
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 ('AIFLNP')**

From : **Cyprus Securities and Exchange Commission**

Date : **May 7, 2019**

Circular No : **C 315**

Subject : **National Risk Assessment on Money Laundering and Terrorist Financing - Regulated Entities' targeted training to staff in suspicious activity monitoring, reporting and typologies**

Further to [Circular C292 'National Risk Assessment on Money Laundering and Terrorist Financing'](#), the Cyprus Securities and Exchange Commission (the 'CySEC'), wishes to inform the regulated entities of the following:

A. Introduction

1. According to the National Risk Assessment (NRA) on the prevention and detection of money laundering and terrorist financing (ML/TF), vulnerabilities were identified in the Securities and Administrative Service Providers ('ASPs') sectors, concerning the effectiveness of the regulated entities' compliance function, the anti-money laundering and countering the financing of terrorist (AML/CFT) knowledge of staff and the effectiveness of suspicious activity monitoring and reporting. To that effect, an Action Plan was formed on the basis of the NRA results to remedy the vulnerabilities identified and recorded in the [NRA Report](#).
2. In particular, the Action Plan requires that **additional targeted training should be provided by regulated entities to their staff, especially in the area of suspicious activity monitoring, reporting and typologies**. A key feature of an effective AML/CFT framework is the implementation of a comprehensive and effective AML/CFT training regime. In particular, the regulated entities should provide to their staff a mandatory tailored training programme which at least adequately covers:

- The legal obligations deriving from the Prevention and Suppression of Money Laundering and Terrorist Financing Laws of 2007-2018 ('the Law'), the Directive DI144-2007-08 on the Prevention of Money Laundering and Terrorist Financing, (the 'Directive') and the relevant Circulars issued by CySEC;
- Internal AML/CFT policies and procedures; and,
- Any unique ML/TF risks the regulated firms may face.

B. Legal framework

3. The reporting responsibility arises from **section 27(1)** of the Law which states that '*a person who (a) knows or reasonably suspects that another person is engaged in laundering or financing of terrorism offences, and (b) the information on which that knowledge or reasonable suspicion is based, comes to his attention in the course of his trade, profession, business or employment, shall commit an offence if he does not disclose the said information to the Unit as soon as is reasonably practicable after it comes to his attention.*'

In addition, according section **58(c) of the Law**, '*an obliged entity applies adequate and appropriate policies, controls and procedures, which are proportionate to its nature and size, so as to mitigate and manage the risks of money laundering and terrorist financing effectively, in relation to the following:*

[...]

(c) internal reporting and reporting to MOKAS, in accordance with the provisions of section 69 of this Law;

With reference to the internal reporting and reporting to MOKAS, **section 69(a)-(d) of the Law**, reads as follows:

'Obligated entities apply the following internal reporting and reporting to the Unit procedures which:

(a) Appoint a senior staff member who has the ability, the knowledge and the expertise as a 'money laundering compliance officer' to whom a report is to be made about any information or other matter which comes to its attention and which, in its opinion, proves or creates suspicion that another person is engaged in a money laundering offence or terrorist financing.

(b) requiring that, any such report to be examined in the light of all other relevant information by the money laundering compliance officer, for the purpose of determining whether or not the information or other matter contained in the report proves this fact or creates such a suspicion.

(c) allowing the money laundering compliance officer in accordance with paragraph (b) above to have direct and timely access to other information, data and documents which may be of assistance to him and which is available to the obliged entity.

(d) when they know or have reasonable suspicion that monetary sums, irrespective of the amount thereof, constitute proceeds of illegal activities or relate to terrorist financing, ensure that the Unit is immediately notified, on their own initiative, by submitting a relevant report and providing complimentary information after a relevant request by the Unit:

Provided that the obligation to report suspicious transactions to the Unit includes the attempt to carry out such suspicious transactions.'

