

# INVESTOR COMPENSATION FUND - Version 1.0

## INFORMATION TO CLIENTS OF TRUST CAPITAL TC LTD IN RELATION TO THE INVESTOR COMPENSATION FUND FOR CUSTOMERS OF CYPRIOT INVESTMENT FIRMS (CIFs)

### 1. INVESTOR COMPENSATION FUND

Trust Capital TC Ltd (hereinafter the “**Company**”) is a Cyprus Investment Firm authorized and regulated by the Cyprus Securities and Exchange Commission (hereinafter the “**CySEC**”) under license number 369/18, incorporated under Cyprus Company Law with Company Registration Number: HE 364353 and with registered office at 23 Olympion Street, Libra Tower, Second Floor Office 202, 3035 Limassol, Cyprus.

The Company is a member of the Investor Compensation Fund (hereinafter the “**Fund**”) for Customers of Cypriot Investment Firms (CIFs) and other Investment Firms (IFs) which are not credit institutions.

‘Fund’ or, synonymously, ‘I.C.F. of Clients of IFs’ or ‘I.C.F.’ means the Investors Compensation Fund of clients of CIFs who are Fund members, established pursuant to article 104(2) and (4) of the Law (L87(I)/2017), and whose powers and functions are regulated by the provisions of the Law and Directive D87-07.

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.

### 2. COVERED SERVICES

The Fund covers the following investment and ancillary services of the Company:

- a) Reception and transmission of orders in relation to one or more of the Financial Instruments;
- b) Execution of orders on behalf of Clients;
- c) Safekeeping and administration of financial instruments for the account of clients, including custodianship and related services such as cash/collateral management and excluding maintaining securities accounts at the top tier level (“central maintenance service”), as referred to in point 2 of Section A of the Annex to Regulation (EU) No 909/2014;
- d) Granting credits or loans to one or more financial instruments, where the firm granting the credit or loan is involved in the transaction;
- e) Foreign exchange services where these services are connected to the provision of investment services. in the following financial instruments:
  - i. Transferable securities;
  - ii. Money-market instruments;
  - iii. Units in collective investment undertakings;
  - iv. Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, emission allowances or other derivatives instruments, financial indices or financial measures which may be settled physically or in cash;
  - v. Options, futures, swaps, forwards 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 other than by reason of default or other termination event;

- vi. Options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market, a MTF, or an OTF, except for wholesale energy products traded on an OTF that must be physically settled;
- vii. Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned in point f) of this Part and not being for commercial purposes, which have the characteristics of other derivative financial instruments;
- viii. Derivative instruments for the transfer of credit risk;
- ix. Financial contracts for differences;
- x. Options, futures, swaps, forward-rate agreements and any other derivative contracts relating to climatic variables, freight rates 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 other than by reason of 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 Part, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are traded on a regulated market, OTF, or an MTF;

### 3. COVERED CLIENTS

The Fund covers the clients of the Company except those who are included in the following categories of investors:

1. The following categories of Institutional and professional investors:
  - a) Investment Firms (IFs),
  - b) Legal entities associated with the Company and, in general, belonging to the same group of companies,
  - c) Banks,
  - d) Cooperative credit institutions,
  - e) Insurance companies,
  - f) Collective investment organizations in transferable securities and their management companies,
  - g) Social insurance institutions and funds,
  - h) Investors characterized by the Company as professionals, upon their request, in accordance with Part II of the Second Appendix of the Law (L87(I)/2017),
2. States and supranational organizations
3. Central, federal, confederate, regional and local administrative authorities
4. Enterprises who have close links with the Company, as per the interpretation of the term “close link” in section 2(1) of the Law (L87(I)/2017)
5. Managerial and administrative staff of the Company
6. 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 as provided by the Law, such as its qualified auditors

7. Investors having in enterprises 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 (5) and (6) above
8. Second-degree relatives and spouses of the persons listed in paragraphs (5), (6) and (7), as well as third parties acting for the account of these persons
9. 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.
10. Other Companies of the same group
11. Companies (investors) which due to their size are not allowed to draw a summary balance sheet in accordance with the Companies Law or the corresponding law of a Member State

In the cases of paragraphs (5), (6), (7), (8) and (10), 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. OBJECT OF THE FUND**

The object of the Fund is to secure the claims of the covered customers against the members of the Fund (i.e. Trust Capital TC Ltd) by the payment of compensation for their claims arising from the covered services provided by its members, so long as failure by the Company to fulfill its obligations has been ascertained.

