



**DIRECTIVE DI144-2007-01 OF THE CYPRUS SECURITIES AND EXCHANGE
COMMISSION FOR THE AUTHORISATION AND OPERATING CONDITIONS
OF THE CYPRUS INVESTMENT FIRMS**

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Directive for the Authorisation and Operating Conditions of Cyprus Investment Firms

The Cyprus Securities and Exchange Commission, in accordance with the powers vested in it by virtue of sections 20, 29 and 156 of the Investment Services and Activities and Regulated Markets Law of 2007 and for the purposes of harmonization with the actions of European Community titled:

Official Journal of
the EE: L 145 of
the 30th April
2004, page. 1

(a) “Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC”;

Official Journal of
the EE: L 114 of
the 27th April
2006, page. 20

(b) “Directive 2004/31/EC of the European Parliament and of the Council of 5 April 2006 amending Directive 2004/39/EC of the European Parliament and of the Council on markets in financial instruments, as regards certain deadlines”; and

Official Journal of
the EE: L 241 of
the 2nd September
2006, page 26

(c) “Directive 2006/73/EC of the European Council of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive”;

issues the following Directive:

PART I
INTRODUCTORY PROVISIONS

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|--------------------------------|--|
| Short title | 1. This Directive will be cited as the Directive for the Authorisation and Operating Conditions of CIFs. |
| Scope
144(I)/2007 | 2. This Directive determines and specialises the provisions of sections 18(2) and 29 of the Investment Services and Activities and Regulated Markets Law of 2007 and applies to all firms that submitted an application to the Cyprus Securities and Exchange Commission for the granting of a CIF authorization, as well to the CIFs, during their operation as such. |
| Definitions

200(I)/2004 | 3. For the purposes of this Directive, unless the context shall prescribe otherwise:

“qualifying money market fund” means a collective investment undertaking authorised under the Open-Ended Undertakings for Collective Investment in Transferable Securities (UCITS) and Related Issues law, or which is subject to supervision and, if applicable, authorised by an authority under the national law of a Member State, and which satisfies the following conditions:

(a) its primary investment objective must be to maintain the net asset value of the undertaking either constant at par (net of earnings), or at the value of the investors’ initial capital plus earnings; |

(b) it must, with a view to achieving that primary investment objective, invest exclusively in high quality money market instruments with a maturity or residual maturity of no more than 397 days, or regular yield adjustments consistent with such a maturity, and with a weighted average maturity of 60 days. It may also achieve this objective by investing on an ancillary basis in deposits with credit institutions;

(c) it must provide liquidity through same day or next day settlement;

“a rating agency” means the agency which issues credit ratings in respect of money market funds regularly and on a professional basis and is an eligible ECAI within the meaning of paragraph 5(1) of Chapter 1 of Part C of the Commission’s Directive regarding the capital adequacy of CIFs;

116(l)/2005

“distribution channel” means distribution channel within the meaning of section 2 of the Insider Dealing and Market Manipulation (Market Abuse) law;

“marketing communication” means the recommendation covered in section 26 the Insider Dealing and Market Manipulation (Market Abuse) law, but relating to financial instruments as defined in Part III of the First Annex of the Law, and does not meet the conditions set by the definition of investment research;

“investment research” means research or other information recommending or suggesting an investment strategy, explicitly or implicitly, concerning one or several financial instruments or the issuers of financial instruments, including any opinion as to the present or future value or price of such instruments, intended for distribution channels or for the public, and in relation to which the following conditions are met:

(a) it is labelled or described as investment research or in similar terms, or is otherwise presented as an objective or independent explanation of the matters contained in the recommendation;

(b) if the recommendation in question were made by an investment firm to a client, it would not constitute the provision of investment advice for the purposes of the Law;

144(I)/2007

“Law” means the Investment Services and Activities and Regulated Markets Law of 2007;

“critical or important operational function” means an operational function that if a defect or failure in its performance would materially impair the continuing compliance of a CIF with the conditions and obligations of its authorisation or its other obligations under the Law, or its financial performance, or the soundness or the continuity of its investment services and activities;

Without prejudice to the status of any other function, the following functions shall not be considered as critical or

important for the purposes of this definition:

(a) the provision to the CIF of advisory services, and other services which do not form part of the investment business of the CIF, including the provision of legal advice to the CIF, the training of personnel of the firm, billing services and the security of the firm's premises and personnel;

