

PRESS RELEASE

CySEC Issues a Policy Statement on the Registration and Operations of Crypto-Asset Services Providers

NICOSIA, 13 September 2021 - The Cyprus Securities and Exchange Commission ("**CySEC**") has issued a Policy Statement on the Registration and Operations of Crypto Asset Services Providers ("**CASP**") – PS-01-2021 (available [here](#)) to outline its finalised rules for CASPs under the Prevention and Suppression of Money Laundering and Terrorist Financing Law of 2007 (the "**AML/CFT Law**"), the CySEC Directive for the prevention and suppression of money laundering and terrorist financing - Register of Crypto Asset Services Providers (the "**CASP Registration Directive**") and the CySEC Directive for the Prevention and Suppression of Money Laundering and Terrorist Financing (collectively hereinafter the "**Cumulative CASP Rules**"), elaborating on the next steps and on CySEC's expectations.

Crypto-assets is a broad term that covers a diverse set of [private] assets that share a common characteristic, namely that they utilise cryptography and Distributed Ledger Technology ("**DLT**"). DLT, including Blockchain, is a breakthrough technology allowing for the decentralised validation and keeping of records of transactions, data and other information. It is underpinned by a cryptographic system that functions on the basis of pairs of keys: The public keys on the one hand, are publicly known addresses and are used for identification, whilst private keys are not publically known and are used for authentication and encryption and serve as proof of ownership of a crypto-asset, rendering thus crypto-assets as bearer instruments.

Depending on their structure, crypto-assets may, inter alia:

- i. Qualify as financial instruments under the Investment Services and Activities and Regulated Markets Law, transposing MiFID II¹ (the "**Investment Services Law**");
- ii. Qualify as Electronic Money under the Electronic Money Law², transposing EMD2³ (the "**E-Money Law**");

¹ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU ("**MiFID II**"). Available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32014L0065>

² Available at: <https://www.centralbank.cy/images/media/pdf/The-Electronic-Money-Law-2012.pdf>

³ Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC ("**EMD2**"). Available at: <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32009L0110>

- iii. Be a digital representation of value that is neither issued nor guaranteed by a central bank or a public authority. It is not necessarily attached to a legally established currency and does not possess a legal status of currency or money, but is accepted by natural or legal persons as a means of exchange and which can be transferred, stored, and traded electronically, and it does not qualify neither as fiat currency, nor as any of the instruments referred to in points (i) and (ii) above.

The CASP Registration Directive, preceded the issuance of PS-01-2021. In the meantime, we have slightly amended our rules based on the feedback received by interested parties, providing further clarity on territorial and procedural issues, which are further elaborated by means of PS-01-2021. The amended CASP Registration Directive has been published in the Cyprus Government Gazette. An unofficial translation and consolidation is provided in Annex 1 of PS-01-2021.

CASPs are obliged entities under the AML/CFT Law and they must therefore fully abide to their obligations stemming from the Cumulative CASP Rules, including but not limited to their obligations on:

- The fitness and probity of the CASP Beneficiaries and persons holding a management position;
- the conditions in relation to CASPs registration;
- the organisational and operational requirements;
- performing Know Your Client and other client due diligence measures;
- drawing the economic profile of the their clients;
- identifying the source of funds of their clients;
- monitoring the clients' transactions;
- identifying and reporting suspicious transactions;
- undertaking a comprehensive risk assessment in relation to their clients and activities and take proportionate measures per client, activity and crypto-asset in question.

CySEC expects its initiative to alleviate some, but not all, of the risks involved in crypto-assets' investments, which are expected to be further addressed at EU level under the proposed Regulation on Markets in Crypto Assets⁴

To this end, investors should understand the high risks entailed before proceeding with any crypto-asset investment. In the interest of transparency, CySEC perceives these risks to inter alia include:

- **Risks in relation to investor protection** who may be lured into unsuitable investments, based on inaccurate and/or incomplete information and who may be exposed to the risk of fraud, conflicts of interest, poor conduct, inadequate financial position of the intermediate actors, poor governance and poor organizational and operational arrangements;
- **Risks in relation to market integrity**, stemming from inconsistent liquidity, unregulated price discovery mechanisms, insider dealing and market abuse in relation to crypto-assets, lack of pre and post trade transparency rules, which in effect may undermine investors protection;
- **Risks stemming from technological specificities**, such as the possibility of coding errors in smart contracts, the possibility of a controlling majority of a specific network's validation capacity, engaging in fraudulent activities, creating double spending or other abusive opportunities, or the possibility of cyber-attacks, creating bespoke business continuity and disaster recovery challenges;
- **Custody risks**, stemming from technological specificities (such as holding of crypto-assets online in so called Hot Wallets⁵), from the possibility of theft of the hardware were the private keys may be held (i.e. from the so called Cold Wallets⁶) and from the fact that investments in crypto-assets that do not qualify as financial instruments, are not eligible for compensation by the Investors' Compensation Fund;
- **Money Laundering and Financing of Terrorism ("ML/FT") risks**, stemming from the bearer nature of crypto-assets (that to some extent are anonymous⁷ or pseudo-

⁴ Proposal for a Regulation of the European Parliament and of the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/1937.

Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020PC0593>

⁵ Software wallet which may be installed on a computer or mobile phone or run in the cloud.

⁶ Hardware wallet in the form of a physical storage device, such as a USB.

⁷ A transaction cannot be linked to a specific sender.

anonymous⁸ and which may be used in the context of electronic contactless transactions) and from anonymous crypto wallets and emerging products, services or tools infiltrating the crypto-assets' ecosystem, which further facilitate anonymity, creating thus new ML/FT opportunities, including new opportunities for placement, layering and integration of illicit proceeds.

Next Steps and Ongoing Review:

CySEC will commence to evaluate applications from existing or prospective CASPs. Interested parties are encouraged to consult PS-01-2021 and the bespoke section in our website [here](#), where the relevant framework and forms have been compiled.

In line with its policy-making process, CySEC will analyse the market practices and will assess the effectiveness of existing rules and, where necessary, may issue guidance for the compliance of supervised entities with the regulatory framework and/or amend the existing rules accordingly.

Demetra Kalogerou, Chair of the Cyprus Securities and Exchange Commission said: *“Our proactive engagement with crypto businesses under the [CySEC Innovation Hub](#), aiming to support innovative businesses and to engage with providers of emerging financial technologies, ensured that our expectations were clearly communicated to market participants well in advance and that the Cypriot framework has captured the industry’s pace, alleviating thus the risks involved. Our work on financial innovation at national and EU level is ongoing and we are determined to encourage responsible innovation, whilst ensuring the orderly functioning of the markets.”*

ENDS.

⁸A transaction may be linked to a specific sender when undertaken on the blockchain.