

# THE ATHENS

STOCK EXCHANGE MEMBERS' GUARANTEE FUND

“an institution that secures  
investors  
and supports the credibility of  
investment services market”

Member of “The Athens Stock  
Exchange Members' Guarantee Fund”

Investors' protection and preservation of their trust in the financial system are of great importance for the orderly functioning of the internal European market. Within this context, Directive 97/7/EC of the European Parliament and Council of March 3<sup>rd</sup>, 1997 determined that for this purpose it is essential that each Member State has one or more investor compensation schemes to ensure a minimum harmonized level of protection at least amongst small investors in case a company fails to fulfill its obligations towards the investing clients.

This very important task of investors' protection, that is, of their compensation, has been undertaken in our country since 1997 by the "The Athens Stock Exchange Members' Guarantee Fund" (distinctive title "Guarantee Fund").

The "Guarantee Fund" compensates investors for investment services provided to them by Investment Services Providers (I.S.P.), namely:

- a. Investment Services Providers SAs (I.S.P.SAs) – members of the Athens Exchange (ATH.EX.),
- b. Credit Institutions that have acquired an investment services provision license – members of the ATH.EX., and participate in the Guarantee Fund,
- c. Investment Services Providers SAs – non-members of the ATH.EX., and
- d. Mutual Fund Management SAs (M.F.M.SAs) that are licensed and provide services as laid down in article 4, par. 2 of the Greek Act 3283/2004 – non-members the of the ATH.EX.

The abovementioned companies are licensed as to the services provided by them and are supervised by the competent Supervisory Authorities, and pay their contributions to "The Athens Stock Exchange Members' Guarantee Fund" in accordance with the provisions specified in article 71 of the Greek Act 2533/1997, as applicable.

**THE ATHENS STOCK EXCHANGE**  
**MEMBERS' GUARANTEE FUND**

## **Brief History**

“The Athens Stock Exchange Members’ Guarantee Fund” constitutes a private legal entity, has been set up under the Greek legislative decree 3078/54 and is now governed by the provisions of articles 61-78 of the Greek Act 2533/97 (Greek Gov. Gazette 228 A/11.11.97), – according to which the current “Common Guarantee Fund of Stock Market transactions Safety” that is based on the abovementioned Greek legislative decree 3078/54 was restructured and renamed as “The Athens Stock Exchange Members’ Guarantee Fund” (without, however, changes in the purpose of its existence and operation).

The legislation governing the operation of the “Guarantee Fund” is adapted to the provisions of the Directive of the European Parliament and the European Council No. 97/9/EC dated on 03/03/1997 regarding investors’ compensation schemes.

The “Guarantee Fund” is a non-profit private legal entity that intends to provide reassurance and is supervised by the Hellenic Capital Market Commission, which also appoints the Chairman of its Board of Directors.

## **THE PURPOSE OF THE “GUARANTEE FUND”AND ITS SIGNIFICANCE**

In accordance with article 63 of the Greek Act 2533/1997, the purpose of the “Guarantee Fund” is the *“payment of compensations to assignors in case of proven permanent or irreversible inability of an Investment Services Provider (I.S.P.) to fulfill its obligations emanating from the provision of covered investment services, and the support, in this way, of the stability and credibility of the investment services market operation”*.

Therefore, the scope of the Act is:

- 1<sup>st</sup> The provision of compensation to investors of I.S.P. for the reasons set out in article 63 of the Greek Act 2533/1997.
- 2<sup>nd</sup> The support, in this way, of the stability and credibility of the investment services market.
- 3<sup>rd</sup> The reassurance of a stock exchange institution, the investment services market and all investors against stock market transactions and other investment services, as specified in the Act.