(b) the purchase of standardised services, including market information services and the provision of price feeds;

“durable medium” means any instrument which enables a client to store information addressed personally to that client in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;

“securities financing transaction” has the meaning given in Commission Regulation (EC) No 1287/2006;

“related financial instrument” means a financial instrument the price of which is closely affected by price movements in another financial instrument which is the subject of investment research, and includes a derivative on that other financial instrument;

“high quality money market instrument” means the money market instrument that it has been awarded the highest available credit rating by each competent rating agency which

has rated that instrument. An instrument that is not rated by any competent rating agency shall not be considered to be of high quality;

«financial analyst» means a relevant person who produces the substance of investment research;

Without prejudice of the abovementioned provisions, terms used in this Directive that are not interpreted differently shall have the meaning given to them by the Law.

Where in the present Directive reference is made to the Law, this includes the Regulatory Administrative Decisions issued thereof.

PART II ORGANISATION

General
organisational
requirements

(section 18(2) of
the Law)

4. (1) A CIF is required to comply with the following organisational requirements:

(a) to establish, implement and maintain decision-making procedures and an organisational structure which clearly and in documented manner specifies reporting lines and allocates functions and responsibilities;

(b) to ensure that its relevant persons are aware of the procedures which must be followed for the proper discharge of their responsibilities;

(c) to establish, implement and maintain adequate internal control mechanisms designed to secure compliance with decisions and procedures at all levels of the CIF;

(d) to employ personnel with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them;

(e) to establish, implement and maintain effective internal reporting and communication of information at all relevant levels of the CIF;

(f) to maintain adequate and orderly records of its business and internal organisation;

(g) to ensure that the performance of multiple functions by its relevant persons does not and is not likely to prevent those persons from discharging any particular function soundly, honestly, and professionally.

(2) At the compliance with the abovementioned requirements, a CIF takes into account the nature, scale and complexity of the business of the firm, and the nature and range of investment services and activities undertaken in the course of that business.

Compliance
Function

(section 18(2)(a) of
the Law)

5. (1) A CIF is required to establish, implement and maintain adequate policies and procedures designed to detect any risk of failure by the firm to comply with its obligations under the

Law, as well as the associated risks, and put in place adequate measures and procedures designed to minimise such risk and to enable the Commission to exercise its powers effectively under the Law and the current Directive.

For these purposes, a CIF takes into account the nature, scale and complexity of the business of the firm, and the nature and range of investment services and activities undertaken in the course of that business.

(2) A CIF is required to establish and maintain a permanent and effective compliance function which operates independently and which has the following responsibilities:

(a) to monitor and to assess the adequacy and effectiveness of the measures and procedures put in place in accordance with the subparagraph (1), and the actions taken to address any deficiencies in the CIF's compliance with its obligations under the Law and the Directive;

(b) to advise and assist the relevant persons responsible for carrying out investment services and activities to comply with the CIF's obligations under the Law and the Directive.

(3) In order to enable the compliance function to discharge its responsibilities properly and independently, a CIF is required to ensure that the following conditions are satisfied:

(a) the compliance function must have the necessary

authority, resources, expertise and access to all relevant information;

(b) a compliance officer must be appointed and must be responsible for the compliance function and for any reporting as to compliance required by paragraph 9(2);

(c) the relevant persons involved in the compliance function must not be involved in the performance of services or activities they monitor;

(d) the method of determining the remuneration of the relevant persons involved in the compliance function must not compromise their objectivity and must not be likely to do so.

However, a CIF is not required to comply with point (c) or point (d) if it is able to demonstrate that in view of the nature, scale and complexity of its business, and the nature and range of investment services and activities, the requirement under that point is not proportionate and that its compliance function continues to be effective.

Risk management 6. (1) A CIF is required:

(section 18(2)(f) of the Law)

(a) to establish, implement and maintain adequate risk management policies and procedures which identify the risks relating to the CIF's activities, processes and systems, and where appropriate, set the level of risk tolerated by the CIF;

(b) to adopt effective arrangements, processes and mechanisms to manage the risks relating to the CIF's activities, processes and systems, in light of that level of risk tolerance;

(c) to monitor the following:

(i) the adequacy and effectiveness of the CIF's risk management policies and procedures;

(ii) the level of compliance by the CIF and its relevant persons with the arrangements, processes and mechanisms adopted in accordance with point (b);

(iii) the adequacy and effectiveness of measures taken to address any deficiencies in those policies, procedures, arrangements, processes and mechanisms, including failures by the relevant persons of the CIF to comply with such arrangements, processes and mechanisms or follow such policies and procedures.

