

#### ANNOUNCEMENT

The Cyprus Securities and Exchange Commission ('CySEC') wishes to inform all interested parties of the following:

The Law regulating Companies providing Administrative Services and Related Matters of 2012 ('the ASP Law'), is in the process of being amended as a result of discussions, between the Troika, the Ministry of Finance and all three Competent Authorities – being the Cyprus Bar Association, the Institute of Certified Public Accountants of Cyprus (ICPAC) and the CySEC.

The proposed amendments have been put forward to solve deadlocks and other issues that emerged after the enforcement of the ASP Law that have been brought to CySEC's attention by the market itself.

The amendment of article 25 is necessary to meet the requirements stemming from the Memorandum of Understanding ('the MoU') with the Troika.

The agreed <u>draft</u> text/bill is attached as an <u>Appendix 1</u> in Greek and as <u>an Appendix 2</u> in English.

A brief explanation has been inserted in the English text under each proposed amendment in order to assist interested parties understand why the amendment is put forward.

The proposed bill is expected to undergo legal vetting first and then presented before the Parliament as soon as possible – so as to meet the MoU's deadlines.

The final text will be published in the Republic's official gazette and the CySEC will issue an announcement to inform interested parties accordingly.

#### Nicosia, February 4, 2014

## **APPENDIX 1**

# ΝΟΜΟΣΧΕΔΙΟ ΜΕ ΤΙΤΛΟ Ο ΠΕΡΙ ΤΗΣ ΡΥΘΜΙΣΗΣ ΤΩΝ ΕΠΙΧΕΙΡΗΣΕΩΝ ΠΑΡΟΧΗΣ ΔΙΟΙΚΗΤΙΚΩΝ ΥΠΗΡΕΣΙΩΝ ΚΑΙ ΣΥΝΑΦΩΝ ΘΕΜΑΤΩΝ ΝΟΜΟΣ ΤΟΥ 2014

		Η Βουλή των Αντιπροσώπων ψηφίζει ως ακολούθως:
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Συνοπτικός τίτλος. 196(Ι) του 2012 109(Ι) του 2013	1.	Ο παρών Νόμος θα αναφέρεται ως ο περί της Ρύθμισης των Επιχειρήσεων Παροχής Διοικητικών Υπηρεσιών και Συναφών Θεμάτων(Τροποποιητικός) Νόμος του 2014 και θα διαβάζεται μαζί με τους περί της Ρύθμισης των Επιχειρήσεων Παροχής Διοικητικών Υπηρεσιών και Συναφών Θεμάτων Νόμους του 2012 - 2013 (που στη συνέχεια θα αναφέρεται ως «ο βασικός νόμος») και ο βασικός νόμος και ο παρών Νόμος θα αναφέρονται μαζί ως οι περί της Ρύθμισης των Επιχειρήσεων Παροχής Διοικητικών Υπηρεσιών και Συναφών Θεμάτων Νόμοι του 2012 – 2014.
Τροποποίηση του άρθρου 3 του βασικού νόμου 208(I) του 2012	2.	Το άρθρο 3 του βασικού νόμου τροποποιείται με την προσθήκη στο εδάφιο (4) πριν την τελεία, της ακόλουθης νέας φράσης « καθώς επίσης και τα ταμεία επαγγελματικών συνταξιοδοτικών παροχών τα οποία υπόκεινται στην εποπτεία του Εφόρου Ταμείων Επαγγελματικών Συνταξιοδοτικών Παροχών κατά τα οριζόμενα στον περί της Ίδρυσης, των Δραστηριοτήτων και της Εποπτείας των Ταμείων Επαγγελματικών Συνταξιοδοτικών Παροχών Νόμου».
Τροποποίηση του άρθρου 4 του βασικού νόμου	3.	Το άρθρο 4 του βασικού νόμου τροποποιείται ως ακολούθως:
		(A) με την διαγραφή στο εδάφιο (1)(α) της φράσης «ή προστάτη (protector) εμπιστευμάτων».
		(Β) Με την προσθήκη στο εδάφιο (3) της ακόλουθης νέας υποπαραγράφου (ε): «(ε) η διαχείριση τραπεζικών λογαριασμών εταιρείας που πληροί τις προϋποθέσεις της υποπαραγράφου (α) (i) – (vi) πιο πάνω».
		(Γ) Με την προσθήκη του ακόλουθου νέου εδαφίου (4):   «(4) Τηρουμένων των προνοιών του εδαφίου (7) του άρθρου 3, του εδαφίου (2) του άρθρου 5 και του εδαφίου (2) του άρθρου 23, η παροχή διοικητικών υπηρεσιών από εταιρείες στις πιο κάτω περιστάσεις, δεν απαιτεί άδεια, νοουμένου ότι αυτές δεν θα διαφημίζονται ή χρησιμοποιούνται για την προσέλκυση πελατών και δεν θα προσφέρονται ή παρέχονται προς πρόσωπα άλλα από αυτά που

