

November 27, 2015

CYSEC Board Decision

Announcement date:	27.11.2015	Board decision date:	12.10.2015
Regarding:	Pegase Capital Ltd		
Legislation:	The Investment Services and Activities and Regulated Markets Laws, The Prevention and Suppression of Money Laundering and Terrorist Financing Law, Directive DI 144-2007-01 of 2012, Directive DI 144-2007-02 of 2012, Directive DI 144-2007-08 of 2012		
Subject:	Fine €300.000		
Judicial Review:	Click here	Judicial Review Ruling:	Click here

The Board of the Cyprus Securities and Exchange Commission (the 'CySEC') wishes to inform investors that, at its meeting held on October 12, 2015, the CySEC decided to impose a total administrative fine of **€300.000** on the **CIF Pegase Capital Ltd** ('the Company') for non-compliance with the following:

1. the Investment Services and Activities and Regulated Markets Law of 2007, as amended from time to time ('L.144(I)/2007'),
2. the Prevention and Suppression of Money Laundering and Terrorist Financing Law of 2007, as amended from time to time ('L.188(I)/2007'),
3. the Directive DI 144-2007-01 of 2012 of the Securities and Exchange Commission for the Authorisation and Operating Conditions of CIFs ('Directive 1'),
4. the Directive DI 144-2007-02 of 2012 of the Securities and Exchange Commission for the professional competence of Investment Firms and the natural persons employed by them ('Directive 2'),
5. the Directive DI 144-2007-08 of 2012 of the Securities and Exchange Commission for the Prevention of Money Laundering and Terrorist Financing ('Directive 8').

The administrative fine imposed on the Company is broken down as follows:

- A. €70.000** for non-compliance with Section 6(8) of L.144(I)/2007 as it provided the investment service of investment advice which is not stated in its authorisation.
- B. €10.000** for non-compliance with Section 28(1) of L.144(I)/2007 as it failed to comply at all times with the authorization and operating conditions, as laid down in Section 18(2)(a) of L.144(I)/2007 and paragraphs 4(1)(f), 13 and 14 of Directive 1, since it did not establish adequate policies and procedures in order to ensure sufficient compliance with its obligations under L.144(I)/2007 and Directive 1. More specifically:
 - The Company did not keep adequate and organised records of its business activities and internal organisation.
 - The procedures for handling complaints followed by the Company were not

adequate.

- The policies and procedures applied in assessing the suitability of clients are not in line with those contained in its internal operational manual.
- The operations manual prepared and applied in relation to its advertising material makes no reference to the approval of the information provided/given to clients.
- The operations manual prepared and applied in relation to the information provided or given to clients or potential clients does not state the policies and procedures applied by the Company in practice, including the medium of providing the information.

- C. €20.000** for non-compliance with Section 28(1) of L.144(I)/2007 as it failed to comply at all times with the authorization and operating conditions, as laid down in Section 18(2)(d) of the Law and paragraph 16(3) of Directive 1, since it did not take reasonable measures to avoid any unjustified aggravation of the operational risk in the outsourcing of activities or business operations and, in particular, to exercise due skill, care and diligence in the management of the agreement for the outsourcing of the customer support service to third parties. More specifically, the Company did not take measure to ensure:
- i. The efficient supervision of the customer support service outsourced to external agencies, considering that the said companies provided the investment services of receiving and transmitting orders and investment advice, which are not permitted under the agreement signed between them,
 - ii. The adoption of measures or appropriate measures when the aforesaid outsourced service was not performed efficiently,
 - iii. The establishment of methods to assess the standard of performance of the service provider.
- D. €50.000** for non-compliance with Section 28(1) of L.144(I)/2007 as it failed to comply at all times with the authorization and operating conditions, as laid down in Section 18(2)(j) of the Law and paragraphs 18(1)(b) and (f) and 20(1) of Directive 1, since it did not take all necessary measures to protect the interests of its clients, safeguarding their rights in respect of the funds belonging to them.
- E. €40.000** for non-compliance with Section 36(1) of L.144(I)/2007 as it failed to act fairly, honestly and professionally, in accordance with the best interests of its clients in relation to the following:
- i. The granting of benefits (trading bonus) and the practices applied in this context.
 - ii. The terms and conditions regarding the benefit and the practices applied by the Company are not in line with Section 36(1) of L.144(I)/2007, as explained in the CySEC Circular No. E065.
- F. €40.000** for non-compliance with Section 36(1)(a) of L.144(I)/2007 and paragraphs 6(2) and 6(8) of Directive 2, as the information contained in the Company's website and in the advertising material and the information provided by the call centers with which it cooperates were not fair, clear and non-misleading in accordance with Section 36(1)(a)

of L.144(I)/2007 and the Company failed to ensure that these comply with the terms of paragraphs 6(2) and 6(8) of Directive 2.

