

PRESS RELEASE

CySEC imposes €740.000 fine on CIF Exelcius Prime Ltd

CIF found to have made multiple violations of the investment services legislation

NICOSIA, 7 August 2024 – The Cyprus Securities and Exchange Commission (“CySEC”) has imposed fines amounting to €740.000 on the Cyprus Investment Firm (“CIF”), Exelcius Prime Ltd.

The Board of CySEC reached its decision after identifying a series of violations of the Investment Services and Activities and Regulated Markets Law of 2017 (the “Law”) ([the board decision](#)).

The fines imposed by CySEC on Exelcius Prime Ltd comprised:

- €45.000 in respect of the provision of investment advice as a regular occupation, without this being mentioned in the authorisation granted by CySEC.
- €60.000 for failure to comply at all times with the conditions set out in section 9 of the Law for granting an authorisation. In particular, not all members of its board of directors (“BoD”) committed sufficient time to the performance of their functions in the CIF and the overall composition of the board did not reflect an adequate collective range of experiences. Additionally, the business activity of Exelcius Prime Ltd was not directed by at least two persons, as required by Law.
- €240.000 as the CIF did not comply continuously with the conditions set out in section 17 of the Law for granting an authorisation, regarding the organisational requirements. Among others, that Exelcius Prime Ltd did not establish adequate policies and procedures sufficient to ensure its compliance with its obligations under the Law. Moreover, it did not review the suitability of the financial instruments it offered to clients in order to assess whether these remained consistent with the needs of the identified target-market and whether the intended distribution strategy remained appropriate. In addition, Exelcius Prime Ltd did not effectively monitor the function of its clients’ service, did not manage the risks associated with outsourcing, and did not provide a number of records to CySEC.
- €120.000 for failure to take all appropriate steps to identify and prevent or manage conflicts of interest between its employees and clients.

- €110.000 as Exelcius Prime Ltd was found not to have acted honestly, fairly and professionally when providing investment services to its clients, in accordance with the best interests of its clients, taking into account the practices of the persons that communicated with the clients.
- €25.000 for failure to take into account the identified target-market of end clients and collect information in regards to the assessment of the compatibility of the product with the needs of its clients to whom it provided investment services, in order to ensure that its financial instruments were only offered when in the best interest of each client.
- €100.000 for failure of Exelcius Prime Ltd to ensure that all information addressed to clients or potential clients was fair, clear and not misleading, taking into account the practices of the persons that communicated with the clients.
- €20.000 for failing to assess, based on the information received, whether the investment service or product envisaged was appropriate for the client.
- €20.000 as the CIF established a branch in the Czech Republic before providing all the required information to CySEC.

To impose the administrative fines, CySEC took into account a series of factors. Including:

- The maximum amount of the administrative fine provided for in the Law for these kind of violations.
- The seriousness attributed to the fact that CIFs must act within the framework of their operating license.
- The weight given to the requirement that it is a CIF's responsibility:
 - to ensure that its board of directors devotes sufficient time and has overall sufficient knowledge, in order to ensure the effective supervision of the CIF and the interests of both itself and its clients.
 - that at least two persons actually manage the business activity of the CIF, which strengthens its governance, strategic planning and effective operation.
 - to apply appropriate policies and procedures in the context of its operation.
 - to ensure that the financial instruments distributed to the identified target-market of end customers continue to be consistent with the needs of the target-market, which acts in the best interest of its customers.
 - to take measures to avoid aggravation of the operational risk when delegating important operational functions to third parties, so as not to impair the quality of its internal control and to ensure the orderly functioning of the market and the protection of investors.

- for keeping records of all the services provided, the activities, and transactions carried out by the CIF. In terms of keeping records of telephone conversations with clients, which enhances investor protection and improves market surveillance.
 - to comply with the requirements for the avoidance of conflicts of interest, in particular the design and implementation of remuneration policies and practices for all persons who could affect the service provided, to ensure the protection of the interests of its clients.
 - not to offer CFDs products to clients who fall into the negative target market, thus ensuring their protection and interests.
- The need for the CIF to properly treat its clients and categorize them appropriately, especially since professional clients receive lower protection than retail clients.
 - The seriousness attached to the correct professional behaviour of CIFs towards their clients, the safeguarding of the interests and rights of a CIF's clients and in particular the need to collect and evaluate data regarding the experience and knowledge of its clients, which gives the ability to the CIF to better assess whether an investment service or financial instrument is compatible for a client and to warn them accordingly, so that they are able to make informed decisions. Based on the CIF's actions at the material time, it did not ensure the protection of the clients' interests.

The Chairman of CySEC Dr George Theocharides, said:

"CIFs are urged to ensure that they fully comply with the provisions of the Law and must act within the framework of their operating license. CySEC attributes great importance, among others, to the responsibility that CIFs have in terms of the knowledge and skills of individuals in key positions to ensure the effective operation, supervision and governance of the CIF, as well as the interests of the CIF and its clients. CIFs must act fairly, honestly and professionally as a measure to enhance investor confidence in the market. A strong commitment of CySEC is the responsible growth of the investment sector, which is based on strict supervision to ensure the protection of investors."

ENDS

CySEC clarifies that the content of this press release is strictly informative and does not intend to substitute the CySEC Board's decision in any way.

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