sector in Cyprus and the activities of the CIFs are regulated by the Investment Services and Activities and Regulated Markets Law, which harmonises the MiFID.

The relevant Directive is one of the most important European Directives, whose immediate transposition and application were necessary to establish strong investor protection rules through the implementation of the best execution principles, disclosure requirements and specific rules which focus on clients and proper arrangements regarding the appropriateness and compatibility of the financial instruments and the clients and the remuneration policies adopted by the financial institutions.

### 5.6.3 Dealing with violations regarding market abuse and non-compliance with the transparency requirements

The approach of CySEC to the violations regarding market abuse and non-compliance with the provisions of the legislation regarding disclosure of information (transparency requirements) is very strict. The imposition of high administrative sanctions to the entities or persons that conduct that kind of violations is a very strong tool for the protection of investors as it operates in a suppressive and preventive way, ensuring the compliance of the relevant entities and persons with their legal obligations and the avoidance of the repletion of such violations.

Furthermore, the publication of all administrative penalties which are imposed by the Commission (name and shame), works preventively due to the bad publicity caused to the persons and companies.

#### **5.6.4 Dealing with violations in relation with the provision of investment services by non-regulated entities**

The provision of investment services is legal, only if conducted by companies that have been authorised by the CySEC or the competent Authority of an EU member state for the provision of those investment services. Therefore, any entities that appear or provide such services without being authorised by the CySEC or the competent authority of another EU member state, which has notified the CySEC in this respect, are conducting a violation of the legislation and are subject to criminal and administrative sanctions. To facilitate the investors, CySEC maintains a public register, on its website, of authorised CIFs and IF of other EU member states for which a notification has been submitted to CySEC from the relevant competent Authority that they wish to provide investment services in the Republic and encourages investors, before making a decision to receive investment services, to check that the CIF with which it intends to cooperate is on that Register.

Furthermore, CySEC has established an electronic system of submission of complaints against authorised CIFs and non-regulated entities, to facilitate investors in the submission of their complaints. The CySEC investigates all the complaints received by investors and asks them to submit their complaints in case they believe that their rights in relation to the provision of investment services have been violated.

#### **5.6.5 Financial Services Ombudsman**

In the previous years, the CySEC had an important role in the promotion of the establishment of the Financial Services Ombudsman, which was established to deal with consumers' complaints against companies that operate in the financial sector and the achievement of an out of the court solution of the disputes. A representative of the Chairwoman of CySEC participates in the Council of the Institution as one of the two Vice-Chairmen.

The hiring process of the Financial Services Ombudsman was completed in 2013, with the appointment of Mr. Pavlos Ioannou for a period of five years. On the completion of the hiring procedure of the staff which shall assist the Financial Services Ombudsman, which is in process, the Institution will be able to accept complaints from the public.

The Financial Services Ombudsman is expected to assist significantly the investors in financial instruments and services as it will be dealing with complains against financial institutions, providing the opportunity of a fast solution of the disputes and remedies through an out of court procedure.

#### **5.6.6 Investors' Education**

The investors' education in capital market issues is specifically important, because it strengthens their protection by complementing the supervisory and regulatory framework. The value of the education of investors in relation to financial issues was recognised at a European and international level and the European Commission gives great importance to the education of the investors and encourages member states to develop relevant programs.

Apart from the benefits to the investors themselves, the education in financial issues, benefits the society and the economy. This applies because the educated investor is expected to make proper decisions and thus, reducing the risk of making risky investments and losing his money or/and the creating debts that might lead to bankruptcy.

Nowadays, the financial education is very important, because of the complexity and availability of many kinds of financial products and services is constantly increasing. The capital markets are developing rapidly and the high volatility, the globalisation and the easiest access to the markets multiplied the investment opportunities and the risks. Furthermore, the financial needs of the individuals became more complex and lead to the necessity of the proper management of their wealth.

The CySEC promotes the investors education in capital market issues in various ways. For that purpose, the

CySEC maintains a special section on its website dedicated in investors education and it is enriched regularly with educational material, advice and warnings issued by CySEC or competent Authorities of other countries. Furthermore, the CySEC publishes informative articles in newspapers, financial magazines and websites. The publication of the Investors' Guide which defines the main principles of the MiFID Directive regarding the rights of persons that have invested or plan to invest in financial products aims to educate and protect the investors. Finally, the CySEC organises informative lectures and presentations which are open to the public.