4. The staff training obligation in the area of suspicious activity monitoring and reporting arises from **section 58(g)** of the Law, which reads as follows:

'58. An obliged entity applies adequate and appropriate policies, controls and procedures, which are proportionate to its nature and size, so as to mitigate and manage the risks of money laundering and terrorist financing effectively, in relation to the following:

[.....]

(g) ongoing training of their employees in the recognition and handling of transactions and activities which may be related to money laundering or terrorist financing'.

5. As regards to the duties of the Compliance Officer for the prevention of money laundering and terrorist financing ('MLCO'), apart from **section 69** of the Law, **paragraph 9** of the Directive DI144-2007-08 on the Prevention of Money Laundering and Terrorist Financing, (the 'Directive') refers also to the following MLCO's duties:

'[...]

'(e) Receives information from the Financial Organisation's employees which is considered to be knowledge or suspicion of money laundering or terrorist financing activities or might be related with such activities. The information is received in a written report form (hereinafter to be referred to as "Internal Suspicion Report"), a specimen of such report is attached in the First Appendix.

(f) Evaluates and examines the information received as per point (e), by reference to other relevant information and discusses the circumstances of the case with the informer and, where appropriate, with the informer's superiors. The evaluation of the information of point (e) is been done on a report (hereinafter to be referred to as "Internal Evaluation Report"), a specimen of which is attached in the Second Appendix. Third Appendix

(g) If following the evaluation described in point (f), the compliance officer decides to notify MOKAS [...]. It is provided that, after the submission of the compliance officer's report to MOKAS, the accounts involved and any other connected accounts, are closely monitored by the compliance officer and following any directions from MOKAS, thoroughly investigates and examines all the transactions of the accounts.

(h) If following the evaluation described in point (f) the compliance officer decides not to notify MOKAS, then he fully explains the reasons for such a decision on the "Internal Evaluation Report" which is attached in the Second Appendix. (i) Acts as the first point of contact with MOKAS, upon commencement and during an investigation as a result of filing a report to MOKAS according to point (g).

[.....]

(m) Provides advice and guidance to the employees of the Financial Organisation on subjects related to money laundering and terrorist financing.

(n) Acquires the required knowledge and skills for the improvement of the appropriate procedures for recognising, preventing and obstructing any transactions and activities that are suspected to be associated with money laundering or terrorist financing.

(o) Determines the Financial Organisation's departments and employees that need further training and education for the purpose of preventing money laundering and terrorist financing and organises appropriate training sessions/seminars. In this regard, prepares and applies an annual staff training program, according to Part VIII. Assesses the adequacy of the education and training provided.'

6. In addition, according to **paragraph 10** of the Directive, the MLCO is obliged to prepare an annual report, which is a significant tool for assessing the Regulated Entity's level of compliance with its obligations laid down in the Law and the Directive. The purpose of the Annual Report is to inform the board of directors of the regulated entity for the effectiveness of the policy, practices, measures, procedures and controls applied by the regulated entity for the prevention of money laundering and terrorist financing and for the measures to be decided for the improvement or correction of any weaknesses, setting a timeframe for implementation.

Paragraph 10(4) of the Directive, which specifies the issues that the Annual Report should at least include and which are analysed in CySEC's [Circular C033](#), should cover the following as regards to training:

'(j) Information on the training courses/seminars attended by the compliance officer and any other educational material received.

(k) Information on training/education and any educational material provided to staff during the year, reporting, the number of courses/seminars organised, their duration, the number and the position of the employees attending, the names and qualifications of the instructors, and specifying whether the courses/seminars were developed in-house or by an external organisation or consultants.

(l) Results of the assessment of the adequacy and effectiveness of staff training.

(m) Information on the recommended next year's training program.

(n) Information on the structure and staffing of the department of the compliance officer as well as recommendations and timeframe for their implementation, for any additional staff and technical resources which may be needed for reinforcing the measures and procedures against money laundering and terrorist financing.'

