



INVESTOR COMPENSATION FUND

POSITIVA MARKETS (CY) LTD

CYSEC License Number 285/15

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1. Introduction

POSITIVA MARKETS (CY) LTD (hereinafter “**the Company**”) is incorporated in Cyprus under registration number HE 340674 through the Department of Registrar of Companies and Official Receiver (<http://www.mcit.gov.cy/drcor>)

The Company is authorized and regulated by the Cyprus Securities and Exchange Commission (<http://www.cysec.gov.cy>) to act as a Cyprus Investment Firm (CIF) with CIF License No. 285/15 operating as an international foreign exchange broker.

The Company operates under the under the Provision of Investment Services, the Exercise of Investment Activities, the Operation of Regulated Markets and Other Related Matters Law of 2007, Law 144(I)/2007, as subsequently amended from time to time (hereinafter “**the Law**”).

2. General

In compliance to the Law, the Company is a member of the Investor Compensation Fund (hereinafter, “**ICF**” or the “**Fund**”), which was established under the Law as amended and the Establishment and Operations of an Investor Compensation Fund for Clients of CIF-s Regulations of 2004.

The Fund constitutes a private legal entity and its administration is exercised by an Administrative Committee of five members, who are designated for a three-year-term. The Fund has been operating since 2004.

3. Scope of the Fund

The objective of the ICF is to secure claims of the covered Clients against members of the ICF, through the payment of compensation in cases where the member concerned is unable, due to its financial circumstances and when no realistic prospect of improvement in the above circumstances in the near future seems possible.

The ICF compensates the covered Clients for claims arising from the covered services provided by its members, so long as failure by the member of the ICF to fulfil its obligations has been ascertained, in accordance with the terms and procedure defined in the Law, notwithstanding a relevant obligation by the member of the ICF in accordance with the legislation and the terms which govern its agreement with the covered Client and regardless of whether the said obligation of the member of the ICF is based on the agreement or on wrongdoing.

4. Coverage

4.1. Covered services

Covered Services are the investment and ancillary services listed on the Company's license issued by the Cyprus Securities and Exchange Commission.

4.2. Covered Clients

The Fund covers Retail Clients of Cyprus Investment Firms. It does not cover Professional Clients and Eligible Counterparties.

4.3. Non-Covered Clients

The Fund does not compensate the following Client categories:

1. The following categories of institutional and professional investors:
 - Investment Firms (IFs).
 - Legal entities associated with the member of the Fund and, in general, belonging to the same group of companies.
 - Banks.
 - Cooperative credit institutions.
 - Insurance companies.
 - Collective investment organizations in transferable securities and their management companies.
 - Social insurance institutions and funds.
 - Investors characterized by the member as professionals, upon their request, in accordance.
2. States and international organizations.
3. Central, federal, confederate, regional and local administrative authorities.
4. Enterprises associated with the Company.
5. Managerial and administrative staff of the member of the Fund.

6. Shareholders of the member of the Fund, whose participation directly or indirectly in the capital of the member of the Fund amounts to at least 5% of its share capital, or its partners who are personally liable for the obligations of the member of the Fund, as well as persons responsible for the carrying out of the financial audit of the member of the Fund as provided by the Law, such as its qualified auditors.
7. Investors having in enterprises connected with the member of the Fund and, in general, of the group of companies, to which the member of the Fund belongs, positions or duties corresponding to the ones listed in paragraphs (5) and (6).
8. Second-degree relatives and spouses of the persons listed in paragraphs (5), (6) and (7) as well as third parties acting for the account of these persons
9. Apart from investors convicted of a criminal offence pursuant to the Prevention and Suppression of Money Laundering Activities Law of 2007, as amended or replaced (*see further below*), investors-Clients of the Company responsible for facts pertaining to the Company that have caused its financial difficulties or have contributed to the worsening of its financial situation or which have profited from these facts.
10. Investors in the form of a company, which due to its size, is not allowed to draw a summary balance sheet in accordance with the Companies Law or a corresponding law of a Member State of the European Union.

In the cases of paragraphs (5), (6), (7) and (8), the Fund suspends the payment of compensation informing the interested parties accordingly, until it reaches a final decision as to whether such cases apply.

The ICF shall pay no compensation to individuals against whom criminal proceedings under the provisions of the Prevention and Suppression of the Legalization of Proceeds from Criminal Activities Law of 2007, as amended or replaced, are pending.

5. Compensation Payment Process

- 5.1. The ICF compensates the covered Clients for claims arising from the covered services provided by the Company, when failure by the Company to fulfil its obligations has been ascertained (see also below).
- 5.2. The following constitutes failure by the Company to fulfil its obligations:
 - (a) Either to return Client fund to its covered Clients which are held by the Company indirectly in the framework of the provision by the Company to the said Clients of covered services, and which the latter requested the Company to return, in exercise of their relevant right; or
 - (b) To return to the covered Clients financial instruments which belong to them and which the Company manages.

