

# **Investor Compensation Fund for Bank Customers**

## **1. INVESTOR COMPENSATION FUND**

Banks established in the Republic of Cyprus offering investment services (hence forth «*participating banks*»), including their branches in other countries, are members of the Investor Compensation Fund for Bank Customers (the “Fund”), which was established under:

- a. the Investment Firms (IF) Law (the “Law”) of 2002 and all its subsequent amendments, and
- b. the Regulations (530/2004) of 2004 issued under the aforementioned law (the “Regulations”) governing the Establishment and Operation of an Investor Compensation Fund for Bank Customers

The Fund constitutes a legal entity under private law, the administration of which is exercised by a five-member Management Committee. The Management Committee’s President and Vice-President are the incumbent Governor of the Central Bank of Cyprus and the Head of Banking Supervision and Regulation Division of the Central Bank of Cyprus, respectively.

The Fund commenced operations on 1<sup>st</sup> May 2004.

## **2. COVERED SERVICES**

Covered services constitute the following investment services:

1. (a) reception and transmission, on behalf of customers, of orders relating to the execution of transactions in one or more financial instruments, (b) execution on customers’ account of orders, referred to in paragraph (a),
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 financial instruments,
4. underwriting the issuance of one or more financial instruments and/or placement of such issues,  
as well as the non-core related service of
5. holding in custody or administration of one or more financial instruments.

The term Financial Instruments in the preceding paragraph refers to:

- a. Transferable securities and units in collective investment undertakings,
- b. Money Market securities,
- c. Futures contracts, including other equivalent securities which allow settlement in cash,
- d. Forward Rate Agreements (FRAs),
- e. Interest rate swaps, foreign exchange swaps and equity swaps,
- f. All forms of Options and all equivalent instruments which allow settlement in cash, and in particular interest rate options and foreign exchange options.

### **3. COVERED CUSTOMERS**

Covered customers are participating banks' customers, except those included in the following investor categories:

1. Institutional and professional investors such as:
  - a. Investment Firms (IFs)
  - b. legal entities associated with a participating bank and, in general, belonging to the same group of companies as the participating bank,
  - c. other banks,
  - d. co-operative credit institutions,
  - e. insurance companies
  - f. collective investment undertakings in transferable securities and their management companies,
  - g. social insurance institutions and funds,
  - h. investors classified by a participating bank as professionals, upon investors' own 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 a participating bank
5. Executive and managerial officers of a participating bank
6.
  - a. Shareholders of a participating bank whose direct or indirect shareholding in the participating bank's capital amounts to at least 5% of its share capital, or
  - a. the participating bank's associates who are personally liable for the participating bank's obligations , as well as
  - b. persons responsible for carrying out the financial audit of a participating bank as provided by the Law, such as its qualified auditors.
7. Investors holding positions or duties corresponding to the ones listed in 3.5 and 3.6 above, in enterprises which are either associated or in general belong to the same group of companies as the participating bank.
8. Up to and including second degree relatives and spouses of persons listed in paragraphs 3.5, 3.6 and 3.7, as well as third parties acting on behalf of these persons.
9. Investors-customers of a participating bank responsible for events which have caused financial difficulties to the participating bank or which have contributed to the aggravation of its financial situation, or investors-customers of a participating bank who have benefited from such events.
10. Corporate Investors, which due to their size, are not allowed to draw a summary balance-sheet in accordance with the Companies Act of the Republic of Cyprus or a corresponding law of a member state of the European Union.

Note that the Fund is prohibited from paying compensation against claims arising from transactions of persons convicted of a criminal offence, for the aforementioned transactions, under the provisions of the Prevention and Suppression of Money Laundering Activities Law of 1996 to 2004.

#### **4. PURPOSE OF THE FUND**

The purpose of the Fund is to secure the claims of covered customers against the Fund's participating banks through the payment of compensation for claims arising from covered services provided by participating banks, provided that failure of a participating bank to fulfill its obligations has been ascertained.

Failure by a participating bank to fulfill its obligations comprises its failure to-

- a. either:
  - i. reimburse funds owed to covered customers, or
  - ii. return funds belonging to covered customers but which are, directly or indirectly, held by the participating bank in the context of providing covered services to the said customers and for which the customers requested their return, in exercising their relevant right.
- b. hand over to the covered customers financial instruments which belong to them and which the participating bank holds, manages or keeps on their behalf, including cases where the participating bank is responsible for the administrative management of said financial instruments.

#### **5. PREREQUISITES FOR INITIATING THE PROCEDURE FOR COMPENSATION PAYMENT**

The Fund initiates compensation payment procedures when at least one of the following prerequisites is met:

- a. The Central Bank of Cyprus deemed through a relevant decision that a participating bank does not appear for the time being able to meet its obligations arising from its investors-customers' claims, in connection with covered services provided, as long as such inability is directly related to the participating bank's financial position which is not expected to improve in the near future, or
- b. A Court issued a ruling suspending a participating bank's investors-customers' capacity to lodge claims against the participating bank based on grounds directly related to the participating bank's financial position.

Upon issuance of a decision by the Central Bank of Cyprus or a Court ruling in accordance with paragraphs (a) and (b) above, for the commencement of compensation payment procedures, the Fund publishes in at least three newspapers of broad national circulation, an invitation to covered customers to make their claims, arising from covered services, against the affected participating bank. The invitation should designate the procedure, content and deadline for submission of pertinent applications.

#### **6. 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 covered customer's relation with the participating bank, subject to the set-off rules that apply for the calculation of claims between the covered customer and the participating bank.

The amount of payable compensation is derived by summing up all of the covered customer's documented claims against the participating bank. Such claims arise from all accounts to which a customer is a beneficiary to, regardless of currency as well as from all covered services provided by the participating bank regardless of where such services were provided.

Insofar as the amount of the claim determined, exceeds the equivalent of Euro 20.000 in Cyprus Pounds, the claimant receives as compensation the lump sum of the equivalent of Euro 20.000 in Cyprus Pounds. The Euro vs Cyprus Pound exchange rate, is calculated as the Central Bank of Cyprus's average exchange rate on the day that Central Bank of Cyprus issues a decision for commencement of compensation payment procedures in accordance with paragraph 5(a) above, or a Court ruling in accordance with paragraph 5(b) above, respectively.

Upon completing the valuation, the Fund:

- a. issues and communicates within five working days to both the Central Bank of Cyprus and the participating bank, minutes listing the customers of the participating bank who are entitled to compensation, along with the amount of money each one of them is entitled to receive and
- b. communicates its findings to each affected customer within fifteen days of issuing its minutes, determining the total amount of compensation the customer is entitled to receive. In case of disagreement with the Fund's decision, the claimant, has the right to appeal the decision to the Central Bank of Cyprus, justifying sufficiently his alleged claim within ten days from receiving the relevant communication.

The Fund is obliged to compensate each covered customer - claimant within three months of dispatching to the Central Bank of Cyprus, the minutes listing the compensation beneficiaries.

For any further information please contact the Fund's Management Committee offices at:

Management Committee of the  
Investor Compensation Fund for Clients of Banks  
c/o Central Bank of Cyprus  
P.O. Box 25529  
1395 Nicosia

and for further information regarding the Regulations, please refer to the Central Bank of Cyprus' website at: [www.centralbank.gov.cy/nqcontent.cfm?a\\_id=2286](http://www.centralbank.gov.cy/nqcontent.cfm?a_id=2286)