The action plan of CySEC in relation to the investors' education, have been decided after studying the findings of a market research conducted by CySEC in 2010, whose aim was to determine the level of the knowledge of the public in capital market issues and investments in transferable securities. The relevant findings are on CySEC's website.

### **Public Lectures regarding the investors' education**

In 2013, the CySEC organised three Lectures in cooperation with the Pancyprian Consumers Association which were open to the public. The first two lectures with subject "Investments in financial instruments, risks and investors' rights" have taken place in Nicosia and Paphos. The third lecture took place in Nicosia and was about "The most important kinds of transferable securities and their basic characteristics" and the "most common mistakes of the investors when they invest in transferable securities and how these can be avoided".

The lectures, which have been conducted by a Senior Officer and Officers of the CySEC in cooperation with a professor of the Cyprus International Institute of Management (CIIM), were very successful regarding the attendance and the interest shown by the public through the numerous questions posed to the speakers. The relevant lectures have been conducted in the context of the School of Adult Consumers of the Consumers' Society and they aimed in the investors' education in financial issues.

### **5.6.7 Warnings to investors**

In 2013, the CySEC issued nine warnings about companies that have not obtained a CIF authorisation by the CySEC and were neither banks nor cooperative credit institutions established in the Republic and neither a notification has been received by a competent Authority of an EU member-state for those companies, so that investors shall not cooperate with them and in general being careful when they chose a company to cooperate with in relation to the provision of investment services.

The CySEC issued warnings to the investors regarding the requirement to be kept informed though the official announcements of the issuers of securities admitted to trading in a regulated market, for example the annual and semi-annual accounts and the prospectuses, on issues regarding their activities and the future developments in these companies. Specifically, due to the overwhelming developments in the economy and in issues that affected the CSE and listed issuers, the CySEC advice and warned repeatedly the investors, through announcements to be cautious and calm and take into account rumours and false publications in the Media, but rather follow the official announcements of the companies and the regulatory authorities. Through other announcements to investors, the CySEC clarified its decisions or denied publications or rumours in relation with the future course of certain issuers whose securities are listed in CSE, which did not correspond to reality.

Furthermore, the CySEC issued a warning to investors in relation with the risks entailed in the investments in Contracts for Difference – CFDs, stating that the investors should only be engaged in investments in CFDs only if they have an excessive experience in transactions in volatile markets, are fully aware about the way they function and they have sufficient time to monitor their investments on an active and continuous basis.

## **5.7 SUPPORT AND MARKET DEVELOPMENT**

### **5.7.1 Promotion of the Cypriot capital market in Cyprus and abroad**

The CySEC cooperates with the Cyprus Investment Promotion Agency, CIPA, whose task is the coordinated promotion of Cyprus abroad as a reliable jurisdiction for investments. The Commission contributes in this objective by participating in various conferences in Cyprus and abroad and presenting the high level regulatory framework that regulates the Cypriot capital market. Specifically, in 2013, the Chairwoman and the Vice-Chairman of the CySEC, have participated,

as speakers, in 14 events organised in Cyprus and abroad, in relation with the legal framework of the Cypriot capital market, while giving 18 informative interviews or clarifications in Cypriot economic magazines and abroad regarding the developments in the Cypriot capital market. Furthermore, 6 articles have been written that explain the various sectors of the regulatory and supervisory environment and other useful information in relation with the Cypriot capital market, which have been published in Cypriot and international magazines and websites.

### **5.7.2 Contribution in the minimisation of the negative consequences of the crisis in the economy and the capital market**

Within the context of its responsibilities, in 2013, the CySEC contributed in the collective effort of the minimisation of the negative consequences of the crisis in the economy, by taking initiatives to reinstate the smooth operation of the financial services sector.

Towards, that purpose, the CySEC proceeded in actions to assist in the smooth operation of the financial services market, relieve the supervised entities from the consequences of the March 2013 Eurogroup decisions and the reinforcement of the Cyprus economy in general. The main objective of all CySEC' actions was the reinstatement of the confidence and of the reliability of the financial system the soonest possible.

From the very beginning, the CySEC communicated with the respective competent Authorities of the EU member states and of other countries and provided information about the real situation of the Cyprus economy in order to face and misleading references in international media. In Cyprus, from the first moment, the CySEC closely monitored the developments and kept open communication lines with the regulated entities and other market participants, to have a retrospective communication on issues that concerned them with the provision of every possible assistance and mediation for the solution of the problems caused to their activities after the decisions of March, in relation with the unfreezing of their clients' funds.

