**Form F78-2012-07**

**APPLICATION FORM FOR OBTAINING A VARIABLE CAPITAL INVESTMENT COMPANY OPERATION LICENSE WHICH HAS NOT APPOINTED A MANAGEMENT COMPANY**

**Name of the Applicant: ……………………………………………………………………**

**Purpose of this form**

The present from is filled-in in case of an application for granting an operation license to a Variable Capital Investment Company which will not appoint a Management Company according to Article of the Open-Ended Undertakings for Collective Investment Law of 2012 (hereinafter referred to as the Law) and with the Directive DI78-2012-07.

|  |
| --- |
| For official use only  The applicant has paid the incumbent fees for the assessment of the application for being granted a Common Fund operation license, as such fees are laid down in the Commission Directive on payable rights and annual contributions incumbent on UCITS, UCI and Management Companies. The aforementioned fees have been verified and have proven to be correct.  ……………………………… Signature  …………………..……….. Name/Position |

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**INTRODUCTION**

Clarifications as to the filling-in of the form

1. This application form must be completed in electronic form. An electronic version of the application form can be downloaded from the website of the Cyprus Securities and Exchange Commission (the ‘Commission’) at the address: www.cysec.gov.cy.

2. The questions must remain unaltered and the answers must be provided below each relevant question

3. All questions applicable to the applicant should be duly answered, or, if they do not apply state ‘N/A’.

4. Where documents or forms are required to be attached, a reference in the relevant paragraph shall be made and these documents have to be attached as numbered Annexes **following the numbering order set out by the Commission.** The numbering of the accompanying documents of the application attached as Annexes must remain unaltered even in case no document/form is to be attached (e.g. if there are no documents/forms to be attached to Annex 21, then this shall be numbered and remain blank). The said forms are attached as originals or as certified true copies in an official language of the Republic or in English language.

5. Where there are no competent authorities for the issue of certificates, attach equivalent documents from an independent and reliable source.

6. This application, when submitted to the Commission must be accompanied by the required fee, as such fee is laid down in the Commission Directive on payable rights and annual contributions incumbent on UCITS, UCI and Management Companies.

7. In case of need to provide additional documents and information, there is space in the notes preceding Type ΙΙ.

8. On completing the application, it should not be assumed that information, which is publicly available, or which has been previously disclosed to the Commission or to another supervisory authority is known to the Commission.

9. If the applicant for which a Variable Capital Investment Company operation license is sought, is a company under constitution, some of the required information may not be known and some of the required forms and certificates may not be available at the time of submission of the application. In such a case, missing information and related forms and certificates shall be communicated to the Commission immediately after the completion of the constitution procedure of the applying company.

**10.** In case of application for granting a Variable Capital Investment Company operation license with multiple investment compartments, following documents and information have to be provided per investment compartment: The operations as to which the granting of the license is sought (Paragraph 2), the shareholders of each investment compartment (Paragraph 3.1), the details of the persons that will be responsible for the management of each investment compartment (Paragraph 4.7.1), any delegation of functions to a third party (Paragraph 4.8), the financial details of each investment compartment (Paragraph 5 except for 5.7), the information and details of points 2,3 and 4 of Paragraph 7 as to the operational plan of the applicant for each investment compartment, the details of the person or persons that will be responsible for monitoring the activity of each investment compartment (Paragraph 9.4.4) and the particular internal organisational measures adopted by the Depositary regarding each investment compartment (Paragraph 9.4.5).

In addition, the accompanying documents of the application with the numbers 3 to 8, 17, 25, 28 and 31 as laid down under Type II, shall be submitted separately for each investment compartment.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

We the signatories of the Memorandum and Articles of Association of the company under constitution or (in case of an existing company) We the members of the Board of Directors of the company bearing the denomination …………………………….. (the “Applicant”) submit in accordance with Article 34 of the Open-Ended Undertakings for Collective Investment (UCI) Law of 2012, the application for being granted a Variable Capital Investment Companyoperation license. The application is accompanied by all documents and incumbent fees.

