



Investor Compensation Fund Notice

v.4 August 2021

Axiance is a trade name of ICC Intercertus Capital Ltd, previously operating as EverFX. ICC Intercertus Capital Ltd is authorised and regulated by Cyprus Securities and Exchange Commission (CySEC) with license number 301/16.

1. Introduction

ICC Intercertus Capital Ltd (hereinafter called as the “Company” or “Axiance” or “we” or “our” or “us”) is an Investment Firm incorporated and registered under the laws of the Republic of Cyprus, with registration number HE 346662. The Company is authorized and regulated by the Cyprus Securities and Exchange Commission (hereafter the “CySEC”) under the license number 301/16. Axiance is a trade name of the Company.

The Company is a member of the Investor Compensation Fund (hereinafter referred to as the “ICF”) for clients of the Cyprus Investment Firms (CIFs) and other Investment Firms (IFs) which are not credit institutions, under the provisions of Investment Services, the Exercise of Investment Activities, the Operation of Regulated Markets and Other Related Matters Law 87 (I) / 2017 and the Directive 97/9/EC.

2. The ICF

The ICF constitutes a private law legal entity and its administration is exercised by an Administrative Committee of five members.

3. The object of the ICF

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

It is a legal obligation for CIFs and other IFs, which are not banks, to subscribe to the ICF.

The term failure denotes the inability of an ICF Member to:

- A. Either return to its covered clients funds owed to them or funds which belong to them but are held by the Company, directly or indirectly, in the context of the provision to the said clients of covered services, and which the client requested the Company to return, in exercising their relevant right; or
- B. To hand over to the covered clients financial instruments which belong to them and which the Company holds, manages or keeps on their account, including circumstances where the Company is responsible for the administrative management of the said financial instruments.

Any compensation provided to clients by the ICF shall not exceed € 20.000 (please refer to Paragraph 7 for more details) per client.

4. Covered Clients

The ICF covers the Retail clients of the Company. It does not cover Professional Clients and Eligible Counterparties. Please see next paragraph for more details on non-covered clients.

5. Non-Covered Clients

Under Applicable Regulations, the ICF does not compensate the following investor categories:

- A. The following categories of institutional and professional investors:
 - i. Investment Firms;
 - ii. legal entities associated with the member of the ICF and, in general, belonging to the same group of companies;
 - iii. group of companies;
 - iv. banks;
 - v. cooperative credit institutions;
 - vi. insurance companies;
 - vii. collective investment organizations in transferable securities and their management companies;
 - viii. social insurance institutions and funds;
 - ix. investors characterized by the member as professionals, upon their request.
- B. Supranational institutions, government and central administrative authorities.
- C. Provincial, regional, local and municipal authorities.
- D. Enterprises that have close ties with the member of the ICF.
- E. Managerial and administrative staff of the ICF member.
- F. Shareholders of the member of the ICF, whose participation directly or indirectly in the capital of the ICF member amounts to at least 5% of its share capital, or its partners who are personally liable for the obligations of the member of the ICF, as well as persons responsible for the carrying out of the financial audit of the member of the ICF, such as its qualified auditors.
- G. Investors having in enterprises connected with the member of the ICF and, in general, of the group of companies, to which the member of the ICF belongs, positions or duties corresponding to the ones listed in 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. Investors-clients of a member of the ICF responsible for facts pertaining to the member of the ICF 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.

In the cases of E., F., G., H. and J. the Fund suspends the payment of compensation informing the interested parties accordingly, until it reaches a final decision as to whether such cases apply.

As provided in Paragraph 7. And 10. below, the ICF shall not pay any compensation to individuals for claims arising from transactions with pending criminal proceedings from transaction or individual's convictions under the provisions of the Prevention and Suppression Prevention and Suppression of Money Laundering Activities Law (the AML Law), as amended or replaced, are pending or where the right of a covered client has been extinguished under the Limitation of Offences Act.

6. Covered Services

The ICF covers all the investment and ancillary services provided at the time by the Company as listed here: <https://www.cysec.gov.cy/en-GB/entities/investment-firms/cypriot/79360/>.

7. ICF Coverage and Maximum compensation

The ICF provides coverage of **90% of the total covered claims of the covered client, with maximum compensation capped at €20.000** (i.e. the maximum compensation you may receive by the ICF is capped €20.000).

The ICF covers claims that may arise due to an ICF member's failure:

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

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

As provided in paragraph 10., the ICF will not pay any compensation:

- For claims that arise from transactions for which there has been a criminal conviction or when there are pending criminal proceedings for money laundering as defined in the AML Law.
- The right of a covered client has been extinguished under the Limitation of Offenses Act.

