

August 19 2016

CYSEC Bord Decision

Announcement date:	19.08.2016	Board Decision date:	01.08.2016
Regarding	HF Markets (Europe) Ltd		
Legislation	The Investment Services and Activities and Regulated Markets Laws, Directive DI 144-2007-01 of 2012, Directive DI 144-2007-02 of 2012		
Subject:	Fine €105.000		
Judicial Review	Click here	Judicial Ruling	Click here

The Board of the Cyprus Securities and Exchange Commission (the 'CySEC') wishes to inform investors that, at its meeting held on January 18, 2016, decided to impose a total administrative fine of **€105.000** to the **CIF HF Markets (Europe) Ltd** ('the Company') for non-compliance with the following legislation:

the Investment Services and Activities and Regulated Markets Law of 2007, as amended from time to time ('the Law'),

1. the Directive DI 144-2007-01 of 2012 of the Securities and Exchange Commission for the Authorisation and Operating Conditions of CIFs ('Directive 1'),
2. 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').

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

- A. €10.000** for non-compliance with Section 28(1) of the Law, 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 paragraph 4(1)(f), 13 and 14 of Directive 1, as it did not establish adequate policies and procedures sufficient to ensure its compliance with its obligations pursuant to the Law and Directive 1. Specifically, the Company did not maintain adequate and orderly records of its business and internal organization, since:
- i. It did not directly maintain an agreement with the company/service provider (the 'Provider') to whom the provision of services to clients was assigned.
 - ii. It did not maintain information/records of the telephone conversations between the Provider's employees and its clients.
 - iii. It did not maintain a record of the services provided by the Provider to the Company and to its clients, so as to be in a position to ensure that the said services were provided in accordance to the obligations arising from the Law.

- B. €10.000** for non-compliance with Section 28(1) του Νόμου of the Law, as it failed to

comply at all times with the authorization and operating conditions, as laid down in Section 18(2)(d) of L.144(I)/2007 and paragraph 16(3) of Directive 1, since, during the outsourcing of its marketing and sales service, it did not take reasonable measures to avoid any unjustified aggravation of the operational risk, as it did not exercise due skill, care and diligence when managing the outsourcing arrangement of customer support to the Provider. More specifically, the Company did not take measures to ensure:

- i. The efficient supervision of the customer support service outsourced to the Provider, considering that the Provider provided the investment services of receiving and transmitting orders and investment advice, which were not permitted under the agreement signed between them,
- ii. The adoption of measures or adequate measures when the aforesaid outsourced service was not carried out efficiently,
- iii. The establishment of methods to evaluate the standard of performance of the service provider.

Γ. €20.000 for non-compliance with Section 36(1) of the Law as it failed to act fairly, honestly and professionally in accordance with the best interests of its clients, in relation to the Provider's employees' practices, terms and conditions accepted by the Company's clients and the practices applied to this respect.

Δ. €30.000 for non-compliance with Section 36(1)(a) of the Law and paragraph 6, subparagraph (2)(b) of Directive 2, as the information provided to the Company's clients by the Providers' employees were not fair, clear and non-misleading in accordance with Section 36(1)(a) of the Law and the Company did not ensure that these satisfy the terms of paragraph 6, subparagraph (2)(b) of Directive 2, since it has been established that the Provider's employees downgraded the risk of losses in trading the products offered by the Company.

Ε. €15.000 for non-compliance with Section 36(1)(b) of the Law and paragraph 8 of Directive 2 the information provided to clients/potential clients on its website at the relevant time, upon entering into the business relationship, were not appropriate so that the clients are reasonably able to understand the nature and risks of the investment service offered and the specific type and the proposed financial instrument, and in accordance with Section 36(1)(b) of the Law and paragraph 8 of Directive 2 since the Company did not provide clients/potential clients appropriate and complete information during the establishment of the business relationship.

ΣΤ. €20.000 for non-compliance with Section 36(1)(f) of the Law and paragraph 18 of Directive 2, since, it did not maintain a record of documents compiled pursuant to a basic agreement with the client setting out the essential rights and obligations of the parties, in accordance to paragraph 18 of Directive 2.

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

- the amount of 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 seriousness attributed to the CIF’s obligation to act fairly, honestly and professionally in accordance to the best interests of their clients,
- The importance attributed to the exercise of efficient supervision of the externally outsourced provider, such as not to prejudice the quality of control of the CIF and the interests of the clients,
- The importance attributed to the protection of CIF clients’ interests,
- the adoption of correctives measures/actions on behalf of the Company such as, *inter alia*, the following:
 - the Company has proceeded in terminating its business relationship with the Provider,
 - the Company has proceeded in reviewing its existing agreements (introducing brokers agreements with Service Providers), so that the type of services that Service Providers (introducing broker/affiliate) may offer have been clarified, and specifically that the Service Providers’ employees may not offer investment advice the Company’s clients.
 - the Company has not committed a similar violation in the past.