### **PROTECTION OF INVESTORS OF I.S.P.**

The protection of the “Guarantee Fund”, which is provided by the Greek Act 2533/1997, is provided to investors of Investment Services Providers (I.S.P.) that have been licensed by the competent Supervisory Authorities (the Hellenic Capital Market Commission for Investment Services Providers, and the Bank of Greece for Credit Institutions) and operate under the provisions of the Greek Act 3606/2007 regarding the provision of investment services. The participation of these firms in the “Guarantee Fund” is mandatory as provided by the Greek Act 2533/97 and the Greek Act 3606/2007, and constitutes a condition for their legal operation and the provision of investment services to investors. For these firms to be allowed to operate by the Hellenic Capital Market Commission, they must contribute the amount specified by law for its capital composition to the “Guarantee Fund”. Apart from this obligation of theirs, throughout their operation they must fulfill all their obligations against the “Guarantee Fund”, as set out by the abovementioned laws and decisions by the bodies of the “Guarantee Fund”, with the statutory procedures and consequences (failure to provide covered investment services, coverage removal, etc.) in case of non-compliance with their abovementioned obligations.

### **PROTECTION FOR “COVERED” INVESTMENT SERVICES ONLY**

It should be noted (and to this point we draw the particular attention of investors) that the Greek Act 2533/1997 provides for investors’ compensation by the “Guarantee Fund” only for the investment services provided to them by one of its members, which are described in article 1, par. 12 of the Greek Act 2533/1997 as “*covered*” and for which the member has received an operation license.

Therefore, investors are not compensated by the “Guarantee Fund” for “not covered” investment services, nor are they compensated for investments services provided by the I.S.P., which are not included in the operation license.

## **WHICH ARE THE “COVERED” INVESTMENT SERVICES?**

In accordance with article 1, par. 12 of the Greek Act 2533/1997, the services mentioned in paragraph 12 of article 1 of the Greek Act 2533/1997 and in paragraph 1, section (a) I, and (c) of the Greek Act 2396/1996 are defined as “covered investment services”.

These **covered main investment services** include the following: **(a)** the performance of transactions on stock exchange items in the ATH.EX. for the account of third parties or for own account, **(b)** the safekeeping and management of stock exchange items for the account of third parties for the performance of transactions in the ATH.EX. or that constitute the product of the performance of transactions in the ATH.EX., **(c)** the possession of third-party funds for the performance of transactions on stock exchange items in the ATH.EX. or that constitute the product of the performance of transactions on stock exchange items in the ATH.EX. **(d)** the service of clients’ investment portfolios management, within the context of their order, as this is specified in section (c), par. 1 of article 2, Greek Act 2396/1996, and **(e)** the underwriting of issue and provision of the total or part of securities, as this is specified in section (d), par. 1, article 2 of the Greek Act 2396/1996.

Financial instruments that are negotiable in organized markets do not include payment instruments.

**Any other form of investment that does not fall within the abovementioned covered investment services and is provided by members of the Guarantee Fund to their clients IS NOT COVERED BY THE “GUARANTEE FUND”.**

## **AMOUNT OF COMPENSATION PROVIDED**

The Greek Act 2533/1997 stipulates the provision of compensation from the “Guarantee Fund” to the investor for claims against the I.S.P., which is, however, not unlimited as to its amount.

As stipulated in article 66 of the Greek Act 2533/1997, the compensation that shall be determined by the “Guarantee Fund” covers the total of the investor’s claim from all the provided covered investment services, but with a ceiling of €30,000.

The abovementioned compensation is provided by the “Guarantee Fund” pursuant to the procedures laid down in articles 66 and 67 of the Greek Act 2533/1997 and provided that the investor has not been previously compensated by the liquidation of the assets of the I.S.P. against which the investor raises the claim.

This obligation of the Guarantee Fund for compensation towards investors is subsidiary, complementary and limited.

### **CONDITIONS FOR THE PROVISION OF COMPENSATION**

Under article 65 of the Greek Act 2533/1997, it is concluded that the following are substantial and necessary conditions for the payment of compensation from the “Guarantee Fund”: (a) the final, permanent and irreversible failure of a member to fulfill its obligations deriving from investment services towards assignors, as this is specified by par. 2-7 of article 65 of the Greek Act 2533/1997 and (b) the obligations due that the member fails to fulfill should emanate from services provided by the member and falling within the investment services covered by the “Guarantee Fund”, as these are specified in par. 12 of article 1 of the Greek Act 2533/1997.

