



TO : **Regulated Entities -**

- i. **Cyprus Investment Firms**
- ii. **Administrative Service Providers**
- iii. **UCITS Management Companies**
- iv. **Alternative Investment Fund Managers**
- v. **Self-Managed Alternative Investment Funds**
- vi. **Self-Managed Alternative Investment Funds with Limited Number of Persons**
- vii. **External Managed Alternative Investment Funds with Limited Number of Persons**

FROM : **Cyprus Securities and Exchange Commission**

DATE : **July 25, 2016**

CIRCULAR No : **C152**

SUBJECT : **Common and recurring observations from on-site inspections in relation to the prevention of money laundering and terrorist financing**

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

During 2015 and 2016, CySEC performed on-site inspections assessing the compliance of Regulated Entities with their obligations deriving from the Prevention and Suppression of Money Laundering and Terrorist Financing Law of 2007-2016 [L188(I)/2007] ('AML/CFT Law') and Directive DI144-2007-08 of 2012 for the Prevention of Money Laundering and Terrorist Financing' ('AML/CFT Directive').

The on-site inspections have shown an overall improvement and strengthening in the internal policies and controls implemented by Regulated Entities. However, the following common and recurring observations have been made which the CySEC, additionally to letters already sent to a number of Regulated Entities, calls upon all Regulated Entities to duly consider and where applicable immediately take remedial action:

1. Corporate Governance and Responsibilities:

- i. Coordination, communication and oversight between the AML/CFT Compliance Department and Senior Management to correctly assess the AML/CFT risks faced by the Regulated Entity needs to be improved.

- ii. The roles and responsibilities of the AML/CFT Compliance Department within the Department itself and the Regulated Entity's control environment in general, need to be more clearly defined.
- iii. On some occasions, the AML/CFT Compliance Officer performed multiple roles (e.g. also performing the role of general manager or executive director, etc.) giving rise to a possible threat to independence, as these multiple roles may entail conflicting decisions, and also create time constraints for the AML/CFT Compliance Officer, in successfully performing his/her required duties.
- iv. Lack of appropriate resources and training in the AML/CFT Compliance Department and Senior Management.
- v. Previously identified AML/CFT deficiencies, by either the AML/CFT Compliance Department or the Internal Auditors of the Regulated Entity, remained unattended for significant periods of time.

2. Internal Operations Manual:

- i. The AML/CFT Internal Operations Manual ('AML/CFT Manual') described the basic requirements of the AML/CFT Law and AML/CFT Directive in a general way without including more specific procedures and controls tailored to the Regulated Entity's specific circumstances that were actually implemented and/or should have been implemented.
- ii. The AML/CFT Manual was not kept up to date with regards to changes in the AML/CFT Law and AML/CFT Directive or with regards to changes in the Regulated Entity's actual procedures and controls that have actually been implemented.

3. Risk Based Approach:

- i. Weaknesses in the establishment and implementation by the Regulated Entity, of adequate risk assessment procedures and controls so as to identify high risk clients and as such implement the required enhanced client identification procedures.
- ii. Weakness to incorporate high risk variables in the Regulated Entity's risk assessment procedures (e.g. complexity of ownership structure of legal persons, companies incorporated in offshore centres and the risk of tax evasion, clients engaged in transactions which involves significant amounts of cash etc.) which are tailored to the specific Regulated Entity.

4. Economic Profile:

- i. Difficulties in obtaining all the relevant data and information required to draw up and update clients' economic profiles.
- ii. Lack of understanding of source of wealth, source of funds and turnover in constructing the economic profile of a client.
- iii. For clients engaged in transactions involving significant amounts of cash, there were weaknesses in the assessment performed by the Regulated Entity in order to ensure that their economic profile justified such transactions in cash (e.g. occupation, employer, other activities from which they receive significant receipts in cash, jurisdictions with limited or

no banking services, source of funds and source of wealth that justifies cash transactions, etc).

- iv. Economic profile constructed without always assessing the reasonableness of the information obtained.

5. Monitoring of Client's accounts and transactions:

- i. Weakness in the examination on a regular basis of the validity and adequacy of the data and information that are maintained in the clients' files, especially those concerning high risk clients. In addition, in the case of monitoring reviews, there were difficulties in clearly documenting the fact that such reviews have been performed.
- ii. Weaknesses in reviewing the clients' actual transactions compared to the expected transactions stated in their economic profile, in order to determine any possible deviation for the purpose of further investigation. It has been further noticed that the information included in the client's economic profile (i.e. turnover and or incoming/outgoing transactions) was not always sufficiently recorded in Regulated Entities CRM systems (electronic client data base systems).
- iii. On some occasions, Regulated Entities did not keep records of declined or terminated business relationships [e.g. documentation and a register of all declined and terminated relationships (new and existing), appropriately documenting the rationale for such rejections or terminations (e.g. non-permissible clients, etc)]. Nor it was documented whether or not an internal suspicious report and MOKAS report needed to be filed.
- iv. Lack of adequate records on the method used to monitor accounts and transactions and identify any transactions, which fall outside the regular pattern of an account's activity or unusual or suspicious transactions that are inconsistent with the economic profile of the clients, or transactions without obvious economic purpose or clear legitimate reason.
- v. Regulated Entities with a significant number of clients followed a manual risk assessment and transaction monitoring procedure. This raises questions as to their ability to monitor such a large volume of clients sufficiently, continuously and in a timely manner.
- vi. Weaknesses in the procedures implemented as regards screening clients vis-a-vis sanctions imposed by the European Union and the United Nations.

6. Client Identification Procedures:

- i. On some occasions, the verification of the identity of the client occurred after the establishment of the business relationship.
- ii. Weaknesses regarding obtaining certified true copies of the original documents and in translating documents into either Greek or English.
- iii. Weaknesses in the application of the appropriate measures when relying on a third person to carry out client identification and due diligence procedures.

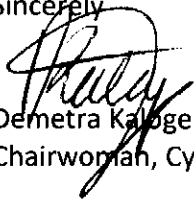
7. AML/CFT Compliance Officer Reports:

- i. On some occasions Regulated Entities faced difficulties in reporting the cumulative cash transactions position of each client in the Monthly Prevention Statements submitted to the CySEC.

- ii. The Annual AML/CFT Compliance Officer Reports were not in full compliance with and/or detailed enough as required by the AML/CFT Directive (e.g. disclosure of inspections performed by the AML/CFT Compliance Officer during the year, information on the policy, measures, practices, procedures and controls applied by the Regulated Entity in relation to high risk customers, information on the systems and procedures applied by the Regulated Entity for the ongoing monitoring of customer accounts and transactions, etc).

It is emphasized that CySEC expects Regulated Entities to continuously monitor and ensure their full compliance with the AML/CFT Law and AML/CFT Directive.

Sincerely



Demetra Kalogerou
Chairwoman, Cyprus Securities and Exchange Commission