Joint accounts or investments

In the case of joint investment business:

- (a) the share attributable to each covered investor shall be taken into account in the calculation of the coverage;
- (b) the claims shall be allocated equally amongst covered investors, unless there exist special provisions; each investor is provided with separate coverage;
- (c) claims relating to joint investment business to which two or more persons are entitled as members of a business partnership, association or grouping of a similar nature, which has no legal personality, shall, for the purpose of calculating the coverage be aggregated and treated as if arising from an investment made by a single investor.

Covered Client is not the Ultimate Beneficiary

Where a covered client is not the ultimate beneficiary of the funds or financial instruments held by the ICF member:

- (a) compensation shall be paid to the ultimate beneficiary if his identity is or may be established prior to the date of the determination or ruling referred to in paragraph 8.
- (b) if the ultimate beneficiaries are more than one, in the calculation of the coverage provided for, the share attributable to each one of them according to the arrangements regulating the management of the funds or financial instruments shall be taken into account.

This provision shall not apply to undertakings for collective investments.

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

8. Compensation Payment Application Procedure

The ICF initiates the compensation payment procedure when at least one of the following criteria is met:

- If the member of the ICF submits to the ICF or to CySEC a written statement declaring its failure to fulfil its obligations toward its clients; and/or
- If the member of the ICF files an application for liquidation; and/or
- If CySEC has revoked or suspended the member's authorization to provide investment services and ascertains that the member of the ICF is not expected to be in a position to fulfil its obligations toward its clients in the near future, for reasons which do not concern a temporary lack of liquidity which can be dealt with immediately; and/or if a Court has, on reasonable grounds directly related to the financial circumstances of the Company which is subscribe to the ICF, issued a ruling/decision which has the effect of suspending the investors ability to lodge claims against the Company.

Upon initiation of the compensation payment procedure, the ICF publishes in at least two (2) newspapers of national coverage, an invitation to the covered clients, to make their claims against the Company arising from covered services, as well as the procedure and deadline for the submission of the relevant applications. CySEC will also publish the said invitation on its website.

In exceptional and justified cases, the ICF, with an announcement thereof, may extend the deadline for the submission of compensation applications up to three months, provided it obtains the approval of the CySEC. The said announcement shall also be published by the ICF in at least two national newspapers, and the CySEC shall publish it on its website.

Interruption of deadline for submission of applications

In case a covered client was not able to submit such application within the deadline, the above 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 who submits an application late to the ICF for the payment of compensation is obliged to submit, in addition to the information forming the necessary minimum content of the application a declaration stating the reason for which he was not in a position to claim compensation in time attaching the necessary supporting evidence to prove his allegations.

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

The ICF will either record and assess the submitted claims internally, or it will designate at least one qualified auditor and at least one lawyer with knowledge on capital market issues, who after having checked initially the prerequisites,

they will evaluate the submitted claims and recommend to the Administrative Committee of the ICF their acceptance in total or in part or their rejection. In case of disagreement between these persons, each one of them submits a separate recommendation.

In order to evaluate the applications, the aforementioned persons:

- Shall/ will ask from the member of the ICF to express its opinion about the grounds of the claims alleged by the claimants and, in case of doubt, to present the relevant supporting documents;
- in case the ICF member does not submit its justified opinion on time they proceed with the evaluation of the applications.

10. Decision of the Administrative Committee on submitted applications

Upon submission of the applications the Administrative Committee has control especially if:

- the claimant falls within the category of covered clients
- the application was timely submitted
- the conditions of legislation for the valid submission of compensation applications are fulfilled.
- the claims do not arise from transactions for which there has been a criminal conviction for money laundering as defined in the AML Law;
- There are no pending criminal proceedings against the said covered client for money laundering as defined in the AML Law,
- The right of a covered client has not been extinguished under the Limitation of Offenses Act.

The Administrative Committee rejects the application in case the claimant does not fulfil the above conditions or, if at the Administrative Committee's discretion, there exists at least one of the following reasons:

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

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 ICF determining the amount of the compensations for each covered client-claimant.

11. Announcement of ICF's decision.

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

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

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

The Commission, 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 ICF, it shall request in writing from the ICF to immediately rectify the mistake and pay the claimant the correct amount, and inform the affected client accordingly.

12. Deadline and procedure relating to the payment of compensation

The ICF is obliged to pay the compensation to each covered client-claimant within three months from the date that the decision was communicated to the covered client. In extraordinary and justified circumstances this period may be extended for an additional three months (i.e. within six months), subject to CySEC's approval.

The payment of the compensation by the ICF is deposited to a bank account of the covered client-claimant designated by the latter in writing to the ICF, via the form.

13. Effects of payment of compensation

The payment of any compensation by the ICF entails ipso jure subrogation of the ICF to the rights of the compensated covered client-claimant against the member of the ICF for an amount equal to the compensation payable to it.

14. Unjustifiably paid compensation

The ICF may demand at any time from a covered client to return the compensation paid to it, if it finds out posteriori that there was a reason to reject its application.



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