

HYCM (Europe) Ltd  
Investors Compensation Fund Policy  
(version 2.0)

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## 1. INTRODUCTION

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HYCM (Europe) Ltd. (the “Company”) is a member of the Investor Compensation Fund (the “Fund”) for Customers of Cyprus Investment Firms (CIFs) and other Investment Firms (IFs) which are not credit institutions, which was established under the Investment Firms Law 2002 as amended and replaced by Law 144(I)/2007 (the “Law”) and the Establishment and Operation of an Investor Compensation Fund for Customers of CIFs Regulations of 2001 which were issued under the Law.

The Fund constitutes a private law legal entity and its administration is exercised by an Administrative Committee of five members, who are designated for a three-year term. The Fund has been operating since 30 May 2004. CySEC regulates, by way of Directives, the form, management, organization and the general operations of the ICF specifically, but not limited to;

- The conditions and procedure for participation in the Fund of an Investment Firm (“ICF member”)
- Contributions of an ICF member
- Departure from the fund of an ICF member
- The amount of compensation paid to Clients, conditions for payment of compensation and all other subjects relating to the submission and inspection of a claim.
- The Clients of an ICF member that are not covered by the ICF
- Income, management, administration supervision and inspection of the ICF

## 2. OBJECT OF THE FUND

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The object of the Fund is to secure the claims of the covered clients against the 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.

The term failure denotes the inability of the Company:

a) either to return to its covered customers funds owed to them or funds which belong to them but are held by the Company, directly or indirectly, in the context of the provision by the Company to the said customers of covered services, and which the latter requested the Company to return, in exercising their relevant right, or

b) to hand over to the covered customers financial instruments which belong to them and which the Company holds, manages or keeps on their account, including circumstances where the Company is responsible for the administrative management of the said financial instruments.

In order for the Fund to pay any compensation, a well-founded claim needs to be submitted by the client against a member of the Fund.

It is a legal obligation for CIFs and other IFs, which are not banks, to subscribe to the Fund.

Any compensation provided to clients by the Investor Compensation Fund shall not exceed EURO20.000. This applies to clients’ aggregate claims against the Company.

### 3. COVERED CLIENTS

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The Fund covers the clients of the Company, except those belonging into the following categories:

- a. The following categories of institutional and professional investors:
  - i. Investment Firms (IFs)
  - ii. legal entities associated with the member of the Fund and, in general, belonging to the same group of companies
  - iii. banks
  - iv. cooperative credit institutions
  - v. insurance companies
  - vi. collective investment organizations in transferable securities and their management companies
  - vii. social insurance institutions and funds
  - viii. investors characterized by the member as professionals, upon their request
- b. States and supranational organizations
- c. Central, federal, confederate, regional and local administrative authorities.
- d. Enterprises associated with the member of the Fund
- e. Managerial and administrative staff of the member of the Fund
- f. Shareholders of the member of the Fund, whose participation directly or indirectly in the capital of the member of the Fund amounts to at least 5% of its share capital, or its partners who are personally liable for the obligations of the member of the Fund, as well as persons responsible for the carrying out of the financial audit of the member of the Fund, such as its qualified auditors
- g. Investors having in enterprises connected with the member of the Fund and, in general, of the group of companies, to which the member of the Fund belongs, positions or duties corresponding to the ones listed in paragraphs (v) and (vi)
- h. Second-degree relatives and spouses of the persons listed in paragraphs (v), (vi) and (vii), as well as third parties acting for the account of these persons
- i. Apart from the investors, investors-clients of a member of the Fund responsible for facts pertaining to the member of the Fund that have caused its financial difficulties or have contributed to the worsening of its financial situation or which have profited from these facts
- j. Investors in the form of a company, which due to its size, is not allowed to draw a summary balance sheet in accordance with the Companies Law or a corresponding law of a Member State.

