



EXELCIUS  
PRIME

# INVESTOR COMPENSATION FUND POLICY

Exelcius Prime Ltd is a Cyprus Investment Firm (license number 366/18), incorporated under the laws of Cyprus with registration number HE351869.

[www.exelciusprime.com](http://www.exelciusprime.com)

# INVESTOR COMPENSATION FUND POLICY

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*In the event of a conflict between Exelcius Prime Ltd and a Client, terms expressed in English and expressed in any other language, the terms expressed in English shall prevail over those expressed in any other language.*

## **I. INTRODUCTION**

Exelcius Prime Ltd (the "Company") is a member of the Investor Compensation Fund (the "Fund") for Clients of Cyprus Investment Firms ("CIFs") which was established under the Investment Firms Law 2002 as amended and replaced by the Laws 2017-2022 which provides for the provisions of Investment Services, the Exercise of Investment Activities, the Operation of Regulated Markets and Other Related Matters, as these have been amended from time to time (hereinafter, the "Law") and Directive DI87-07 of the Cyprus Securities and Exchange Commissions (hereinafter, the "CySEC") for the operation of the ICF (hereinafter, the "Directive").

## **II. OBJECTIVE**

The objective of the Fund is to secure the claims of the covered clients against the members of the Fund, 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 Fund compensates the covered Clients for claims arising from the covered services provided by its members, so long as failure by the member of the Fund 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 Fund 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 Fund is based on the agreement or on wrongdoing.

It is a legal obligation for CIFs and other IFs, to subscribe to the Fund. Any compensation provided to Clients by the Fund shall not exceed EURO20.000. This applies to Clients' aggregate claims against the Company.

## **III. COVERED CLIENTS**

1. The Fund covers Retail Clients of the Company. It does not cover Professional Clients and Eligible Counterparties. For more details see paragraph 4 below.
2. Additionally, the legal framework provides that persons who are subject to an ongoing criminal investigation in accordance with the provisions of Prevention and Suppression of Money laundering and Terrorist Activities Law of 2007 - 2022, are not eligible to receive any compensation.

## **IV. NON-COVERED CLIENTS**

1. The Fund shall pay no compensation to individuals against whom criminal proceedings under the provisions of the Prevention and Suppression of Money Laundering Activities Law of 2007 – 2022 , as amended or replaced, are pending.
2. The Fund does not compensate the following investor categories:
  - a. The following categories of institutional and professional investors:
    - i. Investment Firms (IFs)
    - ii. legal entities associated with the member of the Fund 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 characterized by the member as professionals, upon their request in accordance with Part II of the Second Appendix of the Law.
- b. Supranational organizations, government and central administrative authorities.
  - c. Provincial, regional, local and municipal authorities.
  - d. Enterprises that have close ties with the member as the 'close ties' is constructed in Section 2(1) of the Law.
  - e. Managerial and administrative staff of the member of the Fund
  - f. 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, such as its qualified auditors
  - g. 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 (as applicable), positions or duties corresponding to the ones listed in sub-paragraphs (e) and (f)
  - h. Up to second-degree relatives and spouses of the persons listed in paragraphs (e), (f) and (g), as well as third parties acting for the account of these persons
  - i. Apart from the investors, investors-clients of a member of the Fund responsible for facts pertaining to the member of the Fund that have caused its financial difficulties or have contributed to the worsening of its financial situation, or which have profited from these facts
  - j. Other firms in the same group
  - k. 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 (e), (f), (g) and (h), the Fund suspends the payment of compensation informing the interested parties accordingly, until it reaches a final decision as to whether such cases apply.

## V. COVERED SERVICES

1. The ICF shall compensate the Company's covered Clients as to the covered investment services and ancillary services offered by the Company as these are listed on its authorization which can be found in the website of the Cyprus Securities and Exchange Commission at: <https://www.cysec.gov.cy/en-GB/entities/investment-firms/cypriot/80412/>.
2. Investment Services:
  - a. Reception and transmission of orders in relation to one or more of the Financial Instruments.
  - b. Execution of orders on behalf of Clients
  - c. Portfolio Management

3. Ancillary Services:

- a. Safekeeping and administration of Financial Instruments for the account of Clients, including custodianship and related services such as cash/collateral management.
- b. Granting credits or loans to one or more financial instruments, where the firm granting the credit or loan
- c. Foreign exchange services

The Company is currently authorised to provide investment services in relation to financial contracts for differences.

## VI. COMPENSATION OF COVERED CLIENTS AND PAYMENT FORMALITIES

The Fund 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 paragraphs i., ii. and iii. below).

