

## **INVESTMENT SERVICES DOCUMENT D: INVESTOR COMPENSATION FUND**

The Bank is a member of the Investor Compensation Fund for Customers of Banks (the "**Fund**") which was established under the Investment Firms (IF) Law 2002, as amended (the "**Law**") and the Establishment and Operation of an Investor Compensation Fund for Customers of Banks Regulations of 2004, as amended (the "**Regulations**") which were issued under the Law.

The Fund constitutes a private law legal entity and its administration is exercised by a Management Committee of five members. The President and vice-president of the Management Committee are the Governor of the Central Bank of Cyprus and the Senior Manager of the Banking Supervision and Regulation Division of the Central Bank of Cyprus, respectively, who are in office.

The Fund has been operating since 1 May 2004.

### **Covered services**

Covered services are the investment services of:

1. (a) reception and transmission, on behalf of customers, of orders in relation to one or more of the financial instruments, (b) execution of such orders, as listed in paragraph (a), for account of customers;
2. dealing in financial instruments for own account;
3. managing of investment portfolios in accordance with mandates given by customers on a discretionary basis where such portfolios include one or more of the financial instruments; and
4. underwriting in respect of issues of one or more of the financial instruments and/or the placing of such issues,

as well as the non-core service of safe keeping or administration in relation to one or more of the financial instruments.

Reference to financial instruments in the previous paragraph means:

- (a) transferable securities and units in collective investment undertakings,
- (b) money market instruments,
- (c) financial-futures contracts including equivalent cash settled-instruments,
- (d) forward interest-rate agreements (FRAs),
- (e) interest rate, currency and equity swaps,

- (f) options to acquire or dispose of any financial instrument including equivalent cash-settled instruments and in particular, options on currency and on interest rates.

### **Covered customers**

Covered customers are the customers of the Bank, except those who are included in the following categories of investors:

1. Institutional and professional investors such as:
  - (a) investment firms (IFs);
  - (b) legal entities associated with the Bank and, in general, belonging to the same group of companies as the Bank;
  - (c) banks;
  - (d) co-operative credit institutions;
  - (e) insurance companies;
  - (f) collective investment organisations in transferable securities and their management companies;
  - (g) social insurance institutions and funds; and
  - (h) investors characterised by the Bank as professionals, upon their request, in accordance with articles 14 and 15 of the Code of Professional Conduct of Investment Firms.
2. States and supranational organizations.
3. Central, federal, confederate, regional and local administrative authorities.
4. Enterprises associated with the Bank.
5. Executive and managerial officers of the Bank.
6. Shareholders of the Bank, whose participation directly or indirectly in the capital of the Bank amounts to at least 5% of its share capital, or its partners who are personally liable for the obligations of the Bank, as well as persons responsible for the carrying out of the financial audit of the Bank, as provided by the Law, such as its qualified auditors.
7. Investors having in enterprises connected with the Bank and in general, of the group of companies to which the Bank belongs, positions or duties corresponding to the ones listed in paragraphs 5 and 6.
8. Second degree relatives and spouses of the persons listed in paragraphs 5, 6 and 7, as well as third parties acting for the account of these persons.

9.
  - (a) Investors, whose claim arises out of transactions involving individuals, who have been convicted of a criminal offence for these transactions, pursuant to the Concealment, Investigation and Confiscation of Proceeds from Criminal Activities Act 1996, as amended.
  - (b) Investors-customers of the Bank responsible for facts which have caused its financial difficulties or have contributed to the worsening of its financial situation or who have profited from these facts.
10. Investors in the form of a company, which due to its size, is not permitted to prepare a summary balance-sheet in accordance with the Companies Law, Cap.113 or a corresponding law of a member state of the European Union.

### **Object of the fund**

The object of the Fund is to secure the claims of the covered customers against the Banks-members of the Fund by the payment of compensation for their claims arising from the covered services provided by its members, so long as failure by the member to fulfill its obligations has been ascertained.

Failure by the Bank to fulfill its obligations consists of its failure to:

- (a) either return to its covered customers funds owed to them or funds which belong to them but are held by the Bank, directly or indirectly, in the context of the provision by the Bank to the said customers of covered services, and which the latter requested the Bank to return, in exercising their relevant right,
- (b) or hand over to the covered customers financial instruments which belong to them and which the Bank holds, manages or keeps on their account, including circumstances where the Bank is responsible for the management of the said financial instruments.

### **Prerequisites for initiating the procedure for compensation payment**

The Fund initiates the compensation payment procedure when at least one of the following prerequisites is fulfilled:

- (a) the Central Bank of Cyprus has determined that the Bank is for the time being unable to meet its obligations arising from its investors-customers' claims, in connection with the covered services it has provided, as long as such inability is directly related to the Bank's financial position which has no realistic prospect of improvement in the near future, or
- (b) a Court, based on grounds directly related to the financial position of the Bank, has made a ruling which has the effect of suspending the investors-customers' ability to lodge claims against the Bank.

Upon issuance of a decision by the Central Bank of Cyprus or by the Court in accordance with paragraph (a) or (b) above respectively, on the commencement of the compensation payment procedure, the Fund publishes in at least three national newspapers an invitation to the covered customers to make their claims against the Bank arising from covered

services, designating the procedure for the submission of the relevant applications, the deadline for their submission and their content.

### **Calculating the amount of payable compensation**

The amount of compensation payable to each covered customer, is calculated in accordance with the legal and contractual terms governing the relation of the covered customer with the Bank, subject to the rules of set-off applied for the calculation of the claims between the covered customer and the Bank. The calculation of the payable compensation derives from the sum of total established claims of the covered customer against the Bank, arising from all covered services provided by the Bank and regardless of the number of accounts of which the customer is a beneficiary, the currency and place of provision of these services.

Insofar as the amount of the claim determined, exceeds the amount of Euro 20,000, the claimant receives as compensation the lump sum of Euro 20,000.

Upon completion of the valuation, the Fund (a) issues minutes listing the customers of the Bank who are entitled to compensation, along with the amount of money each one of them is entitled to receive and communicates it to the Central Bank of Cyprus and the Bank within five working days from its issue and (b) communicates to each affected customer its finding no later than fifteen days from the issue of the minutes, determining the total compensation amount this customer is entitled to receive. The claimant, to whom the Fund communicates the total compensation amount to which he is entitled, in case he disagrees with the Fund's decision, has the right within ten days from the communication of the decision to appeal to the Central Bank of Cyprus, justifying sufficiently his alleged claim.

The Fund is obliged to pay to each covered customer - claimant the compensation within three months from sending to the Central Bank of Cyprus the minutes with the compensation beneficiaries.

For any further information regarding the Fund, please refer to the offices of the Management Committee of the Fund, at the following address:

Management Committee of the Investor Compensation Fund  
C/o Central Bank of Cyprus  
P.O. Box 25529  
1395 Nicosia

and for any further information regarding the Regulations, please refer to the Central Bank of Cyprus' website at: [www.centralbank.gov.cy](http://www.centralbank.gov.cy)