

TO : i. **Cyprus Investment Firms**  
ii. **UCITS Management Companies**  
iii. **Alternative Investment Fund Managers**  
iv. **Administrative Services Providers**

FROM : **Cyprus Securities and Exchange Commission**

DATE : **Reissued on December 18, 2014**

CIRCULAR No. : **C033 (PREVIOUSLY CI144-2014-33 issued on December 12, 2014)**

SUBJECT : **Content of the Compliance Officer's Annual Report on the prevention of money laundering and terrorist financing**

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Further to the previous Circular CI144-2014-25, issued by the Cyprus Securities and Exchange Commission ('the Commission') with subject "Findings of on-site inspections – compliance officer's annual report on the prevention of money laundering and terrorist financing – relevant persons' liability and administrative sanctions" the Commission informs Cyprus Investment Firms, UCITS Management Companies, Alternative Investment Fund Managers, and Administrative Services Providers (the 'Regulated Entities') of the following:

1. The compliance officer, for the prevention of money laundering and terrorist financing ('the Compliance Officer') of the Regulated Entity, is obliged, according to paragraph 9(1)(q) and 10 of the Directive DI144-2007-08 of 2012 of the Commission for the Prevention of Money Laundering and Terrorist Financing ('the Directive'), to prepare an annual report ('the Annual Report') which is a **significant tool for assessing the Regulated Entity's level of compliance** with its obligation 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.

2. Paragraph 10(4) of the Directive specifies the issues that the Annual Report should **at least** contain.
3. The Commission expects that the Compliance Officer of the Regulated Entity during the preparation of the Annual Report will include, at least, all the issues of paragraph 10(4) of the Directive, which are explained in detail in Appendix 1.

4. The Annual Report should be prepared separately and not be part of any other report that the Regulated Entity is obliged to prepare (e.g. compliance function report of CIFs for legal issues).
5. In case where, the Annual Report does not contain, at least, the issues mentioned in paragraph 10(4) of the Directive, it cannot be considered that it complies with the said paragraph. Therefore, the Regulated Entity, the board of directors and the Compliance Officer are subject to the administrative sanctions provided by the relevant Legislation.
6. The Commission expects from the Compliance Officers, to take seriously into consideration, both the provisions of paragraph 10(4) of the Directive and the provisions of this Circular, during the preparation of the Annual Report.

Yours sincerely

Demetra Kalogerou  
Chairman of the Cyprus Securities and Exchange Commission

### **Annual Report Content**

[paragraph 10(4) of the Directive]

#### **1. Regulatory framework and information from relevant international organizations (paragraph 10(4)(a) of the Directive)**

- i. Reference to changes or upcoming changes (if already known) of the regulatory framework regarding the prevention of money laundering and terrorist financing, such as:
  - In the Prevention and Suppression of Money Laundering Activities Law of 2007, as in force ("the Law").
  - In the relevant Commission's Directives.
  - In the relevant Commission's Circulars.
- ii. Reference to relevant data, information, reports from international organizations (FATF, Moneyval, IMF, Council of the European Union, UN, etc.) taken into consideration in the measures and procedures applied by the Regulated Entity for the prevention of money laundering and terrorist financing.
- iii. Specific measures and procedures taken/adopted concerning the points i and ii, above.
- iv. Suggestions for further measures and implementation of further procedures in the case of any weaknesses or deficiencies in relation to points i and ii above, setting a timeframe for implementation.

#### **2. Inspections and reviews by the Compliance Officer (paragraph 10(4)(b) of the Directive)**

- i. Analytical reference to inspections and reviews 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 money laundering and terrorist financing. Specific reference to the content and the method/way of conduct of the inspections and reviews, regarding, at least, the following sectors:
  - Completeness of the risk management and procedures manual regarding money laundering and terrorist financing.
  - Implementation of customers' acceptance policy.
  - Construction and content of economic profile.
  - Identification of suspicious transactions, internal suspicion reporting and external reporting to MOKAS.
  - Simplified customer identification and due diligence procedures of low risk customers.
  - Customer identification and due diligence measures of normal risk customers.
  - Enhanced customer identification and due diligence procedures of high risk customers.
  - Timing of customers' identification.
  - Reliance on third parties for customer identification and due diligence purposes.
  - Ongoing monitoring of customers' accounts and transactions.
  - Record keeping.
  - Implementation of measures and procedures on a risk based approach.
  - Implementation of the financial sanctions imposed by the United Nations and the European Union.

- Measures and procedures taken for the compliance of branches and subsidiaries of the Regulated Entity, operating in countries outside the European Economic Area.
  - Education and training of staff.
- ii. Specific results of the inspections and reviews of point i above, indicating the significant deficiencies and weaknesses identified in the policy, practices, measures, procedures and controls applied by the Regulated Entity for the prevention of money laundering and terrorist financing. In this regard, the seriousness of the deficiencies or weaknesses is noted, the risk implications and the actions taken and the recommendations made for rectifying the situation, setting a timeframe for implementation.

### 3. Internal reporting (paragraph 10(4)(c) of the Directive)

- i. Number of Internal Suspicion Reports submitted by the employees of the Regulated Entity to the Compliance Officer, according to paragraph 9(1)(e) of the Directive and comparative data with the previous year.
- ii. Number of Internal Suspicion Reports that have not been notified to MOKAS and comparative data with the previous year.
- iii. Circumstances that led to the increase/decrease of Internal Suspicion Reports and significant trends observed.

