Cyprus

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Introduction

In General

The modern era for the securities sector in Cyprus began in 1996 with the inauguration of the Cyprus Stock Exchange (CSE), the first official stock exchange in Cyprus.

The CSE is modeled on current international securities rules and practices and aspires to consolidate the position of Cyprus as a regional business and financial services centre and boost the growth of capital markets in Cyprus.

Sources of Law

The principal legislation governing the issue and trade of securities in Cyprus is as follows:

- Securities and Stock Exchange Law, 14(I) of 1993, as amended;[1]
- Securities and Stock Exchange Regulations of 1995–2005 (Part 1);[2]
- Securities and Stock Exchange Regulations of 1995-2005 (Part 2—Supplements);
- Trading Rules (Regulatory Administrative Act) 409/2006, as amended;[3]

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1 Laws 32(I) of 1993, 91(I) of 1994, 45(I) of 1995, 74(I) of 1995, 50(I) of 1996, 16(I) of 1997, 62(I) of 1997, 71(I) of 1997, 83(I) of 1997, 29(I) of 1998, 137(I) of 1999, 19(I) of 2000, 20(I) of 2000, 39(I) of 2000, 42(I) of 2000, 49(I) of 2000, 50(I) of 2000, 136(I) of 2000, 137(I) of 2000, 141(I) of 2000, 142(I) of 2000, 175(I) of 2000, 9(I) of 2001, 37(I) of 2001, 43(I) of 2001, 66(I) of 2001, 79(I) of 2001, 80(I) of 2001, 81(I) of 2001, 82(I) of 2001, 105(I) of 2001, 119(I) of 2001, 120(I) of 2001, 1(I) of 2002, 87(I) of 2002, 147(I) of 2002, 162(I) of 2002, 184(I) of 2003, 164(I) of 2004, 205(I) of 2004, 43(I) of 2005, 99(I) of 2005, 115(I) of 2005, 93(I) of 2006, 28(I) of 2007, 56(I) of 2009, 90(I) of 2009, and 171(I)/2012.

2 Regulations 214 of 1995, 342 of 1997, 268 of 2000, 361 of 2000, 59 of 2001, 139 of 2001, 329 of 2001, 141 of 2002, 306 of 2002, 368 of 2002, 614 of 2003, 579 of 2004, and 559 of 2005.

3 Rules 409 of 2006, 228 of 2007, 598 of 2007, 107 of 2008, 193 of 2008, 221 of 2008, 357 of 2008, 396 of 2008, 484 of 2008, 48 of 2009, 100 of 2009, 172 of 2009, 234 of

- Regulatory Administrative Act 209/2011, as amended;[4]
- Securities and Stock Exchange (Central Securities Depository and Central Registry) Laws of 1996–2006;[5]
- Securities and Stock Exchange (Registering, Trading, and Settlement of Dematerialised Securities) Regulations 161/2001, as amended;[6]
- Regulatory Administrative Act 81/2005, as amended, relating to members of the Cyprus Stock Exchange;
- Regulatory Administrative Act 166/2005, as amended, relating to the Cyprus Stock Exchange Code of Conduct;[7]
- Regulatory Administrative Act 596/2005, as amended, relating to the listing of securities on the Cyprus Stock Exchange, continuous obligations of issuers, and fees; and
- Regulatory Administrative Act 398/2006, as amended, relating to the operation of the Central Registry and Central Depository.[8]

Regulatory Authorities

The CSE was established under the Securities and Stock Exchange Law in April 1993. A seven-member Council (CSE Council) is responsible for the day-to-day management of the CSE and the implementation of its policies.

The CSE is supervised by the Cyprus Securities and Exchange Commission (CySEC), which comprises a government commissioner, a representative of the Central Bank, and three other members appointed by the Council of Ministers.

The regulatory regime aims to balance the interests of issuers and investors, by providing proper protection to local and foreign investors, without making it unduly onerous for companies to obtain and maintain a listing on the CSE.

Admission to Cyprus Stock Exchange

The CSE is the only official investment exchange in Cyprus. The roots of the CSE date to 1979 when the Cyprus Chamber of Commerce and Industry established an unofficial over-the-counter exchange to regulate the growing

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2009, 346 of 2009, 380 of 2009, 215 of 2011, 366 of 2011, 38 of 2012, 181 of 2012, 189 of 2012, 350 of 2012, and 419 of 2013.

4 Rule 508 of 2012 and 421 of 2013.

5 Laws 27(I) of 1996, 62(I) of 2001, 121(I) of 2001, 136(I) of 2002, 43(I) of 2003, 8(I) of 2005, 92(I) of 2006, 100(I) of 2008, 55(I) of 2009, 91(I) of 2009, 100(I) of 2010, and 133(I) of 2011.

6 Regulations 161 of 2001, 367 of 2002, 393 of 2003, and 123 of 2005.

7 Rule 526 of 2005.

8 Rules 446 of 2006, 22 of 2007, 170 of 2007, 552 of 2007, 604 of 2007, 64 of 2008, 340 of 2008, 21 of 2009, 102 of 2009, 255 of 2010, 317 of 2010, 363 of 2010, 507 of 2012, 48 of 2013, 179 of 2013, and 423 of 2013.

securities market. As a result, a dynamic market had developed by the time the CSE opened its doors.

Market Participants

Only members of the CSE holding the requisite licence from the CSE Council may exercise the profession of stockbroker. The licence is readily granted if the broker satisfies a set of prerequisites relating to educational qualifications, professional experience, and personal and financial integrity.

Types of Traded Securities

Under the Securities and Stock Exchange Law, listed public sector securities, corporate securities of listed companies, and other securities which the CSE Council has declared as Stock Exchange securities can be traded on the CSE. These securities include shares, rights, warrants, corporate bonds, government bonds, and treasury bills.

Types of Transactions

The CSE boasts advanced technology comparable with that of established overseas exchanges. Its fully automated computerised trading system (consisting of the Central Registry Depository and Clearing & Settlement System) became fully operational on 7 May 1999 under section 22 of the Securities and Stock Exchange Law and regulation 33 of the Securities and Stock Exchange Regulations.

Opening Trading Account

All securities traded under the Central Registry Depository and Clearing & Settlement System are in dematerialised form with transfers effected through a central electronic book entry system maintained at the CSE. Investors who wish to execute stock exchange transactions can do so only if they have trading accounts. There are two types of trading accounts, namely:

- A general trading account where an investor gives discretion to a member of the CSE to effect stock exchange transactions in relation to listed securities; in particular, the member is given the right to sell any security which the investor has or will have transferred to the general trading account, as well as the right to buy any security; and
- A special trading account where the investor gives discretion to a member of the CSE to purchase (but not to sell) securities which will be transferred to the depository account of the investor as soon as they are acquired; the member is not given access to those securities and does not have the discretion to sell them.

Generally, an investor can open a number of trading accounts with various brokers and for a number of different purposes including for ‘buy only’ or ‘buy/sell’ trades.

General or special trading accounts are easily opened using the prescribed form of application, namely, Form 10A for a general trading account and Form 11 for a special trading account.

A prerequisite to the opening of a trading account is the opening by the investor of a depository account, irrespective of whether or not there are any securities in the depository account. A depository account is the account in which all the dematerialised securities which an investor holds at the CSE Central Registry are recorded. A person wishing to acquire listed securities for the first time must open a depository account by application to the CSE using prescribed Form 1.

