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DIRECTIVE DI87-04 OF THE CYPRUS SECURITIES AND EXCHANGE COMMISSION FOR THE PROVISION OF SERVICES BY THIRD COUNTRY FIRMS IN THE REPUBLIC OF CYPRUS TO ELIGIBLE COUNTERPARTIES AND PROFESSIONAL CLIENTS IN THOSE CASES THAT DO NOT FALL WITHIN THE SCOPE OF REGULATION (EU) NO. 600/2014 ON FINANCIAL MARKETS (MIFIR)

The Cyprus Securities and Exchange Commission in accordance with the power vested in it by virtue of section 96 of the Provision of Investment Services, the Exercise of Investment Activities, the Operation of Regulated Markets and other related matters Law of 2017, issues the following Directive:

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| Short Title. | 1. | This Directive may be cited as the Directive for the provision of services by third country firms to eligible counterparties and professional clients. |
| Interpretation. | 2. | In this Directive, unless the context otherwise indicates: |
| L. 87 (I)/2017 | | <p>“Law” means the Investment Services and Activities and Regulated Markets Law of 2017.</p> <p>Terms used in this Directive that are not interpreted differently shall have the meaning given to them by the Law.</p> <p>Where in this Directive reference is made to the Law, it shall include the regulatory administrative acts issued by delegation thereof.</p> |
| Scope. | 3. | The present Directive regulates those cases where third country firms wish to provide their services in the Republic to eligible counterparties and professional clients within the meaning of Part I, Second Appendix of the Law in those cases where the provisions of Article 46(2)(a) of Regulation (EU) No. 600/2014 are not satisfied. |
| Second Appendix L. 87(I)/2017 | | |
| Establishment of a branch. | 4. | (1) A third-country firm intending to provide in the Republic, investment services or perform investment activities with or without any ancillary services to eligible counterparties and professional clients within the meaning of Part I, Second Appendix of the Law and which does not satisfy the requirements of Article 46(2)(a) of Regulation (EU) No. 600/2014, must, for this purpose: |
| Second Appendix L. 87(I)/2017 | | (i) Have been granted authorisation in the third country where its head offices are established, for the provisions of the investment services or the performance of the investment |

activities which will be provided or performed in the Union and is subject to effective supervision and control of adhering to its obligations, ensuring full compliance with the requirements that are in place in the said third country, and

(ii) establish a branch in the Republic.

(2) The firm referred to in subparagraph (1) must comply with sections 40 and 41 of the Law.

(3) The branch referred to in this paragraph is granted authorisation in accordance with the provisions of section 42 of the Law.

Provision of services at the exclusive initiative of the client.

5. When an eligible counterparty or professional client within the meaning of Part I, Second Appendix of the Law, established or situated in the European Union, initiates at its own exclusive initiative the provision of an investment service or the performance of investment activity by a third-country firm, which does not satisfy the requirements of Article 46(2)(a) of Regulation (EU) No. 600/2014, the requirement for granting authorisation to operate a branch under paragraph 4(3) above, shall not apply to the provision of that service or activity by the third country firm to that client, including a relationship specifically relating to the provision of that service or activity. An initiative by such clients shall not entitle the third-country firm to market otherwise than through the branch, new categories of investment products or investment services to that client.

Adoption of equivalence decision of the European Commission.

6. In case that, after the granting of authorisation of a branch, the European Union adopts a decision in accordance with Article 47(1) of Regulation (EU) No. 600/2014, which results to the third country firm satisfying the conditions of Article 46(2) of the said Regulation, then, provided that the provisions of section 40(1) of the Law are not applied, the third country firm shall decide whether it will continue the operation of its branch or whether it will be registered in the register of third-country firms kept by ESMA in accordance with Article 46(1) of Regulation (EU) No. 600/2014, and notify its decision to the Cyprus Securities and Exchange Commission.

Entry into force.

7. This Directive shall enter into force from the date of its publication in the Official Gazette of the Republic.