C. Suspicious Transaction and Activity Reports (STRs/SARs)

7. According to the procedures described in point 5 above and paragraph 9 of the Directive, the MLCO's duties involve the receiving of information for the purpose of evaluating whether a STR or SAR should be submitted to the Cyprus's Financial Intelligence Unit – MOKAS. As of April 2015, the filing of a STR/SAR submitted to MOKAS is achieved electronically via **goAML**. A relevant [Circular C058](#) has been issued by CySEC informing the regulated entities about the new reporting procedure for submitting reports to MOKAS. Prior to being able to submit a STR/SAR, **all regulated entities must register on the goAML website**, which can be found [here](#). It is reminded that, for assisting regulated entities in registering with the *goAML* system, MOKAS has issued a [Guide](#). In addition, MOKAS has issued Guidelines addressed to all regulated entities titled '*Guidelines to reporting entities on submitting Suspicious Transaction Reports (STRs) and Suspicious Activity Reports (SARs)* (April 2018) to assist them in submitting quality SARs and STRs and improving their cooperation with the Cyprus FIU. Regulated Entities have been notified directly by MOKAS about the said Guidelines via the goAML system. disruption
8. STRs/SARs are of crucial importance in the fight against ML/TF. The relevant information submitted not only assist the authorities in their investigations, resulting in the disruption of criminal and terrorist activities, which may result in prosecution and imprisonment but also provide valuable market intelligence on trends and typologies. In particular, MOKAS carries

out an analysis of the STRs/SARs submitted by the regulated entities, in order to demonstrate the main suspicion indicators that triggered the reporting of STRs/SARs to MOKAS. Based on the said analysis, MOKAS prepared a Report on trends and common practices identified in STRs/SARs submitted by the regulated entities in 2018 for which regulated entities may be informed through the goAML system.

9. An important source of information for assisting the Regulated Entities and their staff to flag suspicious transactions and activities as efficiently as possible, is **Appendix 6 of the Directive**, which sets out a list of red flags/examples of suspicious transactions and activities related to money laundering and terrorist financing. The said list is not exhaustive nor includes all types of transactions that may be used. Nevertheless, it can assist the Regulated Entities and their staff in recognising the main methods used for money laundering and terrorist financing. The detection of any of the transactions contained in Appendix 6 of the Directive prompts further investigation and constitutes a valid cause for seeking additional information and/or explanations as to the source and origin of the funds, the nature and economic/business purpose of the underlying transaction, and the circumstances surrounding the particular activity.

Additionally, other sources of examples of suspicious indicators and typologies in relation to the Securities and ASPs sectors, which may trigger the filing of STRs/SARs are the [FATF's Risk-based Approach Guidance for the Securities Sector](#) (see Circular [C286](#)), the [FATF Report on Money Laundering and Terrorist Financing in the Securities Sector](#), the FATF's Draft Risk-based Approach Guidance for the TCSPs Sector that is expected to be adopted by FATF in June 2019 (see Circular [C303](#)) and the [FATF Report on Money Laundering using Trust and Company Service Providers](#) (TCSPs) respectively.

10. When assessing potential suspicious transactions, it is important to consider attempted transactions, as well as completed transactions. Furthermore, no amount should be considered too low for suspicion, especially when considering potential terrorist financing transactions, which often involve very small amounts of money. Regulated entities should always consider their products, services and customers when making a determination of suspicion, as what might be considered suspicious for one product, service or customer may not be for another.

D. Staff Training

11. The staff is the most effective defense against money launderers and terrorist financiers who would seek to abuse the services provided by the regulated entity. All staff are aware of the legal obligations imposed on both them personally and to the regulated entity. Regular training is an opportunity for regulated entities to ensure that staff and Board of Directors are aware of the ML/TF risks posed by their activities and the policies, controls and procedures the regulated entity has in place.
12. The MLCO is responsible for determining whether the staff has the necessary knowledge for the purpose of preventing ML/TF or whether further training is required. Regulated entities should provide tailored training for staff in different positions and level of responsibility who

may face different ML/TF risks ensuring that staff is equipped with sufficient knowledge allowing them to identify suspicious transactions and activities.