Central Registry and Depository and Settlement System

The Securities and Stock Exchange (Central Securities Depository and Central Registry) Law, 27(I) of 1996, provides for the establishment and operation of a central register for all securities listed on the Cyprus Stock Exchange, the dematerialisation of these securities, the settlement of transactions in respect of dematerialised securities, and related matters.

The Central Registry and Depository contains personal information on individual investors, details of the securities owned by them, and any changes in their shareholdings. More specifically, the Central Depository and Securities Register entails the replacement of share certificates by electronic computer records. Instead of certificates of securities, beneficiaries of registered securities are granted a certification of their status, the securities involved, and any charges they carry.

The Settlement System is the part of the Cyprus Securities Depository by which trades and transactions due for settlement are processed within the CSE. The Settlement System deals with the securities side of settlement at the individual investor level as well as the funds side of settlement at the market participant level (brokerage firms).

Security positions occur automatically within the system on the settlement date, while the settlement of cash positions between market participants and the clearing house occurs on the settlement date through the banking system. The system supports delivery versus payment settlement. There are two settlement methods which are utilised and which have as their intention the reduction of settlement risk and the enhancement of investor confidence and volume of trading. These are as follows:

- Contractual Netting Settlement — where cash is netted by a market participant who is either a net buyer or a net seller; and
- Trade-for-Trade Settlement — where each trade is settled for cash separately with no netting.

Over-the-Counter Transactions

As a general rule, the Securities and Stock Exchange Law prohibits over-the-counter trading of securities. However, certain transactions set out in section

23(1) of the Securities and Stock Exchange Law may be executed outside the CSE provided that they are notified to the CSE within three working days. To transfer securities in accordance with the Stock Exchange laws and regulations, the following must be delivered to the CSE:

- A transfer document in the prescribed form (Form 2), signed by both the transferor and the transferee;
- A form for notification of practices involving listed securities (Form 3); and
- Transaction fees payable to the CSE[9] in accordance with the Fees for Stock Exchange Transactions, Law Number 161(1) of 1999, as amended.[10]

Issuer Requirements

In General

An issuer (whether local or foreign) seeking a listing on the CSE must satisfy certain basic requirements which vary according to the market on which it intends to list its securities. These are as follows:

- The issuer must have been duly incorporated and must operate in accordance with the laws of its jurisdiction of incorporation;
- The laws of the jurisdiction of incorporation of the issuer and its constitutional documents must allow the issuer to issue the specific securities intended to be listed;
- The listing must be in respect of securities issued or proposed to be issued of the same category;
- The issuer must ensure that existing shareholders have the opportunity to take advantage of pre-emptive rights in subsequent share issues;
- The listing must relate to fully paid securities;
- The issuer must prove (to the CSE Council) that it has sufficient working capital at its disposal;
- The issuer must comply with all statutory reporting and disclosure requirements under the scrutiny of the CSE Council;
- The issuer must be in a position to deliver its register in electronic form to the Central Securities Depository and Central Registry;
- In the case of a financial services firm the application must be related to the financial services firms market;
- The issuer must provide guarantees for the protection of investors; and

9 The seller of the securities or the person notifying the sale to the Stock Exchange, as the case may be, is the party responsible for the payment of the relevant transaction fees to the Stock Exchange.

10 Laws 167(I) of 2001, 28(I) of 2002, 92(I) of 2002, 231(I) of 2002, 187(I) of 2003, 60(I) of 2005, 150(I) of 2005, 192(I) of 2007, 142(I) of 2009, 177(I) of 2011, and 87(I)/2012.

- The issuer must not undertake any obligations inconsistent with the interests of its other shareholders.

In 2008, with the implementation of the Common Trading Platform between the CSE and the Athens Stock Exchange, the market of listed companies was completely overhauled through the creation of a number of specialised markets, making the market provided by the CSE more flexible and bringing it into line with its international counterparts.

The new markets are the Main Market, Parallel Market, Alternative Market, Investment Firms' Market, Major Projects Market, Shipping Companies Market, Special Category Market, Corporate Bonds Market, and the Undertakings of Collective Investments in Transferable Securities (UCITS) Market. In late 2009, the CSE introduced an Emerging Companies Market in the form of a multilateral trading facility as defined in Council Directive 2004/39/EC.

Prospectus Requirements

Requirements under Securities and Stock Exchange Law and Regulations

The prospectus and listing particulars requirements imposed on issuers seeking a listing on the CSE closely follow the principal body of EU Directives and Regulations in this area. Prospective issuers may list their securities on the CSE by one of the following methods:

- Public offer for subscription for the purchase of shares which have not yet been issued or allotted;
- Public offer for sale of shares which have already been issued or allotted;
- Offer for sale through the introduction of shares already issued or allotted; and
- Private placement, through marketing exclusively to specific investors for the sale of shares which have already been issued or are about to be issued.

To apply for a listing, a company must submit to the Council of the CSE a signed application and a number of other supporting documents, including a suitability questionnaire, a corporate profile and, most importantly, the listing particulars which vary according to the market on which the relevant securities are proposed to be listed.

Aside from serving disclosure and screening purposes, the listing requirements are designed to help investors evaluate the assets and liabilities, financial position, and the prospects of the issuer and of the rights attaching to the securities to be listed.

In the case of initial public offerings, the level of information required for the preparation of the listing particulars is substantial: for subsequent issues these requirements are less stringent. Furthermore, the CSE Council has the discretion to wholly or partially exempt an issuer from the obligation to prepare listing particulars, under the conditions outlined in Regulatory Administrative Act 596/2005.

The degree of disclosure also varies according to the status of the issuer (general corporate issuer, an investment company, or the government), the type of placement (private or public), and the type of securities proposed to be offered (shares, rights, warrants, or bonds).

Requirements under Companies Law

The Companies Law also lays down certain prospectus requirements with regard to public issues of securities. Following the enactment of Law 99(I) of 2009, the prospectus requirements set out in sections 37–46 of the Companies Law do not apply in relation to shares or debentures to which the Public Offer and Prospectus Law[11] or the UCITS Law[12] apply.

Section 2(1) of the Companies Law defines a prospectus as any prospectus, notice, circular, advertisement, or other invitation offering to the public for subscription or purchase of any shares or debentures of a company. The main requirements can be found in the prospectus and allotment provisions and in the Third, Fourth, and Fifth Schedules to the Companies Law.

The prospectus provisions of the Companies Law are mainly concerned with invitations to the public to acquire shares or debentures. The definition of a public offer given in section 54 is very broad and encompasses any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner. This formula is not only wide but also flexible, enabling the courts to deal with each case on its own merits and in accordance with its specific circumstances. As a result, companies must comply with the prospectus requirements of the Companies Law not only in cases of direct offers for subscription or rights and conversion issues but also whenever they publish a document of any kind to the effect that they allot or agree to allot any securities with a view to their being offered for sale to the public. Therefore, the latter provision also covers offers for sale and placements unless they are of a purely domestic nature and do not involve either renounceable allotment letters or a stock exchange introduction.

The Companies Law provides that a copy of the prospectus signed by the directors must be filed with the Registrar of Companies before its issue, which must contain specific information as set out in the Fourth Schedule to the Companies Law. An abridged prospectus which does not need to comply with the requirements of section 39 and the Fourth Schedule to the Companies Law is admitted whenever shares or debentures are in all respects uniform with those already issued and quoted on a prescribed stock exchange.[13]

11 Law 114(I) of 2005, as amended.
12 Law 200(I) of 2004, as amended.
13 Companies Law, s 39(5)(b).

If a public company, on its formation or after its conversion from a private company, does not publish a prospectus or subsequent to publication does not proceed with the allotment of its securities, it is obliged to file a statement in lieu of a prospectus with the Registrar of Companies in accordance with sections 31 and 48 and the Third and Fifth Schedules to the Companies Law.