1. Failure of a member of the Fund to fulfill its obligations toward its investors

The Fund compensates the covered Clients for claims arising from the covered services provided by its members, as long as failure by the member to fulfill its obligations has been ascertained notwithstanding a relevant obligation by the member of the Fund 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 Fund is based on the agreement or on wrongdoing.

Failure by a member of the Fund to fulfill its obligations consists of its failure:

- To repay the funds owed to covered Clients or belonging to them and held on their behalf in connection with investment operations, or
- To return to the covered Clients any financial instruments which belong to them and which the member of the Fund holds, manages or administers on their behalf in connection with investment operations.

2. Preconditions for the initiation of the compensation payment procedure by the

FundThe Fund initiates the compensation payment procedure in one of the following situations:

- The Cyprus Securities and Exchange Commission (CySEC) has determined by resolution that the member of the Fund appears, for the time being and for reasons directly related to the Company's financial circumstances, to be unable to meet its obligations arising out of Clients' claims and has no early prospect of being able to do so
- A court of the Republic has made a ruling, for reasons directly related to the financial circumstances of the Company, which has the effect of suspending the investors' ability to make claims against the member of the Fund.

CySEC 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.

3. Procedure relating to the invitation of covered clients to submit applications

Upon issuance of a decision by the Court or by CySEC, on the commencement of the compensation payment process, the Fund publishes in at least two (2) newspapers of national coverage, an invitation to the covered clients to make their claims against the member of the Fund arising from covered services, designating the procedure for the submission of the relevant applications, the deadline for their submission and their content.

The publication contains at least:

- the name and address of the headquarters of the member of the Fund, to whom the covered client compensation process has been activated through the Fund
- the deadline for the submission of compensation applications, which cannot be less than five months and greater than nine months from the last publication
- the mode and address of submission of applications
- the address at which investors may be informed about the exact content of the applications to be submitted, and get the relevant form provided by the Fund.

The compensation applications of covered Clients with which they make their claims against the Company are submitted to the ICF in one (1) of the following two (2) ways:

- a. By filling in the online application form which can be found on CySEC's [website](#), or
- b. By post or by hand, a compensation application (in a form of simple letter) to the offices of the ICF, accompanied by all supporting evidence, to the following address:
  - Investor Compensation ICF for IF Clients,  
27 Diagorou Str., 1097, Nicosia, Cyprus.

#### 4. Interruption of deadline for submission of applications

In case a covered client was not in a position to submit such application within the deadline, as mentioned under point 3 above, the deadline shall not apply thereto, if conditions occurred that prevented the observance of the deadline for the submission of a compensation application or for the collection and submission of the information required.

A covered client submitting a compensation application after the deadline shall submit in addition to the information forming the content of the application, a declaration explaining the reason, if any, for which he was not in a position to claim compensation in time, attaching the necessary supporting evidence to that end.

#### 5. Content of compensation applications submitted to the Fund

The compensation applications of covered clients with which they make their claims against a member of the Fund are submitted to the Fund in writing. The compensation applications must include:

- the name of the claimant, Identity Card/ Passport No of the claimant-Client
- the address, telephone and fax numbers as well as any email address of the claimant
- the name of the member of the Fund
- the client code that the claimant had for the member of the Fund;
- the particulars of the covered services agreement between the member of the Fund and the claimant;

- the type and amount of the alleged claims of the claimant;
- the exposition of the particulars from which the alleged claims of the claimant and their amount are derived;
- copy of account statement from the transactions platform the claimant-Client has used
- copy of documents that prove the claimant-Client deposits to the member of the Fund (i.e., swift transfers, deposit orders, debit advice, etc.)
- reference and copies of any correspondence with the member of the Fund regarding the alleged claim
- written confirmation of the claimant-Client that the information included in the application/ letter as well as the documents accompanied it are correct and true
- any other information the Fund might or will request.

6. Procedure relating to the recording and evaluation of the alleged compensation claims

Upon submission of the compensation applications, the Administrative Committee of the ICF shall check whether the following conditions are fulfilled:

- a. The initiation of the compensation payment procedure.
- b. The existence of a valid claim by a covered Client against the Company which derives from an investment operation of a duly completed application claimant-Client falls within the category of covered Clients.
- c. The submission in time of a duly completed application form accompanied by the necessary supporting documents.
- d. The claims do not arise from transactions in connection with which there has been a criminal conviction for money laundering as defined in the Prevention and Suppression of Money Laundering Activities Law of 2007 - 2021, as amended or replaced.
- e. There are no criminal proceedings pending and/or the claimant-Client is not convicted of a criminal offence pursuant to the Prevention and Suppression of Money Laundering Activities Law of 2007 - 2021, as amended or replaced.
- f. The conditions for the valid submission of compensation applications are fulfilled pursuant to Limitation of Actions Law, as amended.