		αναφέρονται στο παρόν εδάφιο:
		και/ή της συζύγου του, μέχρι τέταρτου βαθμού συγγένειας·  (iii) η εταιρεία έχει ως γραμματέα είτε δικαιούχο πρόσωπο είτε φυσικό πρόσωπο κάτοικο Κύπρου κατά τα οριζόμενα στο εδάφιο (3)(β) πιο πάνω.»
		(Δ) Με την προσθήκη του ακόλουθου νέου εδαφίου (5):  «(5) Η παροχή των υπηρεσιών που αναφέρονται στο εδάφιο (1)(β)(iii) και/η (viii), του παρόντος άρθρου, από εταιρείες δεν απαιτεί άδεια νοουμένου ότι πληρούνται όλες οι ακόλουθες προϋποθέσεις:  (α) Οι εν λόγω υπηρεσίες παρέχονται από νομικό πρόσωπο το οποίο είναι εγγεγραμμένο στο εξωτερικό και υπόκειται στην εποπτεία του κράτους καταγωγής του για την παροχή των εν λόγω υπηρεσιών.  (β) Υπάρχει συμφωνία συνεργασίας μεταξύ της Επιτροπής ή των άλλων Εποπτικών Αρχών και της αρμόδιας εποπτικής αρχής του κράτους καταγωγής του παροχέα των εν λόγω υπηρεσιών.
Τροποποίηση του άρθρου 9 του βασικού νόμου	4.	Το άρθρο 9 του βασικού νόμου τροποποιείται ως ακολούθως:
		(α) Με τη διαγραφή στο εδάφιο (2) της λέξης «δικηγόρο» και την αντικατάστασή της με τις λέξεις «νομικό σύμβουλο» μετά τη φράση «εργοδοτεί εσωτερικό».  (β) Με τη διαγραφή στο εδάφιο (3) της λέξης «διορίζει» και την
		αντικατάστασή της με τη λέξη «εργοδοτεί».

Τροποποίηση του άρθρου 24 του βασικού νόμου	5.	Το άρθρο 25 του βασικού νόμου τροποποιείται με την διαγραφή του εδαφίου (2) και την αντικατάστασή του με το ακόλουθο νέο εδάφιο: «(2) Κατά την χορήγηση άδειας, η Επιτροπή παραχωρεί αριθμό Μητρώου στο κάθε αδειούχο πρόσωπο και καταχωρεί τα στοιχεία του, τις διοικητικές υπηρεσίες που προσφέρει, τα ονόματα των νομικών προσώπων που τους ανήκουν αποκλειστικά και παρέχουν διοικητικές υπηρεσίες δυνάμει του άρθρου 3(5), τα ονόματα των υπαλλήλων τους που προσφέρουν διοικητικές υπηρεσίες δυνάμει των άρθρων 3(2) και 5(1) και τη διεύθυνση εργασίας τους, το όνομα και τα στοιχεία επικοινωνίας του λειτουργού συμμόρφωσης, καθώς και οποιεσδήποτε άλλες πληροφορίες κρίνει σκόπιμο, στο Μητρώο που τηρείται σύμφωνα με τις διατάξεις του παρόντος άρθρου. Νοείται ότι όλες οι Εποπτικές Αρχές οφείλουν να τηρούν αντίστοιχα μητρώα στα οποία να περιλαμβάνονται οι πιο πάνω πληροφορίες.»
Έναρξη ισχύος.	6.	Ο παρών Νόμος τίθεται σε ισχύ από τη δημοσίευση του.

## **APPENDIX 2**

## DRAFT LAW WITH TITLE THE LAW REGULATINIG COMPANIES PROVIDIDNG ADMINISTRATIVE SERVICES AND RELATED MATTERS LAW OF 2012

		The House of Representatives enacts the following:
Short title 196(I) of 2012. 109(I) of 2013	1.	This Law shall be referred to as the Law Regulating Companies Providing Administrative Services and Related Matters (Amending) Law of 2014 and shall be read together with the Regulating Companies Providing Administrative Services and Related Matters Laws of 2012 - 2013 (hereinafter referred to as "the main law") and the main law and this Law shall together be referred to as the Law Regulating Companies Providing Administrative Services and Related Matters Laws of 2012-2014.
Amendment of Article 3 of the main law	2.	Article 3 of the main law is amended as follows:
208(I) of 2012		With the amendment of paragraph (4) by adding the following new sentence before the full stop at the end of the paragraph "as well as the occupational retirement benefit funds which are under the supervision of the Registrar of Occupational Retirement Benefit Funds in accordance with the Establishment, Activities and Supervision of Occupational Retirement Benefit Funds Law of 2012"
		<b>Explanation</b> This is deemed necessary as pension funds are exclusively regulated by the said legislation – ie administrative committees of pension schemes whereby individuals transfer parts of their salaries and or make lump sum contributions into such Funds.
Amendment of Article 4 of the main law	3.	Article 4 of the main law is amended as follows:
		<ul> <li>(α) With the deletion from subparagraph (a) of paragraph (1) of the sentence «or protector of trusts»</li> <li>Explanation This is causing major issues as the protector is, as a rule, a person of personal trust of the settlor and since the trustee is regulated there is no real need for the protector to be regulated.</li> </ul>
		(b) With the addition in paragraph (3) of the following new subparagraph (e):

