

# PROTECTION OF CLIENT FUNDS & INVESTOR COMPENSATION FUND

*“The document that describes the steps that the Company takes to ensure protection of Client funds, including summary details of the Investor Compensation Fund, which applies to the Company by virtue of its activities in a Member State of the European Union”*

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## 1. Introduction

- 1.1. X GLOBAL Markets Ltd (hereinafter called the “Company”) is a Cyprus Investment Firm incorporated under the laws of Cyprus, which has its principal place of business at 162, Fragklinou Rousvelt, 1st Floor, CY-3045 Limassol and registered with the Registrar of Companies in Nicosia under the number HE 291958. The Company is regulated by the Cyprus Securities and Exchange Commission as a Cyprus Investment Firm (CIF) under the License Number 171/12. The information on this document (hereinafter called the “Information”) is provided to Clients or potential clients in accordance with the provisions of the Investment Services and Activities and Regulated Markets Law of 2007 (No. 144(I)/2007), implementing Directive 2004/39/EC of the European Parliament and of the Council on Markets in Financial Instruments (“MiFID”) as amended by the Directive 2006/31/EC of the European Parliament and of the Council.
- 1.2. The *Information* is an integral part of the *Client Agreement*, which constitutes an integral part of the *Collective Agreement*; the interpretation of the term *Collective Agreement* is set out in the *Client Agreement* (the agreement that constitutes the basis on which the Company provides investment services and activities and ancillary services to the Client; such agreement can be found online under the *Legal Information* section at <http://www.xglobalmarkets.com>). The interpretation of terms used in the *Information* is set out in section 2 of the *Client Agreement* (“Interpretation of Terms”). The definition of other terms used in the *Information* is set out in the aforementioned Law and/or in the applicable legislation and may also be provided in the *Client Agreement* and/or in the *Information*; such terms have quote marks. Terms without quote marks that are not interpreted in the *Client Agreement* and/or in the

*Information* shall have the meaning attributed to them in the aforementioned Law and/or in the applicable legislation.

- 1.3. In accordance with the applicable legislation, the Company, to the extent that it holds Client funds, is required to provide a summary description of the steps that it takes to ensure their protection, including summary details of any relevant investor compensation or deposit guarantee scheme which applies to the Company by virtue of its activities in a Member State.

## 2. Protection of Client funds

- 2.1. The Company, as a licensed Cypriot Investment Firm, follows strict rulings in order to comply with several directives that pertain, directly and/or indirectly, to the safety of Client funds.
- 2.2. In accordance with Directive DI144-2007-01, for the purposes of safeguarding Clients’ rights in relation to funds (i.e. assets) belonging to them, the Company takes all necessary steps to ensure that Client funds are deposited in an account or accounts identified separately from any accounts used to hold funds belonging to the Company. In addition, the Company keeps such records and accounts as are necessary to enable it at any time and without delay to distinguish assets held for one Client from assets held for any other Client, and from its own assets (i.e. the Company maintains its records and accounts in a way that ensures their distinction, accuracy and correspondence to the funds held for Clients).
- 2.3. The Company maintains separate accounts in which Client funds are held with several financial institutions in Cyprus and abroad; such accounts offer substantial liquidity (current accounts) due to the fact that funds held are

essentially readily available and, usually, on a same day value. There is absolutely no familiarity bias involved in the choice of these financial institutions and such institutions are chosen exclusively on the basis of financial soundness. Additional safety is ensured through diversification. Further, the Company has established adequate organizational arrangements designed to minimize the risk of the loss or diminution of Client assets, or of rights in connection with those assets, as a result of misuse, poor administration or negligence.

2.4. The Company has also established strict internal policies and procedures in order to effectively monitor, manage and control its exposure to country, credit and concentration risk. Specifically, the Company sets its maximum credit exposure to any counterparty in line with such internal policies and procedures; it is therefore natural for Client funds to be widespread across different financial institutions, both foreign and local. The main aim of the implementation of such policies and procedures is to minimize the Clients', and the Company's for that matter, exposure to the adverse consequences associated with the bankruptcy of one or more of the aforementioned counterparties; in effect, Client funds are safeguarded to the best possible extent. However, it should be noted that the Company would not be held liable for the insolvency, act or omissions of any financial institution that holds Client funds.

### **3. Investor Compensation Fund**

3.1. Following the requirements of Section 17 of the Investment Services and Activities and Regulated Markets Law of 2007 (hereinafter called the "Law"), the Company is a member of the Investor Compensation Fund (hereinafter called the "ICF") and complies with the obligations imposed by Part VII and other

relevant sections of the Law, enacted for the purposes of harmonization with the Directive 97/9/EC of the European Parliament and of the Council on Investor Compensation Schemes.

