



TO : Administrative Services Providers
FROM : Cyprus Securities and Exchange Commission
DATE : 4 November 2016
CIRCULAR No : C166
SUBJECT : Notification of changes in the ASP FOLLOWING their authorisation – Submission of information to CySEC pursuant to sections 7, 8, 9, 13 and 25 of the ASP Law

Pursuant to **sections 7, 8, 9, 13 and 25** of the Law Regulating Companies Providing Administrative Services and Related matters of 2012 (the 'Law'), in relation to the Administrative Service Providers (ASPs) obligation to notify CySEC for changes in the ASP following its authorization, the Cyprus Securities and Exchange Commission (CySEC), wishes to inform the ASPs and other interested parties of the following -

1. Persons who effectively manage the business of the ASP - section 7(4) of the Law:

- i. Any changes to the persons who effectively manage the business of an ASP are not be subject to CySEC's approval. However, CySEC retains the right, at any time, following the change, to either oppose any appointment or change of appointment of a person who effectively manages the business, or request from the ASP additional documents or information or recommend amendments. The ASP must comply with CySEC's requests/recommendations.
- ii. In such cases the ASP must, subsequent to the change and without delay, submit a written notification to the Authorisations Department of CySEC, accompanied by the Form F196-2012-02 and the following information and documents:
 - A duly certified true copy of the passport or identity.
 - Clean criminal record
 - Non-bankruptcy certificate
 - Full name of the person who resigns (if applicable). Reference also must be made if the said person acted as a compliance officer or held any other position.
 - The composition of the new board of directors of the ASP - providing details as to the full name, country of residence, capacity (i.e. executive or not).

- A copy of the Registrar of Companies new certificate of directors – whenever that may be issued.

The ASP must ensure that these persons meet the requirements of the Law so that they will be able to contribute to the sound and prudent management of the ASP and to protect the interests of the company's clients.

The Commission may seek to check/verify what the company considered/evaluated when appointing/ recruiting a person. The Commission therefore advises ASPs to keep proper internal records so that they can justify the said appointments.

2. Change of Shareholders – section 8(3) of the Law.

- Any change of shareholders of the ASP is not subject to CySEC's approval. CySEC retains the right, at any time following the authorisation, either to object to any participation, or change of shareholder, or request from the ASP additional documents or information or recommend amendments if it has reasons to doubt the suitability of direct and or indirect shareholders and beneficial owners. The ASP must comply with CySEC's requests/recommendations.
- In such cases the ASP must submit a written notification to the CySEC's Authorisations Department, accompanied by the Form F196-2012-02 and the relevant information requested in the application form F196-2012-01-1 - posted on the CySEC's website under Regulatory Framework/Services and Markets /ASP.

The ASP must ensure that these persons meet the requirements of the Law so that they will be able to contribute to the sound and prudent operation of the ASP and to protect the interests of the company's clients.

The Commission may seek to check/verify what the company considered/evaluated when assessing the new proposed shareholder. The Commission therefore advises ASPs to keep proper internal records so that they can justify their actions.

3. Change of Compliance officer – section 9(4) of the Law.

- In case an ASP wishes to appoint a new compliance officer, the prior approval of CySEC is needed.
- In such a case the ASP must submit, in advance, a written notification to the CySEC's Authorisations Department, accompanied by the Form F196-2012-02 and the relevant information requested in the application form F196-2012-01-1.
- When proposing a new compliance officer, the ASP must take into consideration the relevant 'Fit and Proper' Evaluation Criteria, which are

stated in the FAQs on CySEC's website under Regulatory Framework/Services and Markets /ASP.

The ASP cannot proceed with the appointment before obtaining CySEC's approval.

ASPs must adopt specific procedures to ensure the continuous and adequate exercise of the duties performed by its compliance officer and that any resignation of its compliance officer **should not** take place before its replacement has been approved by CySEC.

4. Change in administrative services provided – section 13(2) of the Law.

- i. In case an ASP wishes to extend its authorization to additional administrative services or wishes to amend its authorisation, then it must submit, in advance, a notification to CySEC.
- ii. Such changes are not subject to CySEC approval. CySEC retains the right, at any time, either to oppose any extension or amendment of the authorisation or request from the ASP additional documents or information or indicate amendments. The ASP must comply with CySEC's requests/recommendations.
- iii. In such a case the ASP must submit, in advance, a written notification to the CySEC's Authorisations Department, accompanied by the below relevant information:
 - A new list of the administrative services provided clearly identifying which are the new ones.
 - A revised organizational chart (if applicable). In case this is not applicable, it must be specifically stated in the notification letter.
 - Where applicable, the internal operations manual of the ASP stating the procedures established to ensure its compliance with sections 18 – 21 of the Law. (This depends on the administrative services to be provided).
 - It is noted, that in accordance to section 13(3) of the Law, where the new service to be offered is that of section 4(1)(a) then the ASP must notify CySEC without any delay.

5. Changes in the Commission's Register- section 25(2) of the Law

The ASP must notify without delay any changes with regard to the licensed person's details, the administrative services provided, the names of its fully owned subsidiaries which offer administrative services according to section 3(5) of the Law, the names of its employees who offer administrative services according to sections 3(2) and 5(1) of the Law and their work address, the name and communication information of the compliance officer, as well as any other

information deemed necessary, by submitting electronically to CySEC 'Form F196-2012-03 Submission of information'.

6. General Remarks applicable to the above

In the context of the above, where ASPs (or other parties involved) are asked to attach documents, the originals shall be attached, or, where this is not possible, their duly certified true copies, in Greek or English.

True copies are only accepted if issued by:

- a) the competent District administration, regarding passports and official identification cards issued by the Republic;
 - b) any other state agencies authorised to certify copies;
 - c) the notary (notary public), for documents relating to prospective buyers who reside outside the Republic, or
 - d) where it is not possible to certify copies by the above entities, then by third persons, as defined in Article 67(2) of the Prevention and Suppression of Money Laundering Activities Law of 2007, as applicable.
- Special attention is drawn to the fact that Identification Cards (IDs), certificates of non-bankruptcy and the non-criminal records, cannot be certified by a notifying officer in the Republic of Cyprus as the said person validates only the authenticity of the signatory of a document. Furthermore it is noted that certificates of non-bankruptcy and criminal record extracts must be issued by the competent authorities from the country of residence of the proposed new person - where they resided for the last five years.

Failure of the interested parties to comply with the above may lead to violation of sections 7, 8, 9, 13 and 25 of the Law as provided by the Law itself. Therefore, CySEC urges interested parties to comply with the above to avoid unnecessary delays and burdens in their operation.

Sincerely,

Demetra Kalogerou
Chairwoman of the Cyprus Securities and Exchange Commission