- G. €15.000** for non-compliance with Section 36(1)(b) of L.144(I)/2007 as the information provided to clients/potential clients upon entering into a business relationship was not appropriate so that they are reasonably able to understand the nature and risks of the investment service offered and the specific type of the proposed financial instrument, in accordance with Section 36(1)(b) of L.144(I)/2007 and paragraphs 7-11 of Directive 2. More specifically, the Company
- Did not notify them, in a durable medium, of all their rights to request their categorisation under a different category and all limitations that this entails as regards the level of protection of the clients, as required under paragraph 7(2) of Directive 2.
 - Did not provide them with appropriate information in a understandable form in respect of the Company and its services so that they are reasonably able to understand the nature and risks of the offered investment service and, therefore, take informed investment decisions, as required under Section 36(1)(b) of L.144(I)/2007.
 - Did not provide them with information in relation to the methods of communication to be used, as required under paragraph 9(1)(c) of Directive 2.
 - Did not provide them with a summary description of the measures taken to ensure the protection of its clients' financial instruments and funds, including summary details regarding all investor compensation schemes which apply to it, as required under paragraph 9(1)(g) of Directive 2.
 - Did not provide them with a description of its conflict of interests policy, as required under paragraph 9(1)(h) of Directive 2.
 - Did not provide them with information regarding the financial instruments, as required under paragraph 10 of Directive 2.
 - Did not provide them with information regarding the safeguarding of financial instruments/funds, as required under paragraph 11 of Directive 2.
- H. €40.000** for non-compliance with Section 36(1)(d) of L.144(I)/2007 and paragraphs 15 and 16 of Directive 2 as it failed to ask clients to provide the necessary information regarding their knowledge and experience, to assess whether the investment service or financial instrument envisaged is appropriate for them.
- I. €10.000** for non-compliance with Section 58(a) of L.188(I)/2007, as it does not apply adequate and appropriate systems and procedures in relation to customer identification and customer due diligence, in accordance with the provisions of Section 62 of L. 188(I)/2007.
- J. €3.000** for non-compliance with paragraph 9(1)(d) of Directive 8 as its compliance officer did not monitor and assess, properly and efficiently, the procedure on customer identification.

- K. **€2.000** for non-compliance with paragraph 5(d) of Directive 8, as the Board of Directors did not ensure the implementation of the requirements as laid down in Section 58(a) of L. 188(I)/2007 and of Directive 8 and there were no indications that it made sure that appropriate, efficient and adequate systems and procedures for achieving the aforesaid compliance were introduced.

In reaching its decision, the CySEC has taken into consideration, *inter alia*, the following:

- The amount of the administrative sanctions provided in the relevant legislation,
- The importance attributed to the need to ensure that the persons subject to the supervision of the CySEC fully comply with the provisions of the Laws and the relevant Directives,
- The adoption of corrective measures/actions on behalf of the Company such as, *inter alia*, the following:
 - It has adopted procedures for the keeping of adequate and appropriate records for the approved material provided to its clients as well as the telephone communications between the call centers and its clients,
 - It has adopted a policy to ensure the efficient and transparent procedure of handling complaints that it applies, providing clear information to clients on such procedure through the Company's official website.
 - It has amended the procedure for opening client accounts as regards the submission of information to assess their suitability and, in general, has amended the procedure followed to assess suitability in line with the corresponding policies and procedures contained in its internal operations manual,
 - It has implemented procedures to ensure that the services outsourced to third parties are duly monitored and, in particular, procedures relating to the supervision of the call centers,
 - It is currently in the process of improving its procedures in relation to the safeguarding of client funds,
 - It has taken corrective actions to update its website regarding its procedures, the terms and conditions for the granting of benefits and the information provided to clients,
 - It has amended the procedure followed in assessing suitability in line with the corresponding policies and procedures contained in its internal operations manual,
 - It has made efforts, upon obtaining legal advice, to apply practices that are in line with the legislation.