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# **INVESTORS' COMPENSATION FUND**

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## Table of Contents

1.	INTRODUCTION .....	3
2.	PURPOSE OF THE FUND.....	3
3.	COVERED SERVICES .....	3
4.	COVERED CLIENTS .....	3
5.	PROCEDURE FOR INITIATING THE COMPENSATION PAYMENT .....	4
6.	AMOUNT OF PAYABLE COMPENSATION .....	5

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## INVESTOR'S COMPENSATION FUND

### **1. INTRODUCTION**

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Emporium Capital K.A. Ltd (the "Company") is a member of the Investor Compensation Fund (the "ICF" or the "Fund") within the definition of Directive DI87-07 (the "Directive") of the Cyprus Securities and Exchange Commission ("CySEC" or "Commission") for the Operation of the ICF.

### **2. PURPOSE OF THE FUND**

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The purpose of the Fund is to secure the claims of covered clients against the Company by the payment of compensation for their claims arising from the failure of the Company to fulfil its obligations, provided that at least one of the conditions of paragraph 18(1) of the Directive is fulfilled.

Failure by the Company to fulfil its obligations as stipulated in part III of the Directive, can lead to either:

- a) its inability to return to its covered clients funds owed to them or funds which belong to them but are held by the Company, directly or indirectly, in the framework of the provision of covered services, or
- b) its inability to return to its covered clients financial instruments which belong to them and which the Company holds or controls in its accounts on behalf of the clients.

### **3. COVERED SERVICES**

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Covered services are the investment and ancillary services attached on the Company's licence issued by CySEC at the time of the claim.

### **4. COVERED CLIENTS**

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Covered clients are all the clients of the Company that are **NOT** included in the following categories of investors:

- a) Institutional and professional investors such as:
  - i. Investment Firms (IFs),
  - ii. Legal entities associated with the Company and, in general, belonging to the same group of companies as the Company,
  - iii. Banks,
  - iv. Cooperative credit institutions,
  - v. Insurance companies,
  - vi. Collective investment organisations in transferable securities and their management companies,

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- vii. Social insurance institutions and funds,
- viii. Investors characterized by the Company as professionals.
- b) States and supranational organizations.
- c) Central, federal, confederate, regional and local administrative authorities.
- d) Enterprises with close links with the Company.
- e) Managerial and administrative staff of the Company.
- f) Shareholders of the Company, whose participation directly or indirectly in the capital of the Company amounts to at least 5% of its share capital, or its partners who are personally liable for the obligations of the Company, as well as persons responsible for the carrying out of the financial audit of the Company, such as its qualified auditors.
- g) Investors having an enterprise connected with the Company and in general, of the group of companies to which the Company belongs, positions or duties corresponding to the ones listed in paragraphs (e) and (f) above.
- h) Relatives up to second degree and spouses of the persons listed in paragraphs (e), (f) and (g), as well as third parties acting for the account of these persons.
- i) Investors-clients of the Company responsible for facts pertaining to the Company which have caused its financial difficulties or have contributed to the worsening of its financial situation or which have profited from these facts.
- j) Companies that belong to the same Group of companies with the Company.
- k) 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 of the European Union.

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

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The Fund initiates the compensation payment procedure when at least one of the following circumstances is satisfied:

- a) The CySEC has determined that the Company is currently unable to meet its obligations arising from its clients' claims, in connection with the covered services it has provided, as long as such inability is directly related to the Company's 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 circumstances of the Company, issued a ruling which has the effect of suspending the investors' ability to lodge claims against the Company.

Following the decision to initiate the compensation payment process in accordance with paragraphs (a) or (b) above, the Fund publishes as soon as possible in at least two newspapers of national coverage, the invitation to the covered clients to make their claims against the Company arising from covered services, designating the procedure for the submission of the relevant applications, the deadline for their submission and their content.

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## 6. AMOUNT OF PAYABLE COMPENSATION

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The amount of 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 Company, subject to the setoff rules applied for the calculation of the claims between the covered client and the Company. The calculation of the payable compensation derives from the sum of total established claims of the covered client against the Company, arising from all covered services provided by the Company and regardless of the number of accounts of which the client is a beneficiary, the currency and place of provision of these services.

Currently, the maximum amount of cover is either the 90% of the cumulative covered claims of the covered investor, or the amount of €20.000, whichever is lower. In case of a joint investment business:

- a) In the calculation of the covered amount noted above, the share that corresponds to each covered investor is taken into account,
- b) The claims are distributed equally among the covered investors, unless specific provisions exist and subject to the exceptions of point c below, the maximum coverage is provided to each Investor,
- c) The claims relating to joint investment business, to which two or more persons are entitled as members of a business partnership, association or grouping of a similar nature which has no legal personality, may, for the purpose of calculating the limits of compensation, be aggregated and treated as if arising from an investment made by a single investor.

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