

**TRADE** | CAPITAL MARKETS

# INVESTOR COMPENSATION FUND POLICY

TRADE CAPITAL MARKETS (TCM) LTD



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## 1. OBJECT OF THE FUND

The Fund constitutes a private law legal entity and its administration is exercised by an Administrative Committee of five members, who are designated for a three-year term. The object of the Fund is to secure the claims of the covered clients against the Fund members through the payment of compensation.

The amount of compensation toward investor-clients of the Company shall be up to a maximum amount of twenty thousand Euro (€20.000) and the said coverage applies to the total amount of claims of an investor toward member, irrespective of the number of accounts, currency and place of provision of the service.

The compensation from the Fund presupposes the existence of a reasonable claim from the client toward the Fund member, which arises from a covered service offered by the Fund member to the said client.

## 2. COVERED CLIENTS

The Fund covers the clients of the Company, except those belonging into the following investor categories:

1. The following categories of institutional and professional investors:
  - i. Investment Firms,
  - ii. legal entities associated with the Company and, in general, belonging to the same group of companies,
  - iii. banks,
  - iv. cooperative credit institutions,
  - v. insurance companies,
  - vi. collective investment organizations in transferable securities and their management companies,
  - vii. social insurance institutions and funds,
  - viii. investors classified by the Company as professionals, upon their request, in accordance with Paragraph B of the Second Schedule of the Law
2. States and supranational organizations;
3. Provincial, regional, local and municipal authorities;
4. Enterprises that have "close ties" with the Company, as the term «close ties» is construed in Article 2(1) of the Law;
5. Managerial and administrative staff of the Company;
6. Shareholders of the Company, whose participation directly or indirectly in the capital of the Company amounts to at least 5% of its share capital, or its partners who are personally liable for the obligations of the Company, as well as persons responsible for the carrying out of the financial audit of the Company, such as its qualified auditors;
7. Investors having in enterprises connected with the Company and, in general, of the group of companies, to which the Company belongs, positions or duties corresponding to the ones listed in paragraphs (5) and (6) above;
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. Investors-clients of a 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. Other firms in the same group;
11. 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;

*In the cases of paragraphs (5), (6), (7),(8) and (10), the Fund suspends the payment of compensation informing the interested parties accordingly, until it reaches a final decision as to whether such cases apply.*

### **3. COVERED SERVICES**

The Fund shall compensate the Company's clients for the investment services and ancillary services which are offered by the Company:

- a. Investment Services: (i) Reception and transmission of orders in relation to one or more financial instruments, (ii) Execution of orders on behalf of clients, (iii) Dealing on own account; (iv) Portfolio management.
- b. Ancillary Services: (i) Safekeeping and administration of financial instruments, including custodianship and related services, (ii) Granting credits or loans to one or more financial instruments, where the firm granting the credit or loan is involved in the transaction, (iii) Foreign exchange services where these are connected to the provision of investment services and (iv) Investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments.

### **4. COMPENSATION OF COVERED CLIENTS AND PAYMENT FORMALITIES**

The Fund covers claims arising due to a member's failure:

- a. to repay the funds owed to covered clients or belonging to them and held on their behalf in connection with investment operations; or
- b. to return to covered clients any financial instruments belonging to them and held, managed or administered on their behalf in connection with investment operations;

in accordance with the legal and contractual conditions applicable.

The Fund initiates the compensation payment procedure when:

- a. the Commission has determined that a member appears, for the time being, for reasons directly related to its financial circumstances, to be unable to meet its obligations arising out of investors' claims and has no early prospect of being able to do so;
- b. a Court of the Republic has made a ruling, for reasons directly related to a member financial circumstances, which has the effect of suspending investors' ability to make claims against it.

The Commission shall issue its decision for the initiation of the compensation payment procedure by the Fund within a reasonable time and publish the relevant information on its website.