(2) A CIF is required, where appropriate and proportionate in view of the nature, scale and complexity of their business and the nature and range of the investment services and activities undertaken in the course of that business, to establish and maintain a risk management function that operates independently and carries out the following tasks:

(a) to implement the policy and procedures referred to in subparagraph (1);

(b) to provide the reports and advice to senior management according to paragraph 9(2).

Where a CIF is not required under the abovementioned subparagraph to establish and maintain a risk management function that functions independently, it must nevertheless be able to demonstrate that the policies and procedures that it has adopted in accordance with subparagraph (1), satisfy the requirements of that subparagraph and are consistently effective.

Performance of operations by the same person

7. Risk management and compliance functions may be performed by the same person without necessarily jeopardise the independent functioning of each function.

Internal audit
(section 18(2)(f) of the Law)

8. A CIF is required to establish and maintain an internal audit function which is separate and independent from the other functions and activities of the CIF and which has the following responsibilities:

(a) to establish, implement and maintain an audit plan to examine and evaluate the adequacy and effectiveness of the CIF's systems, internal control mechanisms and arrangements;

(b) to issue recommendations based on the result of work carried out in accordance with point (a);

(c) to verify compliance with the recommendations of point (b);

(d) to report in relation to internal audit matters in accordance with paragraph 9(2).

Responsibility of senior management and Board of Directors

(section 18(2)(a) of the Law)

9. (1) A CIF is required to, when allocating functions internally, to ensure that senior management, and its Board of Directors, are responsible for ensuring that the CIF complies with its obligations under the Law.

In particular, senior management and its Board of Directors are required to assess and periodically review the effectiveness of the policies, arrangements and procedures put in place to comply with the obligations under the Law and the Directive and to take appropriate measures to address any deficiencies.

(2) A CIF is required to ensure that its senior management receive on a frequent basis, and at least annually, written reports on the matters covered by paragraphs 5, 6 and 8 indicating in particular whether the appropriate remedial measures have been taken in the event of any deficiencies.

(3) A CIF is required to ensure that its Board of Directors receives on a regular basis and at least on an annual basis, written reports on the same matters mentioned in subparagraph (2).

(4) A CIF is required to submit to the Commission the minutes of the meetings of the Board of Directors, during which the

reports of subparagraph (2) have been discussed. These minutes are submitted to the Commission within twenty days from the date of the relevant meeting, attached to the written reports of subparagraph (2).

PART III

OTHER GENERAL ORGANISATIONAL REQUIREMENTS

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| Safeguard of CIF's information

(section 18(2) of the Law) | 10. A CIF is required to establish, implement and maintain systems and procedures that are adequate to safeguard the security, integrity and confidentiality of information, taking into account the nature of the information in question. |
| CIF's business continuity policy

(section 18(2) of the Law) | 11. A CIF is required to establish, implement and maintain an adequate business continuity policy aimed at ensuring, in the case of an interruption to its systems and procedures, the preservation of essential data and functions, and the maintenance of investment services and activities, or, where that is not possible, the timely recovery of such data and functions and the timely resumption of its investment services and activities. |
| Accounting policies and procedures

(section 18(2) of the Law) | 12. Without prejudice to section 114 of the Law, which refers to the obligation of the CIF to submit audited financial statements, a CIF is required to establish, implement and maintain accounting policies and procedures that enables it, at the request of the Commission, to deliver in a timely manner to the Commission financial reports which reflect a true and fair view of its financial position and which comply with all applicable accounting standards and rules. |

Complaints
handling

(section 18(2)(a) of
the Law)

13. A CIF is required to establish, implement and maintain effective and transparent procedures for the reasonable and prompt handling of complaints received from retail clients or potential retail clients, and to keep a record of each complaint and the measures taken for the complaint's resolution.

