CENTRAL BANK OF CYPRUS
EUROSYSTEM

Reference Number: SD 6020
Telephone: 22714180
Fax: 22714955
Email: bsrd.compliance@centralbank.gov.cy

7 April 2016

CIRCULAR LETTER

BY E-MAIL

Amendment no. 1 of the Directive to Credit Institutions for the Prevention of Money Laundering and Terrorist Financing issued in December 2013

To all Money Laundering Compliance Officers of Credit Institutions

Dear Sirs,

Directive of the Central Bank of Cyprus for the Prevention of Money Laundering and Terrorist Financing (4th edition)

With reference to the above subject, please find enclosed the amending Directive (No.1) on the prevention of money laundering and terrorist financing (4th issue), which was the subject of consultation with credit institutions operating in Cyprus.

It should be noted that the provisions of the amending Directive come into force upon its publication on the website of the Central Bank of Cyprus today.

Sincerely,

Yiangos Demetriou
Acting Senior Director
Supervision Division

Enclosures: 1
/mth

Amendment (No.1) to the Directive to credit institutions for the prevention of money laundering and terrorist financing (4th edition)

1. The following new paragraph 76A is inserted after paragraph 76:

76A. For the better understanding of the activities of all their customers (including companies, partnerships, foundations, clubs/unions, trusts and other legal entities, self-employed natural persons, natural persons the income of whom derives from legal persons controlled by them in any way), as well as the source and use of their funds / assets, credit institutions shall obtain copies of recent audited financial statements. In cases where there is no obligation for the preparation of audited financial statements or where these are not available (at least for the previous two years) they shall obtain recent management accounts.

2. Paragraph 83(ii) is amended only for the Greek text.

3. Paragraph 85, is amended by deleting the phrase «It is noted that credit institutions ...» from the fifth line until the end.

4. New paragraph 85A is inserted after paragraph 85:

85A. Credit institutions may rely on third parties only at the outset of establishing a business relationship for the purpose of ascertaining and verifying the identity of their customers. Any data and information for the purpose of updating the customer's business profile during the operation of the account, should be obtained directly from the natural person in the name of whom the account is maintained, or in the case of legal persons, from the natural persons who are the ultimate beneficial owners of the shares of the legal person or who exercise the ultimate control of the legal persons or who have the ultimate responsibility of decision making and who manage the operations of the customer.

All relevant correspondence with the customer shall be kept in the customer's file.

5. Paragraph 86 is deleted from the third line, starting with the phrase «In the cases where the third person...», until the end.

6. The following new paragraphs 86A to 86E are inserted after paragraph 86:

86A. For customers with whom a business relationship was initiated following introduction by a third party, as defined in article 67 of the Law, which is engaged in in the implementation of customer identification and due diligence procedures, credit institutions are obliged to arrange a face-to-face meeting with the said customers in order to verify data and information, composing the customers' economic and risk profile, which have been obtained by the third party, and also to collect any other data and information deemed as necessary to prove that the credit institution has acquired direct knowledge of such customers. In the case of legal persons, the meeting must be held with the natural person or persons who are the ultimate beneficial owners of the share capital of the legal persons or who exercise the ultimate control of the legal persons or have the responsibility of taking decisions and running the operations of the customer, within a reasonable period of time, not later than three months from the account opening date. The meeting may be held over the internet on condition that adequate safeguards are in place such as sound / video recording of the meeting.

86B. Therefore, for existing customers for whom credit institutions have relied on a third party for the purpose of ascertaining and verifying their identity (as described in the

paragraph above) before the issuance of this amending Directive, credit institutions must introduce measures and procedures so as to verify, the soonest possible and not later than the completion of the next review, the data and information, composing the customers' economic and risk profile, which have been obtained by the third party and also to collect any other data and information deemed as necessary to prove that the credit institution has acquired direct knowledge of such customers. If deemed necessary, face-to-face meetings should be held with the customers considering the inherent money laundering and terrorist financing risk.

In case where the next review is scheduled within the next three months from the date when the current amending Directive comes into force, the said verification must be completed within one year from the date of the implementation of this amending Directive.

86C. Any meetings with the third party introducing the customers to the credit institution or with persons directly or indirectly associated with the said third party or registered shareholders acting as nominees of the ultimate beneficial owner are not considered as compliance by the credit institution with the provisions of paragraphs 86A-86B.

The exchange of relevant correspondence concerning the above mentioned meeting as well as minutes of the said meeting must be kept in the customer file as evidence.

86D. In case where the said meeting cannot take place within the time limit mentioned above, credit institutions cannot execute any new transaction through the bank account of the said customer and must terminate the business relationship. In those cases where the reason for not holding the meeting is refusal by the customer or inability to locate the natural persons with whom credit institutions are obliged to meet as specified above, credit institutions must assess whether, under the circumstances, it is appropriate to submit a suspicious activity/transaction report to MOKAS.

86E. Policies and procedures should specify the measures taken by the credit institution so as to comply with the requirements of the Law and the Directive in force, including, as a minimum, the following:

(i) The MLCO verifies that the third party is subject to the requirement of professional registration on the basis of relevant legislation in force in the country of incorporation and/or operation, as well as supervision for the purpose of ascertaining compliance with measures for the prevention of money laundering and terrorist financing, in accordance with article 67(2) of the Law.

