

The present English text is for information purposes only and is not legally binding. The legally binding document is in the Greek language.

**Unofficial consolidation of Directive DI87-05 and Directive DI87-05(A)**

**DIRECTIVE DI87-05 OF THE CYPRUS SECURITIES AND EXCHANGE COMMISSION ON THE PROCEDURE FOR THE SUSPENSION AND WITHDRAWAL OF AUTHORISATION AND OTHER RELATED MATTERS**

The Cyprus Securities and Exchange Commission, in accordance with the powers vested in it by virtue of:

- (a) section 59(4) of the Prevention and Suppression of Money Laundering and Terrorist Financing Law for the specialisation of the manner of application of section 59(6)(a) of the same Law, and
- (b) section 96 of the Investment Services and Activities and Regulated Markets Law of 2017, for the determination of the issues which relate to sections 8, 44, 63, 70(2)(e), (f), (k) (l) and 71(6)(c) of the same Law,

issues the following directive relating to the procedure for the suspension and withdrawal of an authorisation as well as other related matters:

Short title  
R.A.D. 204 of 2018  
R.A.D. 425 of 2022.

1. This Directive may be cited as the Directive for the withdrawal and suspension of authorisation.

Interpretation

2. In the present directive, unless the context otherwise indicates, the following meanings shall apply:

87(I) of 2017

‘auditor’ has the same meaning given to the term in section 2 of the Investment Services and Activities and Regulated Markets Law;

‘third country firm’ means a firm which would have been an IF if its head office or registered office were located within the European Union;

Official Journal L 87,  
31.3.2017, p. 1

‘Regulation (EU) No. 2017/565’ means Regulation (EU) 2017/565 of the Commission by its delegation of 25<sup>th</sup> April 2016 supplementing directive 2014/64/EU of the European Parliament and the Council relating to the organisational requirements and the terms of operation of investment firms, as well as the definitions which apply for the purposes of the said directive;

‘CIF’ has the meaning given to the term in section 2 of the Investment Services and Activities and Regulated Markets Law;

‘Law’ means the Investment Services and Activities and Regulated Markets Law of 2017;

188(I) of 2007  
58(I) of 2010

80(I) of 2012  
101(I) of 2013  
184(I) of 2014  
18(I) of 2016  
13(I) of 2018

'Law 188(I)/2007' means the Prevention and Suppression of Money Laundering and Terrorist Financing Law of 2007;

R.A.D. 175 of 2015

'CID' has the meaning given to the term by the C.I.D. directive -Directive OD144-2007-15, as applicable and as amended from time to time;

Terms used in the present directive and not defined herein have the meaning given to them in the Law.

Where, in the present directive reference is made to the Law or to Law 188(I)/2007, such reference is deemed to include the regulatory administrative acts issued by delegation thereof.

Scope

3. (1) The present directive regulates the procedure followed in cases of withdrawal or suspension of authorisation as well as related matters.
- (2) The present directive applies to CIFs and third country firms with a branch in the Republic.
- (3) For the purpose of application of the present directive, any reference to a CIF shall be deemed to be a reference, as the case may be, and where it arises, to a third country firm with a branch in the Republic.

Notification by CIF for renunciation of operating licence.

4. (1) In the event where a CIF decides to expressly renounce its authorisation, either because it has not made use of it within twelve months, or it has not provided any investment services nor has it carried out any investment activity during the past six months, or for any other reason, it has an obligation to notify the Commission of its intention in writing, mentioning the reasons for the renunciation and the proposed timeframe of implementation of the actions pursuant to subsection (3). The timeframe must be reasonable, taking into account specifically the total liabilities towards clients which the CIF is obliged to settle.
- (2) The renunciation notification pursuant to subsection (1) is accompanied by all original authorisations and any amendments thereto (Greek and English versions), which shall be returned to the Commission.
- (3) Immediately after notifying the Commission, in accordance with subsection (1), the CIF is obliged to:
- (a) Publish on all its websites an announcement informing the investors of its intention to terminate its activities, as well as informing them of the procedure its clients must follow, within the timeframe imposed by the CIF, for completion of their transactions, return of their funds and financial instruments, as well as the filing of any possible complaints.