Internal operation
manual

14. (1) A CIF is required to to establish, implement and maintain an internal operation manual, which will include all policies, procedures, regulations and mechanisms that the CIF is required to establish, implement and maintain in compliance with the Law and the Directives issued pursuant to the said Law.

(2) The internal operation manual of the CIF is notified to all of its personnel and its provisions are followed literally.

PART IV

PERSONAL TRANSACTIONS

Personal
transactions

(section 18(2)(a) of
the Law)

15. (1) A CIF is required to establish, implement and maintain adequate arrangements aimed at preventing the following activities in the case of any relevant person who is involved in activities that may give rise to a conflict of interest, or who has access to inside information within the meaning of section 5 of the Insider Dealing and Market Manipulation (Market Abuse) law or to other confidential information relating to clients or transactions with or for clients by virtue of an activity carried out by him on behalf of the CIF.

(a) entering into a personal transaction which meets at least one of the following criteria:

(i) that person is prohibited from entering into it under the abovementioned law;

(ii) it involves the misuse or improper disclosure of that confidential information;

(iii) it conflicts or is likely to conflict with an obligation of the CIF under the Law;

(b) advising or procuring, other than in the proper course of his employment or contract for services, any other person to enter into a transaction in financial instruments which, if a personal transaction of the relevant person, would be covered by point (a) of this subparagraph or paragraph 28(2)(a) or (b) or paragraph 26(3) of the Directive for the Professional Competence of the IFs.;

(c) without prejudice to section 9(1)(b) of the Insider Dealing and Market Manipulation (Market Abuse) law, disclosing, other than in the normal course of his employment or contract for services, any information or opinion to any other person if the relevant person knows, or reasonably ought to know, that as a result of that disclosure that other person will or would be likely to take either of the following steps:

(i) to enter into a transaction in financial instruments which, if a personal transaction of the relevant person, would be covered by point (a) of this subparagraph, or paragraph 27(2)(a) or (b) or paragraph 26(3) of the Directive for the Professional Competence of the IFs.;

(ii) to advise or procure another person to enter into such a transaction.

(2) The arrangements required under subparagraph (1) must in particular be designed to ensure that:

(a) each relevant person covered by subparagraph (1) is aware of the restrictions on personal transactions, and of the measures established by the CIF in connection with personal transactions and disclosure, in accordance with subparagraph (1);

(b) the CIF is informed promptly of any personal transaction entered into by a relevant person, either by notification of that transaction or by other procedures enabling the CIF to identify such transactions;

In the case of outsourcing arrangements the CIF must ensure that the firm to which the activity is outsourced maintains a record of personal transactions entered into by any relevant person and provides that information to the CIF promptly on request;

(c) a record is kept of the personal transaction notified

to the CIF or identified by it, including any authorisation or prohibition in connection with such a transaction.

(3) Subparagraphs (1) and (2) are not applied to the following kinds of personal transaction:

(a) personal transactions effected under a discretionary portfolio management service where there is no prior communication in connection with the transaction between the portfolio manager and the relevant person or other person for whose account the transaction is executed;

(b) personal transactions in units in collective undertakings that comply with the conditions necessary to enjoy the rights conferred by the Open-Ended Undertakings for Collective Investment in Transferable Securities (UCITS) and Related Issues law or are subject to supervision under the law of a Member State which requires an equivalent level of risk spreading in their assets, where the relevant person and any other person for whose account the transactions are effected are not involved in the management of that undertaking.

PART V

OUTSOURCING

(section 18(2)(a) and 18(2)(d) of the Law)

Conditions for
outsourcing critical

16. (1) A CIF that outsources critical or important operational

or important
operational
functions or
investment
services or
activities

functions or any investment services or activities, remains fully responsible for discharging all of its obligations under the Law and comply, in particular, with the following conditions:

(a) the outsourcing must not result in the delegation by senior management of its responsibility;

(b) the relationship and obligations of the CIF towards its clients under the Law must not be altered;

(c) the conditions with which the CIF must comply in order to be authorised in accordance with section 6 of the Law, and to remain so, must not be undermined;

(d) none of the other conditions subject to which the CIF's authorisation was granted must be removed or modified.

(2) In the case that outsourcing would result to the critical delegation of functions of the CIF this is considered to undermine the conditions for authorisation of a CIF, according to Part III of the Law.