Registration of Public Offerings

When the issuer applies for the registration of a public offer for subscription for the purchase of shares which have not yet been issued or allotted, the issue must be underwritten by at least one underwriter, who may be a member of the CSE, a commercial bank, or other person approved by the CSE Council.

Public offerings are subject to full prospectus requirements to enable potential investors to make informed investment decisions based on publicly available and readily accessible information.

To be able to publish a prospectus for the introduction of shares on the CSE, the prospective issuer requires a licence from the CSE Council which, once obtained, obliges the issuer to publish the listing particulars within 15 days in at least two daily national newspapers. The prospectus also must be made available at an address in Cyprus where interested parties can obtain a copy of it.

Within 48 hours of publication, the issuer must deposit with the CSE Council three copies of the newspapers. The final step is for the CSE Council officially to announce its decision to accept the listing of the shares and to fix a date for the commencement of trading.

Registration of Placements

According to the Prospectus Law, 114(I) of 2005, which implemented EU Directives 2001/34 and 2003/71, a 'public offer of securities' is defined as a communication to persons in any form and by any means by which sufficient information on the terms of the offer and the securities to be offered is provided so that a potential investor can decide whether or not to purchase those securities.

According to section 4(1) of the Prospectus Law, no offer of securities may be made without the publication of a prospectus which has been approved by CySEC. The publication of a prospectus under the provisions of the Prospectus Law applies to the placement of securities through market intermediaries, provided that such placement falls under the definition of a public offer.

The offers to which the Prospectus Law applies are determined by elimination of the relevant exemptions set out in the Law. An offer not falling within one of

the following exceptions should be categorised as a public offer to which the Prospectus Law should apply:

- Offers addressed solely to qualified or professional investors;
- Offers addressed to a limited number of persons (for the purposes of the Prospectus Law, such persons are confined to natural and legal persons not being qualified investors and not exceeding 100 in number);
- Offers addressed to investors who acquire securities for a consideration of at least €50,000 per investor for each separate offer;
- Offers whose denomination per unit is at least €50,000, provided that the same unit cannot be acquired by more than one investor; and
- Offers whose total consideration does not exceed a limit of €100,000 calculated over a period of 12 months.

Periodic Disclosure

Continuing Disclosure Obligations of Ordinary Corporate Issuers

Issuers of shares must comply with the continuing obligations set out in Regulatory Administrative Act 326/2009. The aim of placing issuers under ongoing scrutiny is to prevent the emergence of a false market where transactions in securities are effected on the basis of incorrect or outdated information. By the same token, periodic disclosure requirements protect investors by keeping them informed about the issuer's activities, current profits or losses, and future prospects.

Listed companies are under an obligation to publish half-yearly accounts, preliminary annual accounts, and annual accounts. Approved investment companies are subject to a stricter reporting regime which requires them to publish accounts on a quarterly basis in full compliance with international accounting standards.

Apart from making financial statements available to the public at large on the indicated dates, listed companies have an obligation to announce at least 10 days in advance the date on which the board of directors is to recommend payment or non-payment of a dividend, to approve financial statements, or to discuss any matter regarding the listed securities of the company concerned. In view of the sensitivity of the price of listed securities to corporate acts, companies must announce to the CSE immediately, and at least one hour before trading, decisions relating to certain matters such as new bond issues, changes to their capital structure, and amendments to their constitutive documents.

Under sections 120 and 121 of the Securities and Stock Exchange Law, any person failing to comply with the obligation to announce information in accordance with the provisions of the Securities and Stock Exchange Law or Regulations commits an offence punishable by the imposition of an administrative fine. In addition, the CSE Council may resolve to suspend the listing of the company concerned.

Exemption from Continuing Disclosure Duties

Under rule 5.2 of Regulatory Administrative Act 596/2005, the Council has the power to exempt issuers from continuing disclosure obligations as regards information which is deemed to be injurious to the issuer's interests as long as non-disclosure is not likely to adversely affect or mislead the investing public.

Disclosure Requirements under Companies Law

With the exception of share warrants, bearer shares or bearer instruments are not permitted under Cyprus law, giving investors valuable information about the status of their investments through the recording procedure for the transfer of securities and by inspection of the registers of securities.

This transparency of dealings in securities is embodied in the Companies Law,[14] in the relevant provisions of Part V of the Securities and Stock Exchange Law, and in Parts IV and V of the Securities and Stock Exchange Regulations.

Trading Rules and Trading Environment

Offerings of Securities

Once the CSE Council has approved the introduction of an issuer's securities in the market, they may be freely transferred from the current holder to any purchaser. Every transfer of listed securities through the CSE must be recorded on a transfer form.

The member of the CSE acting on instructions from the offeror (who need not necessarily be the issuer of the securities being offered) is responsible for presenting the form to the purchaser within the time limit prescribed by the Securities and Stock Exchange Regulations. Following settlement of the transaction, the member acting on instructions from the purchaser must ensure that the certificate of transfer is duly issued.

The transfer of ownership of dematerialised securities following the settlement of a transaction is effective from the time the transaction is registered on the Central Depository and Securities Register.

Rules Pertaining to Stock Exchange Transactions

Exchange transactions are executed and cleared in accordance with the provisions of the Securities and Stock Exchange Regulations. Transactions of registered securities are finalised with the issue of a certificate of transfer, which may only be issued on satisfaction of all of the following conditions:

- Deposit with the CSE of a duly executed transfer document signed by both the seller and the purchaser or their representatives;

14 Companies Law, ss 71–82 and 90–113.

- Completion of the relevant exchange transaction within the prescribed period;
- Deposit of the original share certificate (or ownership certificate) or a valid substitute for it; and
- Payment of the prescribed fees.

The certificate of transfer must bear the official seal of the CSE as evidence that the relevant transaction has been executed through it. Brokers must complete transactions during the period from the day of the execution of the transaction and the hour of the opening of market trading on the day which follows three working days during which the market is open for trading.

By 11 o'clock in the morning of the last working day of the time limit, the two brokers involved in the transaction must have reached the settlement stage of the transaction. This deadline is prescribed by the Securities and Stock Exchange Regulations and, therefore, purchaser and seller cannot agree otherwise.

As a general principle, settlement of transactions in securities through the Cyprus Stock Exchange operates on a delivery versus payment basis which also is implied in regulations 30(2), 41(1)(a), and 49(3) of the Securities and Exchange Regulations.

Regulatory Requirements Applicable to Stockbrokers

Firms acting as stockbrokers in CSE transactions are supervised by CySEC. In addition, CySEC has overall supervisory responsibility for the CSE on behalf of the Minister of Finance.

Subject to certain requirements, banks and insurance companies may be registered as stockbroker members with the CSE and obtain member status.[15] A foreign entity can be licensed as broker provided that it is established in accordance with the Companies Law. If a foreign entity wishes to undertake brokerage activities in Cyprus, it may register either a subsidiary company or a branch. In addition, foreign entities must comply with the necessary requirements of the Securities and Stock Exchange (Central Securities Depository and Central Registry) Law[16] by becoming a registered member of the CSE.