#### **5. COVERED CLAIMS**

The covered claims are those arisen due to the inability of the Company:

- a) to return to its covered customers funds owed to them or funds which belong to them but are held by the Company, in the context of the provision by the Company to the said customers of investment services, 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, in the context of the provision by the Company to the said customers of investment services.

in accordance with relevant legislation and contractual terms.

The amount of the compensation payable to each covered customer is calculated in accordance with the legal and contractual terms governing the relation of the covered customer with the Company, in particular those related to off-set and counterclaims, that apply for the evaluation, at the date of the initiation of the compensation payment procedure, the amount of the funds or of the value, that it is defined by reference to the market value whenever is possible, of the financial instruments that belong to the covered customer and which funds or financial instruments the Company is unable to pay off or return.

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

The Fund initiates the compensation payment procedure when:

- a) the Cyprus Securities and Exchange Commission has ascertained 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's financial position which has no foreseeable realistic prospect of improvement in the near future, or

- b) a court of the Republic, 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 Cyprus Securities and Exchange Commission issues its decision on the commencement of the compensation payment procedure by the Fund within a reasonable timeframe and publishes the said decision on its website on the Internet.

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

Upon the commencement of the compensation payment procedure, the Fund publishes in at least two newspapers of national coverage, an invitation to the covered customers 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.

The publication should contain at least:

- a) The name, the address of the headquarters and the brand name of the Company;
- b) The deadline for the submission of compensation applications, which cannot be less than five months and greater than nine months, from the date that the compensation process initiated or of the date of its publication;
- c) The mode of submission of applications; and
- d) The address or/and the electronic address at which the covered customers may get the relevant application form.

The above publication of the commencement of the compensation payment procedure is communicated to the Cyprus Securities and Exchange Commission, which in turn enter the publication on its website.

In exceptional and justified cases, the Fund, with a notice, may extend the deadline for the submission of compensation applications up to three months, provided that has received the approval of the Cyprus Securities and Exchange Commission. The said notice is published by the Fund in at least two newspapers of national coverage and it is published by the Cyprus Securities and Exchange Commission on its website.

In case a covered customer was not in position to submit a compensation application within the above defined deadlines, the said defined deadlines shall not apply to this covered customer, provided that conditions incurred which did not allowed this covered customer to submit the compensation application or the relevant particulars within the defined 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.

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

The Fund issues a compensation application that defines the required information and evidences required for the examination of the compensation applications of the covered clients.

The Fund may ask additional information where it deems necessary for the examination of the compensation applications.

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

The Fund may register and examine the received compensation applications either internally or by designate at least one expert on capital market issues and at least one lawyer with knowledge on capital market issues, who after having checked initially the prerequisites for the payment of a compensation, 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.

In case of disagreement between the persons referred to in above paragraph, each one them submits a separate recommendation.

The above persons:

- a) In order to evaluate the applications, ask from the Company to express its justified opinion within a define timeframe about the grounds of the claims alleged by the claimants.
- b) In case of not timely receiving a justified opinion from the Company, they proceed with the evaluation of the claims.
- c) Determine the amount of the compensation for each claimant.

The above-mentioned persons have full access to the books kept by the Company, electronically or by other means, in order to accomplish their work.

## **10. PRECONDITIONS FOR PAYMENT OF COMPENSATION**

The payment of the compensation from the Fund prerequisites the following:

- a) the commencement of the compensation payment procedure,
- b) the existence of a sound claim by a covered customer against the Company that is the result of an investment service,
- c) the submission of a compensation application, as defined in CySEC's Directive DI87-07,
- d) that the claims are not related with transactions for which a criminal conviction was issued for money laundering activities in accordance with The Prevention And Suppression of Money Laundering And Terrorist Financing Law of 2007, as amended,
- e) there is no pending criminal procedure against the claimant for money laundering activities, in accordance with The Prevention And Suppression of Money Laundering And Terrorist Financing Law of 2007, as amended,
- f) the right of the claimant has not been lapsed in accordance with the relevant legislation.

