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Guidelines on Cypriot investment firms providing services in other EU member states

On February 21 2013, the Cyprus Securities and Exchange Commission (CySEC) issued a circular addressed to Cyprus investment firms (CIFs) to draw their attention to the obligations attached to their freedom to provide services in other EU member states (host member states). The provision of services under the freedom to provide services means that a CIF provides services freely in the host member state without having a physical presence there, for example through its website. Different arrangements apply if the CIF has employees or representatives physically present in the host member state acting on its behalf. These are contained in article 76 of the Investment Services Law, which regulates the establishment of a branch or the appointment of a tied agent attached to a branch established in the host member state.

A CIF providing investment services in a host member state under the freedom to provide services must notify CySEC of its intention to do so in accordance with article 79 of the Investment Services and Activities and Regulated Markets Law of 2007, as amended (the Investment Services Law). Article 79 stipulates that a CIF may not start to provide services or perform activities in the host member state until it receives notification from CySEC that the competent authority of the host member state has been informed of its intention to provide services there.

A CIF wishing to offer any services other than those specified in its notification to CySEC must first give CySEC one month's written notice of the intended change.

In the event of failure to comply, CySEC may impose sanctions including the imposition of an administrative fine or withdrawal or suspension of the authorisation. In addition, the competent authorities of host member states have powers under article 62 of Directive 2004/39/EC to prevent the firm concerned from initiating any further transactions within their territory.

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