(3) A CIF is required to exercise due skill, care and diligence when entering into, managing or terminating any arrangement for the outsourcing to a service provider of critical or important operational functions or of any investment services or activities.

In particular, a CIF should take the necessary steps to ensure that the following conditions are satisfied:

(a) the service provider must have the ability, capacity, and any authorisation required by law to perform the outsourced functions, services or activities reliably and professionally;

(b) the service provider must carry out the outsourced services effectively, and to this end the CIF must establish methods for assessing the standard of performance of the service provider;

(c) the service provider must properly supervise the carrying out of the outsourced functions, and adequately manage the risks associated with the outsourcing;

(d) appropriate action must be taken if it appears that the service provider may not be carrying out the functions effectively and in compliance with applicable laws and regulatory requirements;

(e) the CIF must retain the necessary expertise to supervise the outsourced functions effectively and manage the risks associated with the outsourcing and must supervise those functions and manage those risks;

(f) the service provider must disclose to the CIF any development that may have a material impact on its ability to carry out the outsourced functions effectively and in compliance with applicable laws and regulatory

requirements;

(g) the CIF must be able to terminate the arrangement for outsourcing where necessary without detriment to the continuity and quality of its provision of services to clients;

(h) the service provider must cooperate with the Commission in connection with the outsourced activities;

(i) the CIF, its auditors and the relevant competent authorities must have effective access to data related to the outsourced activities, as well as to the business premises of the service provider;

(j) the service provider must protect any confidential information relating to the CIF and its clients;

(k) the CIF and the service provider must establish, implement and maintain a contingency plan for disaster recovery and periodic testing of backup facilities, where that is necessary having regard to the function, service or activity that has been outsourced.

(4) The respective rights and obligations of the CIF and of the service provider to be clearly allocated and set out in a written agreement.

(5) Where the CIF and the service provider are members of the same group, the CIF may, for the purposes of complying with

this paragraph and paragraph 17, take into account the extent to which the CIF controls the service provider or has the ability to influence its actions.

(6) A CIF is required to make available on request to the Commission all information necessary to enable the Commission to supervise the compliance of the performance of the outsourced activities with the requirements of this Directive.

Service providers of operational functions, investment services and activities located in third countries

17. (1) In addition to the requirements set out in paragraph 16, where a CIF outsource important operational functions or any investment services or activities, to a service provider located in a third country, the CIF ensures that the following conditions are satisfied:

(a) the service provider must be authorised or registered in its home country to provide that service and must be subject to prudential supervision;

(b) there must be an appropriate cooperation agreement between the Commission and the supervisory authority of the service provider.

(2) A CIF may outsource services to a service provider located in a third country only if it gives prior notification to the Commission about the outsourcing arrangement and the Commission does not object to that arrangement within a reasonable time following receipt of that notification.

(3) Without prejudice to subparagraph (2), the Commission

publishes a policy statement in relation to outsourcing covered by subparagraph (2). That statement sets out examples of cases where the Commission would not, or would be likely not to, object to an outsourcing under subparagraph (2). It also includes a clear explanation as to why the Commission considers that in such cases outsourcing would not impair the ability of CIFs to fulfil their obligations under paragraph 16.

(4) Nothing in this paragraph limits the obligations of the CIF to comply with the requirements in paragraph 16.

(5) The Commission publishes a list of the supervisory authorities in third countries with which they have cooperation agreements that are appropriate for the purposes of subparagraph 1(b).

PART VI

SAFEGUARDING OF CLIENTS ASSETS

(section 18(2)(i) and (j) of the Law)

Safeguarding of
clients financial
instruments and
funds

18. (1) For the purposes of safeguarding clients' rights in relation to financial instruments and funds belonging to them, a CIF is required to comply with the following requirements:

(a) it must keep such records and accounts as are necessary to enable it at any time and without delay to distinguish assets held for one client from assets held for any other client, and from its own assets;

(b) it must maintain its records and accounts in a way that ensures their accuracy, and in particular their

correspondence to the financial instruments and funds held for clients;

(c) it must conduct, on a regular basis, reconciliations between its internal accounts and records and those of any third parties by whom those assets are held;

(d) it must take the necessary steps to ensure that any client financial instruments deposited with a third party, in accordance with paragraph 19, are identifiable separately from the financial instruments belonging to the CIF and from financial instruments belonging to that third party, by means of differently titled accounts on the books of the third party or other equivalent measures that achieve the same level of protection;

(e) it must take the necessary steps to ensure that client funds deposited, in accordance with paragraph 20, in a central bank, a credit institution or a bank authorised in a third country or a qualifying money market fund are held in an account or accounts identified separately from any accounts used to hold funds belonging to the CIF;

(f) it must introduce adequate organisational arrangements to minimise the risk of the loss or diminution of client assets, or of rights in connection with those assets, as a result of misuse of the assets, fraud, poor administration, inadequate record-keeping or negligence.