Regulatory Administrative Act 166/2005a sets statutory rules of conduct and duties for CSE members. A person who carries on the business of a broker without being registered as a member of the CSE commits an offence punishable with imprisonment, a fine, or both. The paramount duty of members is to serve the interests of their clients in good faith and in accordance with the existing laws and practice relating to the CSE.

15 Securities and Stock Exchange Law, s 31.
16 Law 27(I) of 1996, as amended (1996–2006).

The relevant committee of the CSE Council may impose an administrative fine on any member who breaches the statutory rules of conduct. In practice, disciplinary measures are most commonly imposed on stockbrokers because of repeated failure to complete a transaction within the prescribed time limit. Violations of the regulations governing the minimum paid-up capital or the required bank guarantee may lead to the suspension of the stockbroker's licence. More serious disciplinary offences are punishable by suspension from the CSE for up to 15 days or temporary or permanent removal from the register of members of the CSE.

A compensation fund to provide security for transactions on the CSE was set up by the Securities and Stock Exchange Law. The fund assists in cases where a member faces financial difficulties in meeting obligations to principals or third parties. All members of the CSE are required to contribute to the fund.

Capital Markets and Financial Services

Sources of Law

The principal legislation governing this area comprises:

- Cyprus Securities and Exchange Commission Law, 73(I) of 2009, as amended by Law 5(I) of 2012 and Law 65(I) of 2014;
- Insider Dealing and Market Manipulation (Market Abuse) Law, 116(I) of 2005, as amended by Law 191(I) of 2007, Law 142(I) of 2012 and Law 61(I) of 2013;
- Transparency Requirements Law, 190(I) of 2007, as amended by Law 72(I) of 2009, Law 143(I) of 2012, and Law 60(I) of 2013;
- Investment Services and Activities and Regulated Markets Law, 144(I) of 2007, as amended by Law 106(I) of 2009, Law 141(I) of 2012 and Law 154(I) of 2012;
- Takeover Bids Law, 41(I) of 2007, as amended by Law 47(I) of 2009;
- Public Offer and Prospectus Law, 114(I) of 2005, as amended by Law 144(I) of 2012 and Law 63(I) of 2013;
- Open-ended Undertakings of Collective Investments in Transferable Securities Law, 78(I) of 2012;
- International Collective Investment Schemes Law, 47(I) of 1999, as amended by Law 63(I) of 2000; and
- Alternative Investment Fund Managers Law, 56(I) of 2013.

Cyprus Securities and Exchange Commission

CySEC is responsible for the supervision of the capital market, securing its smooth operation and methodical development and monitoring transactions in transferable securities taking place in Cyprus, in accordance with the provisions of the Cyprus Securities and Exchange Commission Law of 2009.

Insider Dealing and Market Manipulation (Market Abuse) Law

In General

Matters concerning the possessors of confidential information relating to financial instruments which are admitted for trading in a regulated market within Cyprus or in relation to which admission to trading has been requested from Cyprus are regulated by the Insider Dealing and Market Manipulation (Market Abuse) Law, 116(I) of 2005, as amended (the 'Market Abuse Law'). The Market Abuse Law, which transposed EU Directives 2003/6/EC, 2003/124/EC, 2003/125/EC, and 2004/72/EC, applies irrespective of whether or not the transaction itself is actually concluded in Cyprus. In 2005, CySEC issued a number of directives defining acceptable market practices:

- Directive 1-2005 regarding obligations of issuers of financial instruments;
- Directive 2-2005 regarding elements to be considered;
- Directive 3-2005 regarding market abuse methods;
- Directive 4-2005 regarding accepted market practices;
- Directive 5-2005 regarding code of conduct of directors and related persons; and
- Directive 6-2005 regarding notification of persons having managerial responsibilities for transactions.

Amendments to Market Abuse Law

In 2007, the Insider Dealing and Market Manipulation (Market Abuse) (Amendment) Law, 191(I) of 2007, amended the provisions of the Market Abuse Law relating to:

- The definition of a transaction;
- The scope of the Market Abuse Law;
- The public announcement of a transaction; and
- CySEC's cooperation and relations with its counterparts in other countries.

The amended definition of a transaction for the purposes of the Market Abuse Law includes a sale or acquisition and an agreement to sell or acquire financial instruments through an issuer, as well as the provision, acceptance, acquisition, disposal, and exercise of warrants or any other rights or obligations with the intention to acquire or dispose of a financial instrument or any other interest in a financial instrument through an issuer.

The second amendment made clear that the Market Abuse Law applies only to financial instruments that are listed on, or in respect of which an application for listing has been made to, a regulated market within Cyprus. Financial instruments listed on a regulated market outside Cyprus or in respect of which an application for listing has been made to such a market are excluded from its scope.

The third of the amendments requires persons holding a managerial position in an issuer, persons connected with it, and significant shareholders (those who directly or indirectly control five per cent or more of the issuer's shares, or five per cent or more of the voting rights attached to such shares) to disclose publicly their transactions connected with the issuer's financial instruments. Shareholders are now required to make a public announcement in relation to any transaction undertaken on their own account in connection with the issuer's financial instruments.

The final amendment requires CySEC to co-operate with the relevant authorities of other countries as well as with other organisations having the same or similar responsibilities, which include the monitoring of issuers and related persons to ensure their compliance with the relevant provisions of the Market Abuse Law, cooperation with other supervisory authorities, and the imposition of administrative sanctions. In furtherance of its duties, CySEC has the power to suspend trading of affected financial instruments, to freeze assets, and to suspend market participants' activities.

In 2012, the Insider Dealing and Market Manipulation (Market Abuse) (Amendment) Law of 2012, L. 142(I) of 2012, further amended the Market Abuse Law in order to transpose EU Directive 2010/78/EC into Cyprus law. The main change made by the amending law concerns the requirement for CySEC to cooperate with the European Securities and Markets Authority.

The Insider Dealing and Market Manipulation (Market Abuse) (Amendment) Law of 2013, L. 61(I) of 2013, further amended the Market Abuse Law in order to fully transpose Article 1, paragraph 2 of EU Directive 2004/72/EC into Cyprus law. The main change made by the amending law concerns the deletion and substitution of the Annex to the principal law by a new Annex concerning the interpretation of "close association" of one person with another person discharging managerial responsibilities within an issuer, and the amendment to the thresholds regarding publication of notice as set out in section 18 of the principal law.

Penalties for Non-Compliance

Breaches of the Market Abuse Law are punishable by administrative fines imposed by CySEC. Certain breaches also may result in criminal penalties. In addition to these sanctions, which are outlined below, the breach also may result in civil liability to compensate those who have suffered damage or loss of profit or both as a result of the act or omission concerned.

Insider Trading

Persons in possession of inside information, whether directly or indirectly, are prohibited from exploiting that information by acquiring or disposing of, or by trying to acquire or dispose of, for their own account or for the account of third parties, or through persons closely associated with them, financial

instruments to which that information relates. Breaches of the prohibition regarding insider trading attract the following sanctions:

- Criminal liability punishable by imprisonment for up to 10 years, a fine of up to €171,000, or both;
- Administrative fine by CySEC of up to €855,000 (the upper limit is doubled to €1,710,000 in the event of a repeat violation); or
- Deprivation of the right to trade, directly or indirectly, in financial instruments for a period of five years from the date of the sentence.

