

# **MAGNASALE TRADING LIMITED**

## **INVESTOR COMPENSATION FUND GUIDE**

## **A. INVESTOR COMPENSATION FUND**

Magnasale Trading Limited (“Magnasale”) is a member of the Investor Compensation Fund for Customers of Cypriot Investment Firms (CIFs) and other Investment Firms (IFs) which are not credit institutions (the “Fund”) which was established under the Investment Firms (IF) Law 2002 as amended and replaced by Law 144(I)/2007 (the “Law”) and Directive DI144-2007-15 of the Cyprus Securities and Exchange Commission (the “CySEC”) for the Continuance of Operation and the Operation of the CIF Investor Compensation Fund (the “Directive”).

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.

## **B. OBJECT OF THE FUND**

The object of the Fund is to secure the claims of the covered clients against the members of the Fund by the payment of compensation for their claims arising from the covered services provided by its members, so long as failure by the member to fulfil its obligations has been ascertained.

Failure by a member to fulfil its obligations consists of the following:

1. A failure to either return to its covered clients funds owed to them or funds which belong to them but are held by the member, directly or indirectly, in the context of the provision by the member to the said clients of covered services, and which the latter requested the member to return, in exercising their relevant right,
2. or a failure to hand over to the covered clients financial instruments which belong to them and which the member holds, manages or keeps on their account, including circumstances where the member is responsible for the administrative management of the said financial instruments.

## **C. COVERED SERVICES**

Covered services are the investment and ancillary services offered by the Company, as these are listed on the Company’s license (License No. CIF 264/15) issued by CySEC.

These can be found in the website of the Cyprus Securities and Exchange Commission at:

<http://www.cysec.gov.cy/en-GB/entities/investment-firms/cypriot/71224/>

## **D. COVERED CLIENTS**

All Magnasale clients are covered by the Fund, unless they fall within the following categories\*:

1. *The following categories of institutional and professional investors:*

(a) *Investment Firms*

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- (b) Legal entities associated with Magnasale and, in general, belonging to the same group of companies,*
- (c) Banks*
- (d) Cooperative credit institutions*
- (e) Insurance companies*
- (f) Collective investment organizations in transferable securities and their management companies*
- (g) Social insurance institutions and funds*
- (h) Investors characterized by Magnasale as professionals, upon their request, in accordance with Paragraph B of the Second Schedule of the Law.*

- 2. States and supranational organizations.*
- 3. Central, federal, confederate, regional and local administrative authorities.*
- 4. Enterprises who have close ties with Magnasale, as per the interpretation of the term 'close ties' in Section 2(1) of the Law.*
- 5. Managerial and administrative staff of Magnasale.*
- 6. Shareholders of Magnasale, 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 Magnasale and in general, of the group of companies, to which Magnasale 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 the investors convicted of a criminal offence pursuant to the Prevention and Suppression of Money Laundering Activities Law of 1996 - 2000, investors-clients of Magnasale responsible for facts pertaining to Magnasale 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.*

*\*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.*

## **E. PREREQUISITES FOR INITIATING THE COMPENSATION PAYMENT PROCEDURE**

The Fund initiates the compensation payment procedure when at least one of the following prerequisites is fulfilled:

1. The Cyprus Securities and Exchange Commission has determined that the member is for the time being unable to meet its obligations arising from its investors claims, in connection with the covered services it has provided, as long as such inability is directly related to the member's financial position which has no realistic prospect of improvement in the near future, or
2. A Court, based on grounds directly related to the financial position of the member, has made a ruling which has the effect of suspending the investors' ability to lodge claims against the member.

Upon issuance of a decision by the Cyprus Securities and Exchange Commission or by the Court in accordance with paragraph (a) or (b) above respectively, on the commencement of the compensation payment procedure, the Fund publishes in at least three national newspapers an invitation to the covered clients to make their claims against the member arising from covered services, designating the procedure for the submission of the relevant applications, the deadline for their submission and their content.

## **F. CONTENT OF COMPENSATION APPLICATIONS**

Applications must be made in writing and they must include:

1. *The name of the claimant*
2. *The address, telephone and fax numbers as well as any email address of the claimant*
3. *The client code that the claimant had for the member of the Fund*
4. *The particulars of the covered services agreement between the Fund and the claimant*
5. *The type and amount of the alleged claims of the claimant*
6. *The particulars from which the alleged claims of the claimant and their amount are derived.*

In the newspaper publications the Fund may ask for further information to be included in the compensation application.

## **G. EVALUATING THE ALLEGED COMPENSATION CLAIM**

The Administrative Committee will take control if:

1. *The claimant falls within the category of covered clients*
2. *The application was timely submitted;*
3. *The claimant has not been convicted of a criminal offence pursuant to the Prevention and Suppression of Money Laundering Activities of 2007.*

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4. *The conditions of the Law and of the Directive for the valid submission of compensation applications are fulfilled.*

If the above conditions are not fulfilled or if one of the following reasons exists then the Administrative Committee will reject the application:

1. *The claimant used fraudulent means in order to secure the payment of compensation by the Fund, especially if it knowingly submitted false evidence;*
2. *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.*

### H. CALCULATING THE AMOUNT OF PAYABLE COMPENSATION

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 member, subject to the rules of set-off applied for the calculation of the claims between the covered client and the member. The calculation of the payable compensation derives from the sum of total established claims of the covered client against the member, arising from all covered services provided by the member and regardless of the number of accounts of which the client is a beneficiary, the currency and place of provision of these services.

Insofar as the amount of the claim determined, exceeds the amount of Euro 20.000, the claimant receives as compensation the lump sum of the amount of Euro 20.000.

Upon completion of the valuation, the Fund (a) issues minutes listing the clients of the member who are entitled to compensation, along with the amount of money each one of them is entitled to receive and communicates it to the Cyprus Securities and Exchange Commission and the member within five working days from its issue and (b) communicates to each affected client its finding no later than fifteen days from the issue of the minutes, determining the total compensation amount this client is entitled to receive. The claimant, to whom the Fund communicates the total compensation amount to which he is entitled, in case he disagrees with the Fund's decision, has the right within ten days from the communication of the decision to appeal to the Cyprus Securities and Exchange Commission, justifying sufficiently his alleged claim.

The Fund is obliged to pay to each covered client – claimant the compensation within three months from sending to the Cyprus Securities and Exchange Commission the minutes with the compensation beneficiaries.

**I. FURTHER INFORMATION**

For any further information regarding the Law and Directive, please refer to the Cyprus Securities and Exchange Commission' website at:

**Law 144(I)/2007:** <http://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=60f8cf0b-08ba-4f4c-8208-1b50cda64d9f>

**DI144-2007-15:** <http://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=eacae7e7-421c-46e1-88d0-631233327d5e>