(2) . If, for reasons of the applicable law, including in particular the law relating to property or insolvency, the arrangements made by the CIF in compliance with subparagraph (1) to safeguard clients' rights are not sufficient to satisfy the requirements of section 18(2) (i) and (j) of the Law, the Commission prescribes the measures that the CIF must take in order to comply with those obligations.

(3) If the applicable law of the jurisdiction in which the client funds or financial instruments are held prevents the CIF from complying with subparagraphs (1)(d) or (1)(e), the Commission prescribes requirements which have an equivalent effect in terms of safeguarding clients' rights.

Depositing client
financial
instruments

19. (1) A CIF may deposit financial instruments held on behalf of its clients into an account or accounts opened with a third party provided that the CIF exercises all due skill, care and diligence in the selection, appointment and periodic review of the third party and of the arrangements for the holding and safekeeping of those financial instruments.

In particular, the CIF is required to take into account the expertise and market reputation of the third party as well as any legal requirements or market practices related to the holding of those financial instruments that could adversely affect clients' rights.

(2) If the safekeeping of financial instruments for the account of another person is subject to specific regulation and supervision in a jurisdiction where the CIF proposes to deposit client financial instruments with a third party, the CIF does not deposit those

financial instruments in that jurisdiction with a third party which is not subject to such regulation and supervision.

(3) A CIF does not deposit financial instruments held on behalf of clients with a third party in a third country that does not regulate the holding and safekeeping of financial instruments for the account of another person unless one of the following conditions is met:

(a) the nature of the financial instruments or of the investment services connected with those instruments requires them to be deposited with a third party in that third country;

(b) where the financial instruments are held on behalf of a professional client, that client requests the CIF in writing to deposit them with a third party in that third country.

Depositing client funds

20. (1) A CIF is required, on receiving any client funds, promptly to place those funds into one or more accounts opened with any of the following:

(a) central bank;

(b) credit institution;

(c) bank authorised in a third country;

(d) qualifying money market fund.

(2) A CIF that does not deposit client funds with a central bank, it is required to exercise all due skill, care and diligence in the selection, appointment and periodic review of the credit institution, bank or money market fund where the funds are placed and the arrangements for the holding of those funds.

A CIF takes into account the expertise and market reputation of such institutions or money market funds with a view to ensuring the protection of clients' rights, as well as any legal or regulatory requirements or market practices related to the holding of client funds that could adversely affect clients' rights.

(3) Where a CIF deposits funds it holds on behalf of a client with a qualifying money market fund, the units in that money market fund should be held in accordance with the requirements for holding financial instruments belonging to clients.

(4) The clients of the CIF have the right to oppose the placement of their funds in a qualifying money market fund.

Use of client
financial
instruments

21. (1) A CIF is not allowed to enter into arrangements for securities financing transactions in respect of financial instruments held by it on behalf of a client, or otherwise use such financial instruments for its own account or the account of another client of the CIF, unless the following conditions are met:

(a) the client must have given his prior express consent to the use of the instruments on specified terms, as evidenced, in the case of a retail client, by his signature or equivalent alternative mechanism;

(b) the use of that client's financial instruments must be restricted to the specified terms to which the client consents.

(2) A CIF is not allowed to enter into arrangements for securities financing transactions in respect of financial instruments which are held on behalf of a client in an omnibus account maintained by a third party, or otherwise use financial instruments held in such an account for its own account or for the account of another client unless, in addition to the conditions set out in subparagraph (1), at least one of the following conditions is met:

(a) each client whose financial instruments are held together in an omnibus account must have given prior express consent in accordance with subparagraph (1)(a);

(b) the CIF must have in place systems and controls which ensure that only financial instruments belonging to clients who have given prior express consent in accordance with subparagraph (1)(a) are so used.