5.3. The ICF initiates the compensation payment process in one of the following situations:

- (a) the Cyprus Securities and Exchange Commission (hereinafter “**CySEC**”) has determined by Resolution that the Company is unable to meet any of its duties arising from its investors-Clients claims, in connection with the covered services it has provided, as long as such inability is directly related to the Company’s financial position which has no realistic prospect of improvement in the near future, and has issued its decision on the commencement of the compensation payment procedure by the Fund as well as has published the said decision in the Official Gazette of the Republic of Cyprus as well as on its website on the Internet.

CySEC can issue such decision when at least one of the following preconditions is fulfilled:

- i. The Company submits to the ICF or to CySEC a written statement declaring its failure to fulfil its obligations towards its Clients; or
 - ii. The Company files an application for liquidation in accordance with the provisions of Part V of the Companies Law of Cyprus; or
 - iii. CySEC has revoked or suspended the Company’s authorization to provide investment services and ascertains that the Company is not expected to be in a position to fulfil its obligations toward its Clients in the near future, for reasons which do not concern a temporary lack of liquidity which can be dealt with immediately.
- (b) A judicial authority has on reasonable grounds, directly related to the financial position of the Company, made a ruling which has the effect of suspending the Clients’ ability to lodge claims against the Company.

5.4. Upon issuing a decision by CySEC or by the Court, the Fund will publish in at least three (3) newspapers of national coverage, an invitation to the covered Clients to make their claims against the Company arising from the covered services, designating the procedure for the submission of the relevant applications, the deadline for their submission and their content.

5.5. The compensation applications of covered Clients with which they make their claims against the Company are submitted to the ICF in writing and must include:

- (i) The name of the claimant-Client;
- (ii) The address, telephone and fax numbers as well as any email address of the claimant-Client;
- (iii) The Client code that the claimant-Client had with the Company;
- (iv) The particulars of the covered services agreement between the ICF and the claimant-Client;
- (v) The type and amount of the alleged claims of the claimant-Client;
- (vi) The exposition of the particulars from which the alleged claims of the claimant-Client and their amount are delivered;
- (vii) Any other information the ICF might or will request.

5.6. Upon submission of the compensation applications, the Administrative Committee of the ICF has control especially if:

- (i) The claimant-Client falls within the category of covered Clients;
- (ii) The application was timely submitted;
- (iii) The claimant-Client is not convicted of a criminal offence pursuant to the Prevention and Suppression of Money Laundering Activities Law of 2007, as amended or replaced;
- (iv) The conditions for the valid submission of compensation applications are fulfilled.

5.7. The Administrative Committee rejects the compensation application in case the claimant-Client does not fulfil the conditions referred to in paragraph 5.6 above, or if at the Administrative Committee's discretion, at least one of the following reasons exists:

- (i) The claimant-Client used fraudulent means in order to secure the payment of compensation by the ICF, especially if it knowingly submitted false evidence;
- (ii) The damage suffered by the claimant substantially derived from concurrent negligence or offence on its behalf in relation to the damage it suffered and to its underlying cause.

5.8. Upon completion of the valuation, the ICF:

- (i) Issues minutes listing the Clients of the Company which are compensation beneficiaries along with the amount of money each one of them is entitled to receive, and, communicates it to CySEC and the Company within five (5) working days from its issue; and
- (ii) Communicates to each affected Client its finding no later than fifteen (15) days from the issue of the aforementioned minutes determining the total compensation amount this Client is entitled to receive.

6. Compensation Amount

6.1. The amount of compensation payable to each covered Client is calculated in accordance with the legal and contractual terms governing the relation of the covered Client with the Company, subject to the off-set rules applied for the calculations of the Claims between the covered Client and the Company.

6.2. The Calculation of the compensation payable derived from the sum of the total established claims of the covered Clients against the Company, arising from all covered services provided by the Company and regardless of the number of accounts of which the Client is a beneficiary, the currency and place of provision of these services.

6.3. The total payable compensation to each covered Client of the Company may not exceed the amount of twenty thousand Euros (EUR 20,000), irrespective of the number of accounts held, currency and place of offering the investment service.

6.4. In the case whereby beneficiaries of a joint account of the Company are in their majority covered Clients:

- a. The maximum amount payable to all co-beneficiaries of the account comes up to the amount of twenty thousand Euros (EUR 20,000); and
- b. The compensation is fixed on the whole for all co-beneficiaries of the joint account and is divided amongst them, in the way determined in the agreement between the co-beneficiaries and the Company; otherwise, in the absence of such agreement, it is divided equally amongst them.

Should you have any questions about the **"Investor Compensation Fund (ICF)"** Protection Scheme, kindly e-mail your request to the:

Compliance Department: compliance@positivafx.eu