**1. Contact details of the applicant**

|  |  |  |
| --- | --- | --- |
| **1.1** | Full Name | : |
| **1.2** | Business Name | : |
| **1.3** | Number and date of registration (Please attach as **Annex I** certificate of constitution/registration from the Registrar of Companies) : | : |
| **1.4** | Address of registered office (Please attach as **Annex II** the certificate of Registered Office Address) | : |
| **1.5** | Address of head office | : |
| **1.6** | Postal address | : |
| **1.7** | Telephone number | : |
| **1.8** | Fax number | : |
| **1.9** | Electronic mail address | : |
| **1.10** | Website address | : |
| **1.11** | Group website address | : |
| **1.12** | **External auditors** | : |
|  | 1.12.1 Name of partner in charge | : |
|  | 1.12.2 Postal and electronic mail address | : |
|  | 1. 12.3 Telephone number | : |
|  | 1.12.4 Fax number | : |
| **1.13** | **Legal Advisors** | : |
|  | 1.13.1 Name of legal advisor in charge | : |
|  | 1.13.2 Postal and electronic mail address | : |
|  | 1.13.3 Telephone number | : |
|  | 1.13.4 Fax number | : |

|  |  |  |  |
| --- | --- | --- | --- |
| **1.14** | **Representative for the promotion of the application[[1]](#footnote-1)** | : |  |
| 1.14.1 | Name and surname | : |  |
| 1.14.2 | Position/Relationship with the applicant | : |  |
| 1.14.3 | ID /Passport number (country of issue) | : |  |
| 1.14.4 | Employment address | : |  |
| 1.14.5 | Postal and electronic mail address | : |  |
| 1.14.6 | Telephone number | : |  |
| 1.14.7 | Fax number | : |  |

**2. Operations as to which the granting of the license is sought**

**2.1.** Collective management of the portfolio of the Variable Capital Investment Company in accordance with Article 6 (a) of the Law.

|  |  |  |
| --- | --- | --- |
| **2.1.1.** | **Financial instruments (Art. 40 of the Law)** | **UCITS Investment** *(tick* ***√*** *the appropriate box)* |
| 1. | Bonds traded on a regulated market in the Republic |  |
| 2. | Bonds traded on a Member State regulated market |  |
| 3. | Bonds traded on a third country regulated market |  |
| 4. | Interest bearing government bonds |  |
| 5. | Cash, deposits and certificates of deposits |  |
| 6. | Shares traded on a regulated market in the Republic |  |
| 7. | Shares traded on a Member State regulated market |  |
| 8. | Shares traded on a third country regulated market |  |
| 9. | Recently issued transferable securities |  |
| 10. | Units or shares of other UCITS or Undertakings for Collective Investment (UCI) |  |
| 11. | Derivatives |  |
| 12. | Money Market Instruments other than those traded on a regulated market |  |
| 13. | Other financial instruments according to Art. 40 of the Law. | Please list such instruments: |

**2.1.2.** In case the applicant intends to perform transactions in derivatives *(tick* ***√***  *the appropriate box)*

|  |  |
| --- | --- |
| Will such transactions be performed within the context of the investment policy of the UCITS; | YES NO |
| Will such transactions be performed for efficient portfolio management purposes? | YES NO |
| Will such transactions be performed in common derivatives; | YES NO |
| Will such transactions be performed in embedded derivatives; | YES NO |
| Will such transactions be performed in listed derivatives; | YES NO |
| Will such transactions be performed in over the counter (OTC) derivatives; | YES NO |

**3. Shareholding structure of the Applicant- Group membership**

**3.1. Shareholders of the Applicant**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **3.1.1** Please state all shareholders of the Applicant irrespectively of whether they possess or not qualifying holdings in the applicant according to Art. 2 of the Law. | | | | |
|  | **Name/ Business name of shareholder** | **Qualifying holdings** | | **Percentage of holdings (%)** |
| **YES** | **NO** |
| 1. |  |  |  |  |
| 2. |  |  |  |  |
| 3. |  |  |  |  |
| 4. |  |  |  |  |
| 5. |  |  |  |  |
| 6. |  |  |  |  |

**3.2. Shareholders with qualifying holdings**

|  |  |  |  |
| --- | --- | --- | --- |
| **3.2.1** Please provide the information requested below for each one of the shareholders having qualifying holdings in the Applicant according to Art.2 of the Law. | | | |
| **3.2.1.1** | In case of shareholders –legal persons | | |
|  | Name and legal form | **:** | |
|  | Seat | **:** | |
|  | Registration number | **:** | |
|  | Principal activities | **:** | |
|  | Amount of voting rights, which the qualifying shareholder may exercise, directly or indirectly at the General meetings of the Applicant | **:** | |
|  | Main shareholders of the legal person**:** | Business Name  /Name and surname | 1. |
| 2. |
| 3. |
| 4. |
|  |  | Professional capacity | 1. |
| 2. |
| 3. |
| 4. |
|  |  | Amount of shareholding in the legal person | 1. |
| 2. |
| 3. |
| 4. |
|  | Members of the Board of Directors of the legal person | Name and surname | 1. |
| 2. |
| 3. |
| 4. |
| 5. |
|  |  | Professional capacity | 1. |
| 2. |
| 3. |
| 4. |
| 5. |
| **3.2.1.2** | In case of shareholders-natural persons | | |
|  | Name and surname | : | |
|  | Domicile address | : | |
|  | Professional capacity | : | |
|  | Amount of voting rights, which the qualifying shareholder may exercise, directly or indirectly at the General meetings of the Applicant | : | |

