
To : **Regulated Entities**

- i. Cyprus Investment Firms**
- ii. Administrative Service Providers**
- iii. Undertakings for the Collective Investment in Transferable Securities Management Companies**
- iv. Internally Managed Undertakings for the Collective Investment in Transferable Securities**
- v. Alternative Investment Funds Management Companies**
- vi. Internally Managed Alternative Investment Funds**
- vii. Internally Managed Alternative Investment Funds with Limited Number of Persons**
- viii. Companies with sole purpose the management of Alternative Investment Funds with Limited Number of Persons**

From : **Cyprus Securities and Exchange Commission**

Date : **February 14, 2019**

Circular No : **C296**

Subject : **The Prevention and Suppression of Money Laundering and Terrorist Financing (Amending) Law of 2018 (N.13(I)/2018)**

The Cyprus Securities and Exchange Commission ('the CySEC') wishes, with the present circular, to remind the Regulated Entities about the amendments of [the Prevention and Suppression of Money Laundering and Terrorist Financing Law](#) ('the Law') following the transposition and implementation of [Directive \(EU\) 2015/849](#) ('4th AMLD').

Following the adoption of the [Amending Law of 2018 \(N.13\(I\)/2018\)](#), CySEC has noted, in the below table, brief explanations/descriptions on the major amendments brought forward. It is noted that the Regulated Entities should study the said articles in their entirety, since the below is only a brief explanation/description of the provisions of the Law.

TABLE OF AMENDMENTS

	Article	Explanation
1.	2(1)	<p><u>Definitions:</u></p> <p>A) ‘politically exposed persons’ The definition of the politically exposed persons has been expanded and includes three new categories. These are: i) members of the governing bodies of political parties; ii) directors, deputy directors and members of the board or equivalent function of an international organization; iii) mayors.</p> <p>B) ‘beneficial owner’ The definition of the beneficial owner applies to three categories, which are the following: i) corporate entities, ii) trusts end iii) legal entities.</p> <p style="padding-left: 40px;">i) <u>Corporate Entities:</u> It is stated that the percentage of direct/indirect ownership or the percentage of ownership right has been increased <i>from 10% to more than 25% (25% plus 1)</i>.</p> <p style="padding-left: 40px;">Furthermore, the beneficial owner of a corporate entity may be the <i>person who holds the position of senior managing official</i>, provided that all the requirements stated in the said definition are met.</p> <p>C) ‘senior management’ It is clarified that the person that holds the position of the senior management official may be member of the board of directors however it is not a requirement.</p>



		<p>D) 'high risk third country'</p> <p>The white list of the equivalent third countries has been repealed and the black list of third countries, that present strategical shortcomings in their national system for combating money laundering and terrorist financing, has been introduced.</p> <p>It is clarified that the said definition includes the third countries that:</p> <ul style="list-style-type: none">i) are considered as important threats for the financial system of the European Union and are declared in the issued acts by way of derogation andii) are categorised by the obliged entities as high risk in accordance with the risk assessment foreseen by Article 58A of the Law.
2.	2A	<p>Obliged Entities</p> <p>The definition 'persons offering financial and other activities' is replaced by the definition 'obliged entities' The said definition refers to the categories of persons that are under the scope and obligations of the Law.</p>
3.	5A	<p>Prohibition on receipt of cash from the sale of goods</p> <p>It is prohibited the following categories of persons, within the framework of their business activities, to receive any amount equal to or higher than ten thousand euros (€10.000) in cash, irrespective of whether the transaction is carried out in a single operation or in several operations which appear to be linked:</p> <ul style="list-style-type: none">i) persons trading in precious stones and/or precious metals,ii) persons trading in mechanical vehicles,iii) persons trading in works of art and/or antiques.