Where the person responsible for the violation obtains a gain from the violation, exceeding the sum of the administrative fines specified above, the Commission may impose administrative fines of up to double the amount of the gain. Where a person has been deprived of the right to trade as set out above, a violation of this provision constitutes a criminal offence punishable by imprisonment for up to one year, a fine of up to €8,550, or both.

Deficiencies in Disclosure

Sections 11–14 of the Market Abuse Law impose obligations on issuers of financial instruments regarding disclosure, violations of which may result in the imposition of an administrative fine of up to €342,000 (the upper limit is doubled to €684,000 in the event of a repeat violation). A violation of section 11 also constitutes a criminal offence punishable by imprisonment for up to five years, a fine of up to €85,500, or both.

Market Manipulation

The Market Abuse Law prohibits transactions or orders to trade which give, or are likely to give, false or misleading signals about the supply of, demand for, or price of financial instruments, or which secure, by a person or persons acting in collaboration, the price of one or several financial instruments at an abnormal or artificial level. Such acts of market manipulation are punishable by a fine of up to €855,000. The upper limit is doubled to €1,710,000 in the event of a repeat violation.

Violation of the market manipulation provisions also is a criminal offence punishable by imprisonment for up to 10 years, a fine of up to €171,000, or both, as well as deprivation of the right to trade for a period of five years from the date of sentencing.

Failure to Notify Suspected Insider Dealing or Market Manipulation

A professional who reasonably suspects that a transaction or order to trade might constitute insider dealing or market manipulation must notify CySEC without delay. Failure to do so is punishable by a fine of up to €513,000 (up to €1,026,000 for a repeat violation).

Transparency Requirements Law

Scope of Law

The Transparency Requirements Law, 190(I) of 2007, as amended (the 'Transparency Law'), transposed into domestic legislation EU Directive 2004/109 on transparency requirements for listed transferable securities and, in part, Directive 2007/14, which sets out detailed rules for the implementation of certain provisions of Directive 2004/109.

The Transparency Law applies to all issuers of transferable securities listed for trading on a regulated market which have the Republic of Cyprus as their EU home member state. Transferable securities are categories of transferable securities that are traded on a stock exchange apart from instruments of payment and money market instruments. The Transparency Law does not apply to units issued by and traded in UCITS, unless they are close-ended funds.

The definition of member state of an issuer of shares or debt securities depends on whether the nominal value of the security is less or more than €1,000. In the former case, it is the location of the registered office: in the latter case the issuer may choose between the member state in which its registered office is located or a member state where its securities have been admitted to trading on a regulated market. The choice of home member state remains in place for a minimum of three years, unless the securities are no longer admitted for trading on a regulated market.

Periodic Financial Reports

Issuers must publish accurate and concise information in relation to their business performance and their assets, including annual and half-yearly financial statements and quarterly financial reports.

Continuous Reporting Obligations

An issuer is obliged to report to the public, no later than the end of the day after it was notified, the total amounts of shareholdings in it, as well as any notifications it receives from its significant shareholders (those holding more than five per cent of the issued capital) in relation to their transactions. Issuers also must notify CySEC of any change in:

- Their capital or the total amount of the voting rights attached to their shares (at the end of each calendar month);
- The rights attaching to their shares and derivatives or of any loan agreement into which they enter; or
- Their constitution.

Shareholders' Obligations

A shareholder who acquires or disposes of shares of an issuer whose shares are admitted to trading on a regulated market and to which voting rights are attached

must notify the issuer and the competent authority of the proportion of voting rights held as a result of the acquisition or disposal in the event that the proportion reaches, exceeds, or falls below five per cent (the minimum threshold) and other significant holdings (10 per cent, 15 per cent, 20 per cent, 25 per cent, 30 per cent, 50 per cent, and 75 per cent). This notification requirement does not apply to:

- Shares acquired for the sole purpose of clearing and settling within a maximum of three days from the date of the relevant transaction;
- Persons holding shares in a custodian capacity, provided that they cannot exercise the voting rights attached to the shares except under instructions given in writing or by electronic means;
- Market makers where the proportion reaches or exceeds five per cent under certain conditions; and
- Shares acquired by the central banks of EU member states in their capacity as monetary institutions.

Special rules apply to investment firms in relation to the investment activity of portfolio management and management companies of UCITS.

Equal Treatment of Stockholders

Issuers must treat all share and bond holders of the same class of transferable securities equally in terms of data protection, the provision of information, and all other aspects of their relationship.

Miscellaneous

Information which is obliged to be disclosed under the Transparency Law and the Market Abuse Law is to be made available and safeguarded under an officially appointed set of procedures in order to ensure easier and more uniform access.

Investment Services and Activities and Regulated Markets Law

In General

The EU Markets in Financial Instruments Directive 2004/39/EC (MIFID), as amended by Directive 2006/31/EC and Directive 2006/73/EC, have been transposed into domestic law by the Investment Services and Activities and Regulated Markets Law, 144(I) of 2007, as amended (the 'Investment Services Law'). Together with Regulation 1287/2006, these Directives are intended to enhance investor protection, to develop a single market in investment services across the EU, and to promote fair and transparent integrated financial markets.

The Investment Services Law, which replaced the Investment Firms Law of 2002, implements MIFID and harmonises domestic law with the relevant EU

directives regarding investor compensation schemes, capital adequacy of investment firms and credit institutions, organisational requirements, operating conditions and record-keeping obligations for investment firms, transaction reporting, market transparency, and admission of financial instruments to trading.

One of the goals of MIFID is a single passport for investment firms, banks, and stock markets to enable them to offer their services on a cross-border basis throughout the EU on the strength of home country authorisations granted on the basis of uniform prerequisites in all member states. According to section 6(5) of the Investment Services Law, the licence to provide investment services is valid in all member states, either through a branch or by simply providing services or activities in any member state.

Section 77 of the Investment Services Law recognises the reciprocal right of investment firms licensed by other member states to operate in Cyprus, provided that their activities are within the scope of the authorisation granted by the home state regulator. Section 4(2) of the Investment Services Law restricts the provision of investment services to:

- Cyprus investment firms authorised to operate under section 6(2);
- Domestic banks and cooperative societies authorised to operate under sections 118 and 122, respectively;
- Investment firms from other EU member states authorised to operate under sections 77(1) and 80(1); and
- Third-country investment firms authorised to operate under section 78(1).

Cypriot investment firms must be licensed by CySEC. Banks and cooperative societies are regulated by the Central Bank of Cyprus and the Authority for the Supervision and Development of Cooperative Societies, respectively. Business descriptions such as investment services, investment activities, regulated market, stock exchange, financial services, stock broking services, broker, or any other similar words in any language may not be used by anyone unless they are licensed according to the provisions of the Investment Services Law.

Any document, publication, or announcement issued by a Cyprus investment firm must include the number of its authorisation and a statement that it is supervised by CySEC. Investment firms must maintain a website showing at least the same information.

The Investment Services Law makes it a criminal offence punishable by a fine, imprisonment, or both, to provide investment services on a paid basis without prior authorisation. Any person found guilty of an offence may be disqualified for up to five years from providing any services regulated by the Investment Services Law. Pending trial, the activities of the person charged may be suspended.