**3.2.2** Regardin**g** the shareholders mentioned in Paragraph 3.2.1.1 above, a certificate of shareholders **(Annex 3)** and a certificate of good standing has to be filed (**Annex 4**). In case the shareholders-legal persons have been constituted and are operating outside of the Republic, then attach the Articles of Association (**Annex 5**) and a certificate of good standing or, if such certificate is not possible to be obtained, the annual financial statements of the last three financial years (**Annex 6**), or, alternatively, an extract from the Register of Commerce, where such company is registered and which also contains the abovementioned information. Regarding the shareholders-natural persons mentioned in Paragraph 3.2.1.2 above, a certified ID or passport copy has to be filed, a certificate of non-bankruptcy and a criminal record extract issued by the competent authorities from their country of domicile. It is stressed that, if the shareholder-natural person was domiciled, during the last five years, outside the Republic, then the certificate of non-bankruptcy and the criminal record extract have to be issued by the competent authorities of that country (**Annex 7**). Where the country of domicile of the shareholder does not issue criminal record extract and/or non-bankruptcy certificate, then such documents have to be submitted, which in the judgment of the Commission, will certify that the shareholder has not been submitted to bankruptcy or to a similar situation.

**3.2.3.** Shareholders of the Applicant, either natural persons or legal persons, having qualifying holdings, shall complete the Type I Questionnaire.

**3.3** Regarding the natural persons being the ultimate beneficial owners (UBOs) of the shares of the Applicant, certified ID or passport copies, certificates of non-bankruptcy and criminal record extracts issued by the competent authorities of their country of domicile have to be attached. It is stressed that, if the UBOs were domiciled, during the last five years, outside the Republic, then the certificates of non-bankruptcy and the criminal record extracts have to be issued by the competent authorities of those countries (**Annex 8**). Where the country of domicile of the UBO does not issue criminal record extracts and/or non-bankruptcy certificates, then such documents have to be submitted, which in the judgment of the Commission, will certify that the UBO has not been submitted to bankruptcy or to a similar situation.

**3.4. Group membership of the Applicant – close links**

**3.4.1. Please answer** whether the applicant belongs to a Group: YES N O :

**3.4.2. In** case of affirmative response to the question above, attach a chart with the structure of the Group, to which the applicant belongs, reaching up to the UBOs-natural persons. The chart must contain the name of the entity, shareholding amount, country of constitution and principal activities of the companies of the Group (**Annex 9**).

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**3.4.3. Please** state whether the applicant has close links, within the meaning of Art. 2 of the Law, with persons beyond those mentioned under Paragraph 3.2 above:

YES NO

**3.4.4.** In case of affirmative response to the question above, please fill-in the following table:

:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name of entity | Registration number | Country of constitution | Competent or supervisory authority | Activities |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

**4. Organisational structure of the applicant**

**4.1. Organisational chart**

**4.1.1** A chart with the organisational structure of the applicant has to be attached (**Annex 10**) in which following shall be analytically shown:

1. All reporting /lines

2. All departments/functions

3. Committees

4. Third persons to which services/ activities/works have been delegated to

5. Number of persons occupied in each department/function

**4.2. Board of Directors**

**4.2.1.** Please fill-in the details of the members of the Board of Directors of the applicant.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Α/Α | Name and surname | Position in the Board of Directors/executive or non-executive Director | Professional capacity | Address |
| 1. |  |  |  |  |
| 2. |  |  |  |  |
| 3. |  |  |  |  |
| 4. |  |  |  |  |
| 5. |  |  |  |  |

**4.2.2.** The Type I Questionnaire shall be filled-in by all members of the Board of Directors.

**4.2.3.** Attach the Directors’ and Secretary certificate of the applicant, if available (**Annex 11**).

**4.2.4.** Regarding the members of the Board of Directors, certified ID or passport copies, certificates of non-bankruptcy and criminal record extracts issued by the competent authorities of their country of domicile have to be attached. It is stressed that, if a member/members of the Board of Directors of the applicant was/were domiciled, during the last five years, outside the Republic, then the certificates of non-bankruptcy and the criminal record extracts have to be issued by the competent authorities of this/those country/countries (**Annex 12**). Where the country of domicile of the member of the Board of Directors of the applicant does not issue criminal record extracts and/or non-bankruptcy certificates, then such documents have to be submitted, which in the judgment of the Commission, will certify that the member of the Board of Directors has not been submitted to bankruptcy or to a similar situation.

