
TO : **Administrative Services Providers**

FROM : **Cyprus Securities and Exchange Commission**

DATE : **May 2, 2018**

CIRCULAR No : **C265**

FILE No : **E.K. 02.03.001, E.K. 01.03.004 and E.K. 01.13.001.002.002**

SUBJECT : **Risk Based Supervision Framework ('RBS-F') – Electronic submission of information for the year 2017**

The Cyprus Securities and Exchange Commission ('CySEC') wishes to inform the Administrative Services Providers ('the ASPs') about the following:

1. Information requested by CySEC

- 1.1.** CySEC requests from all ASPs, that were authorised and operated¹ **by December 31, 2017, inclusive**, to complete the **Form RBSF-ASP** (previously named Form T196/001), in the [Appendix](#), regarding the electronic submission of RBS-F information for the year 2017 and submit it only electronically via the CySEC's Transaction Reporting System ('TRS') **between Wednesday, May 2 and Wednesday, May 23, 2018.**
- 1.2.** For the successful implementation of the RBS-F it is imperative that all the information requested from the ASPs stated above, to be completed and submitted within the timeframes set. CySEC wishes to emphasise the importance of meeting the deadline set for the submission of **Form RBSF-ASP ('the Form')**. **Extension to the above deadline, i.e. Wednesday, May 23, 2018, will not be granted.**

2. Changes to the Form according to ESAs Risk-Based Supervision Guidelines and AML 4th Directive

The Joint Committee of the three European Supervisory Authorities (EBA, EIOPA and ESMA, 'ESAs') published, on the 7th of April 2017, the guidelines on the characteristics of a risk-based approach to anti-money laundering and countering terrorist financing ('AML/CFT') supervision and the steps to be taken when conducting supervision on a risk-sensitive basis ('**The Risk-Based Supervision Guidelines**'). The Risk-Based Supervision Guidelines became applicable from **7 April 2018** and CySEC has incorporated them into the RBS-F, as appropriate in the relevant AML/CFT risk-based supervision process. Further information regarding the Risk-Based Supervision Guidelines can be found in [Circular 252](#), dated December 21, 2017.

¹ ASPs that were authorised by December 31, 2017, but were not made use of their authorisation will not be obliged to complete and submit the relevant form.

The **Risk-Based Supervision Guidelines** were issued based on a mandate in Article 48(10) of Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing ('**4th AML Directive**'). The provisions of the 4th AML Directive were transposed into Cyprus legislation by The Prevention and Suppression of Money Laundering and Terrorist Financing (Amending) Law of 2018 ('**Law 18(I)/2018**'), issued on April 3rd 2018. The Risk-Based Supervision Guidelines, Law 18(I)/2018 and the relevant Prevention and Suppression of Money Laundering and Terrorist Financing Laws of 2007-2016 can be found on CySEC's website: <https://www.cysec.gov.cy/en-GB/legislation/financial-crimes/>

Based on the provisions of the abovementioned legislation, CySEC has accordingly amended the Form in order to collect the following information regarding ASPs RBS-F assessment:

2.1. Section B – Customers and Delivery Channels

Section B now includes a revised set of **categories concerning High Risk customers**, which is defined as follows:

- Customers that are Politically Exposed Persons (PEPs), as per Article 64(1)(c) of the Prevention and Suppression of Money Laundering and Terrorist Financing Laws of 2007-2018 ('the AML Laws of 2007-2018').
- Customers that are established in European Commission High Risk Third Countries, as per Article 64(1)(a) of the AML Laws of 2007-2018.
- Customers that have complex and unusually large transactions, or unusual patterns of transactions, that have no obvious economic or lawful purpose, as per Article 64(4) of the AML Laws of 2007-2018.
- Other high risk customers, who are defined as high risk as per ASP's assessment and do not fall under any of the above three high-risk categories, as per Article 64(3) of the AML Laws of 2007-2018.

In addition, a new question was added regarding the number of customers considered as **High Net Worth Individuals (HNWI)**, as at the reference date (i.e. physical persons or customers with Beneficial Owner(s), with a Net Worth of at least €3 million).

2.2. Section E – Products, Services and Transactions

A new section, Section E – Products, Services and Transactions, was included in the Form, containing a number of questions regarding the assessment of ASPs' **products/services transparency and complexity** as well as the assessment of ASPs' **value and size of customers' transactions**.