- (b) To inform every client separately, in the same medium used by the CIF pursuant to section 3 of Regulation (EU) 2017/565, of the procedure under paragraph (a).
- (c) To return all funds and financial instruments which belong to/are attributable to its clients, including any profits.
- (d) To settle all its obligations, including any possible debts towards the Commission.
- (e) To examine and resolve all complaints/reports of clients filed against the CIF.
- (f) To ensure it does not provide investment and ancillary services beyond those strictly necessary for completing its pending transactions or those of its clients, in accordance with their instructions.
- (g) To ensure that, until withdrawal of its operating licence by the Commission, it continues to maintain fully fledged offices and has the required and necessary personnel, which includes at least one director and/or member of senior management, for processing the activities of the present directive.

(4) The proposed timeframe under subsection 1 is approved by the Commission, which can demand that additional steps be taken by the CIF, other than those listed in subsection (3).

(5) With the implementation of all the actions of subsection (3) within the timeframe imposed, the CIF is obliged to notify the Commission accordingly.

In the event where it is not possible:

- (a) To return all funds to the clients, the CIF is obliged to deposit the total remaining funds into a bank account of the CID, providing relevant evidence to the Commission.
- (b) To return all financial instruments to the clients, the CIF is obliged to notify the Commission of the additional steps which it intends to take.

(6) With the notification under subsection (5), the CIF is obliged to provide an auditor's confirmation which confirms the CIF took all necessary steps and actions under subsection (3).

Where the cases of paragraphs (a) and (b) of subsection (5) both occur simultaneously, the auditor's confirmation must be accompanied by a detailed statement of clients, which states, for each client, their name, identity card/passport number, account number of the account maintained with the CIF and the owed amount, or name and value of the financial instruments in euro, as the case may be.

(7) When the Commission is satisfied with the actions of the CIF, it revokes its authorisation and updates the public register it maintains pursuant to section 5(3) of the Law. With the withdrawal of its

authorisation, the ex CIF is obliged to, immediately and without delay, ensure that all references in the websites thereof and anywhere else, relating to the provision/carrying out of investment services/activities, as well as references to its licensing and regulation by the Commission, have been deleted.

Other cases of withdrawal of authorisation 5. The provisions of section 4 also apply in cases where the Commission itself proceeds by its own initiative, to revoke an authorisation of a CIF. In such a case, the CIF is obliged immediately, and without any delay, to return all original authorisations and any amendments thereto (Greek and English versions) to the Commission.

Return of funds to clients 6. In cases where the Commission considers that client rights are at risk during the period of suspension or withdrawal of the authorisation, the Commission may require that an escrow account be set up and that a person be appointed, who, pursuant to section 4 (1) (b)(vii) of the Law regulating Companies providing Administrative Services and Related Matters can manage bank accounts, in order to return all funds owned by/attribution to the CIF clients, including any profit. Provided that where the funds are insufficient to cover the obligations towards clients, the CIF is obliged to cover the additional amount required by use of its own funds.

The Commission may also require the payment into the said escrow account, of additional funds on behalf of the CIF for the purpose of covering future client claims.

Upon termination of the escrow account, if it has not been possible to return all funds to the clients, the CIF is obliged to pay the remaining funds into a bank account of the CID and apply the provisions of the present directive proportionally, as the case may be, and notify the Commission accordingly.

It is provided that, the above obligation to deposit funds with the CID applies to existing escrow accounts also, which will terminate after the present directive comes into force.

