
TO : Persons wishing to report cases of actual or potential infringement of Regulation (EU) No 596/2014 on market abuse– Whistle-blowers

FROM : Cyprus Securities and Exchange Commission

DATE : 3 January 2017

CIRCULAR No. : C177

SUBJECT : Procedures for the receipt and follow-up of reports of infringement of Regulation (EU) No 596/2014 on market abuse

The Cyprus Securities and Exchange Commission issues this circular under article 12(1) of the Market Abuse Law of 2016, as amended from time to time, wishing to inform about the procedures in place regarding the receipt and follow-up of reports of infringement pursuant to article 32 of the Regulation (EU) No 596/2014 of the European Parliament and of the Council, of 16 April 2014, on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC.

For the purposes of this circular and the completion of the “Whistleblowing External Disclosure Form”, the following definitions shall apply:

- “CySEC” means the Cyprus Securities and Exchange Commission;
- “Regulation” means the Regulation (EU) No 596/2014 of the European Parliament and of the Council, of 16 April 2014, on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC;
- “reporting person” means a person reporting an actual or potential infringement of Regulation to CySEC;
- “reported person” means a person who is accused of having committed, or intending to commit, an infringement of Regulation by the reporting person;
- “report of infringement” means the report submitted by the reporting person to CySEC regarding an actual or potential infringement of the Regulation;
- “dedicated staff members of the competent department” means the dedicated staff members of the Market Surveillance and Investigations Department of CySEC;
- “discrimination” means the negative effects that the reporting person encounters or may encounter as a result of the submission of a report of infringement and includes among others the following cases:

- a. The reporting persons is subject to any kind of proceedings as a result of the submission of a report of infringement or violation of professional secrecy and or any other in force code of conduct;
 - b. Dismissal, remuneration reduction, employment status or duties demotion, refusal of promotion, unfair treatment, retaliation or any other form of direct or indirect discrimination;
 - c. Transfer to another department or change of duties without the consent of the reporting person;
 - d. Refusal to provide a reference letter following a relevant request of the reporting person;
 - e. Refusal of being hired.
- A. CySEC in what relates to the receipt and following-up of reports of infringements notes the following:
1. The dedicated staff members of the competent department have been assigned with the following duties:
 - a. providing any interested person with information on the procedures for reporting infringements;
 - b. receiving and following-up reports of infringements;
 - c. maintaining contact with the reporting person where the latter has identified himself.
 2. CySEC notes that reports of infringement can also be submitted either by name or anonymously.
 3. CySEC has the following communication channels for receiving and following-up the reports of infringement and for contacting the dedicated staff members of the competent department:
 - a. Phone line: +357 22 506 750. When using this phone line the conversations are recorded only with the consent of the reporting person.
 - b. Electronic address: whistleblowing@cysec.gov.cy
 - c. Postal address: Diagorou 27, 1097 Nicosia, Cyprus, for the attention of Market Surveillance and Investigations Department
 4. A physical meeting with the dedicated staff members of the competent department can be scheduled following an oral request of the reporting person to the phone line as per the provisions of paragraph A3a.
 5. The reporting persons may submit written reports of infringement by completing the “Whistleblowing External Disclosure Form” (Appendix A) and sending through the communication channels as per the provisions of paragraph A3b και A3c.
 6. CySEC in those cases in which the reporting person has disclosed his identity and provides his contact details, may request in writing, to the postal or electronic address of the reporting person, or if such address has not been provided, orally from the reporting person to clarify the information reported or to provide additional information that is available to the reporting person.

7. CySEC upon receipt of a report of infringement should inform the reporting person within how many days will be notified about the results of the inquiry to his postal or electronic address, if such has been provided, and ensure that the relevant notification will be send within the timeframe set.

B. CySEC in relation to the record-keeping of the reports of infringements received, notes the following:

1. CySEC promptly sends a receipt confirmation in relation to the receipt of written reports of infringements to the postal or electronic address indicated by the reporting person, unless the reporting persons explicitly requested otherwise or CySEC reasonable believes that acknowledging receipt of a written report would jeopardise the protection of the reporting person's identity.

2. Where a telephone line is used for the reporting of infringements, with the exception of those cases in which the reporting persons has not provided his consent for the recording of the conversation in accordance with the provisions of paragraph A3a, CySEC has the right to document the oral reporting in the form of:

- a. an audio recording of the conversation in a durable and retrievable form; or
- b. a complete and accurate transcript of the conversation prepared by the dedicated staff members of the competent department.

In cases where the reporting person has disclosed his identity, CySEC offers the possibility to the reporting person to check, rectify and agree with the transcript of the call by signing it.

3. Where an unrecorded telephone line is used for reporting of infringements, CySEC has the right to document the oral reporting in the form of accurate minutes of the conversation prepared by the dedicated staff members of the competent department. In cases where the reporting person has disclosed his identity, the CySEC offers the possibility to the reporting person to check, rectify and agree with the minutes of the call by signing them.

