
To : **Regulated Entities**

- i. Cyprus Investment Firms ('CIFs')**
- ii. Administrative Service Providers ('ASPs')**
- iii. Undertakings for Collective Investment in Transferable Securities ('UCITS')**
- iv. UCITS Management Companies ('UCITS MC')**
- v. Alternative Investment Fund Managers ('AIFMs')**
- vi. Alternative Investment Funds ('AIFs')**
- vii. Alternative Investment Funds with a Limited Number of Persons ('AIFLNP')**

From : **Cyprus Securities and Exchange Commission**

Date : **22 February 2017**

Circular No : **C 189**

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

The Cyprus Securities and Exchange Commission (the 'CySEC') wishes to inform the regulated entities of the following:

1. The CySEC, for the purpose of assessing the compliance of the regulated entities with their obligations deriving from the Prevention and Suppression of Money Laundering and Terrorist Financing Law, as amended (the 'Law') and the Directive DI144-2007-08 on the Prevention of Money Laundering and Terrorist Financing, as amended (the 'Directive'), has deployed a risk-based assessment of the Compliance Officers' Annual Reports and the Internal Audit Reports on the prevention of money laundering and terrorist financing (the 'Reports') for the year 2015 and the relevant minutes of the Board of Directors (the 'BoD'), that were submitted to CySEC in 2016. This is an annual exercise where regulated entities are obliged to submit to CySEC the Compliance Officers' Annual Reports (by end of March) and the Internal Audit Reports (by end of April) for the previous calendar year.
2. In carrying out these assessments, the following commonly occurring weaknesses/deficiencies were identified by the CySEC, to which regulated entities must now apply corrective measures immediately.

A. Findings of the assessment of the Compliance Officers' Annual Reports on the prevention of money laundering and terrorist financing and the relevant BoD minutes.

3. As regards to the content of the **Compliance Officers' Annual Reports**, the following commonly occurring weaknesses/deficiencies were identified:

- i. Insufficient analytical reference to 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 money laundering and terrorist financing. In particular, insufficient specific reference to the content and the method/way of conduct of the inspections and reviews by the Compliance Officer, to the deficiencies and weaknesses identified, the risk implications, the actions taken and the recommendations made for rectifying the situation, setting a timeframe for implementation. [Paragraph 10(4)(b) of the Directive & Point 2 of Appendix 1 of the Circular C033 on the Content of the Compliance Officer's Annual Report on the prevention of money laundering and terrorist financing (the 'Circular')].
- ii. Insufficient reference to the specific enhanced due diligence measures applied by the regulated entities in relation to high-risk customers. In addition, on some occasions, no information was provided as to the country of origin and type of high-risk customers with whom a business relationship is established or an occasional transaction has been executed and comparative data with the previous year. (Paragraph 10(4)(g) of the Directive & Point 6 of Appendix 1 of the Circular)
- iii. Insufficient reference to information in relation to the systems and procedures applied by the regulated entities for the ongoing monitoring of customers' accounts and the ongoing monitoring of customers' transactions that are compared with the data and information that are kept in their economic profile. For example, insufficient analysis of the way/method of the ongoing monitoring of customers' accounts and transactions and of the way/method of documenting the ongoing monitoring of customers' accounts and transactions. (Paragraph 10(4)(h) of the Directive & Point 7 of Appendix 1 of the Circular)
- iv. Insufficient information on the specific way/method with which the adequacy and effectiveness of staff training has been assessed and reference to the results. (Paragraph 10(4)(l) of the Directive & Point 9(iii) of Appendix 1 of the Circular).

4. As regards to the content of the relevant **BoD minutes** accompanying the Compliance Officers' Annual Reports, it has been noted that on some occasions, minutes neither include the measures decided for the correction of any weaknesses and/or deficiencies identified in the said Reports nor the implementation timeframe of these measures, as per paragraph 10(3) of the Directive.

B. Findings of the assessment of the Internal Audit Reports on the prevention of money laundering and terrorist financing and the relevant BoD minutes.

5. As regards to the content of the **Internal Audit Reports**, CySEC found that these were not always in full compliance with the provisions of paragraph 6 of the Directive. In particular, on some occasions, the scope of the Internal Audit did not sufficiently cover all the key areas regarding the policy, practices, measures, procedures and control mechanisms applied by the regulated entities for the prevention of money laundering and terrorist financing. In addition, on some occasions, no reference was made to prior years' findings/recommendations and whether these have been rectified or not, within the reference year, and the key issues from previous years that are still pending.
6. As regards to the content of the relevant **BoD minutes** accompanying the Internal Audit Reports, on some occasions, minutes do not include the measures that need to be taken to ensure the rectification of any weaknesses and/or deficiencies which have been detected in the Internal Audit Reports, including implementation timeframes of these measures.
7. Taking CySEC's findings into account, regulated entities must ensure the following obligations are upheld in accordance with the Law and the Directive:
 - i. 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.
 - ii. 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.
 - iii. 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.
 - iv. 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 above-mentioned requirement.

8. CySEC expects that all regulated entities will take into account the above-mentioned findings when preparing the Reports for the year 2016 and onwards in order to ensure full compliance with their obligations emanated by 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.

Sincerely,

Demetra Kalogerou
Chairwoman of the Cyprus Securities and Exchange Commission