### 4. External reporting (paragraph 10(4)(d) of the Directive)

- i. Information on cases related to money laundering and terrorist financing for which no report was made.
- ii. Number of Compliance Officer's Reports to MOKAS, as specified in paragraph 9(1)(g) of the Directive, comparative data with the previous year, summary of data/information for the main reasons of the suspicion and significant trends observed.
- iii. Feedback from MOKAS regarding the submitted Reports.

### 5. Customers' cash deposits (paragraph 10(4)(f) of the Directive)

- i. Reference on an annual basis of customers' total cash deposits, in Euro and other currencies in excess of the set limit of 10.000 Euro (as reported in the Monthly Prevention Statement of paragraph 11 of the Directive) and comparative data with the previous year.
- ii. Circumstances that led to the increase of customers' cash deposits and significant trends observed.
- iii. Reference in the measures and actions of the Regulated Entity regarding cash deposits by customers (e.g. method/way of identification and investigation, recording the investigation in the customer's file, result of the investigation and possible actions taken).
- iv. Recommendations for further actions and implementation of further procedures in case of deficiencies and weaknesses in relation to point iii above, setting a timeframe for implementation.

### 6. High risk customers (paragraph 10(4)(g) of the Directive)

- i. Information on the policy, measures, practices, procedures and controls applied by the Regulated Entity in relation to high risk customers (e.g. specific enhanced due diligence measures and details of ongoing monitoring of accounts and transactions for PEPs).

ii. Number, country of origin and type of high risk customers with whom a business relationship is established or an occasional transaction has been executed and comparative data with the previous year.

7. Ongoing monitoring of customers accounts and transactions (paragraph 10(4)(h) of the Directive)

i. Taking into consideration articles 58(e) και 61(1)(d) of the Law and paragraph 26 of the Directive, adequate reference to information for the systems and procedures applied by the Regulated Entity for the ongoing monitoring of customers accounts (e.g. update of the economic profile and customer identification data) and the ongoing monitoring of customers transactions (including the source of funds) that are compared with the data and information that are kept in their economic profile. Among others, reference to the following:

- Analysis of the way/method (automated or non-automated) of 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 the ongoing monitoring of customers accounts and transactions (e.g. in real time or after the completion of an event).
- Details of the way/method of documenting the ongoing monitoring of customers accounts and transactions (e.g. preparation of a memo describing all relative actions and recording it in the customer's file).

ii. Results the ongoing monitoring of customers accounts and transactions during the year (e.g. identification of a number of suspicious transactions, update a number of customers accounts, internal report or report to MOKAS).

8. Branches and subsidiaries outside the European Economic Area (E.E.A) (paragraph 10(4)(i) of the Directive)

i. Data/information of the branches and subsidiaries of the Regulated Entity that operated outside the European Economic Area (E.E.A).

ii. Taking into consideration article 68A of the Law, measures and procedures taken for the compliance of branches and subsidiaries of the Regulated Entity that operate outside the E.E.A.

9. Communication, Education and Training of Staff (paragraphs 10(4)(e),(j),(k),(l),(m) of the Directive)

i. Reference to specific issues/cases, questions/clarifications and any other form of communication with the staff and the specific results that have arisen from the relevant communication.

ii. Taking into consideration the provisions of article 58(f)(g) of the Law, information on training courses/seminars attended by the Compliance Officer and the rest of the staff of the Regulated Entity during the year:

- Summarized data of the program/content of the training courses/seminars.
- Number and duration of the training courses/seminars.
- Number and position of the employees participating in the training courses/seminars.

- Number and position of employees who did not participate in the training courses/seminars and their duties are relevant with the prevention of money laundering and terrorist financing. Information on the reasons for not participating.
  - Instructors' names and qualifications.
  - Whether the training courses/seminars were performed in-house or by an external organization or consultants.
  - Information for the educational material received.
- iii. Information on the specific way/method with which the adequacy and effectiveness of staff training has been assessed and reference to the results.
- iv. Taking into consideration the provisions of article 58(f)(g) of the Law and the results of point iii above, information on the training program which is recommended to attend the Compliance Officer and the rest of the staff of the Regulated Entity, for next year:
- Summarized data of the program/content of the training courses/seminars.
  - Number and duration of the training courses/seminars.
  - Number and position of the employees who will participate in the training courses/seminars.
  - Number and position of employees who will not participate in the training courses/seminars and their duties are relevant with the prevention of money laundering and terrorist financing. Information on the reasons for not participating.
  - Instructors' names and qualifications.
  - Whether the training courses/seminars will be performed in-house or by an external organization or consultants.

#### 10. Compliance Officer's Department (paragraph 10(4)(n) of the Directive)

- i. Name, location (e.g. Cyprus) and date of employment of the Compliance Officer and the Compliance Officers' assistants (if applicable) and data/information in case the operation of the Compliance Officer's department have been outsourced to a third party.
- ii. Position / hierarchy and reporting lines of the Compliance Officer within the organizational structure of the Regulated Entity (attach organizational chart).
- iii. Duties of the Compliance Officer and the Compliance Officers' assistants.
- iv. Areas/cases where the Compliance Officer did not have complete and timely access to all information, data and documents that would assist him in the performance of his duties.
- v. Recommendations and implementation timeframe, for any additional staff and technical resources to reinforce the measures and procedures for the prevention of money laundering and terrorist financing.