(ii) Credit institutions enter into an agreement with the third party in which the obligations of every party for the offering of relevant services are specified, including the financial terms.

(iii) For every third party mentioned above and before the business relationship commences, customer identification and due diligence procedures are applied.

(iv) The MLCO evaluates the business relationship with the said third parties on the basis of the scorecard set out as appendix 7 to the Directive as well as any other information composing the economic and risk profile of third parties. New business relationships with third parties must be evaluated for the first time after one year from the date of the commencement of the business relationship and,

subsequently, the evaluation should be conducted on the basis of the result of the scorecard.

(v) The MLCO is obliged to introduce procedures and controls in the handling of the business relationship with the said third parties which have been rated as high risk.

(vi) The MLCO maintains a separate file with the information on the identity of the third party, data composing the economic and risk profile of the third party, minutes of meetings with them, data which verify that the third party is legally subject to professional registration and evaluation of the third party on the basis of the scorecard.

(vii) The MLCO maintains a register with the following data/information on the third parties with which the credit institution has or had a business relationship:

1. Name
2. Business address
3. Professional activity sector
4. Supervisory authority
5. Date of commencement of business relationship
6. Date of latest evaluation
7. Date of next evaluation
8. Evaluation score
9. Number of customers introduced to the credit institution per year during the past three years
10. Number of customers reported to MOKAS
11. Date and reason for the termination of the business relationship, if applicable.

(viii) The MLCO maintains a register with the following data/information on the third parties with which a business relationship proposal was rejected:

1. Name
2. Business address
3. Professional activity sector
4. Supervisory Authority
5. Date of rejection
6. Reasons for rejection.

(ix) The commencement of the business relationship with the third party and the acceptance of the verification of identity of customers by the third party must bear the written and duly justified approval of the MLCO and must be kept in the individual record file of the third party maintained by the credit institution.

7. Paragraph 105 is amended as follows:

(a) With the deletion from sub-paragraph (viii) of the phrase «the Director of the Company» and its replacement by the phrase «the ultimate beneficial owner or the person who exercises the ultimate control on the legal person or the person who has the ultimate responsibility of decision making and who manages the operations of the customer».

(b) With the addition after sub-paragraph (ix) of the following sub-paragraph (x):

«(x) Certificate of the registered shareholders for the companies participating in the ownership structure of the customer and which hold directly or indirectly share capital of the customer in accordance with article 2 of the Law.»

8. Paragraph 107 is deleted.

9. Paragraph 120 is deleted and replaced by the following new paragraph:

For customers classified as high risk, credit institutions must take enhanced and additional measures to verify the identity and create the economic profile of their customers. As a minimum, the enhanced due diligence measures must include obtaining approval by senior managers who are accountable to the General Manager and/or the Board of Directors either for the commencement of a business relationship or the execution of a single transaction, the taking of adequate measures to ascertain the source of wealth and the systematic and thorough monitoring of the transactional behaviour of the customer. In addition to the above and without prejudice to Part 4.5 of the Directive, the business relationship should be reviewed at least once a year or at a shorter interval if deemed necessary.

10. After paragraph 128, the new paragraphs 128A and128B follow:

128A. In case where the total debits or total credits on the account of the customer exceed €100.000 annually, or the customer bears other characteristics apart from the fact that it is a non-face-to-face customer, which would render him a high risk customer despite the fact that the total debits or credits on the account do not exceed €100.000 annually, then the credit institution must arrange for a face-to-face meeting with the said customer to verify the data and information already in its possession and to obtain any other data or information deemed necessary for the composition of a complete economic and risk profile of the said customer. In the cases of legal persons, the meeting must be held with the natural person or persons who are the ultimate beneficial owners of the share capital of the legal persons or who exercise the ultimate control of the legal persons or have the responsibility of taking decisions and running the operations of the customer within a reasonable period of time, not later than three months from the account opening date. Any meetings with the registered shareholders acting as nominees of the ultimate beneficial owners are not construed as compliance by the credit institution with the provisions of this paragraph. The exchange of relevant correspondence concerning the above mentioned meeting as well as minutes of the said meeting must be kept in the customer file as evidence. Therefore, for existing customers, this meeting must take place the soonest possible and not later than the next review.

128B. In case the said meeting cannot take place within the time limit mentioned above, credit institutions cannot execute any new transaction through the bank account of the said customer and must terminate the business relationship. In those cases where the reason for not holding the meeting is refusal by the customer or inability to locate the natural persons with whom credit institutions are obliged to meet as

specified in paragraph 128A above, credit institutions must assess whether, under the circumstances, it is appropriate to submit a suspicious activity/transaction report to MOKAS.

11. Sub-paragraph (iii) of paragraph 129 is amended with the deletion of the phrase «If the opening of the account has been recommended by a third person as defined in article 67 of the Law», with the replacement of the phrase « the third person» with the phrase «the directors of the company» and the deletion of the last sentence beginning with « If the account has been opened directly by the company...».

12. Paragraph 187 is amended with the deletion of the sentence «The credit institution must communicate with the aforesaid Central Authority in the country of issue to confirm the authenticity of the documents' origin.» and its replacement by the following sentence: «The credit institution, after having seen the original documents, may maintain true copies of the said documents in the customer file. The said copies must be certified by an employee of the credit institution, bear the name of the employee, the signature of the employee who certifies the documents as well as the date of the certification.»