Supervision by the Commission 7. A CIF in relation to which a process of withdrawal of its authorisation has commenced, remains under the supervision of the Commission until the Commission is satisfied that the CIF has fully complied with all requirements imposed upon it by the Law or Law 188(I)/2007 or Regulation (EU) No. 600/2014 or the acts adopted pursuant to these or the acts adopted pursuant to Directive 2014/65/EU.

R.A.D. 425 of 2022. 8. (DELETED)

Suspension of authorisation 9. (1) The Commission, by virtue of the authority granted to it by section 70(2)(f) of the Law for temporary prohibition of the carrying out of professional activity, in accordance with section 71(6)(c) of the Law,

and by virtue of the authority granted to it by section 59(6)(a)(iii) of Law 188(I)/2007, as the case may be, may suspend the authorisation until the CIF complies with the provisions of the Law or Law 188(I)/2007 or Regulation (EU) No. 600/2014 or the acts adopted pursuant to these, or the acts adopted pursuant to Directive 2014/65/EU.

The decision of the Commission may refer to complete or partial suspension of an authorisation.

(2) In the event of suspension of an authorisation, the CIF is obliged, within the timeframe imposed by the Commission, to notify the Commission of its compliance with the provisions of the Law or Law 188(I)/2007 or Regulation (EU) No. 600/2014 or the acts adopted pursuant to these, or the acts adopted pursuant to Directive 2014/65/EU.

(3) In the event that the Commission:

- (a) Is satisfied that the CIF has complied with the above mentioned in subsection (2), it recalls its decision for suspension of the authorisation, notifying the CIF accordingly, or
- (b) is not satisfied that the CIF has complied with the above mentioned, it may proceed with immediate withdrawal of its authorisation, with no further notification or process.

(4) In the event where the CIF does not notify the Commission accordingly within the timeframe imposed pursuant to subsection (2), the Commission may proceed with immediate withdrawal of its authorisation with no further notification or process.

(5) Where the cases of subsections 3(b) and (4) apply simultaneously, the provisions of section 4 apply proportionally, as the case may be.

(6) For as long as the suspension of the authorisation is in force, the CIF is obliged to publish in all its websites an announcement relating to the suspension of its authorisation and its inability to provide/carry out investment services/activities.

(7) For as long as the suspension of the authorisation is in force, the CIF is not permitted, unless the Commission specifies differently in its decision:

- (a) To provide/carry out investment services/activities.
- (b) To enter into any business transaction with any person and accept any new client.
- (c) To advertise itself as a provider of investment services.

(8) During the suspension of the authorisation period, the CIF, provided this is consistent with the wishes of its existing clients, may proceed with the below actions, without such actions being considered as a breach of the provisions of section 7(a):

- (a) Complete all its own transactions and those of its clients which are before it, in accordance with client instructions.
- (b) Return all funds and financial instruments which are attributable to its clients.

Immediate  
suspension  
of authorisation

10. (1) Where there is suspicion of possible non compliance of the CIF with the Law or Law 188(I)/2007 or Regulation (EU) No. 600/2014 or the acts adopted pursuant these, or the acts adopted pursuant to Directive 2014/65/EU, which may cause concern or risk relating to the protection of its clients or investors or constitutes a threat to the orderly operation and integrity of the market, the Commission may immediately and without any further notification or process suspend the authorisation, in whole or in part. In such a case the decision for suspension in whole or in part of the authorisation is taken by the Chairman or the Vice-Chairman of the Commission, who notify the Commission immediately at its next board meeting.
- (2) In the case of immediate suspension of authorisation pursuant to the present section, the provisions of section 9 apply.

Extension of time  
period  
for maintaining  
records.

11. In the event of suspension or withdrawal of an authorisation, the Commission may require that the CIF extends the period for which it maintains its records, in accordance with the provisions in the Law and the Regulation (EU) 2017/565, from five years to a greater period, which, however, cannot exceed two years.

Entry into force

12. The present directive enters into force from its publication in the Official Gazette of the Republic.