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PRESS RELEASE

CySEC launches consultation to allow obliged entities to use enhanced regtech to strengthen anti-money laundering framework

NICOSIA – The Cyprus Securities and Exchange Commission ('CySEC') has today launched a consultation designed to improve the application of regulatory technology to customer due diligence ('CDD') by obliged entities under CySEC's supervision (together, '[CP-02-2020](#)').

The digitisation of financial transactions and retail business relationships has gathered pace and provide the potential for generating considerable consumer benefits. These include improved customer experience, a quicker and lower-cost execution of transactions, reduced account opening times and opportunities for superior customer service. In an increasingly digitised operating environment, firms have shifted from traditional face-to-face interactions to engaging with their customers via online channels; a trend only exacerbated by the implications of the Covid-19 pandemic.

Whilst the structural shift in how regulated firms engage with their customers has positive benefits, such business relations pose material risks of exposure to money laundering and terrorist financing ('ML/TF').

Under Article 61(1)(a) and 61(1)(b) of Law 188 of 2007 on the Prevention and Suppression of Money Laundering and Terrorist Financing as in force (the 'AML Law'), obliged entities (and their third-party providers) are required to identify and verify the identity of an individual with whom they seek to do business as part of the CDD process.

Specifically, obliged entities must identify the customer and verify the customer's identity on the basis of documents, data or information obtained from a reliable and independent source, and identify the beneficial owner and take reasonable measures to verify that person's identity so that the obliged entity is satisfied that it knows who the beneficial owner is.

The application of new regulatory technology to carry out the CDD process can help fulfil the requirements of the AML Law for those customers who may not live in close physical proximity to the obliged entity providing the respective services, as is often the case. The current AML Law, however, provides for no explicit means for obliged entities to use digital identification systems

to help mitigate ML/TF risks, despite the promise such regulatory technology provides in strengthening CDD and AML/CFT controls.¹

CySEC's proposals

Accordingly, CySEC's CP-02-2020 consults on a proposed amendment to Annex IV of CySEC's Directive on The Prevention of Money Laundering and Terrorist Financing (the 'CySEC AMLD') by explicitly incorporating the possibility of using such regulatory technology (referred to as 'Innovative Methods'), subject to certain conditions.

The amendment aims at expanding the use of Innovative Methods for the purposes of conducting CDD for the non-face-to-face ('NFTF') identification and verification of the identity of individuals, provided such methods can sufficiently reduce the ML/TF risks on a reasonable, consistent and demonstrable basis. Such risks include the idiosyncratic risks inherent in the technology employed, but also the risks relevant to the specific customer.

In defining potential Innovative Methods, CySEC believes they may include, among others, the dynamic real-time contactless selfie², Big Data³ and certificates from public or private regulated bodies produced by means of Distributed Ledger Technology (where available) or other tamper-proof and time stamped method. These technologies have been subject to further exploration by CySEC via its Innovation Hub.

Instructions to market participants

Interested parties in responding to CP-02-2020 must do so no later than 20 November 2020 to the CySEC Policy Department by email at policy@cysec.gov.cy. Full instructions must be read in the CP-02-2020 and this press release should not be relied upon to inform market participants of all the details.

ENDS.

¹ Per the guidance on Digital Identity by the Financial Action Task Force (FATF), available to view here: <http://www.fatf-gafi.org/publications/fatfrecommendations/documents/digital-identity-guidance.html>

² Paragraph 13 first bullet point of the ESAs Opinion, available to view here: [https://esas-joint-committee.europa.eu/Publications/Opinions/Opinion%20on%20the%20use%20of%20innovative%20solutions%20by%20credit%20and%20financial%20institutions%20\(JC-2017-81\).pdf](https://esas-joint-committee.europa.eu/Publications/Opinions/Opinion%20on%20the%20use%20of%20innovative%20solutions%20by%20credit%20and%20financial%20institutions%20(JC-2017-81).pdf).

³ Paragraph 13 second bullet point of the ESAs Opinion.