For example, through contacts with all the competent Authorities, the CySEC succeeded to establish that the deposits of CIFs for the benefit of their clients belonged to the clients in question and not to the CIF, before finalising the hair cut of the deposits. Furthermore, the CySEC contributed in the smoothing of the clearing of the CSE transactions, which could not be conducted due to its closure in 2013.

At the same time, the CySEC kept the communication lines with its regulated entities and other market participants open, to be kept informed about the difficulties they faces and to cooperate with them to find solutions and assist them, if possible. The aim was to limit any adverse consequences to these entities and to the economy in general. To trace and fully understand the problems of the regulated entities, the CySEC issued circulars to them asking substantial information and data. Furthermore, a special questionnaire was distributed to CIFs asking them to report any other problems they faced, as a result of the crisis in the Cypriot economy which may have not be made known and their proposals regarding their solution.

Many interesting suggestions have been received from that questionnaire, which have been processed by the various Departments of CySEC, which either proceeded in specific actions at the CySEC level, or have been forwarded to the Government in the form of specific proposals.

### **5.7.3. Reception in Limassol for the Directors of the regulated entities**

Due to the difficult period the Cyprus economy is going through, and the overwhelming developments that affected the regulated entities, as a result of the Eurogroup decisions and the resolution measures that followed, by the Government the CySEC held a reception for the senior management and shareholders of its regulated entities in December 2013.

The purpose of that reception was to pass the message that the CySEC is committed to continue its efforts to put the investment services sector back in growth.

The President of the Republic participated in the reception and congratulated the Chairwoman, the Council and the staff of CySEC for the hard work and their efforts that aim in the establishment of a well organised, regulated securities market in Cyprus, ensuring the high standards for the protection of investors. Addressed to the foreign investors that attended the reception, the President of the Republic expressed his sincere commitment to



support the activities of the foreign entities, ensuring that the proposals, suggestions and complaints submitted in relation to the improvement of the financial services sector of Cyprus will be taken into consideration seriously.

On his side, the President of the Cyprus Investment Promotion Agency, Mr. Christodoulos Agastiniotis stated at every crisis is the opportunity for a new beginning. At present, he said, Cyprus is on a cross road and with will, correct judgement and determination our economy may lead to a dynamic course of growth.

## **5.8 HUMAN RESOURCES, ORGANISATIONS, METHODS AND INFRASTRUCTURE**

### **5.8.1 Staff training**

The CySEC takes care the continuous education of its staff through seminars organised in CySEC offices or through the participation of the staff to selected seminars and conferences in Cyprus and abroad. The CySEC, also participates in the program eLearning offered by ESMA.

In 2013, the Senior Officers and Officers of the CySEC participated in the following seminars:

- 9th Annual Financial Crime Seminar
- 5th Professional Services Conference
- Conference “Money Laundering – Presentation of the Legislation and the updated Directive of the ICPAC – Findings from on the spot Investigation”
- Conference regarding Money Laundering Issues
- Seminars regarding Project Management IT Service Delivery
- Seminar regarding new IT Solutions and Technology
- Information Security
- Corporate Risk Management and Governance: Necessary Virtues
- ESMA Investor Day
- Introduction to Forensic Accounting
- ESMA seminar regarding «Cross-sector seminar on Consistent application of IFRS»
- Training regarding the use of the new OMNIBUS Approved Prospectus, Supplement and Certificate of approval (CoA) IT register
- Participation in the Joint ESAs Consumer Protection Day
- Internal presentation regarding the Internal Audit in an Organisation of Public Law
- Participation in the IOSCO seminar: “Going Forward: Future Challenges in Securities Regulator and Practical Solutions for Meeting Those Challenges”
- Risk Based Supervision Framework (internal seminar)
- Analysis of AIFMs obligations (internal seminar)
- Analysis of UCITS Management companies and comparison with AIFMs (internal seminar)
- Internal Workshop regarding the professional safety and health (internal seminar)

## 5.8.2 Purchase of services

Due to the lack of human resources and the freezing of the positions in relation to hiring new personnel, the CySEC in an attempt to cover its increasing needs in human resources proceeded in the purchase of services from the CSE through a two year contract. In the context of the contract four CSE officers have been seconded to CySEC in 2012. The CSE officers are dealing with the examination of applications for CIF authorisations and with other tasks in accordance with CySEC's needs and their technical expertise. For 2013, CySEC considers to proceed with the purchase of services from other organisations in accordance with its specific needs.

