

30 September 2016

CYSEC Board Decision

Announcement date:	30.09.2016	Board Decision date:	05.09.2016
Regarding	OptionRally Financial Services 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 €138.000		
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 5 September 2016, decided to impose a total administrative fine of **€138.000** to the CIF **OptionRally Financial Services Ltd** ('the Company') for non-compliance with the following legislation:

1. the Investment Services and Activities and Regulated Markets Law of 2007, as amended from time to time ('the Law'),
2. the Directive DI 144-2007-01 of 2012 of the Securities and Exchange Commission for the Authorisation and Operating Conditions of CIFs ('Directive 1'),
3. 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. €3,000** 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 the Law and paragraphs 4(1)(f), 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:
- i. The Company did not establish, implement and maintain an internal operation manual, which would include all policies, procedures in relation to the approval of marketing material and information addressed to clients or potential clients.
 - ii. The Company did not maintain adequate and orderly records of the information relation to the assessment of its marketing material (record of approval of its marketing material).
- B. €20.000** 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 the Law and paragraph 16(3) of Directive 1, since it did not take



adequate measures to avoid any unjustified aggravation of the operational risk when outsourcing activities or operational functions. Specifically:

- i. The Company did not effectively supervise the carrying out of the outsourced activity of preparing the marketing material.
- ii. The Company did not have effective access to data related to the outsourced activity of preparing the marketing material.
- iii. The Company did not effectively supervise the carrying out of the outsourced activity of customer service.

C. €30.000 as it failed to act fairly, honestly and professionally in relation to the bonus terms and conditions accepted by the Company's clients and the practices applied to this respect.

D. €30.000 for non-compliance with Section 36(1)(a) of the Law and paragraph 6 of Directive 2, as the information included in its website, the information on its marketing material and the information provided by the call centres to which it had outsourced the customer service, 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.

E. €15.000 for non-compliance with Section 36(1)(b) of the Law since the information provided to clients/potential clients on its website, 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.

F. €40.000 for non-compliance with Section 36(1)(d) of the Law 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.

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 adoption of correctives measures/actions on behalf of the Company such as, *inter alia*, the following:
 - it has established, implemented and included in its internal operations manual, policies in relation to the marketing material addressed to clients or potential clients.
 - it has established a procedure for the review and approval of the Company's marketing material.
 - it has proceeded to take corrective actions for the better supervision of calls conducted



- at call centres,
- it has taken corrective measures in relation to its marketing material and the information provided to clients or potential clients,
 - it has proceeded to amendments in its website in order to comply with the requirements of the Law,
 - it has proceeded in updating its questionnaire in relation to the appropriateness of potential clients during the account opening procedure, which has also been included in its internal operations manual.
 - the Company has not committed a similar violation in the past.