*In the cases of paragraphs (e), (f), (g) and (h), the Fund suspends the payment of compensation informing the interested parties accordingly, until it reaches a final decision as to whether such cases apply.*

#### 4. COVERED SERVICES

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Covered services are the following investment and/or ancillary services which are offered by the Company:

##### **Investment Services:**

- Reception and transmission of orders in relation to one or more financial instruments
- Execution of orders on behalf of clients

##### **Ancillary Services:**

- Safekeeping and administration of Financial Instruments for the account of Clients, including custodianship and related services such as cash/collateral management.
- Granting credits or loans to an investor to allow him to carry out a transaction in one or more Financial Instruments, where the firm granting the credit or loan is involved in the transaction.
- Foreign exchange services where these are connected to the provision of investment services.

in the following financial instruments:

- Transferable securities
- Money-market instruments
- Units in collective investment undertakings
- Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash
- Options, futures, swaps, forward rate agreements and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event)
- Options, futures, swaps, and other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market and/or an MTF
- Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in point III(6) above and not being for commercial purposes, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognized clearing houses or are subject to regular margin calls
- Derivative instruments for the transfer of credit risk
- Financial contracts for differences (for differences in relation to MiFID instruments, currencies, interest rates or other financial indices)
- Options, futures, swaps, forward rate agreements and any other derivative contracts relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise that by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measures not otherwise mentioned in this Section, which have the characteristics of other derivative financial

instruments, having regard to whether, inter alia, they are cleared and settled through recognized clearing houses or are subject to regular margin calls.

## **5. PRECONDITIONS FOR THE INITIATION OF THE COMPENSATION PAYMENT PROCEDURE BY THE FUND**

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### **5.1 PRECONDITIONS FOR THE INITIATION OF THE COMPENSATION PAYMENT PROCEDURE BY THE FUND**

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

- a) The Cyprus Securities and Exchange Commission has determined by resolution that the Company 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 Company financial position which has no realistic prospect of improvement in the near future, or
- b) A judicial authority, has on reasonable grounds, directly related to the financial position of the Company, issued a ruling which has the effect of suspending the investors-customers' ability to lodge claims against the Company.

The fulfillment of the above precondition is presumed:

- a) If the Company submits to the Fund or to the Cyprus Securities and Exchange Commission a written statement declaring its failure to fulfill its obligations toward its clients;
- b) If the Company files an application for liquidation in accordance with the provisions of Part V of the Companies Law;
- c) If the Cyprus Securities and Exchange Commission has revoked or suspended the Company's authorisation to provide investment services and ascertains that the Company is not expected to be in a position to fulfill its obligations toward its clients in the near future, for reasons which do not concern a temporary lack of liquidity which can be dealt with immediately.

### **5.2 PROCEDURE RELATING TO THE INVITATION OF COVERED CLIENTS TO SUBMIT APPLICATIONS**

Upon issuance of a decision by the Court or by CySEC, on the commencement of the compensation payment process, the Fund publishes in at least three newspapers of national coverage, an invitation to the covered clients to make their claims against the member of the Fund arising from covered services, designating the procedure for the submission of the relevant applications, the deadline for their submission and their content. The publication contains at least:

- the name and address of the headquarters of the member of the Fund, to whom the covered client compensation process has been activated through the Fund
- the deadline for the submission of compensation applications, which cannot be less than five months and greater than nine months from the last publication
- the mode and address of submission of applications
- the address at which investors may be informed about the exact content of the applications to be submitted, and get the relevant form provided by the Fund.

The Cyprus Securities and Exchange Commission, the Cyprus Stock Exchange (CSE) and any interested members will enter the publication on their website during the entire deadline for the submission of applications. Non-compliance on behalf of the above persons with this obligation shall not result in the nullity of the process but it shall only result in the imposition of sanctions.

In exceptional cases, the Fund, with a notice subject to the publicity conditions defined above, may extend the deadline for the submission of compensation applications up to three months.

In case a covered client, not being its fault, was neither informed about the invitation to submit compensation applications nor in a position to submit within the deadline this application, the deadline is interrupted.

Indications that the covered client has an impediment for which he is not responsible and which forms a reason for the interruption of the deadline for the submission of a compensation application include especially

- proved absence of the covered client abroad for a period which includes at least half of the deadline for the submission of a timely application;
- illness confirmed by a doctor that it forms a serious impediment for the submission of an application for a period which includes at least half of the deadline for the submission of a timely application; or
- his stay in a correctional institution for a period which includes at least half of the deadline for the submission of a timely application.

In case of interruption of the deadline, the deadline starts again from the day the reason of its interruption ceases to exist.

A covered client, for whom there exists a reason to interrupt the deadline, may not submit a compensation application after eight months from the expiration of the deadline.

A covered client who submits an application late to the Fund for the payment of compensation is obliged to submit, in addition to the information forming the necessary minimum content of the application, a solemn declaration stating the reason for which he was not in a position to claim compensation in time attaching the necessary supporting evidence to prove his allegations.

