

**November 27, 2015**

**CYSEC Board Decision**

<b>Announcement date:</b>	27.11.2015	<b>Board decision date:</b>	12.10.2015
<b>Regarding:</b>	Depaho Ltd		
<b>Legislation:</b>	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		
<b>Subject:</b>	Fine €233.000		
<b>Judicial Review:</b>	<a href="#">Click here</a>	<b>Judicial Review Ruling:</b>	<a href="#">Click here</a>

The Board of the Cyprus Securities and Exchange Commission (the 'CySEC') wishes to inform investors that, at its meeting held on October 12, 2015, decided to impose a total administrative fine of **€233.000** to the **CIF Depaho 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 ('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. €3.000** 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 paragraph 14 of Directive 1, since it did not apply adequate policies and procedures sufficient to ensure compliance with its obligations under L.144(I)/2007 and Directive 1. More specifically:
  - The policies and procedures applied by the Company in assessing the appropriateness of clients are not in line with those contained in its internal operations manual.
  - The Company failed to provide, in its internal operations manual, nor did it apply a procedure for warning clients on the non-appropriateness of a product/service, where necessary.

- 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 L.144(I)/2007 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 measures to ensure:
- 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 were not permitted under the agreement signed between them,
  - The adoption of measures or adequate measures when the aforesaid outsourced service was not carried out efficiently,
  - The establishment of methods to evaluate the standard of performance of the service provider.
- D. **€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 granting of benefits (trading bonus) and the practices applied in this respect.
  - The actions/practices of the employees of the companies/call centers to whom the Company had outsourced customer support.
- E. **€30.000** for non-compliance with Section 36(1)(a) of L.144(I)/2007 and paragraph 6(2) of Directive 2 as the information contained in the advertising material of the Company 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 did not ensure that these satisfy the terms of paragraph 6(2) of Directive 2.
- F. **€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 the business relationship were not appropriate so that they 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 paragraphs 7(1), 11(5) and 11(6) of Directive 2. More specifically, the Company,
- did not notify them of their categorisation as required under paragraph 7(1) of Directive 2,
  - did not inform them whether the accounts containing their funds are subject or may be subject to another law or jurisdiction, as required under paragraph 11(5) of Directive 2,
  - did not inform them of the existence and terms of any rights which the Company or a depository has or could have over their funds, as required under paragraph 11(6) of Directive 2.

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

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 adoption of correctives measures/actions on behalf of the Company such as, *inter alia*, the following:
  - It has taken and/or is in the process of taking corrective measures to improve compliance and the monitoring of the activities of the call centers, including the installation of a programme to monitor the activities of the call centers and the training of staff.
  - It has taken and/or is in the process of taking corrective measures regarding information received from clients, risk warnings and the approval of its advertising material.
  - It implements a programme to help monitor the activities of the call centers. Also, the Company's Compliance Department has improved monitoring activities and has adopted various controls to monitor the activities of the call centers.
  - It has taken corrective actions regarding the granting of benefits to clients.
  - It is in the process of improving the questionnaire completed by potential clients.
  - It has made efforts, further to obtaining legal advice, on the implementation of practices that comply with the legislation.