**4.3.** **Senior Management**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **4.3.1.** Fill-in the details of the Senior Management of the applicant. Members of Senior Management are the persons who direct the fields of activity or the respective operational departments or directorates of the applicant.   |  |  |  |  |  | | --- | --- | --- | --- | --- | | Α/Α | Name and surname | Position within the Company | Professional capacity | Address | | 1. |  |  |  |  | | 2. |  |  |  |  | | 3. |  |  |  |  | | 4. |  |  |  |  | | 5. |  |  |  |  | |

**4.3.2.** The Type I Questionnaire has to be filled-in by all members of the Senior Management (to be omitted, if it has been in accordance with Paragraph 4.2.2 above). A certified ID or passport copy of the each of the Senior Management has to be attached (**Annex 13**).

**4.4. Managing Directors**

**4.4.1.** The details of the Managing Directors of the applicant have to be filled-in. (According to Art. 34(1)(a) (ii) of the Law the Directors have to be at least two (2)).

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Α/Α | Name and surname | Position within the applicant | Professional capacity | Address |
| 1. |  |  |  |  |
| 2. |  |  |  |  |
| 3. |  |  |  |  |

**4.4.2** The Type I Questionnaire shall be filled in by the Managing Directors (to be omitted, if it has been filled-in in accordance with Paragraphs 4.2.2 and 4.3.2 above) and certified ID or passport copies, certificates of non-bankruptcy and criminal record extracts issued by the competent authorities of the country/countries of domicile of the said Directors have to be attached. It is stressed that, if any of the said Directors of the applicant was/were domiciled, during the last five years, outside the Republic, then the certificate of non-bankruptcy and the criminal record extract have to be issued by the competent authorities of this/those country/countries (**Annex 14**). Where the country of domicile of the Director of the applicant does not issue criminal record extracts and/or non-bankruptcy certificate, then such documents have to be submitted, which in the judgment of the Commission, will certify that the Director(s) of the applicant has/have not been submitted to bankruptcy or to a similar situation.

**4.5.** **Internal Auditor & Compliance Officer**

**4.5.1.** Please fill-in the details of the Internal Auditor and the Compliance Officer of the Applicant.

Internal Auditor

|  |  |  |  |
| --- | --- | --- | --- |
| Name and surname | Professional capacity | Address | Date of appointment |
|  |  |  |  |

Compliance Officer

|  |  |  |  |
| --- | --- | --- | --- |
| Name and surname | Professional capacity | Address | Date of appointment |
|  |  |  |  |

**4.5.2.** The Type I Questionnaire shall be filled in by the Internal Auditor & the Compliance Officer of the Applicant.

**4.5.3.** Certified ID or passport copies of the Internal Auditor and of the Compliance Officer have to be attached (**Annex 15**).

**4.6. Risk Manager**

**4.6.1.** Please fill-in the details of the Risk Manager of the applicant..

|  |  |  |  |
| --- | --- | --- | --- |
| Name and surname | Professional capacity | Address | Date of appointment |
|  |  |  |  |

**4.6.2.** Please attach a certified ID or passport copy of the Risk Manager (**Annex 16**)

**4.7. Other Officers**

**4.7.1** Please state the details of the persons which will be assigned with the management of the Variable Capital Investment Company:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Α/Α | Name and surname | Certificate/ Personnel under training | Position within the Company | Date of appointment |
| 1. |  |  |  |  |
| 2. |  |  |  |  |
| 3. |  |  |  |  |

**4.7.2** **Members of the Investment Committee**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Please fill-in the details of the members of the Investment Committee of the applicant.   |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | Α/Α | Name and surname | Position within the Company | Professional capacity | Certificate⃰ | Address | | 1. |  |  |  |  |  | | 2. |  |  |  |  |  | | 3. |  |  |  |  |  | | 4. |  |  |  |  |  | | 5. |  |  |  |  |  | |

⃰ It is stressed that the members of the Investment Committee that will have a decisive role must possess a certificate regarding the provision of portfolio management serviceΣ.