3.2. The ICF, set up by the Central Bank of Cyprus and the Cyprus Securities and Exchange Commission, serves the purpose of securing the claim of a Covered Client against the Company, in case the Company fails to meet any of its obligations (such obligations arise as a result of a Covered Client's claim related to the provision of Covered Services; investment or ancillary services offered by the Company) and the Company's financial position is unlikely to change in the foreseeable future.

3.3. Failure by the Company to fulfill its obligations means the Company's inability to return to its Covered Clients funds owed to them or funds which belong to them but are held by the Company (either directly or indirectly) in the context of the provision of covered services and/or the Company's inability to return to its Covered Clients financial instruments which belong to them and which the Company holds, manages or keeps on its account on behalf of such Clients.

3.4. Covered Clients are all the clients of the Company that are not included in the following categories:

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

- (a) Investment Firms
- (b) Legal entities associated with the Company and, in general, belonging to the same group of companies as the Company

- (c) Banks
  - (d) Coop credit institutions
  - (e) Insurance companies
  - (f) Collective investment organizations in transferable securities and their management companies
  - (g) Social insurance institutions and funds
  - (h) Investors categorized as professionals
- (2) States and supranational organizations
- (3) Central, federal, confederate, regional and local administrative authorities
- (4) Enterprises associated with the Company
- (5) Managerial and administrative staff of the Company
- (6) Shareholders of the Company, whose participation directly or indirectly in the capital of the Company amounts to at least 5% of its share capital, or its partners who are personally liable for the obligations of the Company, as well as persons responsible for the carrying out of the financial audit of the Company, such as its qualified auditors
- (7) Investors having in enterprises connected with the Company and in general, of the group of companies to which the Company belongs, positions or duties corresponding to the ones listed in paragraphs 5 and 6 above
- (8) Second degree relatives and spouses of the persons listed in paragraphs 5, 6 and 7, as well as third parties acting for the account of these persons
- (9) Investors whose claim arises out of transactions involving individuals who have been convicted of a criminal offence for these transactions, pursuant to the Concealment, Investigation and Confiscation of Proceeds from Criminal Activities Act 1996, as amended
- (10) Investors-Clients of the Company responsible for facts pertaining to the Company which have caused its financial difficulties or have contributed to the worsening of its financial situation or which have profited from such facts
- (11) 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

3.5. The Fund compensates the Covered Clients for claims arising from the covered services provided by its members, so long as failure by the member to fulfill its obligations has been ascertained. Specifically, the Fund initiates the compensation payment procedure when at least one of the following preconditions has been fulfilled:

- (a) The competent authority (in this case the Cyprus Securities and Exchange Commission) has determined by Resolution that the Company, a member of the ICF, is unable to meet its duties as arise from its Clients' claims in connection with the covered services it

has provided to such Clients, as long as such inability is directly related to its financial circumstances in respect of which no realistic prospect of improvement in the near future seems foreseeable.

- (b) A judicial authority has, on reasonable grounds directly related to the financial circumstances of the Company issued a ruling which has the effect of suspending the investors ability to lodge claims against it.

It should be noted that the ICF should pay no compensation to an individual who has been convicted of a criminal offence related to the Prevention and Suppression of Money Laundering Activities Law.

- 3.6. Further information on the fulfillment of the aforementioned preconditions and the issuance of decisions is provided in Part V (Compensation of covered clients and payment formalities) of the document consolidating regulations under Sections 53(3), 56(3), 58(2) and 72 of the Investment Firms Laws (Consolidated Regulations). This can be found online at <http://www.cysec.gov.cy>.

- 3.7. Upon issuance of a decision to initiate the compensation payment process in accordance with paragraphs (a) or (b) above, the ICF publishes in at least three newspapers of national coverage, an invitation to the Covered Clients to make their claims against the Company arising from covered services, designating the procedure for the submission of the relevant applications, the deadline for their submission and their content, as defined specifically in Part V of the aforementioned

Consolidated Regulations.

- 3.8. The amount of compensation payable to each Covered Client is calculated in accordance with the legal and contractual terms governing the relation of the Covered Client with the Company, subject to the setoff rules applied for the calculation of the claims between the Covered Client and the Company. The calculation of the payable compensation derives from the sum of total established claims of the Covered Client against the Company, arising from all covered services provided by the Company and regardless of the number of accounts of which the Client is a beneficiary, the currency and place of provision of these services. Currently, the maximum amount any claimant can receive as compensation is €20,000 (Euros).

#### **4. Monitor and Review**

- 4.1 The Company will, on a regular basis, monitor and assess the effectiveness of this Policy and, where appropriate, the Company reserves the right to correct any deficiencies in this document and make improvements to its execution arrangements.
- 4.2 In addition, the Company will review this document. A review will also be carried out whenever a material change occurs that affects the ability of the firm to continue to obtain the best possible result for the execution of its Customer orders on a consistent basis using the venues included in this document.
- 4.3 The Company will notify any Customers affected by material changes in this document or order execution arrangements.