



Cyprus Investment Firms (“CIFs”)

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A. INTRODUCTION

Investment firms are regulated by the Cyprus Securities and Exchange Commission (CySEC), under the CIFs and Investments Firms Law. The term "investment firm" includes, amongst others, portfolio managers, broker companies, investment adviser and forex trading companies, which all fall under the definition of CIFs.

B. LICENCE REQUIREMENTS

For CySEC to grant CIF authorisation, a formal application procedure needs to be followed, and certain requirements must be met, the most important of which are stated below.

1. Capital Requirements

The minimum capital requirement for a CIF depends on the type of services offered:

| Investment Services | Share Capital (€) | Comments |
|--|--|--|
| Reception and Transmission of orders | 125,000 | Holds clients' money and/or client's financial instruments |
| Execution of orders | 125,000 | Holds clients' money and/or client's financial instruments |
| Portfolio Management | 125,000 | Holds clients' money and/or client's financial instruments |
| Provision of Investment advice | 125,000 | Holds clients' money and/or client's financial instruments |
| Reception and Transmission Execution of orders | 50,000 or has professional liability insurance or both | Does not hold clients' money and/or client's financial instruments |
| Portfolio Management Provision of Investment advice | 50,000 or has professional liability insurance or both | 50,000 or has professional liability insurance or both |
| Dealing on own account | 730,000 | i.e. Trading against proprietary capital resulting in the conclusion of transactions in one or more financial instruments |
| Underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis | 730,000 | “ Placing ” is the service provided by an investment firm to an issuer whereby the firm undertakes to place financial instruments with investors on behalf of the issuer. Placing can be carried out either on a firm commitment basis or not depending on the type of commitment that firms undertake towards the issuer |
| Placing of financial instruments without a firm commitment basis | 730,000 | |
| Operation of Multilateral Trading Facility (MTF) | 730,000 | A self-regulated financial trading venue |

2. Other Requirements

When applying for a license, a firm must provide, amongst other documents, a business plan, an internal operation manual (which should include the Anti-Money Laundering Procedures) completed questionnaires from the members of the board, managers, and shareholders.

- a) The Board of Directors of the CIF shall consist of at least two executive members and two independent non-executive members. The majority of the members shall be Cyprus residents.
- b) The Memorandum of Association of a CIF must state that the firm operates as an investment firm following the provisions of Law 144(i)/2007. Furthermore, it must state that the company offers or performs investment and ancillary services within the scope of its license.

C. TIME FRAME

After examination of the authorisation application, CySEC authorises the CIF and grants it a licence. The above procedure, from commencement to final approval by CySEC **may take up to 6 months**.

D. TAX CONSIDERATIONS

a) Profits from CIF's Activities

Corporation tax on net profit is 12,5%. However, gains from the sale of titles, and, in most cases, dividends received are exempt from tax. There is no withholding tax on dividend, interest and royalties paid to non-residents.

b) Capital Gains

Capital gains are not taxable in Cyprus except for the 20% tax on gains on immoveable property that is located in Cyprus, and on any gain from the sale of shares in companies that own immoveable property in Cyprus. All other gains of a capital nature are not taxable.

E. EU PASSPORTING

A CIF may establish a branch in the Republic of Cyprus and offer its services given that the services it provides are covered by its licence. Moreover, a CIF may provide investment and ancillary services in another country as long as it is covered by its authorisation. Note that ancillary services can be provided only in combination with investment services.

In addition, an investment firm authorised and supervised by the competent authorities of another country may offer its services in Cyprus by establishing a branch. Specifically, if an investment firm from another country wishes to establish a branch in Cyprus, then the equivalent foreign regulator should send a list of information to CySEC.

Why Cyprus is a Regional/International Headquartering Centre

The Republic of Cyprus is a Member State of the European Union and a member of the Eurozone. Cyprus is right at the top of the EU tax league table in terms of the attractiveness of its tax regime due to its combination of consistency in interpreting EU tax legislation and stability in resisting frequent changes to EU tax laws. It is a well-known fact that operating in a country with an attractive corporate tax regime provides a competitive advantage when competing with overseas businesses. Cyprus is, also, a member of the British Commonwealth, Council of Europe, IMF, UN, World Bank and WTO and is signatory to many international conventions and treaties.