## 5.8.3 Changes in the organisational structure

### 5.8.3.1 Establishment of Authorisations and Supervision Department

The reorganisation of the organisational structure of CySEC deemed necessary, due to its increased responsibilities, with the inclusion of new entities under its supervision and with the increase in the number, the size and the complexity of the existing regulated entities. The internal reorganisation, which began in 2012 and concluded in the first months of 2013, shall make CySEC more efficient and flexible to the achievement of its objectives.

With the organisation, the Departments of Authorisation and Supervision of CIFs, Regulated markets and CRAs and Authorisation and Supervision of UCITS and UCITS Management Companies, have been abolished. Those two Departments, while dealing with different groups of regulated entities, they both performed operations dealing with the assessment of applications for authorisation and supervision. Therefore, with the reorganisation, two new departments have been created, the Authorisations and Supervision Departments, which undertook the tasks of the two Departments that have been abolished.

Due to the fact that the assessment of the applications for authorisation/approval or/and supervision of CIFs, Regulated Markets, CRAs, UCITS, UCITS Management Companies and Alternative Investment Fund Managers is similar for all the entities, the Authorisations Department undertook the assessment of the applications for authorisation of all the above entities and the monitoring and approval of any changes during their operation.

The newly established Supervision Department has undertaken the supervision of the regulatory compliance of the above entities, after their authorisation during the period of their operations. Furthermore, to exercise more effective supervision, the Department of Supervision has been divided in three sub-departments as follows:

The compliance unit, which deals with the monitoring of the regulatory compliance of the regulated entities with the Law and the Directives regarding the organization, the procedures, systems and the control mechanisms maintained by the regulated entities and with their professional behavior towards the investors/clients.

The Anti-Money Laundering, AML unit, which deals with the monitoring of the compliance of the regulated entities with the Law and Directives regarding the combat of money laundering and terrorist financing.

The unit of Prudential Supervision regarding the Capital Requirements Directive – CRD, which deals with the monitoring of the capital adequacy and the financial statements of the regulated entities.

The above mentioned reorganisation was deemed necessary to increase the efficiency and effectiveness of CySEC operations and it seems fruitful in spite of the short time period put into force.

### 5.8.3.2 Internal Control

The Internal Control Unit of CySEC is an independent, objective, assuring and consultative activity, designed to add value and to improve the operations of CySEC. Specifically, its purpose is to assist the organisation to achieve its objectives by offering a systematic and scientific approach for the appraisal and improvement of the efficiency of the risk management, the internal control systems and the corporate governance procedures. The Internal Audit Unit has been introduced in the organisational structure of CySEC in the context of the internal reorganisation that took place in 2012.

In the context of the internal control application and in order to improve the internal organisation of CySEC, an internal circular has been distributed to the staff of CySEC with subject: "CySEC Procedures Manual", which

aimed to the coordination of the registration of the procedures and policies of CySEC. The establishment of a Procedures Manual for each department of CySEC, which shall describe all the procedures followed by the employees during the exercise of their duties, is one of the biggest tasks of the Internal Control Unit, which progressed in 2013 and is expected to be completed gradually in the next years.

For the better organisation and function of the CYSEC' Internal Control Unit, during the year, the Director of the Internal Control Unit of CYBC was invited to make a presentation in CySEC regarding the role, the competencies, the responsibilities and the importance of an Internal Control Unit and information about the context of the internal control applied in CYBC as a Semi-Governmental Organisation. The complete operation of the Money Laundering Unit of CySEC shall depend to the progress of the action plan which has been initially approved by the Council at the beginning of 2014 and it is in process.

## **5.8.4 Upgrading Projects**

### 5.8.4.1 Upgradings in relation to relocation

With the relocation of CySEC to a new building, various studies have been conducted regarding the upgrading of the network infrastructure, of the appliances and of the equipment in general. For that purposes, various meetings took place with experts on network issues, security of space (security monitors, etc.) and fire safety and the best method have been adopted for each sector.

### 5.8.4.2 Upgrading of the backup system

After a market research of the IT and Operations Department, and invitations to tender, a new backup system (hardware and software) has been purchased, which shall be automated and shall cover all the needs of the organisation for the following years. The new system is faster and offers more protection to the important and sensitive data disseminated in the organisation.

