
To : **Regulated Entities:**

- i. **CIFs**
- ii. **ASPs**
- iii. **UCITS Management Companies**
- iv. **Internally managed UCITS**
- v. **AIFMs**
- vi. **Internally managed AIFs**
- vii. **Internally managed AIFLNPs**
- viii. **Companies with sole purpose the management of AIFLNPs**
- ix. **Small AIFMs under Law 81(I)/2020**
- x. **Crypto Asset Service Providers**

From : **Cyprus Securities and Exchange Commission**

Date : **2 June 2022**

Circular No. : **C516**

Subject : **Findings of the assessment of Compliance Officers' Annual Reports and Internal Audit Reports on the prevention of money laundering and terrorist financing, for the year 2020**

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

1. For assessing regulated entities' compliance with their obligations under the Prevention and Suppression of Money Laundering and Terrorist Financing Law of 2007 (L.188(I)/2007), as amended (the 'Law') and the CySEC's Directive for the Prevention of Money Laundering and Terrorist Financing (the 'Directive'), CySEC conducted its annual risk-based assessment of Compliance Officers' Annual Reports and Internal Audit Reports (the 'Reports'). The assessment review includes among others, a review of reports for the year 2020 and the relevant minutes of the Board of Directors (the 'BoD'), submitted to CySEC in 2021. It is noted that this is an annual exercise where regulated entities are obliged to submit the Reports to CySEC for the previous calendar year.
2. Due to the developments related to the Coronavirus (COVID-19), the deadlines for the submission to CySEC of the Reports were extended as follows, according to [Circular C427](#):
 - The Internal Auditor's Annual Reports and the relevant Board of Directors minutes (paragraph 6 of AML/CFT Directive) were required to be submitted to CySEC by the end of June 2021 at the latest.
 - The AMLCO's Annual Report and the relevant Board of Directors minutes (paragraph 10(3) of AML/CFT Directive) were required to be submitted to CySEC by the end of May 2021 at the latest.

In carrying out these assessment reviews, CySEC evaluated regulated entities' adherence to the requirements set out in the Law and Directive and to instructions/guidance set out in the following Circulars:

- i. [Circular C033](#) on the Content of the Compliance Officer's Annual Report on the prevention of money laundering and terrorist financing ('the Circular C033'),
- ii. [Circular C186](#) regarding the Executive Summary in the Compliance Officer's Annual Report and the Internal Audit Report on the prevention of money laundering and terrorist financing (the 'Circular C186') and;
- iii. [Circular C191](#) regarding regulated entities' compliance with reporting and other obligations (the 'Circular C191'),

3. **CySEC found some common weaknesses and deficiencies**, as set out below, and today reminds regulated entities to apply all corrective measures immediately.

A. In relation to the **content of the Compliance Officers' Annual Reports on the prevention of money laundering and terrorist financing and the relevant BoD minutes** submitted by CIFs, ASPs, Internally Managed Investment Funds and External Investment Fund Managers, the CySEC found that:

- i. In some instances, the Executive Summaries did not contain all references mentioned in point 4 of Circular C186 and especially references to key findings/weaknesses (a summary of all key findings/weaknesses, regardless of whether they have been rectified, or not, within the year, and the key issues from previous years that are still pending) and suggestions.
- ii. In some cases, there was not sufficient analysis of the specific method inspections and reviews were 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 ML/TF. Particularly, it was observed that the information provided in the Compliance Officers' Annual Reports is merely the result of the inspections and reviews performed with no reference to the method inspections and reviews were conducted. Methodology should include the sample of clients tested, the timing inspections and reviews were performed, specific audit tests and any findings that are identified. In some cases, summaries did not include the specific results of the inspections and reviews where they may have indicated significant deficiencies and weaknesses identified in the policy, practices, measures, procedures and controls being applied by the regulated entity for the prevention of ML/TF. In this regard, the seriousness of the deficiencies or weaknesses was not sufficiently noted, as well as the risk implications (Paragraph 10(4)(b) of the Directive and point 2 of Appendix 1 of the Circular C033).
- iii. In addition, on some occasions, information about the number, country of origin and type of high risk customer with whom a business relationship is established or an occasional transaction executed along with comparative data from the previous year, was not always provided in the reports (Paragraph 10(4)(g) of the Directive and point 6 of Appendix 1 of the Circular C033).
- iv. In a number of cases, information provided in the Compliance Officers' Annual Reports about the systems and procedures applied by regulated entities for the ongoing monitoring of customers' accounts, particularly how transactions are compared to data and information kept in their economic profile, was not always adequate. Analysis of the methods (automated or non-automated) used for the ongoing monitoring of customers' accounts and transactions, details for

