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**To** : **Regulated Entities:**  
**i. CIFs**  
**ii. ASPs**  
**iii. UCITS Management Companies**  
**iv. Internally managed UCITS**  
**v. AIFMs**  
**vi. Internally managed AIFs**  
**vii. Internally managed AIFLNPs**  
**viii. Companies with sole purpose the management of AIFLNPs**

**From** : **Cyprus Securities and Exchange Commission**

**Date** : **21 April 2021**

**Circular No.** : **C436**

**Subject** : **Findings of the assessment of Compliance Officers' Annual Reports and the Internal Audit Reports on the prevention of money laundering and terrorist financing**

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The Cyprus Securities and Exchange Commission (the 'CySEC') wishes, with this circular, to inform the Regulated Entities of the following:

1. For assessing Regulated Entities' compliance with their obligations under the Prevention and Suppression of Money Laundering and Terrorist Financing Law (the 'Law') and the CySEC's Directive for the Prevention of Money Laundering and Terrorist Financing (the 'Directive'), CySEC conducted its annual assessment of all the Compliance Officers' Annual Reports and Internal Audit Reports (the 'Reports'). The assessment review includes all the Reports for the year 2019 and the relevant minutes of the Board of Directors (the 'BoD') submitted to CySEC in 2020. It is noted that this is an annual exercise where regulated entities are obliged to submit the Compliance Officers' Annual Reports (by end of March) and the Internal Audit Reports (by end of April) to CySEC for the previous calendar.
2. However, due to the developments related to the Coronavirus disease 2019 (COVID-19), the deadlines for the submission to CySEC of the Reports have been extended as follows, according to [Circular C371](#):
  - The Internal Auditor's Annual Report and the relevant Board of Directors minutes to be submitted to CySEC by the end of July 2020 at the latest.
  - The AMLCO's Annual Report and the relevant Board of Directors minutes to be submitted to CySEC by the end of June 2020 at the latest.

3. In carrying out these assessment reviews and evaluating Regulated Entities' compliance with the requirements set out in the Directive, [Circular C033](#) on the Content of the Compliance Officer's Annual Report on the prevention of money laundering and terrorist financing ('the Circular') and [Circular C191](#) regarding Regulated Entities' compliance with reporting and other obligations (the 'Circular C191'), CySEC found the following common and recurring weaknesses and deficiencies, to which Regulated Entities should apply corrective measures immediately:

A. In relation to the **content of the Compliance Officers' Annual Reports on the prevention of money laundering and terrorist financing and the relevant BoD minutes** submitted by CIFs, ASPs, Internally Managed Investment Funds and External Investment Fund Managers, the CySEC found that:

- i. On some occasions, there was not sufficient analysis of the specific method/way of conduct of the inspections and reviews performed by the Compliance Officer to determine the degree of compliance of the Regulated Entity in the policy, practices, measures, procedures and controls applied for the prevention of ML/TF. Particularly, it was observed that the information provided in the Compliance Officers' Annual Reports is merely the results of the inspections and reviews performed with no reference to the method/way of conducting these inspections and reviews. Examples of such reference include the sample of clients tested, reasoning of the sample selection, methodology and timing of the inspections, reviews performed, specific audit tests made and findings identified. (Paragraph 10(4)(b) of the Directive and point 2 of Appendix 1 of the Circular).
- ii. In addition, it was observed that in a number of cases, the Compliance Officers, did not make sufficient reference to information on the policy, measures, practices, procedures and controls applied in relation to high risk customers (e.g. specific enhanced due diligence measures and details of ongoing monitoring of accounts and transactions for PEPs). Moreover, it has been observed that information about the number, country of origin and type of the high risk customers with whom a business relationship is established or an occasional transaction has been executed as well as comparative data with the previous year was not always mentioned in the said Reports (Paragraph 10(4)(g) of the Directive and point 6 of Appendix 1 of the Circular).
- iii. The information provided in the Compliance Officers' Annual Reports about the systems and procedures applied by the Regulated Entities for the ongoing monitoring of customers' accounts and transactions that are compared with the data and information kept in their economic profile, was not always adequate. In particular, reference to the analysis of the way/method (automated or non-automated) of the ongoing monitoring of customers' accounts and transactions, details for any variation of the ongoing monitoring of customers' accounts and transactions according to the customer's categorization on a risk based approach, details of the timing of the ongoing monitoring of customers' accounts and transactions (e.g. in real time or after

