

TO : Cypriot Investment Firms
FROM : Cyprus Securities and Exchange Commission
DATE : 21 February 2013
CIRCULAR No : CI144-2013-05
FILE No : E.K. 6.1.14
SUBJECT : Freedom to provide services to other Member States

The Cyprus Securities and Exchange Commission (the 'Commission') wishes, with this circular, to draw the attention of the Cyprus Investment Firms ('CIFs') to their obligations in relation to the freedom to provide services to another member state ('host Member State').

Specifically, the following is mentioned:

1. A CIF may freely provide investment services in a host Member State only if notifies its intention to the Commission, pursuant to section 79 of the Investment Services and Activities and Regulated Markets Law ('the Law').
2. The CIF cannot provide investment services in the host Member State other than those included in the notification of point 1 above, unless previously informed the Commission, pursuant to section 79(6) of the Law.
3. Freedom to provide services means that the CIF provides services freely in the host Member State (e.g. through its website) with no physical presence in the host Member State.

The physical presence of employees or representatives of the CIF in the host Member State acting on its behalf, does not fall under the freedom to provide services but under the status of a branch (section 76 of the Law) or an appointment of tied agent established in the host Member State who is assimilated to branch (section 76(2)(e) of the Law).

The Commission is issuing this circular as, lately, has received complaints by other competent authorities of Member States that CIFs freely providing services in their territories, do not adhere to the relevant provisions of the Law.

The Commission urges the CIFs to comply fully with the above provisions of the Law. In case of non-compliance with the provisions of the Law, the Commission will impose

the strict sanctions provided in the Law (withdrawal or suspension of the authorisation, imposition of an administrative sanction). The competent authorities of host Member States have also precautionary powers (Article 62 of the European Directive 2004/39/EC – prevention from initiating any further transactions within their territories).

Sincerely,

Demetra Kalogerou
Chairman, Cyprus Securities and Exchange Commission