

DERIVATIVES IN CYPRUS: FOREX MARKET DEVELOPMENTS

As of June 17 2009, according to a regulation of the Cyprus Securities and Exchange Commission (CySEC), foreign exchange trading transactions fall within the ambit of the Law on Provision of Investment Services, the Exercise of Investment Activities, the Operation of Regulated Markets and Related Matters (144(I)/2007).

The following types of foreign exchange trading transaction may be caught by the new regulation: (i) transactions which are not materially settled in cash but where a change of client's position is anticipated (eg, rolling spot forex contracts); or (ii) transactions which have as an object of settlement the difference in value between two currencies, according to their differentiated exchange rates and where the object of settlement is exhausted by the client's disbursed amount of daily security (eg, margins, security deposits).

In practice, the regulation means that the receipt, transmission and execution of orders relating to the specified financial instruments are considered to be an investment services which can be provided only by an authorized Cypriot investment firm.

Persons that provide foreign exchange spot trading are now required to submit an application to CySEC in order to be granted Cypriot investment firm authorization. Cypriot investment firms which list an activity that is categorized as 'other activity' must immediately apply to CySEC for amendment of their relevant Cypriot investment firm authorization.

When submitting an application to CySEC for the granting or amendment of a Cypriot investment firm authorization, the company itself must determine, depending on the characteristics of the product, whether to categorize the relevant financial instrument as futures or as contracts for difference. CySEC will not intervene in the categorization of the instrument.

Cypriot investment firms which have already been granted authorization for the provision of investment services in relation to futures or contracts for differences may continue to provide the aforementioned services.

Cyprus has taken a significant lead in efforts to become an attractive financial centre following CySEC's decision to accept applications from companies engaged in foreign exchange trading, futures and other derivative products. Companies offering foreign exchange and other derivatives products will be required to apply for the relevant licence

in order to offer their services as Cypriot investment firms. Once approved, this will allow them to carry out activities across the European Union.

FURTHER INFORMATION

Please contact any of the following lawyers if you require additional information on the above topic.

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