## **11. FIXING OF THE AMOUNT OF PAYABLE COMPENSATION**

The calculation of the payable compensation derives from the sum of total established claims of the covered customer against the Company, arising from all covered services provided by the Company and regardless of the number of accounts, of which the customer is a beneficiary, the currency and place of provision of these services within the European Union.

The Fund provides a compensation for the claims defined in section 5 above, that applies for the sum of the claims of the covered customer against the Company and it is defined as the lower amount between the 90% of the cumulative covered claims of the covered customer and the euro 20.000.

In the case of a Joint Account:

- a) for the calculation of the compensation that is referred on the above paragraph, the share of each covered customer is taken into consideration,
- b) the claims are allocated equally between the covered investors, unless specific arrangements are in place and in accordance with the exceptions of paragraph c) below a compensation is provided to each investor in accordance with the above paragraph,
- c) the claims from a joint account where two or more persons have rights as partners of a company, union or of a similar entity, with no legal substance, for the calculation of the compensation that is provided on the above paragraph, are consolidated and are considered that are derived from the investment of only one investor.
- d) The Administrative Committee examines the received compensation applications and decides whether the preconditions (section 10 above) for the payment of the compensation are fulfilled or not.

The Administrative Committee rejects the application in case the claimant used fraudulent or misleading means in order to secure the payment of compensation by the Fund.

The Administrative Committee during the examination of the applications takes into consideration the recommendations of the persons defined in section 9 above (one expert on capital market issues and at least one lawyer with knowledge on capital market issues).

The Fund may demand at any time from a covered customer to return the compensation paid to it, if it finds out subsequently that there was a reason to reject its application in accordance with Directive DI87-07.

Upon completion of the valuation, the Fund:

- a) Issues minutes listing the customers of the Company who are entitled to compensation, along with the amount of money each one of them is entitled to receive and communicates it to the Cyprus Securities and Exchange Commission and the Company within five working days from its issue. This decision also lists the customers to whom compensation will not be paid along with the relevant reasoning.
- b) Communicates, as soon as possible, its issued decision to each affected customer

The claimant to whom the Fund decision is communicated, in case he disagrees with the Fund's decision may submit a written objection to the Cyprus Securities and Exchange Commission within one month from the date of the communication of the decision, justifying sufficiently his alleged objection. The objection shall be submitted to the email address [info@cysec.gov.cy](mailto:info@cysec.gov.cy) with title "Objection to the decision of the ICF".

The Cyprus Securities and Exchange Commission, during the examination of the objections, may:

- a) ask information and particulars from the Fund or/and the Company or/and the claimant,
- b) conduct any investigation.

The Commission is obliged to complete the examination of the objection within 45 days and in case an error is identified in the evaluation performed by the Fund, it requests in writing from the Fund to correct immediately the error and pay the right compensation amount and informs the affected customer accordingly.

The Fund is obliged to pay to each covered customer-claimant the compensation within three months from the date it has communicated its minutes to the covered customer. The payment of the compensation by the Fund is deposited to a bank account of the covered customer designated by the latter in writing on the compensation application.

In exceptional and justified cases, the Fund may ask from the Cyprus Securities and Exchange Commission to extend the deadline for the compensation payment, but in any case the extension cannot be more than 3 additional months.

The compensation is paid in euro and in case where the funds or/and the financial instruments are in a currency other than the euro, the exchange rate as defined by the European Central bank at the end of the date that the compensation payment procedure was initiated, is used.

For any further information regarding the Fund, please contact our Office at: Tel.: + 357 25378899, or e-mail: [info@trustcapitaltc.com](mailto:info@trustcapitaltc.com)

or

the offices of the Administrative Committee of the Fund, at the following address:

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