(3) The records of the CIF must include details of the client on whose instructions the use of the financial instruments has been effected, as well as the number of financial instruments used belonging to each client who has given his consent in accordance with subparagraph (1), so as to enable the correct allocation of any loss.

PART VII
CONFLICTS OF INTEREST

(sections 18(2)(b) and 29 of the Law)

Conflicts of interest
potentially
detrimental to a
client

22. For the purposes of identifying the types of conflict of interest that arise in the course of providing investment and ancillary services or a combination thereof and whose existence may damage the interests of a client, a CIF takes into account, by way of minimum criteria, the question of whether the CIF or a relevant person, or a person directly or indirectly linked by control to the CIF, is in any of the following situations, whether as a result of providing investment or ancillary services or investment activities or otherwise:

(a) the CIF or that person is likely to make a financial gain, or avoid a financial loss, at the expense of the client;

(b) the CIF or that person has an interest in the outcome of a service provided to the client or of a transaction carried out on behalf of the client, which is distinct from the client's interest in that outcome;

(c) the CIF or that person has a financial or other incentive to favour the interest of another client or group of clients over the interests of the client;

(d) the CIF or that person carries on the same business as the client;

(e) the CIF or that person receives or will receive from

a person other than the client an inducement in relation to a service provided to the client, in the form of monies, goods or services, other than the standard commission or fee for that service.

Conflicts of interest
policy

23. (1) A CIF is required to establish, implement and maintain an effective conflicts of interest policy set out in writing and appropriate to the size and organisation of the CIF and the nature, scale and complexity of its business.

Where the CIF is a member of a group, the policy must also take into account any circumstances, of which the CIF is or should be aware, which may give rise to a conflict of interest arising as a result of the structure and business activities of other members of the group.

(2) The conflicts of interest policy established in accordance with subparagraph (1) includes the following content:

(a) it must identify, with reference to the specific investment services and activities and ancillary services carried out by or on behalf of the CIF, the circumstances which constitute or may give rise to a conflict of interest entailing a material risk of damage to the interests of one or more clients;

(b) it must specify procedures to be followed and measures to be adopted in order to manage such conflicts.

(3) A CIF is required to ensure that the procedures and

measures provided for in subparagraph (2)(b) are designed to ensure that relevant persons engaged in different business activities involving a conflict of interest of the kind specified in subparagraph (2)(a) carry on those activities at a level of independence appropriate to the size and activities of the CIF and of the group to which it belongs, and to the materiality of the risk of damage to the interests of clients.

For the purposes of subparagraph (2)(b), the procedures to be followed and measures to be adopted include such of the following as are necessary and appropriate for the CIF to ensure the requisite degree of independence:

(a) effective procedures to prevent or control the exchange of information between relevant persons engaged in activities involving a risk of a conflict of interest where the exchange of that information may harm the interests of one or more clients;

(b) the separate supervision of relevant persons whose principal functions involve carrying out activities on behalf of, or providing services to, clients whose interests may conflict, or who otherwise represent different interests that may conflict, including those of the CIF;

(c) the removal of any direct link between the remuneration of relevant persons principally engaged in one activity and the remuneration of, or revenues generated by, different relevant persons principally engaged in another activity, where a conflict of interest

may arise in relation to those activities;

(d) measures to prevent or limit any person from exercising inappropriate influence over the way in which a relevant person carries out investment or ancillary services or activities;

(e) measures to prevent or control the simultaneous or sequential involvement of a relevant person in separate investment or ancillary services or activities where such involvement may impair the proper management of conflicts of interest.

If the adoption or the practice of one or more of those measures and procedures does not ensure the requisite degree of independence, the CIF is required to adopt such alternative or additional measures and procedures as are necessary and appropriate for those purposes.

Disclosure
according to
section 29(2) of the
Law

24. (1) The disclosure to clients, pursuant to section 29(2) of the Law, with which the general nature and the conflicts of interest are clearly disclosed to the client before the CIF provides any services, is made in a durable medium according to subparagraph (2) and includes sufficient detail, taking into account the nature of the client, to enable that client to take an informed decision with respect to the investment or ancillary service in the context of which the conflict of interest arises.