**4.8. Delegation of functions to a third party**

**4.8.1.** Please state whether the applicant intends to delegate functions to third parties in accordance with Art. 115 of the Law and Directive DI78-2012-05:

YES NO

**4.8.2.** In case of affirmative response please state the following details of the third party/provider

**4.8.2.1.** In case the third party/provider is established in the Republic or in another member state, please fill-in:

|  |  |  |
| --- | --- | --- |
| Name | : |  |
| Registration number/authorisation number | : |  |
| Home member state | : |  |
| Competent Supervisory Authority | : |  |
| * 1. Telephone number | : |  |
| Fax number | : |  |
| Email address | : |  |
| * 1. Activities/functions to be delegated | : |  |

**4.8.2.2.** In case the third party/service provider is established in a third country:

|  |  |  |
| --- | --- | --- |
| Name | : |  |
| Registration number/authorization number | : |  |
| Type of business/activities | : |  |
| Group membership | : |  |
| Country of origin | : |  |
| Competent Supervisory Authority | : |  |
| Contact person | : |  |
| * 1. Telephone number | : |  |
| Email address | : |  |
| * 1. Activities/functions to be delegated | : |  |

**4.8.3.** To be confirmed that the third party/provider, if established in a third country, is subject to prudential supervision and to equivalent protection safeguards as those provided for in the Law and in the Directive DI78-2012-01 and to submit an attestation or a document of respective evidential force from the competent supervisory authority.

.

YES NO

**4.8.4.**  If the delegation relates to the investment management of the portfolio of the Variable Capital Investment Company and the third party/service provider is an asset management company, excluding the provision of collective portfolio management, then the Form Ε78-2012-03 (Attachment………..) has to be attached.

**5. Financial information of the applicant**

**5.1.** Initial capital of the applicant according to Art.34(1) of the Law.

|  |
| --- |
|  |

**5.2.** Composition of the initial capital of the applicant.

|  |
| --- |
|  |

**5.3.** Does the applicant intend to increase its initial capital? If yes, state the amount and the method of the increase.

|  |
| --- |
|  |

**5.4.** When doesthe financial year of the applicant, that follows the submission of the application end?

|  |
| --- |
|  |

**5.5.** The financial projection details of the applicant for the first 12 months of operations have to be attached. These details shall include following as a minimum: Pro forma balance sheet and exercise results of the applicant for the financial year following the submission of the application, specification of the sources of the financial means of the applicant and cash flow development (**Annex 17**).

**5.6** Attach the latest annual financial statements of the applicant together with the relevant report of the independent approved auditors (**Annex 18**).

**5.7** Attach the latest annual consolidated financial statements of the group to which the applicant belongs to, along with the relevant report of the independent approved auditors (**Annex 19**).

**5.8** State details in relation to any encumbrances (including the type of encumbrance), guarantees, indemnities or other forms of security or other commitments (including letters of comfort) given by the applicant to third parties and which are in force at the date of the application (also include with special reference those relating to other undertakings of the same Group or to persons related with those).

|  |
| --- |
|  |

**6.** «**On The Conditions For Granting The Operation License And On The Ongoing Obligations Of The Management Company And On The Agreement Between The Depositary And The UCITS Management Company»**

**6.1.** Attach the internal regulations of the applicant relating to the provision of the services as filled-in Paragraph 2 of the present application (**Annex 20**).

**6.2.** Attach a description of the policies and procedures of the applicant as to following of its functions: Internal Audit, Risk Management, Regulatory Compliance, Personal transactions, Record-keeping, Internal reporting and information flow towards third persons, Conflicts of Interest, inducements/benefits, reception of subscription– redemption/repurchase orders of UCITS under management, execution of orders for the account of UCITS under management, client complaint handling against the applicant, accounting-wise monitoring and valuation of the portfolio of the UCITS under management, delegation of functions to third parties/service providers, monitoring and assessment of effectiveness of the systems employed, of internal control mechanisms and of the procedures adopted as well as of the management of eventual deficiencies and of other urgent situations (**Annex 21**).

**6.3.** Attach description of the electronic systems of the applicant, of the back-up electronic systems and of the procedures ensuring business continuity of the applicant in case of interruption of functioning of its systems (**Annex 22**).

**6.4.** Attach description of the procedures and policies of the applicant relating to prevention of money laundering and terrorism financing according to Paragraph (9)(1)(c) of Directive DI-2007-08 (**Annex 23**).

**6.5.** Alternatively attach the internal regulation of the applicant, if all information required above is contained therein (**Annex 24**).