### 5.8.4.3 Corporate Content System

In 2013, the preparation regarding the application of the corporate content system proceeded, with improvements in the software and hardware and with the necessary design to be implemented during the first semester of 2014.

### 5.8.4.4 Replacement of the server for the TRS System

In the year, the replacement of the old server with a new one to be able to handle more systems that will be implemented in the future, deemed necessary. After an invitation to tender, a new server has been installed without causing any interruption in CYSEC' operations. The relevant server can support the Transaction Reporting Exchange Mechanism (TREM) and CRD which enable the regulated entities to fulfil their obligations to CySEC electronically. Due to the increase in the number of the regulated entities, the introduction of new categories of regulated entities, such as the ASPs, the replacement of the server deemed necessary.

### 5.8.4.5 Upgrading of Computers

The replacement of a large part of the older Computers of the staff with modern hardware and software for compatibility purposes and the reduction of problems caused by the old equipment was completed successfully.

### 5.8.4.6 Electronic Security of Information

For the purpose of the secure transmission of electronic information through the TRS, which results in the saving of time and resources, the Digital Signature was established regarding the submission of specific data/documents in accordance with the Legal Framework Regarding the Electronic Signature Law.



Furthermore, due to the upcoming big IT projects, such as the Corporate Content System and the Risk Based Supervision Framework, the CySEC commenced the preparation for a total upgrade of the system of the circumferential web security of the organisation. For this purpose, a study for the reinforcement of the circumferential web security of the organisation in cooperation with entities providing Information Security solutions in Cyprus began.

#### 5.8.4.7 Improvement of the Website

The CySEC website is kept informed on a daily basis and is subject to improvements regularly, when necessary. The inclusion of new categories of regulated entities, created the need to reorganise some parts of the website to facilitate the access to its visitors.

At the same time, after the completion of the study regarding the upgrading of the Content Management System, which is a project in process with the redesign of the website to be consistent with the modern models of web technology and the respective websites of other competent Authorities.

#### 5.8.4.8 Extension of the electronic CIF database

With the successful completion of the relevant project, its extension commenced to include therein all the information deemed necessary for the smooth function of the system to assist in the Risk-Based Supervision Framework that will be applied in the near future.

### 5.8.5 Other projects

#### 5.8.5.1 CySEC relocation

In 2013, CySEC relocated in new, appropriate office space which provides the necessary safety and infrastructure of its smooth operation. The relocation in the new building was an opportunity to upgrade the structure of its offices since the new building had proper space for the physical filing and improved spaces for meetings and trainings. The new building has provisions which can serve the future increase in CySEC staff. The new building, where CySEC is now located, has been chosen in cooperation with the Ministry of Finance after the conduct of a relevant research. The relocation deemed necessary, as the old building could no longer serve the needs of CySEC.

#### 5.8.5.2 Adjustments in CySEC charges

In 2013, the new CySEC charges to the CIFs in relation with the performance of various tasks have been implemented, in accordance with a relevant study conducted in 2012. The new charges take into consideration examples of other countries and the time and resources required for the completion of the relevant tasks. Furthermore, they ensure a steady income for CySEC and avoid significant fluctuations which cause problems to the CySEC budget.

#### 5.8.5.3 New corporate identity

In 2013, the CySEC completed the renewal of its corporate identity on the basis of its new logo. The relevant logo has been chosen after an artistic context declared in 2012 and completed at the beginning of 2013.

### 5.8.6 Corporate Social Responsibility

The CySEC, recognising the positive contribution of the Corporate Social Responsibility (CSR) to the society, has introduced in its long term strategy various actions in relation to CSR. CSR refers to the responsibility of the organisations and businesses for their impact on society and it is about the volunteer inclusion of social and environmental actions in their usual activities.

During the previous years, various initiatives took place within the scope of the CSR, but with a non-systematic, unofficial way. Since 2012, the CSR is a conscious option for CySEC, as the management gives high importance to CSR and has assigned the responsibility of conducting SCR actions to an Officer.