The Fund may record and assess the submitted claims, either internally or by designating at least one expert in capital market issues and at least one lawyer with knowledge on capital market issues, who after initially reviewing the prerequisites, shall evaluate the said applications submitted to the Fund and recommend to the Administrative Committee their acceptance or rejection, in whole or in part.

In case of disagreement between these persons, each one of them submits a separate recommendation.

The remuneration of the persons is agreed between the Fund and these persons and burdens the member of the Fund, and, if necessary, is paid by the Fund.

The persons in order to evaluate the applications:

- ask from the member of the Fund to express a justified opinion on the grounds of the claims alleged by the claimants and, in case the member of the Fund does not submit its justified opinion on time, the designated officers proceed with the evaluation of the application;

The persons have full access to the records of the member of the Fund, in order to accomplish their work, and they are obliged to exhibit confidentiality against any third party as to the information coming to their knowledge in the exercise of their duties provided that the said obligation of confidentiality is disregarded in order to render possible the exercise of their duties.

7. Decision of the Administrative Committee on submitted applications

The Administrative Committee shall examine the applications before it and decide whether the conditions of point 6 of Section 6 of this Policy 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.

The Administrative Committee during the examination of the applications takes into consideration the recommendations of the persons and decides on the applications submitted to the Fund determining the amount of the compensations for each covered client-claimant.

8. Unjustifiably paid compensation

The Fund may any time require the covered client to return the compensation paid to it, if it subsequently establishes that there has been a reason for the rejection of the application.

9. Valuation of claims of covered clients and its notification process

Upon completion of the valuation, the Fund:

- issues a decision listing the Clients of the member of the Fund 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 member of the Fund within five working days from its issue; and
- communicates to each affected Client the soonest possible from its issue.

The claimant to whom the Fund communicates the total compensation amount to which it is entitled, in case it disagrees with the Fund's decision, has the right to submit an objection in writing to CySEC, 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".

CySEC, in the context of examining an objection may:

- request from the Fund, and/ or the member of the Fund and/ or the claimant to submit information and particulars
- contact any investigation.

The CySEC, must conclude the examination of the objection within forty-five (45) days and in case that identifies an error in the evaluation carried out by the Fund, it shall request in writing from the Fund to immediately rectify the mistake and pay the claimant the correct amount, and inform the affected client accordingly.



#### Deadline and procedure relating to the payment of compensation

- The Fund is obliged to pay to each covered Client-claimant the compensation within three (3) months from sending to CySEC the minutes with the compensation beneficiaries
- The payment of the compensation by the Fund is deposited to a bank account of the covered client- claimant designated by the latter in writing to the Fund
- In extraordinary and justified circumstances, the Fund may request from CySEC an extension of the three (3) months deadline regarding the payment to the Client-claimant.

#### 10. Effects of payment of compensation

The payment of any compensation by the Fund shall entail ipso jure subrogation of the Fund to the rights of the compensated covered client-claimant against the member of the Fund during the liquidation procedure of the said member for an amount equal to the compensation payable thereto.

### VII. AMOUNT OF COMPENSATION

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 rules of setoff applied for the calculation of the claims between the covered Client and the Company.
2. The calculation of the payable compensation derives from the sum of total established claims of the covered Client 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 within the European Union.
3. The total payable compensation to each covered Client of the Company is defined as the lower of 90% of the cumulative covered claims of the covered Client and the amount of twenty thousand Euros (EUR 20,000).
4. In the case whereby beneficiaries of a joint account of the Company are in their majority covered Clients:
  - a. in the calculation of the coverage provided for in paragraph 7.3 above, the share attributable to each covered Client shall be taken into account
  - b. the claims shall be allocated equally amongst covered Clients pursuant to the provisions of paragraph 7.3 unless there exist special provisions and subject to the exceptions of point (c) of this paragraph
  - c. the claims resulting from joint investment operation where two (2) or more persons are entitled as members of a business partnership, association or grouping of similar nature, which has no legal personality, for calculation purposes pursuant to the provisions of paragraph 7.3, are consolidated and are considered as an investment of one and the same investor.
5. The currency in which compensation is paid to covered Clients shall be the Euro. Where the funds and/or financial instruments are expressed in a currency other than the Euro, for purposes of calculation of the compensation amount, the exchange reference rate of the said currency against the

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Euro fixed by the European Central Bank at the end of the day the compensation payment procedure has been activated, shall be used.



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