Criteria for Granting Licence

The Investment Services Law sets out the following minimum requirements in terms of capital, management, and investor protection:

- Investment firms providing reception, transmission, execution, portfolio management, and investment advice require a minimum share capital of €200,000. For own account trading, underwriting, and operation of multilateral trading facilities, the minimum capital requirement is €1 million;
- For reception, transmission, and investment advice without handling any clients' funds, the minimum capital is reduced to €80,000. Alternatively, the firm may opt for a lower minimum capital supplemented by appropriate professional indemnity insurance;
- The management of the company must be fit and proper and there must be at least two of them (the four eyes principle);
- The identities and respective interests of the shareholders or the ultimate beneficial owners must be disclosed to and approved by the Commission;
- The company must be adequately resourced with people of the necessary integrity, good repute, skills, and knowledge to enable them to discharge their duties properly;
- The objects clause of the company's memorandum of association must provide that the company operates as an investment company providing the services detailed in its licence issued by the Commission;
- The company's head office must be located in Cyprus, and the company must be a member of the investor compensation fund; and
- Authorisation will be refused if the laws, regulations, or administrative provisions of a third country prevent CySEC from effectively exercising its supervisory functions in respect of the company.

Organisational Requirements

The Investment Services Law also includes a number of organisational requirements aimed at protecting investors' interests. As a minimum, the company must have specific and adequate policies and procedures in the following areas:

- Compliance with the legislation;
- Regulation of personal transactions;
- Protection of clients from any conflict of interest;
- Continuity of operations and services;
- Internal control;
- Proper corporate governance;
- Accounting;
- Segregation and protection of clients' funds;

- Internal audit;
- Risk management;
- Recording of instructions and transactions; and
- Prevention of money laundering.

These must be documented in an internal procedures manual with which all employees must be familiar. There are additional requirements for multilateral trading facilities (MTF) relating to the rules and procedures for trading and criteria for the execution of orders and determination of the instruments, provision of publicly available information and access to such information, access to the MTF, provision of information to users in respect of their responsibility for the settlement of transactions, and procedures to facilitate the settlement of transactions.

Authorisation under Investment Services Law

Applications for authorisation must be submitted to CySEC using the prescribed forms. Once all the required information has been submitted, CySEC must reach a decision within six months. Any decision is subject to judicial review by the Supreme Court under article 146 of the Constitution.

The authorisation will automatically lapse if the holder does not start to use it within 12 months of the date of its issue or if the holder ceases to provide investment services or carry out investment activities for six months.

There also may be a partial lapse affecting only some of the authorised activities. An authorised business may voluntarily surrender its authorisation at any time. The holder is required to inform CySEC of the circumstances and to settle any obligations arising from the discontinued business within three months.

Withdrawal of Authorisation

Section 25 of the Investment Services Law sets out the circumstances in which CySEC may withdraw an authorisation, as follows:

- If it determines that the authorisation was obtained on the basis of false or misleading details or by any other irregular means or if the holder has submitted, notified, or otherwise issued in any way false or misleading information, details, or documents;
- If the holder no longer meets the conditions under which authorisation was granted;
- If the holder has seriously or systematically infringed the operating requirements of the Investment Services Law; and
- If the holder breaches any other domestic legislation which provides for the withdrawal of authorisation.

CySEC specifies on a case-by-case basis how authorisations are (wholly or partially) withdrawn. Once an authorisation has been withdrawn, the affected activities must be discontinued immediately and the related obligations must be settled within three months of the notification of CySEC's decision. Failure to comply is punishable by an administrative fine of up to €350,000.

Where an authorisation has been wholly withdrawn, CySEC will continue to supervise the company concerned until it is satisfied that all its requirements have been complied with. CySEC also may apply to the court for the liquidation of the company and the appointment of a liquidator under the Companies Law.

Suspension of Authorisation

CySEC may suspend an investment firm's authorisation at the same time as it begins withdrawal proceedings. Alternatively, it may temporarily suspend an authorisation for up to three months (which may be extended) as a sanction short of permanent withdrawal.

An authorisation also may be suspended where there is a suspicion of breaches of the Investment Services Law or any associated regulations and directives that threaten the interests of clients or investors or the orderly operation of the capital market. The decision to suspend the authorisation may be taken by the President or the Vice President of CySEC.

Takeover Bids Law

Transposition of Take-Over Directive

Following its accession to the EU on 1 May 2004, Cyprus aligned its legislation with Directive 2004/25 of 21 April 2004 on takeover bids (the 'Take-Over Directive')[17] by means of the Takeover Bids Law, as amended, which was complemented by four directives issued by CySEC.[18]

Facilitation of Takeovers

Takeovers are facilitated by:

- The board neutrality principle — While the bid period is running, the board of the target company may not take any action potentially or actually resulting in the frustration of the bid without the prior authorisation of a general meeting of shareholders;[19]

17 Directive 1/2007 on announcing the intention or final decision to make a bid, *Official Gazette* 4188, Appendix III, Part I, at p 957; Directive 2/2007 on the fees payable concerning the bid, *Official Gazette* 4188, Appendix III, Part I, at p 960; Directive 3/2007 on the content of the bid document, *Official Gazette* 4188, Appendix III, Part I, at p 962; and Directive 4/2007 on the criteria for assessing the expert's independence, *Official Gazette* 4188, Appendix III, Part I, at p 969.

18 See http://www.europarl.europa.eu/oeil/file.jsp?id=226532.

19 Take-Over Directive, art 9.

- The breakthrough rule — The rule neutralises a number of pre-bid defences such as share transfer and voting restrictions, and makes it easier for a successful bidder to replace board members of the target company and amend its articles of association;[20] and
- The squeeze-out right — The right enables a bidder who has obtained a specified level of acceptances compulsorily to acquire the outstanding securities at a fair price.[21]

Member states are free to decide whether or not to make the first two principles mandatory.[22] If they do not, member states may not preclude companies from adopting them voluntarily.[23] Companies also may be allowed to reciprocate against a bidder not bound by the board neutrality or breakthrough rules.[24]

Cyprus did not exercise the option granted by article 12 with respect to the application of article 9 of the Takeover Directive, and the restrictions on frustrating action without shareholders' approval are therefore imposed by law. Article 34(1) of the Takeover Bids Law provides that, apart from seeking alternative bids, the board of the target company may not take any action which may result in the frustration of the bid without the prior authorisation of a general meeting of shareholders. This restriction applies from the time the board becomes aware of a possible takeover bid until the bid is withdrawn or annulled.

In contrast to the board neutrality principle, the breakthrough rule is not mandatory, and its application is left to the discretion of companies. Article 35(1) of the Takeover Bids Law gives a target company with a registered office in Cyprus the reversible option of dismantling any obstacles to being taken over, by decision of a general meeting of shareholders. These obstacles are set out in sub-paragraphs 2–6 of article 35 and include restrictions on the transfer of shares, on voting rights, and on multiple-vote securities. The relevant decision of the general meeting must be immediately notified to CySEC and to the regulated markets in which the target company's securities have been or are intended to be traded.

With regard to the squeeze-out right, article 36(1) of the Takeover Bids Law provides that a bidder who has made an offer to all holders of the target company's securities for all of their securities has the right to require all the holders of any outstanding securities to sell him those securities if:

- He holds securities representing at least 90 per cent of the capital carrying voting rights and at least 90 per cent of the voting rights in the target company;[25] or

20 Take-Over Directive, art 11.
21 Take-Over Directive, art 15.
22 Take-Over Directive, art 12(1).
23 Take-Over Directive, art 12(2).
24 Take-Over Directive, art 12(3).
25 Article 15(2) of the Takeover Directive gives member states the option to set a higher threshold (up to 95 per cent) in the case referred to above, but Cyprus did not avail itself of this option.

