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## PRESS RELEASE

### **CySEC completes investigation into market manipulation by the Cyprus Popular Bank and Commerzbank AG**

*CySEC imposes an administrative fine of €650,000 on Commerzbank AG for market manipulation*

**NICOSIA** – The Cyprus Securities and Exchange Commission (CySEC) today announces that it has completed its investigation into the historical market manipulation that occurred between Commerzbank AG and Cyprus Popular Bank (CPB).

This investigation formed part of CySEC's extensive investigation into CPB's activities and role in the run up to the financial crisis and subsequent bail-in of the Cyprus banking sector in 2013. The case was brought to the attention of CySEC by the Member of Parliament representing AKEL, Irene Charalambides.

CySEC examined a possible violation of Article 19 of the Insider Dealing and Market Manipulation (Market Abuse) Law of 2005, as applicable, in relation to CPB's Structured Products ISIN XS0345364227 and XS0345364656 or other persons, for the period 1 January 2008 – 15 March 2013.

Based on the investigation, and taking into consideration the written representations of CPB and Commerzbank AG, CySEC identified the following:

- CPB invested into two structured products issued by Commerzbank AG on the 5 February 2008. The composition of the underlying portfolio of the structured product was dynamic and was determined by the person appointed *Index Sponsor*. The value of the product was determined in accordance with the underlying portfolio.
- According to the terms and conditions governing the specific products, the portfolio of the underlying financial instruments was (theoretically) virtual and therefore no actual investment into the underlying instruments was supposed to take place.
- Marfin Egnatia Bank S.A (a subsidiary of CPB) was initially set as the *Index Sponsor*. However, as a consequence of a cross-border merger between Marfin Egnatia Bank S.A. and CPB, CPB became the index sponsor as of 31 March 2011. This created a clear potential conflict of interest.
- The CPB shares were incorporated into the underlying portfolio of the Structured Product with ISIN XS0345364227, in 2011.



- Based on the evidence made available to CySEC, Commerzbank AG executed the voting rights of the underlying shares (including the CPB shares) during Shareholders' General Meetings based on specific instructions from *the Index Sponsor*. The proxy persons had a direct relationship with the relevant entities.

CySEC concluded that CPB and Commerzbank AG used the structured product with ISIN XS0345364227 as vehicle in order for Commerzbank AG to act as a surrogate of CPB in a disguised manner. They acted in concert to manipulate the market in relation to CPB's shares on the 4, 5, 6, 14, 15, 18, 19, 20, 21, 26 and 27 April 2011 and 6 and 30 May 2011. More details on this can be found below.

### **Sanctions**

CySEC decided to impose a total €650,000 fine on Commerzbank AG in relation to the aforesaid violations, taking into consideration that more than 8 years have elapsed since the time of the violation, as a mitigating factor.

In the case of CPB, CySEC decided not to impose a fine for the aforesaid violation, taking into account that:

- i. The CPB is under resolution pursuant to Law 17(I)/2013 and/or pursuant to the relevant decrees issued by the Central Bank of Cyprus and has been under special administration since 2013. CPB is focused on the resolution measures put in place following the Cyprus banking crisis.
- ii. Under these special circumstances the imposition of a fine to the CPB would further burden the financial position of its depositors, bond holders and shareholders<sup>1</sup>.

CySEC expresses its thanks to the German Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin), the Hellenic Capital Market Commission and the UK's Financial Conduct Authority for their cooperation and assistance during the investigation.

### **Details on the violations:**

- CPB gave orders to Commerzbank AG (London Branch) through a specific person for the acquisition of its own shares, specifying the price, and in some cases the details of the order submission to the Athens Stock Exchange. Those orders were usually given via Bloomberg chat.
- Commerzbank AG<sup>2</sup>, transmitted the orders for execution to a subsidiary of CPB, namely the Investment Bank of Greece S.A. ("IBG"), per the CPB's instructions.

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<sup>1</sup> The shareholding structure of CPB includes former depositors of CPB as well whose deposits were converted into equity as result of the resolution measures.

<sup>2</sup> It appears that Commerzbank AG was transmitting the orders to IBG through its offices in Germany.



- Information on the orders and execution placed to the Athens Stock Exchange was communicated by IBG to Commerzbank AG. Commerzbank AG (London branch) was thereafter informing CPB accordingly. In some cases, CPB was aware of the details on the execution of the orders before it was informed by Commerzbank AG.
- CySEC considers the placing of the orders to the Athens Stock Exchange as giving the market misleading information in relation to the CPB shares. Orders did not correspond to real market demand, but to false demand created by the issuer of the shares.
- The acquisition of CPB shares usually took place at specific points in time, in a certain way aimed at ensuring the share price fixing in accordance with CPB's daily target.
- In many cases the transactions carried out by Commerzbank AG as a surrogate of CPB corresponded to a significant percentage of the total daily volume of transactions in relation to the CPB shares.
- After the market closed, CPB would send a request to Commerzbank AG to rebalance the index of the structured product ISIN XS0345364227, corresponding to the shares already purchased by Commerzbank AG, in line with CPB's instructions.

### **Additional information**

CySEC does not require the existence (or absence) of a motive to conclude that market manipulation took place. However, for the purpose of providing a detailed evaluation CySEC notes that:

The CPB announced the issuance of Contingent Convertible Bonds (CoCos) of €294 million on 14 April 2011 and issued a prospectus on 19 May 2011.

According to the prospectus dated 19 May 2011 (the Prospectus was published only in Greek and the following is an unofficial and a non-legally binding translation by CySEC):

*«Mandatory Conversions Price: The Mandatory Conversion Price will be calculated as a percentage of 90% of the weighted average price of the Bank's share price for a period of 20 working days preceding the notification of the Emergency Capital Need Incident or the Insolvency Incident, with minimum price the nominal value per share (today €0,85). The Conversion Ratio will be determined by dividing the nominal value of CoCos with the applicable Mandatory Conversion Price».*

Further details of CySEC's decision is available on its website.

**END.**

***\*CySEC clarifies that the content of this press release is strictly informative and does not substitute the CySEC Board's decision in any way.***