Among the restrictively mentioned cases of compensation provision by the “Guarantee Fund” is the recall of the establishment license of an I.S.P. and its placement in special liquidation status, in accordance with article 4a of the Greek Act 1806/88, as this has been replaced by articles 22 and 23 of the Greek Act 3606/2007 and supplemented by article 13 of the Greek Act 3756/2009.

### **PERSONS EXCLUDED FROM GUARANTEE FUND COVERAGE**

The persons referred to in sections (a) to (j) of paragraph 6 of article 1 of the Greek Act 2533/1997 are excluded from Guarantee Fund coverage. In particular, the following are excluded: a) credit institutions of article 2 of the Greek Act 2076/1992 (Greek Gov. Gazette 130A) and the foreign companies that are equated to them as to their scope, regardless of their legal form, b) credit institutions of article 2 of the Greek Act 2076/1992 (Greek Gov. Gazette 130A) and the foreign companies that are equated to them as to their scope, regardless of their legal form c) insurance companies of the Greek Act 400/1976 (Greek Gov. Gazette 130A) and the foreign companies that are equated to them as to their scope, regardless of their legal form, d)

collective investment institutions, portfolio management companies and the foreign companies that are equated to them as to their scope, regardless of their legal form, e) legal entities subject to the provisions of the Greek Act 1611/1950 (Greek Gov. Gazette 340A) and the foreign companies equated to them as to their nature, regardless of their legal form, f) the states, central administrative authorities, state services and supranational bodies and organizations, regardless of legal form, g) local administration organizations, h) executive managers, Members of the Board of Directors, auditors and other persons who provide confidential advisory services, as to the member by which they are employed as executives, members of the Board of Directors, auditors or consultants as well as shareholders of the member possessing at least 5% of the share capital, i) relatives by blood or marriage up to the second degree of the persons of the above case h) as to the same member as in case h), j) any other person connected (within the meaning of paragraph 5 of article 42E of the Greek Act 2190/1920) with the member providing them with the covered investment services.

#### **REFUSAL OF COMPENSATION PROVISION**

The attention of investors is especially drawn, in accordance with the provisions of article 66, paragraph 4 of the Greek Act 2533/1997, to the fact that the “Guarantee Fund” has the right to refuse payment of compensation to the assignor in the following cases:

- a) part of his application is checked as false,
- b) he has made use of fraudulent means in order to obtain compensation from the “Guarantee Fund”,
- c) he acts as an interposed person and it is not concluded that the ultimate beneficiary is entitled to compensation as assignor or the compensation he has already received from another cause is not concluded,
- d) the damage emanates substantially from malice or gross negligence on his part;
- e) his application has been submitted after the deadline in accordance with article 66, par. 6 of the Greek Act 2533/1997.

#### **MONEY LAUNDERING**

*In case, in the opinion of the Guarantee Fund, there are pieces of evidence that the covered service as to which the claim for compensation arises, impinges on the prohibitions of the Greek Act 2331/1995, as applicable, it shall refer the matter to the Commission of the Greek Act 2331/1995 and suspend the issue of a decision until a final decision is issued in accordance with the provisions of the Greek Act 2331/1995”.*

*The payment of compensation for claims arising from covered services as to which a convicting decision has been issued regarding the legalization of revenue from illegal activities in accordance with the meaning of the Greek Act 2331/1995, is prohibited.*

### **COMPENSATION COMMITTEE**

Decisions concerning the compensation rights of assignors and the assessment of their claims are made exclusively by the Compensation Committee that consists of five (5) members with a 3-year term and is approved by the Hellenic Capital Market Commission (article 68, par. 5 of the Greek Act 2533/1997).

In accordance with par. 6 of article 68 of the Greek Act 2533/1997, the members of the Compensation Committee are selected among persons with special knowledge or experience on financial matters or relevant special legal or accounting knowledge, and may not be members of the “Guarantee Fund” or have any type of dependent employment relationship or other professional relationship with the “Guarantee Fund”, **that is, act independently of the “Guarantee Fund” and in their free judgment.**

Also, in accordance with par. 6 of article 68 of the Greek Act 2533/1997, **the decisions of the Compensation Committee are definitive as to the obligation of the “Guarantee Fund” for payment or not of compensation** to any person and as to the amount of any potentially paid compensation.