**7. Business Plan**

Attach the applicant’s business plan (program of activities) which will include information relating to following issues (**Annex 25**) as a minimum:

|  |  |  |
| --- | --- | --- |
| 1. | State whether the applicant has or intends to establish offices in other areas of the Republic or in other Member States | State the address of such offices and the names and surnames of their persons in charge |
| 2. | State the extent to which the applicant intends to conduct part of its business activities through authorised representatives | State information on the business activity to be conducted, eventual restrictions and the relationship between the applicant and third parties (e.g. companies belonging to the same group) |
| 3. | State whether there is any specific client network at the moment of submission of the application and whether the applicant has entered into contact with potential future clients. | |
| 4. | Procedures for development and promotion of the business activities and advertising procedures to be adopted by the applicant. | |

**8. Other information in case the applicant is an existing company**

Answer the questions below (*in case of affirmative response, please provide details)*:

**8.1.** Did the applicant during the last decade hold an authorisation to operate as a credit institution or as a Cyprus Investment Firm (Investment Firm) or as a financial institution in general, as an insurance organisation or as an organisation investing portfolios, in the Republic or outside the Republic? If yes, fill-in the following table:

………………………………………………………………………………………………………….

|  |  |  |
| --- | --- | --- |
| Date  (From/until/  month/year) | Name of supervisory authority and country of establishment | Type of license (e.g. credit institution, Cyprus Investment Firm, etc) |
|  |  |  |

**8.2.** Did the applicant during the last decade face a refusal for being granted authorisation, the suspension or withdrawal of an authorisation to operate as a credit institution as a Management Company or as a Cyprus Investment Firm (Investment Firm) or as a financial institution in general, as an insurance organisation or as an organisation investing portfolios, in the Republic or outside the Republic?

…………………………………………………………………………..

**8.3.** Have the applicant’s financial and accounting books been audited beyond the regular audits, by a competent or supervisory authority, in the Republic, or outside the Republic during the last decade?

…………………………………………………………………………..

**8.4.** Has the applicant been the object of an investigation by a competent or supervisory authority in the Republic and/or outside the Republic in the last decade?

…………………………………………………………………………..

**8.5.** Have the books and/or records of the applicant been requested or confiscated by a competent or supervisory authority, in the Republic and/or outside the Republic?

…………………………………………………………………………..

**8.6.** Has the applicant ever obstructed the efficient exercise of supervision by a

competent or supervisory authority in the Republic and/or outside the Republic?

……………………………………………………………………………

**8.7.** Has an administrative sanction been imposed upon the applicant by a

competent or supervisory authority in the Republic and/or outside the Republic

during the last decade?

…………………………………………………………………………..

**8.8.** Has there ever been a conviction against the applicant or are there any

charges pending against it in the Republic and/or outside the Republic:

8.8.1. For offences or violations that involve deceit or fraud or bribery or venality or forgery or tax evasion?…………………………..…………………....

8.8.2. For offences or violations concerning money laundering activities and terrorism financing?………………….………………….

8.8.3. For offences or violations that involve the use of confidential- privileged information? ……………….

8.8.4. For offences or violations that involve the manipulation of the stock market price of a financial instrument which was subject to trading on a regulated market, or on an equivalent market of a third country?……….……….

8.8.5. For the payment of damages in relation to the provision of investment and ancillary services?…………………..

8.8.6. For any other action that is punishable by imprisonment of the legal representatives of the applicant?

………………………………………….

**8.9.** Has an application to dissolve, compulsory liquidate, classify as insolvent or

confiscate its assets or place in mandatory receivership been filed against the

applicant during the last decade or has the applicant been placed in mandatory

receivership?

…………………………………………………………………………..

**8.10.** Have the external auditors of the applicant been replaced during the last 5 years;

…………………………………………………………………………..

**8.11.** Have the legal advisors of the applicant been replaced during the last 5 years;

…………………………………………………………………………..

**8.12.** Has the applicant, or any legal person or partnership or unincorporated entity

with which the applicant was associated, ever been asked to close an account with a

credit institution or did a credit institution, with which the applicant was co-

operating, close an account it had with the applicant or with any of the above

mentioned entities?

…………………………………………………………………………..

**8.12.** Has the applicant faced any of the following situations during the last five years:

8.12.1 Failure to repay a due debt?…………………

8.12.2. Protest of bills of exchange or notes?……………………………………………….

8.12.3. Issue of “bad” cheques? ………………………………

**8.13.** Is there anything relevant you would like to declare and which could positively or negatively affect the assessment on the applicant?