2.3. Section F – Countries and Geographical Areas

Another new section, Section F – Countries and Geographical Areas, was included in the Form containing a number of questions regarding the assessment of the **countries and geographical areas of**:

- ASP's Customers or Customers' Beneficial Owners (BOs, for legal entities).
- ASPs BOs, parent or subsidiary companies, branches or representative offices.
- Other Third Parties that the ASP has relationships/collaborations.

3. General Comments for Form RBSF-ASP

- 3.1.** The Form will be available **only** in the **English language and can be found on CySEC's [website](#)**.
- 3.2.** The Form will be completed only for the reporting period **01/01/2017 – 31/12/2017 and using 31/12/2017 as a reference date**.
- 3.3.** The data to be reported should be based on **audited** financial statements and the basis for the preparation of the data is **single**.
- 3.4.** The Form will be submitted to the CySEC as described in Section 4 below, **from Wednesday, May 2 until Wednesday, May 23, 2018**.
- 3.5.** **At this point, CySEC would like to stress that, for all ASPs that will fail to submit the requested information within the abovementioned deadline, it will examine the possibility of enforcement of actions against them (e.g. administrative fines)**.
- 3.6.** Instructions on the completion of the Form can be found in the 'Instructions' Section of the Form. In the Section 'Instructions', some more clarifications were added in order to facilitate the completion of the Form.
- 3.7.** Please ensure that you have the latest version of the Form, i.e. **Version 1**.

4. Method of creating, signing and submitting the Form to the Commission

After populating the required Excel fields in the Form found in the [Appendix](#), the ASPs should name their Excel file in accordance to the following naming convention:

ASPxxx_yyyymmdd_RBSF-ASP

The information below explains the naming convention:

- (1) **ASPxxx** – where xxx is the first part of the CySEC license number of the ASP. For example, an ASP with license number 03/196 will complete this section as ASP3 (without any zeros in front). An ASP with license number 250/196 will complete this section as ASP250. An ASP with license number 88/196 will complete this section as ASP88.
- (2) **yyymmdd** – this denotes the end of the reporting period of the Form. In this case the Form should have a 20171231 format. Future forms will have different reporting periods.
- (3) **RBSF-ASP** – this is the coding of the Form that it remains unchanged and should be inserted exactly as it appears. Your attention is drawn to the fact that coding is a bit different from the name of the Form found in Appendix.
- (4) **The Excel® must be of 2007 version and onwards**. Excel will add the extension .xlsx as soon as it is saved. This extension should not be inserted manually.

The fully completed excel form, which is named based on the above paragraph, must be submitted only electronically through the TRS, within the timeframes set. **The steps that will have to be followed for the successful submission of the Form can be found [here](#).**

The official commencement date of submitting the Form via TRS is **May 2, 2018**. Special emphasis is given to the fact that the Form will be submitted to CySEC, only electronically, via TRS and not in any other format. Furthermore, the ASPs are required to keep, at their offices in the Republic, the Form in a hard copy form, which will be signed by the authorized person. **CySEC reserves the right to inspect the Form in a hard copy form at any time.**

5. Important Dates Summarized

Dates	Task
2 May 2018	The ASPs can start submitting the digitally signed Form to the CySEC's TRS system.
From May 2 until May 16, 2018	The ASPs can submit any queries that they have for this Circular and the Appendix attached.
23 May 2018	Deadline for submitting the Form duly completed.

6. Support

6.1. Queries on how to complete the fields

In case you have any queries on the completion of **Form RBSF-ASP**, please submit them **only** in writing by sending an email to the address riskstatistics.asps@cysec.gov.cy, **until Wednesday, May 16, 2018**.

6.2. Technical Queries on digitally signing and submitting the Form

For technical matters on digitally signing and submitting, the ASPs are advised to frequently visit the CySEC's specified [section](#). For further clarifications, the ASPs are asked to use the electronic address information.technology@cysec.gov.cy.

All email communication with the CySEC should include, in the subject, the ASP full name and the ASPxxx coding.

Yours sincerely,

Demetra Kalogerou
Chairman, Cyprus Securities and Exchange Commission