Upon initiation of the compensation payment procedure, the Fund shall publish as soon as possible in at least two national newspapers, an invitation to submit applications for compensation, designating the procedure for the submission of the relevant applications, the deadline for their submission as well as their content as defined specifically in this Part.

The publication provided shall include at least:

- a. the name and address of the headquarters and the trade name of the involved Fund member;
- b. the deadline for the submission of the compensation applications, which cannot be less than five months or more than nine months from the date of initiation of the compensation payment procedure, or from the date of its publication;
- c. the mode of submission of applications; and
- d. the address and/or website through which covered clients may obtain the relevant claim form provided by the Fund.

The publication shall be communicated immediately to the Commission, which shall post the publication on its website.

## **5. COMPENSATION PAYMENT CONDITIONS**

To ascertain the claims of a claimant against a member of the Fund, as well as any counterclaims of the member of the claimant, the books kept and the particulars issued by the member of the Fund as well as the supporting evidence produced by the claimant are taken into consideration.

The amount of the claim of a covered client shall be calculated based on legal and contractual conditions, in particular those relating to offsetting and counterclaims, that are applicable to the assessment on the date of the initiation of the compensation payment procedure, of the amount of the funds or value determined with reference to the market value, where possible, of the financial instruments belonging to the covered client and which such funds or instruments, the Fund member fails to repay or return, respectively.

The payment of compensation by the Fund shall entail the following:

- a. the initiation of the compensation payment procedure;
- b. the existence of a valid claim by a covered client against the Fund member, which derives from an investment operation;
- c. the submission of an application form as prescribed in this directive;
- d. that the claims do not arise from transactions for which there has been a criminal conviction for money laundering as defined in the Prevention and Suppression of Money Laundering Activities Law of 2007;
- e. there are no pending criminal proceedings against the said covered client for money laundering as defined in the Prevention and Suppression of Money Laundering Activities Law of 2007;
- f. the right of a covered client has not been extinguished under the Limitation of Offenses Act.

The calculation of the compensation payable shall arise from the sum of the total established claims of the covered client against the Fund member, arising from all covered services provided by the member and regardless of the number of accounts of which it is the beneficiary, the currency and place where such services are provided within the European Union.

The Fund shall provide coverage for the total claims of the covered client against a Fund member and shall be defined as the lower of 90% of the cumulative covered claims of the covered client and €20.000.

In case of a joint account of the Company:

- a. In the calculation of the covered amount noted above, the share that corresponds to each covered investor is taken into account;
- b. The claims are distributed equally among the covered investors , unless specific provisions exist and subject to the exceptions of point (c) below, the maximum coverage is provided to each Investor, and;
- c. The claims relating to joint account , to which two or more person entitled as member of a business partnership, association or grouping of similar nature which has no legal personality, may, for the purpose of calculating the limits of compensation , be aggregated and treated as if arising from an investment made by a single investor.

Compensation shall be paid in Euro, and, where the funds and/or financial instruments are expressed in a currency other than the Euro, the exchange reference rate of the said currency against the Euro fixed by the European Central Bank at the end of the day on which the compensation payment procedure was activated, shall be used.

The Administrative Committee shall examine the applications before it and decide whether the conditions for compensation are fulfilled or not. The Administrative Committee shall reject the application if the claimant has used false or misleading means in order to secure the payment of the compensation.

Upon completion of the procedure before the Administrative Committee, the Fund shall:

- a. issue a decision listing the clients of the Fund member, determining the amount of money each one of them is entitled to receive, and communicate it to the Commission and the Fund member within five working days from its issue. The said decision shall also list those clients to whom no compensation shall be paid, and the reasons for this;
- b. communicate to each affected client its decision the soonest possible from its issue.

The claimant to whom the Fund communicates its decision, may, in case of disagreement, submit an objection in writing to the Commission, within one month from the date on which the decision was notified, justifying its objection sufficiently. The objection shall be submitted at [info@cysec.gov.cy](mailto:info@cysec.gov.cy) and entitled "Objection to the decision of the ICF".