any variation of the ongoing monitoring of customers' accounts and transactions according to the customer's categorization on a risk based approach, details of the timing of the ongoing monitoring of customers' accounts and transactions (e.g. in real time or after the completion of an event) and the method used for documenting the ongoing monitoring of customers' accounts and transactions (e.g. preparing a memo describing all relative actions and recording it in the customer's file) were not sufficient. (Paragraph 10(4)(h) of the Directive and point 7 of Appendix 1 of the Circular C033).

- v. Some Compliance Officers' Annual Reports that were submitted by external Investment fund managers provide only consolidated information for all funds under management in relation to points iii and iv above, instead of a detailed analysis that is required for each fund under management (AIF and RAIF).
 - vi. In relation to the content of the relevant BoD minutes accompanying the Compliance Officers' Annual Reports, it was observed that, in some cases, the said minutes did not include specific measures decided for the correction of all the weaknesses and/or deficiencies identified in the said Reports and the implementation timeframe of these measures as provided in paragraph 10(3) of the Directive.
 - vii. In some cases, Compliance Officers' Annual Reports did not include comparative data to the previous year of Internal Suspicion Reports and Compliance Officer Reports to MOKAS. (Paragraphs 10(4)(c), (d) of the Directive and points 3 and 4 of Appendix 1 of the Circular C033 respectively).
 - viii. Some Compliance Officers' Annual Reports did not include sufficient reference to the specific 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 and point 9(iii) of Appendix 1 of the Circular C033).
 - ix. In some cases, Compliance Officers' Annual Reports submitted by internally managed Investment Funds and external Investment Fund Managers stated that due to the fact that they were not operational during the assessed period, no information was provided in the said reports. However, it should be reminded that according to point 4 of [Circular C191](#), *'the CySEC expects that the reports, even if they relate to a period during which the Regulated Entities were not operational, will contain the minimum required information requested by the CySEC and/or the European Regulation.'*
- B. In relation to the assessment of the **Internal Audit Reports on the prevention of money laundering and terrorist financing and the relevant BoD minutes** submitted by CIFs, ASPs, Internally Managed Investment Funds and External Investment Fund Managers, the CySEC found that the relevant BoD minutes did not always include specific measures decided for the correction of all the weaknesses and/or deficiencies identified in the Internal Audit Reports and the implementation timeframe of these measures, as per paragraph 6 of the Directive.
4. Taking into account the above findings, regulated entities should ensure the following obligations are upheld in accordance with the Law and the Directive and the relevant guidance given in the abovementioned CySEC's circulars :
- 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.

- The Internal Auditor's obligation for the correct preparation of the Internal Audit Report and a 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.
 - 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.
 - 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 abovementioned requirement.
5. Regulated entities should be aware that common and recurring weaknesses and deficiencies will be the subject of rigorous compliance checks by the CySEC.
6. CySEC expects that all regulated entities take into account the above-mentioned findings when preparing the Reports for the calendar year 2021 and onwards, in order to ensure full compliance with 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,

George Karatzias
Vice-Chairman, Cyprus Securities and Exchange Commission