

# 11

## INVESTOR COMPENSATION

FUND

**INVESTOR COMPENSATION FUND**

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## INVESTOR COMPENSATION FUND

### 1. INTRODUCTION

1.1 Royal Financial Trading CY Limited hereinafter referred to as the 'Company', with its office at John Kennedy St, Kanika Enaerios Complex, Iris House, 3rd Floor, Office 340 3106 Limassol Cyprus, is authorised and regulated by the Cyprus Securities and Exchange Commission ('CySEC'), with licence No. 312/16

1.2 The Company is a member of the Investor Compensation Fund, the 'Fund'. The Fund was established under the Investment Firms Law 2002 as amended, the 'Law' and the Establishment and Operation of an Investor Compensation Fund for customers of CIFs Regulations of 2004, the 'Regulations', which were issued under the Law.

1.3 The Fund constitutes a private legal entity and its administration is exercised by an Administrative Committee of five members, who are designated for a three year term. The Fund has been operating since 30th May 2004.

### 2. SERVICES COVERED

2.1 The Fund will compensate the Company's covered customers as to the covered investment and ancillary services offered by the Company as described on its authorisation and can be found on the website of the CySEC.

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

### 3. CUSTOMERS COVERED

The Fund covers all the Company's customers except those who are included in the following categories of investors:

(1) The following categories of institutional and professional investors:

- (a) Investment Firms (IFs).
  - (b) Legal entities associated with the member of the Fund and, in general, belonging to the same group of companies.
  - (c) Banks.
  - (d) Cooperative credit institutions.
  - (e) Insurance companies.
  - (f) Collective investment organisations in transferable securities and their management companies.
  - (g) Social insurance institutions and funds.
  - (h) Investors characterised by the member as professionals, upon their request, in accordance with articles 14 and 15 of the Code of Professional Conduct of IFs.
- (2) States and international organisations.
- (3) Central, federal, confederate, regional and local administrative authorities.
- (4) Enterprises associated with the member of the Fund, in accordance with the Fifth Schedule of Law 144(I).
- (5) Managerial and administrative staff of the member of the Fund.
- (6) Shareholders of the member of the Fund, whose participation directly or indirectly in the capital of the member of the Fund amounts to at least 5% of its share capital, or its partners who are personally liable for the obligations of the member of the Fund, as well as persons responsible for the carrying out of the financial audit of the member of the Fund as provided by the Law, such as its qualified auditors.
- (7) Investors involved in enterprises connected with the member of the Fund and, in general, of the group of companies to which the member of the Fund belongs, who have positions or duties corresponding to the ones listed in articles (5) and (6).
- (8) Relatives and spouses of the persons listed in articles (5), (6) and (7), as well as third parties acting on account of these persons.

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(9) Customers who file claims arising out of transactions involving individuals convicted of a criminal offence pursuant to the Prevention and Suppression of Money Laundering Activities Law or customers of a member of the Fund responsible for facts pertaining to the member of the Fund that have caused its financial difficulties or have contributed to the worsening of its financial situation or that 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 of the European Union.

3.1 In the cases of articles 3.1. [(5), (6), (7) and (8)], the Fund will suspend the payment of compensation, informing the interested parties accordingly, until it reaches a final decision as to whether such cases apply.

### 4. OBJECTIVE OF THE FUND

4.1 The objective of the Fund is to secure the claims of the covered customers 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 their obligations has been proven.

4.2 The term “failure” denotes the inability of the Company to:

- (a) either return to its covered customers 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 by the Company to the said customers of covered services, and which the latter requested the Company to return, or
- (b) to hand over to the covered customers, financial instruments which belong to them and which the Company holds, manages or keeps on their account, including cases where the Company is responsible for the administrative management of the said financial instruments.

4.3 The Payment by the Fund to the customers of its members is subject to the existence of a well- founded claim by the customer against the member of the Fund.

### 5. PRECONDITIONS FOR THE INITIATION OF THE COMPENSATION FUND

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

- (a) CySEC has determined by Resolution that the member of the Fund is unable to meet any of its duties arising from its investors-customers 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
- (b) A judicial authority has on reasonable grounds, directly related to the financial position of the member, made a ruling which suspends the customer’s ability to lodge claims against the member.

5.2. Upon issuing a decision by CySEC or by the Court as per 5.1., on the commencement of the compensation payment procedure, the Fund will publish in at least three national newspapers an invitation to the covered customers to make their claims against the member arising from the covered services, designating the procedure for the submission of the relevant applications, the deadline for their submission and their content.

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### 6. COMPENSATION

1.1 The amount of compensation payable to each covered customer is calculated in accordance with the legal and contractual terms governing the relationship of the covered customer with the member, subject to the off-set rules applied for the calculation of the claims between the two parties. The calculation of the compensation payable derives from the sum of the 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 customer is a beneficiary, the currency and place of provision of these services.

1.2 The valuation of the financial instruments relating to the compensation payable to the covered customer is carried out based on the value of the day:

- (a) of publication of the court ruling which has the effect of suspending the investor's ability to lodge claims against the member based on reasonable grounds that are directly related to the financial circumstances of the member of the Fund;
- (b) of publication of the decision by CySEC that the member of the Fund is unable to meet any of its duties arising from its customer's claims in connection with the covered services it has provided, as long as such inability is directly related to its financial circumstances in respect of which there is no realistic prospect of improvement in the near future.

1.3 The maximum amount to be compensated to the claimant is twenty thousand Euros (€20.000). Where the investment firm is providing services to its customers through a branch situated in a third country, the maximum compensation payable to the customers of the branch is, per customer, that lump sum paid by any investor compensation scheme in operation in the third country, but which doesn't exceed the amount of twenty thousand Euros (€20.000).