- Following acceptance of the bid, he has acquired or has firmly contracted to acquire securities representing at least 90 per cent of the target company's capital carrying voting rights and at least 90 per cent of the voting rights comprised in the bid.

Shareholder Protection

Article 13 of the Takeover Bids Law protects shareholders' interests by requiring anyone who has built a substantial stake in a company to make a full bid. Article 13(1) obliges any person who, as a result of his own acquisition or the acquisition by persons acting in concert with him, holds securities of a company which, added to his existing holdings and those of persons acting in concert with him, directly or indirectly give him 30 per cent or more of voting rights in that company, to make a bid for the outstanding securities. Such a bid must be addressed immediately to all of the remaining shareholders for all their securities at a fair price, determined by CySEC.

Article 18(1) of the Takeover Bids Law stipulates that the fair price must be not less than the highest price paid for the same securities by the bidder or by persons acting in concert with him during the 12 months before the announcement of the decision to launch the bid. CySEC may at its full discretion permit the payment of a lower price in the case of voluntary takeover bids.

Article 37 of the Takeover Bids Law gives shareholders the right to compel a successful bidder for the company to acquire their shares at a fair price. This 'sell-out' right is exercisable under the same conditions as the squeeze-out right. If the bidder holds securities representing at least 90 per cent of the capital carrying voting rights and at least 90 per cent of the voting rights in the target company, or if, following acceptance of the bid, the bidder has acquired or has firmly contracted to acquire securities representing at least 90 per cent of the target company's capital carrying voting rights and at least 90 per cent of the voting rights comprised in the bid, the minority shareholders may require the bidder to buy their securities at the fair price set by CySEC.

Companies to Which Takeover Bids Law Applies

CySEC supervises the application of the Takeover Bids Law and the related directives where the target company has its registered office, and its shares admitted to trading on a regulated market, in Cyprus. If the target company does not have its registered office and its shares admitted to trading on a regulated market in the same member state, CySEC may oversee the bid if any of the following circumstances apply:

- The shares of the target company are admitted to trading only on a regulated market in Cyprus;
- The shares of the target company were initially admitted to trading on a regulated market in Cyprus and subsequently on a regulated market in a member state different from that in which the registered office of the target company is situated; or

- The shares of the target company have been admitted to trading simultaneously on a regulated market in Cyprus and in another member state different from that in which the registered office of the target company is situated, and the target company designated CySEC as the competent authority for the supervision of the bid, announced it to CySEC on the first transaction day, and had its decision published immediately in accordance with the rules set out in section 7 of the Takeover Bids Law.

The Takeover Bids Law regulates the issues relating to consideration of the take-over bid and the bid process if any of these circumstances apply. Issues relating to the information to be provided to the target company's employees, and company law matters, are regulated by the law and the competent authority of the member state in which the registered office of the target company is situated.

Public Offer and Prospectus Law

The Prospectus Law implements Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC. Section 4 prohibits any offer of securities to the public except on the basis of a prospectus which complies with the Prospectus Law and any other relevant law and which has been approved by CySEC.

Government securities are exempt, as are non-equity securities issued by credit institutions, provided that they meet the criteria set out in section 3(2)(f) of the Prospectus Law. Certain offers (those confined to qualified investors, or to fewer than 100 investors, or where the minimum investment per investor is at least €50,000 or where the total amount raised is less than €100,000 in any period of 12 months) are not treated as offers to the public and no prospectus is required. In this case, any material information provided to one potential investor must be disclosed to all investors to whom the offer is exclusively addressed.

Breach of section 4 is a criminal offence, punishable by imprisonment for up to two years, a fine of up to €170,860, or both. In the case of a second or subsequent conviction, both the maximum penalties are doubled.

Section 8 provides that the prospectus should contain all the information necessary to enable investors to make an informed assessment of the assets and liabilities, financial position, profit and losses, and prospects of the issuer and of any guarantor, and of the rights attaching to the securities. It must comply with the relevant EU Directives regarding information contained in prospectuses as well as the format, incorporation by reference, and publication of such prospectuses and dissemination of advertisements.

The Annexes to the Prospectus Law specify the information required, which must be in a language that is readily comprehensible by potential investors.

Undertakings for Collective Investment in Transferable Securities Law

In General

The Undertakings for Collective Investment in Transferable Securities Law, 200(I) of 2004, as amended, was repealed by the Open-ended Undertakings of Collective Investments in Transferable Securities Law, 78(I) of 2012, which harmonises domestic law with EU Directive 2009/65/EC and other relevant EU Directives and legislation[26] regarding open-ended Undertakings for Collective Investment in Transferable Securities (UCITS) and their products, UCITS management companies, and the marketing of their units (the 'UCITS Law').

The UCITS Law recognises the reciprocal rights of UCITS and their management companies authorised by the relevant authorities of other EEA member states to market their products, offer their services, and operate generally in Cyprus. As the EU directives relating to UCITS are product-based rather than service-based, it is the issuer or the person providing the UCITS products who needs to be authorised and licensed. The relevant authority for authorisation and supervision is CySEC, which is vested with power to issue further directives to clarify the legislative provisions of the UCITS regime.

Recent Developments in UCITS Law

The recent amendments to the UCITS Law are designed to facilitate the provision of management services on a cross-border basis (a so-called 'management company passport' or MCP), including general improvements to the regulatory framework governing the conduct of business and risk management of UCITS; improve retail pre-contractual disclosures regarding funds; facilitate asset pooling (by means of cross-border mergers and a new concept of 'master' and 'feeder' UCITS); and streamline the steps UCITS need to take to be sold cross-border (the notification procedure).

Forms of Undertakings for Collective Investment in Transferable Securities

UCITS within the scope of the UCITS Law may take the form of either a mutual fund or a variable capital investment company, namely a company with variable capital limited by shares.

Scope of Application

The UCITS Law applies to UCITS, management companies registered in Cyprus, and their respective depositaries. A mutual fund is deemed to be domiciled in Cyprus if its management company has both its registered office

26 Directive 2009/65/EC, Articles 11 and 13 of Directive 2010/78/EU, and Commission Regulations (EU) 583/2010 and 584/2010.

and central administration in Cyprus. A variable capital investment company is deemed to be domiciled in Cyprus if it has both its registered office and central administration in Cyprus.

Harmonised UCITS Authorised in a Member State Other Than Cyprus

A UCITS within the meaning of the UCITS Law registered in another member state and holding an operating licence from the competent authorities of its home member state may distribute its units in Cyprus without the need for further authorisation, subject to providing CySEC with a notification letter and the information required under paragraphs 1 and 2 of article 93 of Directive 2009/65/EC and the certifications required in section 3 of article 67 of the UCITS Law, namely its fund rules or its instruments of incorporation, its prospectus and, where appropriate, its latest annual report and any subsequent half-yearly report and its key investor information, together with confirmation that the information and documents fulfill the relevant requirements and that the UCITS fulfills the requirements of Directive 2009/65/EC.

The form and content of the UCITS notification and confirmation letter and the procedure for the exchange of information and the use of electronic communication between CySEC and the competent authorities are set out in Regulation (EU) Number 584/2010.

A UCITS originating from a member state marketing units in Cyprus is required to designate a credit institution to assure the payment, repurchase, or redemption of units of unit holders that are in Cyprus, and to make available the information that UCITS are required to provide.