the completion of an event) and the method used for documenting the ongoing monitoring of customers' accounts and transactions (e.g. preparing a memo describing all relative actions and recording it in the customer's file) were not sufficient. (Paragraph 10(4)(h) of the Directive and point 7 of Appendix 1 of the Circular).

- iv. In relation to the content of the relevant BoD minutes accompanying the Compliance Officers' Annual Reports, it was observed that the said minutes did not always include specific measures decided for the correction of all the weaknesses and/or deficiencies identified in the said Reports and the implementation timeframe of these measures as per paragraph 10(3) of the Directive.
  - v. In addition to the above findings, it has been observed that the Compliance Officers' Annual Reports submitted by a number of Internally Managed Investment Funds and External Investment Fund Manager did not always include comparative data with the previous year of Internal Suspicion Reports and Compliance Officer's Reports to MOKAS. (Paragraphs 10(4)(c), (d) of the Directive and points 3 and 4 of Appendix 1 of the Circular respectively).
  - vi. Furthermore, it has been observed that the Compliance Officers' Annual Reports submitted by a number of Internally Managed Investment Funds and External Investment Fund Managers stated that due to the fact that they were not operational during the assessed period, no information was provided in the said reports. However, it should be reminded that according to point 4 of [Circular C191](#), *'the CySEC expects that the reports, even if they relate to a period during which the Regulated Entities were not operational, will contain the minimum required information requested by the CySEC and/or the European Regulation.'*
- B. In relation to the assessment of the **Internal Audit Reports on the prevention of money laundering and terrorist financing and the relevant BoD minutes** submitted by CIFs, ASPs, Internally Managed Investment Funds and External Investment Fund Managers, the CySEC found that the relevant BoD minutes did not always include specific measures decided for the correction of all the weaknesses and/or deficiencies identified in the Internal Audit Reports and the implementation timeframe of these measures, as per paragraph 6 of the Directive.
4. Taking into account the above findings, Regulated Entities should ensure the following obligations are upheld in accordance with the Law and the Directive:
- The Compliance Officer's obligation for the correct preparation of the Annual Report and the sufficient assessment of the level of compliance of the regulated entity in relation to the prevention of money laundering and terrorist financing.
  - The Internal Auditor's obligation for the correct preparation of the Internal Audit Report and the sufficient review and evaluation of the appropriateness, effectiveness and adequacy of the policy, practices, measures, procedures and control mechanisms applied by the regulated entity for the prevention of money laundering and terrorist financing.

- The regulated entity's BoD obligation for the sufficient assessment and approval of the Annual Report and the Internal Audit Report and taking all appropriate measures for the correction of any weaknesses and/or deficiencies identified as well as the implementation timeframe of these measures.
  - The regulated entity's BoD obligation to ensure the overall implementation of all requirements of the Law and the Directive as well as to ensure that appropriate, effective and sufficient systems and controls are introduced for achieving the abovementioned requirement.
5. Regulated entities must note that the most common and recurring weaknesses and deficiencies identified will be the subject of subsequent compliance checks by CySEC.
6. CySEC expects that all Regulated Entities take into account the above-mentioned findings when preparing the Reports for the year 2021 and onwards, in order to ensure full compliance with the Law and the Directive. It is stressed that the Law provides strict administrative sanctions in case of non-compliance with the requirements of the Law and the Directive, which CySEC will not hesitate to use.

Sincerely,

Demetra Kalogerou  
Chairwoman of the Cyprus Securities and Exchange Commission