
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 ('AIFLNs')**

From : **Cyprus Securities and Exchange Commission**

Date : **05 February 2018**

Circular No. : **C255**

Subject : **Findings of the assessment of 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, with this circular, to inform the regulated entities of the following:

1. 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 (the 'Law') and the Directive DI144-2007-08 on the Prevention of Money Laundering and Terrorist Financing (the 'Directive'), the CySEC 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 2016 and the relevant minutes of the Board of Directors (the 'BoD'), that were submitted to CySEC in 2017. This is an annual exercise where regulated entities are obliged to submit the Compliance Officers' Annual Reports (by end of March) and the Internal Audit Reports (by end of April) to CySEC for the previous calendar year.
2. In carrying out these assessments, the following common and recurring weaknesses and 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 common and recurring weaknesses and deficiencies were identified:
- i. Insufficient application of **Circular C186** as regards to the content of the executive summary of the Compliance Officers' Annual Reports, for the purpose of the compliance of the regulated entities with the obligations emanated by the provisions of paragraphs **6 and 10 of the Directive**.
 - ii. Insufficient analytical reference to the content and the method of the Compliance Officer's inspections and reviews 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 addition, insufficient analytical reference to the deficiencies and weaknesses identified, the risk implications, the actions taken and the recommendations made for rectifying the situation, as well as setting timeframes for implementation. This refers to paragraph 10(4)(b) of the Directive and 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').
 - iii. 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. This refers to paragraph 10(4)(g) of the Directive and point 6 of Appendix 1 of the Circular.
 - iv. Insufficient reference to information in relation to the systems and procedures applied by the regulated entities for the ongoing monitoring of customers' accounts and transactions that are compared with the data kept in their economic profile. In addition, insufficient reference to the method of documenting the ongoing monitoring of customers' accounts and transactions and to the results of the ongoing monitoring of customers' accounts and transactions during the year. This refers to paragraph 10(4)(h) of the Directive and point 7 of Appendix 1 of the Circular.
 - v. Insufficient reference to the specific method with which the adequacy and effectiveness of staff training has been assessed and reference to the results. This refers to paragraph 10(4)(l) of the Directive and 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 do not include implementation timeframes of the measures decided for the correction of the weaknesses and/or deficiencies identified in these reports, as provided in 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 the content of these reports was 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 and recommendations and whether these have been rectified within the reference year or not, 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**, it has been noted that on some occasions, minutes do not include implementation timeframes of the measures decided for the correction of any weaknesses and/or deficiencies identified in the Internal Audit Reports.
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. Regulated entities must note that the most common and recurring weaknesses and deficiencies identified will be the subject of subsequent compliance checks by CySEC.

9. CySEC expects that all regulated entities will take into account the above-mentioned findings when preparing the Reports for the year 2017 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, which CySEC will not hesitate to use.

Sincerely,

Demetra Kalogerou
Chairwoman of the Cyprus Securities and Exchange Commission