……………………………………………………………………………

**9. Confirmations-declarations and other details**

**9.1.** Please attach confirmations from the auditors and legal advisors of the Applicant that, from what they know and believe, neither the Applicant nor the persons that effectively direct its business are in any way involved, directly or indirectly, in any criminal activities or any activities, that may be used for the promotion, furtherance, assistance, instigation of economic crime or in any activities that may be deemed to be promoting, furthering, assisting or instigating it (**Annex 26**).

**9.2.** Please attach a confirmation by the representative for the promotion of the application for obtaining a Variable Capital Investment Company operation license, which states that: *‘I hereby state and confirm that as far as I know and believe, neither the Applicant nor the persons that effectively direct its business, are involved or have been involved, directly or indirectly, in any criminal activities or any activities that may be used in the promotion, furtherance, assistance, instigation of economic crime or that may be deemed to be promoting, furthering, assisting or instigating it’* (**Annex 27**).

**9.3.** Please attach a confirmation by the Applicant that the initial capital required or the capital required for the increase of the initial capital is or will be available and that it undertakes to block such amount in a bank account held by a credit institution in the Republic or by credit institutions of member states, if and when the Commission so requests . This confirmation shall also state the details of the persons that have paid or have undertaken to pay the initial capital (**Annex 28**). Following completion of the assessment procedure of the application for granting a Variable Capital Investment Company operation license and before such operation license be granted, the Applicant must submit a confirmation by one or more member states’ credit institutions, in which it shall be stated that the whole of the capital required in accordance with the Law is blocked in a bank account of the credit institution or credit institutions mentioned above and will remain blocked until the operation license is granted.

**9.4. Information on the Depositary**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **9.4.1 Identification details:** | | | | | |
| Full name: | | | ……………………………………………………………………………………………………………………………… | | |
| Nr. of registration : | | | ……………………………………………………………………………………………………………………………… | | |
| Date of registration: | | | …………………………………………………………………………………………………………………………………… | | |
| **9.4.2 Registered office address/ seat:** | | | | | |
| Address: | | …………………………………………………………………………………………………………………………………… | | | |
| Telephone number: | | …………………………………………………………………………………………………………………………………… | | | |
| Fax number: | | …………………………………………………………………………………………………………………………………… | | | |
| Electronic mail address: | | …………………………………………………………………………………………………………………………………… | | | |
| Website address: | | …………………………………………………………………………………………………………………………………… | | | |
| **9.4.3 Correspondence address – if different from 9.4.2 above:** | | | | | |
| Electronic mail address: | | …………………………………………………………………………………………………………………………………… | | | |
| Telephone number: | | …………………………………………………………………………………………………………………………………… | | | |
| Fax number: | | …………………………………………………………………………………………………………………………………… | | | |
| **9.4.4 Details of the persons that are determined as Directors of the Depositary and that will be responsible for the monitoring of the activity of the Variable Capital Investment Company at issue:** | | | | | |
| Α/  Α | Name and surname | | Country of residence | Job position | Qualifications/  Experience |
| … | ……………………………………………………………………………………………………….. | | …………………………………………………………………………………………… | …………………………………………………………………………………………….  ……………………… | ………………….………………….………………….………………….………………………………………….. |
| … | ……………………………………………………………………………………………………….. | | …………………………………………………………………………………………… | …………………………………………………………………………………………….  ……………………… | ………………….………………….………………….………………….………………………………………….. |
| … | ……………………………………………………………………………………………………….. | | …………………………………………………………………………………………… | …………………………………………………………………………………………….  ……………………… | ………………….………………….………………….………………….………………………………………….. |
| **9.4.5 Please mention the particular internal organisation measures adopted by the Depositary regarding the Variable Capital Investment Company at issue.** | | | | | |

……………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………………

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**We responsibly declare, being fully aware of the consequences of the Law, that:**

**a) We have applied all required diligence to ensure that all information contained in this application, as well as the forms, details and documents that accompany this application are correct, complete and accurate.**

**b) We have taken all necessary measures, so that the applicant can fulfill all conditions for being granted the Variable Capital Investment Company operation license as such conditions are laid down in the Law and in the Directives issued by the Commission.**

**c) During the time period following the submission of the present application to the Commission and until the decision of the Commission is communicated, we will immediately notify the Commission, in writing, about any change having occurred in the information and/or details and/or documents and forms submitted with the present application.**

**We confirm that we are ready and willing to comply with the requirements and/or obligations arising out of the applicable legislation.**

**We acknowledge and accept that the Commission may reveal information in the exercise of its duties, as these duties are defined in the applicable Law.**

***We acknowledge that the provision of false or misleading information or documents or forms or the withholding of material information from the current application constitutes, apart from being a breach subject to administrative fine of up to 350.000 EUR, which may rise up to 700.000 EUR in case of repeated or continued breach, a criminal offence being punishable with imprisonment up to five (5) years.***

......................................................... ......................................................

Name, surname and capacity Signature

......................................................... ......................................................

Name, surname and capacity Signature

......................................................... ......................................................

Name, surname and capacity Signature

Date ...........................................

**ΤΥPE Ι**

**Additional pages for filling in details and information**

**TYPE ΙΙ**

**Α. List of accompanying documents of the application (Checklist)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Annex | Documents/ forms | Subparagraph of form | Submitted (√) / Not applicable (N/A) | For official use only |
|  | Certificate of Registration/constitution from the Registrar of Companies | **1.3** |  |  |
|  | Certificate of address of registered office | **1.4** |  |  |
|  | Certificate of shareholders | **3.2.2.** |  |  |
|  | Certificate of good standing | **3.2.2.** |  |  |
|  | Constitutional documents of legal persons constituted and operating outside of the Republic | **3.2.2.** |  |  |
|  | Certificate of good standing or, if not available, the annual financial statements of the last three years or extract from the Chamber of Commerce | **3.2.2.** |  |  |
|  | Certified ID or passport copy and certificate of non-bankruptcy and criminal record extract for shareholders natural persons | **3.2.2.** |  |  |
|  | Certificates of non-bankruptcy and extracts from the criminal record for the ultimate beneficial shareholders | **3.3.** |  |  |
|  | Chart with the structure of the Group, to which the Variable Capital Investment Company belongs | **3.4.2** |  |  |
|  | Chart with the organisational structure of the Variable Capital Investment Company | **4.1.1.** |  |  |
|  | Certificate of Directors and Secretary of the Variable Capital Investment Company, if applicable. | **4.2.3** |  |  |
|  | ID or passport copy of the members of the Board of Directors and certificates of non bankruptcy and criminal record extract | **4.2.4** |  |  |
|  | ID or passport copy of the members of the Senior management and certificates of non bankruptcy and criminal record extract | **4.3.2.** |  |  |
|  | ID or passport copy of the persons effectively directing the applicant’s business and certificates of non bankruptcy and criminal record extract | **4.4.2.** |  |  |
|  | ID or passport copy of the Internal Auditor and of the Compliance Officer | **4.5.3.** |  |  |
|  | ID or passport copy of the Risk Manager | **4.6.2.** |  |  |
|  | Financial projection details of the Variable Capital Investment Company for the first 12 months of its operations | **5.5.** |  |  |
|  | Latest annual financial statements of the Variable Capital Investment Company, accompanied by the independent auditors’ respective report on those statements | **5.6.** |  |  |
|  | Latest consolidated annual financial statements of the Group, to which the Variable Capital Investment Company belongs, accompanied by the independent auditors’ respective report on those statements | **5.7.** |  |  |
|  | Internal regulation of the Variable Capital Investment Company relating to the provision of its services | **6.1.** |  |  |
|  | Description of the policies and procedures of the Variable Capital Investment Company | **6.2.** |  |  |
|  | Description of the electronic systems of the Variable Capital Investment Company as well as of its back-up electronic systems and procedures. | **6.3.** |  |  |
|  | Description of the policies and procedures of the Variable Capital Investment Company relating to prevention of money laundering and terrorism financing | **6.4.** |  |  |
|  | Internal Regulation of the Variable Capital Investment Company | **6.5.** |  |  |
|  | Business plan (program of operations) of the Variable Capital Investment Company | **7.1.** |  |  |
|  | Confirmations from the external auditors and the legal advisors of the Variable Capital Investment Company | **9.1.** |  |  |
|  | Confirmation from the promoter of the application for obtaining a Variable Capital Investment Company operation license | **9.2** |  |  |
|  | Confirmation from the Variable Capital Investment Company that it disposes over the required capital for forming or increasing its initial capital and that it undertakes to block this capital in a bank account held with a credit institution or institutions in Cyprus or in other member states | **9.3** |  |  |
|  | Draft constitutional documents of the Variable Capital Investment Company |  |  |  |
|  | Draft Prospectus of the Variable Capital Investment Company |  |  |  |
|  | Draft Key Investor Information Document of the Variable Capital Investment Company |  |  |  |
|  | Depositary’s declaration that it accepts to exercise the duties of a Variable Capital Investment Company Depositary, in accordance with the Law |  |  |  |

**Β. Accompanying documents**

1. The said person signs the declaration of Paragraph 9.2. [↑](#footnote-ref-1)