(2) A CIF may provide that information in a durable medium other than on paper only if:

(a) the provision of that information in that medium is appropriate to the context in which the business between the CF and the client is, or is to be, carried on; and

(b) the person to whom the information is to be provided, when offered the choice between information on paper or in that other durable medium, specifically chooses the provision of the information in that other medium.

(2) For the purposes of this paragraph, the provision of information by means of electronic communications shall be treated as appropriate to the context in which the business between the CIF and the client is, or is to be, carried on if there is evidence that the client has regular access to the internet. The provision by the client of an e-mail address for the purposes of the carrying on of that business shall be treated as such evidence.

Record of services or activities giving rise to detrimental conflict of interest

25. A CIF is required to keep and regularly to update a record of the kinds of investment or ancillary service or investment activity carried out by or on behalf of the CIF in which a conflict of interest entailing a material risk of damage to the interests of one or more clients has arisen or, in the case of an ongoing service or activity, may arise.

Marketing communication

26. (1) A CIF that produces or disseminates the recommendation is required to ensure that it is clearly identified as such.

(2) The CIF mentioned in subparagraph (1) is required to

ensure that any such recommendation contains a clear and prominent statement that (or, in the case of an oral recommendation, to the effect that) it has not been prepared in accordance with legal requirements designed to promote the independence of investment research, and that it is not subject to any prohibition on dealing ahead of the dissemination of investment research.

Additional
organisational
requirements
where a CIF
produces and
disseminates
investment
research

27. (1) A CIF which produces, or arrange for the production of, investment research that is intended or likely to be subsequently disseminated to clients of the CIF or to the public, under their own responsibility or that of a member of their group, is required to ensure the implementation of all the measures set out in paragraph 23(3) in relation to the financial analysts involved in the production of the investment research and other relevant persons whose responsibilities or business interests may conflict with the interests of the persons to whom the investment research is disseminated.

(2) The CIF mentioned in subparagraph (1) is required to have in place arrangements designed to ensure that the following conditions are satisfied:

(a) financial analysts and other relevant persons must not undertake personal transactions or trade, other than as market makers acting in good faith and in the ordinary course of market making or in the execution of an unsolicited client order, on behalf of any other person, including the CIF, in financial instruments to which investment research relates, or in any related financial instruments, with knowledge of the likely timing or content of that investment research which is not publicly available or available to clients and cannot

readily be inferred from information that is so available, until the recipients of the investment research have had a reasonable opportunity to act on it;

(b) in circumstances not covered by point (a), financial analysts and any other relevant persons involved in the production of investment research must not undertake personal transactions in financial instruments to which the investment research relates, or in any related financial instruments, contrary to current recommendations, except in exceptional circumstances and with the prior approval of a member of the CIF's legal or compliance function;

(c) the CIF itself, financial analysts, and other relevant persons involved in the production of the investment research must not accept inducements, as these are stated in paragraph 5 of the Directive for the Professional Competence of the IFs, from those with a material interest in the subject-matter of the investment research;

(d) the CIF itself, financial analysts, and other relevant persons involved in the production of the investment research must not promise issuers favourable research coverage;

(e) issuers, relevant persons other than financial analysts, and any other persons must not before the dissemination of investment research be permitted to review a draft of the investment research for the

purpose of verifying the accuracy of factual statements made in that research, or for any other purpose other than verifying compliance with the CIF's legal obligations, if the draft includes a recommendation or a target price.

(3) A CIF which disseminate investment research produced by another person to the public or to clients is exempted from complying with subparagraph (1) if the following criteria are met:

(a) the person that produces the investment research is not a member of the group to which the CIF belongs;

(b) the CIF does not substantially alter the recommendations within the investment research;

(c) the CIF does not present the investment research as having been produced by it;

(d) the CIF verifies that the producer of the research is subject to requirements equivalent to the requirements under this Directive in relation to the production of that research, or has established a policy setting such requirements.

PART VIII
FINAL PROVISIONS

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| Repeal of existing Directive CIF 1/2002 | 28. The Commission's Directive on the Conditions for the Granting of an Authorisation to Cypriot Investment Firms, as amended, is hereby repealed and substituted with the present Directive. |
| Official Gazette of the Republic Appendix III (I): 22.11.2002 and 27.12.2002 | |
| Entry into force | 29. This Directive shall enter into force as of its publication in the Official Gazette of the Republic. |