## **6. CONTENT OF COMPENSATION APPLICATIONS SUBMITTED TO THE FUND**

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The compensation applications of covered Clients with which they make their claims against a member of the Fund are submitted to the Fund in writing and must include, but may not be limited to;

1. the name of the claimant;
2. the address, telephone and fax numbers as well as any email address of the claimant;
3. the Client code that the claimant had for the member of the Fund;
4. the particulars of the covered services agreement between the Fund and the claimant;
5. the type and amount of the alleged claims of the claimant;
6. the exposition of the particulars from which the alleged claims of the claimant and their amount are derived.

The Fund may ask for more information included in the compensation application, which it communicates with its publication in at least three newspapers of national coverage as well as in the Official Gazette of the Republic, and puts a catalogue with this information at the disposal of investors, at its offices and/or at the offices of the member of the Fund.

## **7. PROCEDURE RELATING TO THE RECORDING AND EVALUATION OF THE ALLEGED COMPENSATION CLAIMS**

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The Fund will designate at least one qualified auditor and at least one lawyer with knowledge on capital market issues, who after having checked initially the above prerequisites they will evaluate the claims submitted to the Fund and recommend to the Administrative Committee their acceptance in total or in part or their rejection.

The above persons in order to evaluate the applications:

- a) Ask from the Company to express its opinion about the grounds of the claims alleged by the claimants and, in case of doubt, to present the relevant supporting documents;
- b) Evaluate, based on the information they have, the applications, determining the amount of the compensation for each claimant.

The persons have full access to the books kept by the member of the Fund, in order to accomplish their work, and they are obliged to exhibit confidentiality against any third party as to the information coming to their knowledge in the exercise of their duties provided that the said obligation of confidentiality is disregarded in order to render possible the exercise of their duties.

Upon submission of the applications the Administrative Committee has control especially if:

- the claimant falls within the category of covered clients
- the application was timely submitted
- the conditions of legislation and of this Policy for the valid submission of compensation applications are fulfilled.

The Administrative Committee rejects the application in case the claimant does not fulfill the above conditions or, if at the Administrative Committee's discretion, there exists at least one of the following reasons:

- The claimant used fraudulent means in order to secure the payment of compensation by the Fund, especially if it knowingly submitted false evidence;
- The damage suffered by the claimant substantially derived from concurrent negligence or offence on its behalf in relation to the damage it suffered and to its underlying cause.

The Administrative Committee during the examination of the applications takes into consideration the recommendations of the persons and decides on the applications submitted to the Fund determining the amount of the compensations for each covered client-claimant.

The Fund may demand at any time from a covered client to return the compensation paid to it, if it finds out subsequently that there was a reason to reject its application.



## 8. FIXING OF THE AMOUNT OF PAYABLE COMPENSATION

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The amount of the compensation payable to each covered client is calculated in accordance with the legal and contractual terms governing the relation of the covered client with the member of the Fund, subject to the set-off rules applied for the calculation of the claims between the covered client and the member of the Fund.

The valuation of the financial instruments pertaining to the compensation payable to the covered client is carried out based on their value at the day:

- of publication of the court
- of publication of the decision of CySEC.

The calculation of the payable compensation derives from the sum of total established claims of the covered client against the member of the Fund, arising from all covered services provided by the member and regardless of the number of accounts, of which it is a beneficiary, the currency and place of provision of these services.

If the amount of the claim determined, exceeds the amount of 20 000€, the claimant receives a compensation the lump sum of the amount of 20 000€.

In the case whereby Beneficiaries of a Joint Account of the Company are in their majority covered Clients:

- a) the maximum amount payable to all co-beneficiaries of the Account comes up to the amount of 20 000€, and
- b) the compensation is fixed on the whole for all co-beneficiaries of the Joint Account and is divided amongst them, in the way determined in the Agreement between the co-beneficiaries and the Company; otherwise, in the absence of such Agreement, it is divided equally amongst them.

The Fund is obliged to pay to each covered client-claimant the compensation within three months from sending to CySEC the minutes with the compensation beneficiaries in accordance to the relevant Regulations. The payment of the compensation by the Fund is deposited to a bank account of the covered client-claimant designated by the latter in writing to the Fund.

For any further information regarding the Fund, please contact our Office at: Tel.: + 357 25 245750 or e-mail: [info@hycm.com](mailto:info@hycm.com)