13. When setting up a staff training program, the regulated entity should consider:

- which staff require training;
- what is the content of the training provided; (e.g. legal framework, transactions monitoring, procedures for reporting suspicious transactions/activities, typologies/case studies of suspicious activities etc.)
- what form the training will take;
- how often training should take place;
- how staff will be kept up-to-date with emerging risk factors for the regulated entity.

14. Furthermore, training can take many forms and may include:

- face-to-face training seminars;
- completion of online training sessions;
- attendance at AML/CFT conferences and participation in dedicated AML/CFT forums;
- practice group meetings for discussion of AML/CFT issues and risk factors;
- guidance notes, newsletters and publications on current AML/CFT issues.

15. Training must be provided to staff prior to commencing work on behalf of the regulated entity, and after that, at a minimum on an annual basis, ensuring the delivery of regular training and updates as required. Apart from the mandatory training, regulated entities should establish mechanisms to facilitate prompt updates on key trends, emerging risks, potential ML/TF activities/risks, legislative changes and internal policies, controls and procedures and must ensure that such updates are communicated in a timely manner to staff.

16. Moreover, the regulated entities should put in place mechanisms to measure and assess the adequacy and effectiveness of staff AML/CFT training, with reference to the results. For example, the inclusion of tests following completion of the training, and minimum pass rates. Regulated entities must adapt training materials and the mechanisms for delivery to avoid a “tick the box” approach, ensuring that staff is fully informed and engaged.

17. The training material should not only provide a general information on AML/CFT requirements, but should be aligned with the Law, the Directive, the relevant CySEC’s Circulars issued from time to time and generally the EU legislative requirements and the ML/TF risks associated with the services provided by the regulated entity. In addition, the training material should be tailored to ensure that regulated entities are aware of specific ML/TF typologies that may otherwise be difficult to identify and must be subject to frequent review and update.

E. Board of Directors and Senior Management

18. The Board of Directors (BoD) and Senior Management of a regulated entity must put in place an AML/CFT compliance programme that not only ensures compliance with the relevant legislation, but where necessary includes further action to mitigate any specific and unique vulnerability that the regulated entity might have to ML/TF.

19. In general, the BoD and Senior Management should:

- approve the mandatory annual training programme prepared by the MLCO,
- ensure that it receives adequate management information on the implementation of the regulated entity's AML/CFT training programme,
- ensure to be adequately trained to be well aware and up-to-date with the regulatory framework and the relevant responsibilities deriving from this.

20. Regulated entities are also reminded of the responsibility of a designated member of the board of directors, to implement the provisions of the Law and Directives, Circulars and Regulations issued pursuant thereto including any relevant acts of the European Union – in reference to section 58D of the Law. This includes ensuring that the staff receives an appropriate level of AML/CFT training relevant to the role they undertake within the regulated entity, with particular attention in the area of suspicious activity monitoring and reporting and establishing whether the training received allows the staff to effectively fulfil its responsibilities.

Overall, in relation to the regulated entity's training obligations, the CySEC expects that:

- Regulated entities have a documented and on-going training plan in place to ensure appropriate levels of AML/CFT training are provided to the BoD and all staff involved in the conduct of the business (including staff at outsourced service providers);
- Training content is reviewed and updated on a regular basis to ensure it remains current and appropriate and the material is approved by senior management;
- Enhanced training is provided to senior management and staff in key AML/CFT roles to ensure their knowledge remains adequate and up-to-date;
- Training records are maintained.

All Regulated Entities must take into account the above and fully comprehend the importance of staff training especially in the identification and reporting of anything that gives grounds for suspicion. 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