The successful adoption of the CSR depends on the substantial commitment of the management, but at the same time, on the awareness, actual support and commitment of the CySEC staff and on various stakeholders. Therefore, the Council of CySEC, decided to give to the staff the opportunity to be actively involved to the formulation of proposals in relation to CSR, by submitting comments, ideas and suggestions. The CSR actions are characterised by the team spirit, the collective effort and the active involvement of the staff to the development of proposals and ideas set the grounds for the implementation of the relevant actions. The CySEC supports and encourages the active participation of its employees in volunteer activities; as such activities form the basis for the development of social solidarity.

#### 5.8.6.1 Corporate Social Responsibility Actions

The CySEC, recognising the positive contribution of the Corporate Social Responsibility in the society, in 2013, performed many actions in relation the Corporate Social Responsibility.

##### **Volunteer contribution of the staff in a charity bazaar**

The CySEC staff participated in a charity bazaar, which was organised on the Weekend 14-15 of December 2013 in the context of the Christmas Event «Sparkling Stasicratous», which aimed to enhance the work of the Cyprus Anticancer Society.

At the relevant bazaar, various creations made by the volunteers of CySEC, such as home-made sweets, handmade jewels, paintings, aromatic plants, Christmas decorations and other crafts have been offered. There was a great success in the sale of charms and cook books of the Cyprus Anticancer Society.

The amount gathered reached the €2,675 and was given to the Cyprus Anticancer Society to support its work.



##### **Blood donation**

On the 11th of July 2013, the CySEC conducted volunteer blood donation, in order to respond to the increased requirement of the Medical Centres during the summer period, when there are less available volunteers due to the summer vacations.

Within the Corporate Social Responsibility Concept and in an attempt to enhance the social awareness of its staff and other entities, the CySEC invited the Cyprus Stock Exchange and the Court of Family Affairs of Nicosia to participate in this wonderful act of solidarity and love towards our fellow human beings.



The voluntary donation of blood assists in saving people's lives, which had an accident, or need an operation, or suffer from diseases that required blood transfusion. Blood donation is a gift of life, since the blood cannot be manufactured, but only offered from one person to another.

### **Staff awareness**

Special importance had been given by the management of CySEC, to the establishment of an energy saving policy. Therefore, in 2013, a campaign to inform the employees began. With the aim of promoting the energy consciousness to the staff, the CySEC has issued a circular on the 22nd of July 2013, providing useful advice in relation to the saving of electric power at home and at the work place. At the same time, informative material and smart clips and pictures have been promoted to the staff, which carry, in a pleasant way, the message that saving energy and the protection of the environment improves the quality of our life and our daily routine.

Furthermore, the CySEC follows all the proposed measures/directives issued by the Energy Service of the Ministry of Energy, Commerce, Industry and Tourism and by the Energy Foundation of Cyprus. Some of the measures applied are (a) the lighting time switches, which turn on automatically when movement has been detected and switch off automatically, after the predetermined time period and (b) the adjusting level of light in order to use the desired amount of light for the various activities of the users of the place (e.g. there are special switches which turn on only half of the lights in the corridors).

Furthermore, an Officer of CySEC participates in the annual conference organised by the Cyprus Energy Foundation, and also in the various meetings that take place during the year and aim to the exchange of views and the provision of information in relation to the new energy saving systems and the provision of advice for the saving and proper use of energy.

The CySEC attempts to promote the various Social Responsibility Actions through publications on its website, in order to encourage and raise the awareness of other organisations on this issue.

### **Health and Safety Seminars**

In October of 2013, a series of seminars to the staff, which form part of the continuous update and training of the staff in Health and Safety issues, has taken place. The subjects dealt with included (a) general guidance to the staff for the immediate responses to various incidences concerning the work space, (b) how we act in various cases, for example, in case of fire, leakage of fuel or water, earthquake, occupations etc., and (c) First Aid, basic principles for events or incidents that usually take place, after the risk assessment conducted at the work place. Furthermore, ergonomic movements have been shown to the staff, in order to avoid muscular diseases and other long standing problems caused by bad moves at work.

## Recycle

The CySEC recycles many materials used, such as paper, plastic and batteries, in order to contribute to the saving of energy and raw materials and to the reduction in the volume of garbage and their effect on the environment. For that purpose, it has special recycle bins in different locations within and out of the CySEC building.

During the removal to the new building, the CySEC proceeded in the digitization of all the documents kept in physical form and then to the destruction and recycle of a large volume of paper. Furthermore, the CySEC has special paper recycle binds in different locations within and out of the CySEC building and proceeds in the recycle of the consumed paper. Specifically, the paper volume recycled in 2013 was about 1.9 tons. Furthermore, with the implementation of a modern Central Registry and document management system, which is in the pipeline, the volume of paper used shall be reduced significantly.