While the Compensation Committee investigates compensation cases, it takes account, in accordance with the law, of the data for each investor as these derive from the books and data maintained by the member of the “Guarantee Fund” only, expressly excluding any other means of evidence.

## **“GUARANTEE FUND” CAPITAL**

In accordance with the Greek Act 2533/1997, the “Guarantee Fund” capital is constituted solely from contributions of the I.S.Ps that are its members.

The amount of the capital and the individual contributions of its members are determined by article 71 of the Greek Act 2533/1997, as this was replaced by article 11 of the Greek Act 3756/2009.

The “Guarantee Fund” has collected and maintains, exclusively with contributions from I.S.Ps that are its members, the necessary funds to fulfill its mission.

## **HOW THE “GUARANTEE FUND” IS ADMINISTERED**

The “Guarantee Fund” is administered by a 7-member Board of Directors, which is responsible for all matters relating to the management and representation of the “Guarantee Fund”, to all types of decisions made by the “Guarantee Fund”, to the collection of all types of its resources, to the management of its assets and in general to the fulfillment of its mission.

The Chairman of the Board of Directors of the “Guarantee Fund” is appointed by the Hellenic Capital Market Commission and is one of the Members of its Board of Directors.

The 5 members are elected by the General Meetings of the Members of the “Guarantee Fund” Investment Services Providers SAs (I.S.P.SAs) and Credit Institutions, members of the ATH.EX., and Investment Services Providers SAs (I.S.P.SAs) and Mutual Fund Management SAs (M.F.M.SAs), non-members of ATH.EX.

Each Chairman of the Board of Directors of the Association of Members of the ATH.EX. (A.M.ATH.EX.) participates in the Board of Directors as a member.

## **MEMBERS OF THE “GUARANTEE FUND”**

Today, there are 83 members of the “Guarantee Fund” (5 Credit Institutions, 52 I.S.P.SAs members of the ATH.EX., 14 I.S.Ps non-members of the ATH.EX. and 12 M.F.M.SAs), which have been licensed by the Bank of Greece and the Hellenic

Capital Market Commission respectively for the provision of investment services to the investing public.

A list of the members of the “Guarantee Fund” is cited in the website of [www.syneggiitiko.gr](http://www.syneggiitiko.gr).

### **RECOGNITION PROCEDURE OF INVESTORS’ CLAIMS AND THEIR COMPENSATION**

The Greek Act 2533/1997, which determines the operation of the “Guarantee Fund”, describes all the conditions that the investor must fulfill and the procedures he must follow in order to exercise his right against the “Guarantee Fund”, as well as the deadlines within which he should address the “Guarantee Fund”, so as not to lose his right to compensation.

In the event that a Member of the “Guarantee Fund” is placed in the process of special liquidation, as provided for in articles 22 and 23 of the Greek Act 3606/2007, the invitations of the Supervisor and the procedure of notification substitute the procedures provided for the “Guarantee Fund”.

We note again that the investor has a compensation claim against the I.S.P., of which he is a client, and resorts to the “Guarantee Fund” only if he cannot satisfy his claim from the I.S.P. during the process of liquidation of its assets.

### **FREE SERVICES OF THE “GUARANTEE FUND” TO INVESTORS**

It is very important that the entire protection we have described, which is provided by law, is provided absolutely free of charge to investors who are not obliged to any form of contribution, subscription or fee towards the “Guarantee Fund”.

### **PROVISION OF MORE THOROUGH INFORMATION TO INVESTORS**

The “Guarantee Fund of Securing Investment Services” considers that with the present brochure investors are provided with basic information. At the same time, it encourages them to seek more information from the companies that they are clients of or recourse to the website of the “Guarantee Fund”, [www.syneggiitiko.gr](http://www.syneggiitiko.gr), from which

they shall obtain a lot of useful information which cannot be included in this short informative brochure.

It is noted that this information brochure provides general directions and information to investors. Any existing claim of an investor against the “Guarantee Fund” is examined separately by the Compensations Committee based on the existing real cases and their subjection to the provisions of the law, and it cannot be regarded as covered by this brochure.

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