Cyprus: An ideal jurisdiction for an EU Base

- Diversified, Skilful and Well-Educated Workforce
- EU Member and International business hub
- Utilization of EU Directives
- Transparent regulated banking system aligned with the comprehensive EU legislative framework
- Cyprus Holding Companies - Exemptions
- Can be used as Regional office for Middle East Countries
- Administration and Operational Costs much lower than any other EU Country
- Cyprus Climate
- Excellent infrastructure, Multilingual Country
- No CFC Legislation
- Flexible and Modern Legislation
- OECD Whitelist Jurisdiction
- EU Passporting for funds, investment companies, public companies [through Cyprus securities and Exchange Commission, Cyprus Stock Exchange, and Emerging Companies Market (ECM equivalent to UK's AIM)]

Cyprus Investment Firm (CIF) acting as Crowdfunding Service Provider (CSP)

Crowdfunding can serve as an alternative method to bank financing through which **Small and Medium Enterprises (SMEs)** can access financing through the issuance of transferable securities (shares or debt instruments). Crowdfunding act as an emerging alternative form of financing which can benefit SMEs and fintech start-ups, as it connects those who can give, lend, or invest money, directly to those who need financing for a specific project.

CIFs acting as CSPs will be subject to additional provisions in order to ensure investor protection. These provisions include:

Conflicts of interest:

- (i) CIFs will be subject to **neutral intermediation (see explanation below)** through licensing and activities restrictions, thereby ensuring, amongst other things, that the fees paid by the project owner to the CIF are not linked to order routing.
- (ii) CIFs will not be allowed to receive order routing benefits in respect of crowdfunding projects in general, i.e. both on its own or other platforms.
- (iii) CIFs will not be allowed to acquire (equity or debt as the case may be) participation in crowdfunding projects on a platform or allow certain categories of persons (defined herein as “involved persons”) to act as project owners.

Customer due diligence: Additional customer and financial due diligence in respect of both the crowdfunding project (including credit risk) as well as the project owner, must be implemented before a project can be listed on a platform. Identity verification and anti-money laundering checks must be performed on both the end-investor and project owner.

Transparency obligations: Project owners must produce a standardised pre-contractual document (under the responsibility of the project owner), including the natural persons effectively conducting the project owner's business. This must be detailed in a Key Investment Information Sheet ("KIIS"). Certain procedures are in place to ensure that the content of KIIS is up to date and for rectifying errors or omissions. CIFs acting as Crowdfunding Service Providers must ensure that the content of KIIS is clear, complete, and accurate before accepting a project on their platform. Marketing communications must be clear, accurate and not misleading, and consistent with the content of marketing communications and the KIIS.

Neutral Intermediation: This means the CIF classified as a Crowdfunding Service Provider does not become party to the transaction and does not participate in the execution of an order on behalf of an investor, but they are merely arranging the relevant transaction by bringing together the investor and project owner who is seeking funding – in a fair, transparent, and not misleading manner.

Safeguarding clients' funds and financial instruments: All monies raised via the crowdfunding platform must be transferred by the CIF to the project owner only after the successful closing of the relevant offer (i.e. only if it meets or exceeds the funding goal).

Financial instruments (i.e. transferable securities): This is subject to safekeeping and must be divided into custodial and non-custodial transferable securities. CIFs acting as Crowdfunding Service Providers shall release the funds to the Project Owner only where the TS have been physically delivered or where sufficient evidence is provided by the Project Owner to the CIF that the ownership of the TSs has been transferred to the respective investors, in line with their contributions.

Exit opportunities: CIFs which are Crowdfunding Service Providers may operate a bulletin board through which crowdfunding clients of the CIF may advertise their interest to buy or sell (as the case may be) transferable securities that had been made available through the CIF's platform, thus providing exit opportunities for the end-investor.

The bulletin board may be designed to allow investors to contact with each other, with a view to transact, but it should not be designed in a way that renders it a trading system. The bulletin board should be understood as a place where investors are allowed to merely exchange information about buying and selling interests. It should not facilitate matching of orders and/or concluding of contracts. For clarity, a bulletin board allowing the publication of binding prices on it effectively operates as a trading venue, rather than merely as a point of information exchange about buying and selling interests. Only a CIF that has been properly authorised for the operation of a Trading Venue can operate in this fashion.

CySEC expects its initiative to alleviate some, but not all, of the risks involved in investment-based crowdfunding. The aim is to create a regulatory framework that improves and enhances investor protection.

To this end, investors should understand the high risks entailed before proceeding with any investment-based crowdfunding investment, even where bespoke rules are in force. In the interest of transparency, CySEC perceives these risks to inter alia include:

- The high likelihood of investors losing their entire invested amount, primarily because the means of alternative financing is most common in support for start-up businesses where the risk of corporate failure is high
- Dividend or coupon payments are not only subject to a successful trajectory of the project in question, but also to a decision to pay such dividends, by the project owner
- Start-ups may proceed with several rounds of share issuance, which in effect may result in diluting the value of the initial investment
- The exit opportunities (i.e. cashing in) might be severely constrained as a result
- The possibility of fraud cannot be ruled out.

Pelagias, Christodoulou, Vrachas LLC has established a specialized Financial and Investment Services Department which offers a “one stop shop” for the setting up, fund administration and ongoing legal support of a Cyprus Alternative Investment Fund.