In 2013, the CySEC has joined the package recycling program of the Green Dot Cyprus, which provided for free, a blue recycle bin of materials included in the category PMD.

The CySEC proceeds in the recycle of batteries, ink jars of printers and of other materials that contain harmful substances for the human health and the environment. With the collection and the recycle of the relevant materials, the disposal of harmful substances in the environment is avoided and this saves energy and natural resources.

## Collection of plastic caps for re-cycle and support of the Antirheumatic Foundation of Cyprus

In these difficult financial conditions experienced by our country, every possible contribution, even the smallest one, is important. Therefore, in 2013, the CySEC supported the effort of the Antirheumatic Foundation of Cyprus with the collection of plastic caps, which are given to a re-cycle company, which undertakes the responsibility to purchase aids/tools (such as food and serving aids, clothing and marching aids and bath aids) to improve the daily quality of life of the persons with rheumatic diseases.



Through the relevant action, the awareness and encouragement of the staff for recycle is achieved, while, at the same time, the information about the importance of the rheumatic diseases, the prevention, the timely diagnosis and the treatment of these diseases is promoted.

The members of the CySEC staff have responded with eagerness, by collecting plastic caps, (of milk, water, etc.) at home or at the office and as a result, the small boxes placed on every floor filled up very quickly and large amounts of caps have been collected for recycle.

## Donations of furniture and electronic appliances

Within the process of moving to a new building in April 2013, the CySEC gave to charity furniture and electric appliances, after suggestions of the members of the staff. Specifically, 6 computers have been given to the Chryseleousas Primary School, to equip the computer lab of the school. Furthermore, 4 water dispensers and 10 ventilators have been given to charity foundations and furniture to poor families.

It must be noted that in the tenders launched by the CySEC, there are specific provisions about the purchase of products that are friendly to the environment.

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**Annex A – Non-EU Competent Authorities with which the CySEC has signed Memorandums of Understanding and Cooperation in relation to the AIFM Directive (AIFMD)**

1. Financial Supervisory Authority of Albania - Albania
2. Australian Securities and Investments Commission - Australia
3. Bermuda Monetary Authority - Bermuda
4. Comissão de Valores Mobiliários do Brasil - Brasil
5. British Virgin Islands Financial Services Commission - British Virgin Islands
6. Alberta Securities Commission - Canada
7. Autorité des Marchés Financiers du Quebec - Canada
8. British Columbia Securities Commission - Canada
9. Ontario Securities Commission – Canada
10. Cayman Islands Monetary Authority - Cayman Islands
11. Dubai Financial Services Authority – Dubai
12. Securities and Exchange Commission of the Republic of Macedonia (FYROM) – FYROM
13. Guernsey Financial Services Commission - Guernsey
14. Hong Kong Monetary Authority - Hong Kong
15. Securities and Futures Commission - Hong Kong
16. Financial Supervision Commission of the Isle of Man - Isle of Man
17. Israel Securities Authority - Israel
18. Financial Services Agency of - Japan
19. Ministry of Agriculture, Forestry and Fisheries of Japan - Japan
20. Ministry of Economy, Trade and Industry of Japan - Japan
21. Jersey Financial Services Commission – Jersey
22. Labuan Financial Services Authority – Labuan
23. Securities Commission - Malaysia
24. Capital Market Development Authority - Maldives
25. Financial Services Commission of Mauritius – Mauritius
26. National Banking and Securities Commission of the United Mexican States - Mexico
27. Securities and Exchange Commission of Montenegro - Montenegro
28. Conseil Déontologique des Valeurs Mobilières of Morocco - Morocco
29. Securities and Exchange Commission of Pakistan - Pakistan

30. Monetary Authority of Singapore - Singapore
31. Republic of Srpska Securities Commission - Srpska
32. Swiss Financial Market Supervisory Authority (FINMA) - Switzerland
33. Capital Markets and Securities Authority of Tanzania - Tanzania
34. Securities and Exchange Commission Thailand - Thailand
35. Emirates Securities and Commodities Authority – UAE
36. Commodity Futures Trading Commission – USA
37. Federal Reserve Board - USA
38. Office of the Comptroller of the Currency - USA
39. Securities and Exchange Commission - USA