		<p>The breach of the said prohibition consists a criminal offence.</p> <p><i>For further information: Circular C277.</i></p>
4.	58A	<p>Assessment of money laundering and terrorist financing risk</p> <p>The obliged entity should take appropriate steps to identify and assess the risks of money laundering and terrorist financing which it faces. Hence, it should take into account risk factors, including factors which relate to its customers, services, the countries, products, the transactions.</p> <p><i>For further information: Circular C219, Circular C276 and C286.</i></p>
5.	58C	<p>Policies, Procedures and Controls approval</p> <p>The senior management officials of the obliged entity, among others, should:</p> <ul style="list-style-type: none"> i) approve the policies, procedures and controls and ii) where appropriate, enhance the measures adopted.
6.	58D	<p>Appointment of Board Member</p> <p>One member of the obliged entity's Board of Directors should be designated as the responsible person for the implementation of the legal framework related to the prevention and suppression of money laundering and terrorist financing.</p>
7.	59(6)	<p>Supervisory Authorities and measures of non compliance</p> <p>Stricter measures have been adopted for the obliged entities that do not comply with the legal framework related to the prevention and suppression of money laundering and terrorist financing.</p>



8.	61A	Beneficial ownership information Corporate and any other legal entity incorporated in the Republic, should obtain and hold adequate, accurate and current information on its beneficial ownership. The said information should be held, also, in the central register of corporate and any other legal entities established in the Republic ('Entities Registry'). The details regarding the establishment and operation of the Entities Registry will be determined in Regulations. The access to the beneficial ownership information, both when held by corporate and other legal entities and when held in the Entities Registry, will be permitted to Supervisory Authorities and persons based on restrictions.
9.	61B	Information held by a trustee or commissioner of an express trust Trustee or commissioner of any express trust obtains and holds adequate, accurate and up-to-date information on beneficial ownership regarding the trust. The said information should be held in the central registry of trusts, as well, which will be established in the Republic ('Trusts Registry'), when the express trust generates tax consequences in the Republic. The details regarding the establishment and operation of the Trusts Registry will be determined in Regulations. The access to the beneficial ownership information, both when held by the trustee or commissioner and when held in the Trusts Registry, is based on restrictions.

		The measures of the present article apply, also, to other types of legal arrangements with a structure or functions similar to trusts.
10.	62	<p>When to apply customer due diligence and identification procedures</p> <p>The verification of the identity of the customer and the beneficial owner is performed before the establishment of a business relationship or the carrying out of the transaction.</p> <p>The derogations of the aforementioned ‘<i>rule</i>’ are amended.</p> <p>The obliged entity that wishes to apply any of the derogations should ensure that all the conditions stated in Article 62 are met.</p> <p><i>For further information: Circular C219 and Circular C276.</i></p>
11.	63	<p>Simplified customer due diligence</p> <p>The automatic application of simplified due diligence measures in certain categories of customers is repealed.</p> <p>The simplified due diligence measures may be applied if the obliged entity has previously ensured that the business relationship or the transaction presents a lower degree of risk.</p> <p>The obliged entity when assessing its risks takes into account, among others, the factors of potentially lower risk situations set out in Appendix II of the Law.</p> <p><i>For further information: Circular C219 and Circular C276.</i></p>



12.	64	<p>Enhanced customer due diligence</p> <p>The list of specific cases that the obliged entities must always treat as high risk by definition has been amended, i.e. the non-face-to-face customers are not included in it but they are considered as a factor of a higher risk situation.</p> <p>Article 64 sets out specific enhanced due diligence measures that obliged entities must apply in the aforementioned cases.</p> <p>The obliged entity when assessing its risks takes into account, among others, the factors of potentially higher risk situations set out in Appendix III of the Law.</p> <p><i>For further information: Circular C219 and Circular C276.</i></p>
13.	67	<p>Third Party reliance</p> <p>The obliged entity is prohibited to rely on third parties established in high risk third countries for the customer due diligence measures and identification procedures.</p> <p>The obliged entity, that relies to a third party, requests the third party to:</p> <ul style="list-style-type: none">i) make immediately available the data, information and identification documents obtained as a result of the application of the procedures establishing identity and customers due diligence measures andii) forward immediately to it, copies of these documents and relevant data and information on the identity of customer or the beneficial owner which the third party collected.

Finally, CySEC notes that Cyprus, in May 2019, will be evaluated by MONEYVAL as to whether (i) it has in place effective systems to counter money laundering and terrorist financing and (ii) it complies with the relevant international standards. In the course of MONEYVAL's evaluation, both the Republic and the Supervisory Authorities will be evaluated, as well as, the Regulated Entities. Considering the aforementioned, CySEC urges all the Regulated Entities to fully comply, at all times, with the provisions of the Law.

Sincerely,

Demetra Kalogerou
Chairwoman of the Cyprus Securities and Exchange Commission