"(e) the management of bank accounts of companies that meet the criteria of subparagraph (a)(i) to (vi) above " **Explanation** This is necessary so that these persons can manage the bank accounts of a company can continue to do so. The way the Law is written it is presumed that every employee who is a signatory to a bank account or manages a bank account because for example it is his job to carry out payments or give bank instructions for the company's pay roll, has to be a licensed person. The rationale is that the physical persons who can legally be appointed as directors, and be excluded from the need of regulation, can also carry out the service of managing bank accounts. (c) With the addition of the following new paragraph (4): "(4) Subject to the provisions of paragraph (7) of article 3, paragraph (2) of article 5 and paragraph (2) of article 23, the provision of administrative services by companies in the following cases, does not require authorisation provided that these will not be advertised or used to attract clients nor offered or provided to persons other than the ones referred to in this paragraph: (a) The provision of administrative services exclusively for their parent undertakings, for their subsidiaries or for other subsidiaries of their parent undertakings provided that the said company has as a secretary either an eligible person or a natural person resident of Cyprus coming within the provisions of section 4(3)(b) above; (b) The provision of trustee services when these are provided towards a trust where all of the following conditions are met: Such company is owned exclusively by one natural (i) person and/or his/her spouse and/or his/her family members and/or his/her spouse's family members, up to forth degree of relation; (ii) all the beneficiaries of the trust are the natural person referred to in paragraph (i) above and/or his/her spouse and/or his/her family members and/or his/her spouse's family members, up to forth degree of relation; (iii) the company has as a secretary either an eligible person or a natural person resident of Cyprus coming within the

	provisions of section 4(3)(b) above."
	<b>Explanation</b> Paragraph (a) is proposed so that companies (noting that the term 'company', is ONLY a Cypriot companies as per article 2 of the Law) may offer the administrative services exclusively to their group (a common exemption in European directives) and paragraph (b) is to cover private trust companies belonging to the same people as the beneficiaries of the trust. It is stressed that in both cases, there is a condition that the service provider should have as a secretary either a regulated entity or a natural person resident in Cyprus and this in order to be consistent with the rationale of having a person in Cyprus who is easily accessible and accountable for AML purposes.
	<ul> <li>(d) With the addition of the following new paragraph (5): "(5) The provision of the services referred to in section 4(1)(b)(iii) and/or (viii) by a legal person, where all of the following conditions are met, does not require authorisation: (i) The relevant services are provided by a legal person which is registered in a jurisdiction other than the Republic and is regulated in its home jurisdiction in relation to the provision of the relevant services. </li> </ul>
	(ii) There is a cooperation agreement between the supervisory authority in the home jurisdiction of the legal person providing the relevant services and Cyprus.
	Explanation This is proposed to cover cases where shares in Cyprus companies are registered in the names of foreign custodians. It is difficult to be exhaustive of the relevant circumstances where the situation will arise but two examples are the following: (a) Often Investment Funds are required to hold their assets through custodians. In this case, if a non Cyprus Investment Fund has as an investment share in a Cyprus company, these shares are registered in the name of the Investment Fund's custodian and not of the Investment Fund itself. (b) In several cases of Cyprus companies which are listed, either on the Cyprus Stock Exchange or on foreign exchanges shares are registered in the names of custodians who hold 'omnibus accounts'.
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Amendment of Article 9 of the main law	Article 9 of the main law is amended as follows:
	(a) With the deletion in paragraph (2) of the word «lawyer» and its

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		replacement with the words «legal advisor» after the word «employ an
		internal ».
		(b) With the deletion in paragraph (3) of the word «appoint» and its
		replacement with the word «employ».
		<b>Explanation</b> This is a correction as a 'lawyer' needs to have a practising
		license from the Cyprus Bar Association. In-house legal advisors do not
		have such practising licenses because they do not appear before a Court
		(a concept similar to the barrister and solicitor).
		The replacement of the word 'appoint' is for making sure that they either
		need to employ an in house legal advisor or retain a lawyer.
Amendment	5.	Paragraph (2) of article 25 of the main law is deleted and replaced with
of Article 25		the following new paragraph:
of the main		(2) When granting an authorisation, the Commission provides a Register
law		number to every licensed person and registers its details, the
		administrative services provided, the names of its fully owned
		subsidiaries which offer administrative services according to section
		3(5), the names of its employees who offer administrative services
		according to sections 3(2) and 5(1) and their work address, the name and
		communication information of the compliance officer, as well as any
		other information deemed necessary, to the Register kept according to
		the provisions of this article.
		It is provided that all Competent Authorities must maintain respective
		registers containing the information corresponding to the above.
		Explanation This is a proposal to achieve effective implementation of
		the spirit of paragraph 4.1.2 of the Action Plan
		the spirit of paragraph 4.1.2 of the Action Fran
Entry into	6	This Law shall enter into force on the day of its mublication in the
Entry into	6.	This Law shall enter into force on the day of its publication in the
force		Official Gazette of the Cyprus Republic.