4. Where a person requests a physical meeting with the dedicated staff members of the competent department for reporting an infringement, CySEC ensures that complete and accurate records of the meeting are kept in a durable and retrievable form. CySEC has the right to document the records of the physical meeting in the form of:

- a. an audio recording of the conversation in a durable and retrievable form; or
- b. accurate minutes of the meeting prepared by the dedicated staff members of the competent department.

In cases where the reporting person has disclosed his identity, CySEC offers the possibility to the reporting person to check, rectify and agree with the minutes of the meeting by signing them.

C. CySEC in what regards the procedures applicable to the reports of infringements, notes the following:

- 1.a. Notwithstanding the provisions of any law or oral or written agreement the reporting person cannot be subject to any discrimination due to the submission of a report of infringement.
- 1.b. The reporting persons who has been subject to discrimination due to the submission of a report of infringement can apply to the court requesting the issue of an injunction for the termination of the discrimination and his restitution to the position he was prior the submission of the report of infringement, or the taking of other measures for claiming compensation for any damages or losses suffered.
2. The reporting persons are not subject to criminal or civil or disciplinary proceedings due to the fact that they have submitted a report of infringement.
3. In those cases in which a report of infringement has been submitted by name, the identity of the reporting person is revealed provided that his written consent has been granted.
4. In those cases in which no written consent of the reporting person has been given for the purpose of revealing his identity, the details of the identity of the reporting person will not be included in the administrative file of the case that CySEC inquiries or has inquired. Also the identity of the reporting person is protected in the following cases:
 - a. in those cases in which CySEC is required to reveal the identity of the reporting person in the context of civil proceedings;
 - b. in the context of exchange of information with other competent authorities in the Republic of Cyprus and abroad;
 - c. when requested by the reported person for the purposes of exercising the right to be heard or filing an administrative recourse to justice.
5. The identity of the reporting person is not protected if and when revealing his identity is necessary in the context of criminal proceedings before the court or criminal investigation.

Sincerely

Demetra Kalogerou
Chairman of the Cyprus Securities and Exchange Commission

WHISTLEBLOWING EXTERNAL DISCLOSURE FORM

The completed form must be submitted in electronic or paper format to the Department of Market Surveillance and Investigations of Cyprus Securities and Exchange Commission ("CySEC") to the following electronic or postal addresses respectively:

- Electronic address: whistleblowing@cysec.gov.cy
- Postal address: 27 Diagorou Str. 1097, Nicosia, Cyprus for the attention of the Department of Market Surveillance and Investigations

Have you made an internal disclosure within your organisation regarding this infringement?

Yes

Why are you making this disclosure to CySEC? (*you must choose at least one of the below*)

1. No information given on internal disclosure made.
2. No action taken on internal disclosure made.

No please state the reason (*you must choose at least one of the below*)

1. Members of the board of directors or senior management of the organisation are or may be involved.
2. Justified by the significance and urgency of the infringement.
3. Reasonable suspicion of discrimination.
4. Likely that evidence will disappear or be concealed or destroyed.
5. Other exceptional circumstances (*if yes, please provide details*).

Please provide the following information regarding each infringement in your organization.

Reporting person's contact information

(This section may be left blank if the reporting persons wishes to remain anonymous.)

1. Name and Surname:
2. Organisation:
3. Position:
4. Contact number:
5. E-Mail address:

Reported person's information

1. Name and Surname:
2. Position:
3. Organisation:
4. Contact number:
5. E-Mail address:

Witness(es) information (if any)

(If there are more than three witnesses, give their details on separate pages)

1. Name and Surname:
2. Position:
3. Organisation:
4. Contact number:
5. E-Mail address:

1. Name and Surname:
2. Position:
3. Organisation:
4. Contact number:
5. E-Mail address:

6. Name and Surname:
7. Position:
8. Organisation:
9. Contact number:
10. E-Mail address:

Disclosure of infringement

Briefly describe the infringement and how you came to know about it. If there is more than one infringement, number each infringement and use as many pages as necessary.

1. Describe the infringement:

2. Who committed the infringement?

3. When did it happen and when did you notice it?

4. Where did it happen?

5. Is there any evidence that you can provide?

You should not attempt to obtain evidence for which you do not have a right of access since reporting persons are disclosing parties and not investigators.

6. Other persons involved other than the reported person(s) stated above:

7. Any other details or information which would assist in the investigation:

8. Additional comments:

Date:

Signature:
(optional)

For official use only

Department of Market Surveillance and Investigations

Disclosure number:

Received by:	Received on:
	Acknowledged on:
External disclosure appropriate: Yes <input type="checkbox"/> No <input type="checkbox"/> <i>(please state reasons below)</i> _____ _____	
Decision notified on:	
Investigation carried out by:	
Investigation carried out by:	
Actions taken/Conclusion:	
Referral to other authorities (if necessary):	

Signature: