

---

**TO** : Cyprus Investment Firms (CIFs)  
**FROM** : Cyprus Securities and Exchange Commission  
**DATE** : 26 September 2024  
**CIRCULAR NO.** : C659  
**SUBJECT** : Fractionalisation of Shares

---

## 1. PURPOSE OF THIS CIRCULAR

- 1.1. The Cyprus Securities and Exchange Commission ('CySEC') has issued this Circular to provide guidance on the cases where fractional exposure in *shares in companies*, within the meaning of the Investment Services and Activities and Regulated Markets Law, transposing MiFID II<sup>1</sup> ('Shares'<sup>2</sup> and 'Law 87(I)/2017' respectively), would qualify as exposure in Shares *per se*.
- 1.2. In the case of paragraph 1.1 the investment and ancillary services provided by Cyprus Investment Firms ('CIFs') authorised under Law 87(I)/2017, would qualify as investment and ancillary services relating to Shares and be subject *inter alia* to the Share trading and holding related obligation laid down in Law 87(I)/2017 and in MiFIR<sup>3</sup>.

## 2. BACKGROUND INFORMATION

- 2.1. Firms operating under the national laws of Member States of the European Union ('EU') transposing MiFID II, including CIFs ('MiFID II firms'), enabling their clients to undertake fractional exposure in Shares that have been issued under the laws of EU Member States and third countries in non-fractional form, is a relatively new phenomenon that has gained momentum in the context of on-line trading.
- 2.2. Depending on the details involved, the aforesaid fractional exposure may be achieved either through investments :

---

<sup>1</sup> Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.

<sup>2</sup> Section 2(1) of Law 87(I)/2017 and Article 4(44)(a) of MiFID II respectively.

<sup>3</sup> Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012.

- i. under trust arrangements which result in fractional beneficial ownership of Shares;  
or
  - ii. in another financial instrument that tracks the performance of the Shares in Companies in question.
- 2.3. The European Securities and Markets Authority ('**ESMA**') in an effort to shed light on the latter case and the regulatory implications thereof, issued a public statement<sup>4</sup> dated 28 March 2023 on Derivatives on Fractions of Shares (the '**ESMA Statement**').
- 2.4. The ESMA Statement acknowledged the various structures utilised by MiFID II firms to offer their clients the opportunity to undertake fractional exposure in Shares. The scope of the ESMA Statement was confined to the case of derivatives on fractions of shares.

### 3. SCOPE OF THIS CIRCULAR

- 3.1. CIFs enabling their clients to undertake fractional investments in Shares, which have been issued under the laws of EU Member States and third countries in non-fractional form through trust arrangements, fall under the scope of this Circular.
- 3.2. For the avoidance of doubt CIFs providing investment and ancillary services in fractions of Shares, which have either been created as a result of a corporate action or issued in fractional form under the corporate laws of countries which permit the issuance of shares in fractional form and which are traded as such, are excluded from the scope of this statement. The reason for this exclusion is that the aforesaid qualify as Shares without the need of specific legal structuring (i.e. without the need of fractional ownership of the Shares to be held through trust arrangements).

### 4. TRUST ARRANGEMENTS FOR FRACTIONAL BENEFICIAL OWNERSHIP

- 4.1. A trust arrangement for fractional beneficial ownership of Shares can be formed where Shares are held by the CIF and two or more parties are the beneficial owners of the Shares.
- 4.2. Under Cypriot Law, a trust arrangement for fractional beneficial ownership of Shares may be established by virtue of a CIF acting as a trustee holding fractions of Shares in trust for the client. This creates a fiduciary relationship between the firm and its client

---

<sup>4</sup> Available [here](#).

under which Shares are held in the legal ownership of the CIF but are beneficially owned by the clients in the proportion corresponding to the clients' agreed fractional exposure to the Shares. For the avoidance of doubt such arrangements must always be constructed in a way compliant with the rules governing the holding of financial instruments belonging to clients, laid down in Law 87(I)/2017 as further substantiated by means of CySEC Directive DI87-01 for the Safeguarding of Financial Instruments and Funds belonging to Clients<sup>5</sup>

- 4.3. The trust arrangement should be documented in writing by the CIF putting in place appropriate documentation. For instance the arrangement can be documented in the agreement between the CIF and the client as appropriate. It is clarified that the proportion of beneficial ownership over the Shares conferred to the client (including through sub-custody arrangements) should be reflected in the records of the CIF, which shall serve as evidence of ownership.
- 4.4. Under a trust arrangement for fractional beneficial ownership of Shares, all rights emanating from the Shares should be proportionately conferred to the clients on the basis of their beneficial entitlement in the Shares. Depending on the type of Share in question such rights could include:
- i. **Voting Rights:** The CIF should ensure and safeguard the effectiveness of the ability of the beneficial owner to exercise voting rights, bearing in mind the corporate laws of the country where the Shares have been issued;
  - ii. **Dividends distribution:** Economic rights evidenced by entitlement to capital distribution such as dividends;
  - iii. **Residual Interest:** Right to participate in the distribution of assets on the winding up of the issuer;
  - iv. **Transferability:** A trust arrangement for fractional interests shall not affect the qualification of whole Shares thereunder as transferable securities, within the meaning of Section 2 of Law 87(I)/2017<sup>6</sup>.

---

<sup>5</sup> Transposing Commission Delegated Directive (EU) 2017/593 of 7 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits.

<sup>6</sup> Article 4(44) of MiFID II.

## 5. NEXT STEPS

- 5.1. CIFs must<sup>7</sup> *inter alia* provide, in comprehensible form, clear accurate and non-misleading information to clients and prospective clients on the financial instruments they offer and their services. To this end, financial instruments enabling investors to undertake fractional exposure in Shares, under arrangements that do not constitute trust arrangements shall not be presented and/or treated as Shares.
- 5.2. The provision of investment services in Shares held under such trust arrangement entails the regulatory implications of the Share trading and holding related obligation laid down in Law 87(I)/2017 and in MiFIR, including (but not limited):
- i. The share trading obligation of Article 23 of MiFIR; and
  - ii. Where the Systematic Internaliser ('SI') definition of Section 2 of Law 87(I)/2017<sup>8</sup>, as further specified in Article 12 of the Commission Delegated Regulation 2017/565<sup>9</sup> is met, the SI related obligations, of Title III of MiFIR.
  - iii. The obligations relating to safeguarding client assets as laid down in Law 87(I)/2017 and CySEC Directive DI87-01 for the Safeguarding of Financial Instruments and Funds belonging to Clients, transposing the Commission Delegated Directive (EU) 2017/593<sup>10</sup>.

Sincerely,

Panikkos Vakkou  
Vice Chairman of Cyprus Securities and Exchange Commission

---

<sup>7</sup> In compliance with paragraphs (1), (4a)(ii) and (5) of Section 25 of Law 87(I)/2017.

<sup>8</sup> Article 4(20) of MiFID II.

<sup>9</sup> Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive.

<sup>10</sup> Commission Delegated Directive (EU) 2017/593 of 7 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council with regard to safeguarding of financial instruments and funds belonging to clients, product governance obligations and the rules applicable to the provision or reception of fees, commissions or any monetary or non-monetary benefits.