Marketing Arrangements

UCITS must take adequate steps to ensure that facilities are available in Cyprus for making payments to unit-holders, for the repurchase or redemption of units, and for making available to unit-holders all the information which UCITS are obliged to provide.

Accordingly, CySEC also must be provided with written confirmation from the entity providing these facilities that it has agreed to act as the distributor of the UCITS for the marketing of its units in Cyprus, and details of the arrangements made for the marketing of the UCITS in Cyprus.

Commencement of Distribution

A UCITS may start marketing in Cyprus on notice from CySEC that its marketing arrangements comply with the provisions set out above. CySEC must respond with its final decision within two months after the date on which it receives a complete notification in accordance with the provisions or within six months in the case of a variable capital company that has not appointed a management company.

Distribution on a cross-border basis may commence as soon as the UCITS has been notified by its respective member state authority that it has communicated all necessary information to the host member state authority.

Depositary

Safekeeping of the assets of the UCITS is entrusted to the Depositary, which effectively acts as treasurer of the UCITS.

Depositary duties may be undertaken by a credit institution with a registered office in Cyprus or one established in another member state with a branch in Cyprus, provided always that it is capable of providing depositary and custody services in accordance with the relevant licence and provided it meets the requisite standards with respect to infrastructure and organisation.

Distributors of UCITS Units

Distibution of units is undertaken by the management company or the UCITS itself. The management company or the UCITS, as the case may be, may distribute units through a credit institution, investment firm, or other investment company including the management company, provided that the distributor complies with the requirements of the Investment Services and Activities and Regulated Markets Law and all other Directives issued by CySEC pursuant to the UCITS Law.

Prospectuses, Periodical Reports, and Summarised Statements

The management company for each mutual fund or variable capital company must prepare, submit to CySEC for approval, and publish the following in the prescribed form under the UCITS Law:

- A prospectus;
- An annual report in respect of every financial year;
- A report for the first six months of every financial year;
- A summarised income statement and balance sheet at the end of the first, second, and third quarters of the financial year; and
- A summarised statement of the assets and expenses at the end of the financial year, which includes a profit and loss account and the distribution of profits for the whole financial year.

Publication of Other Information

The net asset value of the UCITS, the number of units, the unit net asset value, and the unit issue and redemption prices must be calculated every working day by the management company or the investment company and made public the day after the next business day in at least two national daily newspapers or by any other additional means as CySEC may determine from time to time pursuant to specific provisions of the UCITS Law.

Non-Harmonised UCITS

There is no legal framework in Cyprus providing for the establishment or incorporation of UCITS that do not fall within the scope of the UCITS Law, ie, non-harmonised UCITS.

However, CySEC has issued directives regarding the establishment of non-harmonised UCITS domiciled in an EU member state and UCITS of third countries in Cyprus and the marketing of their products in Cyprus.

International Collective Investment Schemes Law

In General

The UCITS Law does not apply to international collective investment schemes (ICIS), which instead are subject to the International Collective Investment Schemes Law, 47(I) of 1999 ('the ICIS Law'). An ICIS is a body of a specified form (see text, below) whose sole object is the collective investment of the funds of the unit-holders.

The units of the scheme are redeemed or repurchased directly out of the assets of the scheme at the option of unit-holders, unless otherwise provided by the ICIS Law, any other applicable law, or the constitutional documentation of the scheme. The ICIS Law provides for the designation of three types of ICIS, namely ICIS marketed to the public, ICIS marketed to experienced investors, and private ICIS having a maximum of 100 investors. The policy of the Central Bank of Cyprus ("CBC"), which is currently responsible for regulation and supervision of ICIS, is to accept applications only for private ICIS on the grounds that public funds are supervised by CySEC as UCITS.

Forms of Schemes

An ICIS may take one of the following forms:

- An international investment limited partnership;
- An international unit trust scheme;
- An international fixed capital company; or
- An international variable capital company.

All four legal types of scheme can be of limited or unlimited duration. The ICIS Law is to be amended so as to transfer responsibility for supervision of ICIS from the CBC to CySEC. Applications to the CBC for schemes are currently suspended and only applications for private schemes are being accepted.

Private Schemes

A private international collective investment scheme is defined as a scheme which by its constitutional documentation:

- Restricts the right to transfer its units;

- Limits the maximum number of unit-holders to 100;
- Prohibits any invitation to the public to subscribe for any units of the scheme; and
- Prohibits the issue of bearer units.

Private schemes are obliged to appoint a custodian (which must be a Cyprus bank), unless specifically exempted from this requirement by the CBC. Private schemes which do not have a physical presence in Cyprus also must appoint a company to carry out the administrative work of the scheme; the company must be based in Cyprus and be approved by the CBC. On approval, the CBC provides the applicant with a recognition letter with certain conditions attached to it.

Marketing of Units in Private Schemes

A private scheme is prohibited from inviting the public to subscribe for any of its units. However, the ICIS Law provides that an invitation to an experienced investor does not constitute an invitation to the public.

Experienced Investors

Under the ICIS Law, any person, natural or legal, may be regarded as an experienced investor if that person provides financial services to the public or frequently enters into investment transactions which, on average, are of a substantial size and the person, having regard to all relevant facts, can reasonably be expected to appreciate the risks inherent in investment transactions.

An ICIS designated to be marketed to experienced investors must contain in its constitutional documentation and offering memorandum clearly defined rules and procedures to ensure that marketing of the ICIS is restricted to persons who fall within the definition of experienced investors.

AIFMD

The EU Alternative Investment Fund Managers Directive ("AIFMD") must be transposed into the national laws of EU member states and in operation by 22 July 2013. The AIFMD regulates the hedge, private equity, and alternative investment fund industry in Europe. It imposes organisational, management, and systems requirements on alternative investment fund managers who are either domiciled in the EU or which manage investment funds domiciled in the EU ("AIFM").

The AIFMD permits AIFM that are authorised in accordance with the requirements of the directive and that manage EU-domiciled investment funds (and, from July 2015, non-EU-domiciled investment funds) to market those funds to "professional investors" on a pan-European basis. From 2015, the AIFMD will permit investment managers domiciled outside of the EU, but

which are registered with an EU "reference state" and comply with the requirements of the Directive, to market those funds to "professional investors" on a "passported" pan-European basis.

The AIFMD allows (but does not compel) each EU member state to permit (until July 2018) a non-EU investment manager (that is, a manager that is not domiciled in the EU and which does not manage a fund domiciled in the EU) to market its fund to professional investors in that member state on a private placement basis, but only where the non-EU investment manager (and fund) complies with specified pre- and post-sale transparency requirements, including the requirement for the fund to have an audited annual report.

The AIFMD was transposed into Cyprus domestic law on 5 July 2013 by the Alternative Investment Fund Managers Law, Law Number 56(I) of 2013. This fully harmonises Cyprus law with the AIFMD, the provisions of which are essentially mirrored in the domestic law.

CySEC has issued a series of consultation papers regarding the proposed legislation for Alternative Investment Funds (AIFs) and Collective Investment Schemes with Limited Number of Persons and regarding proposed Directives for the implementation of the new legislation. When the new legislation is enacted, it will, in conjunction with the AIF law, establish the legal framework regulating alternative investment funds in Cyprus. New ICIS will be governed and regulated under the AIF law and responsibility for regulation and supervision of existing ICIS will be transferred from the Central Bank of Cyprus to CySEC. The ICIS Law will most likely be gradually repealed subject to any transitional periods for existing ICIS.