

E.K. 1.3.0

30th January 2024

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Attention: Ms. Stella Kammitsi

President
Cyprus Fiduciary Association
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Attention: Mr. Chris Koutouroussis

Subject: Issues related with CySEC Directive on Register of Beneficial Owner of Express Trusts and Similar Legal Arrangements

The Cyprus Securities and Exchange Commission ('CySEC), further to your letter dated 12th of September 2022, regarding to the above mentioned subject, hereby informs you about the following:

1. Conflicting Definition of Similar Legal Arrangements vs Definition of Express Trust

Kindly, note that your comment has been examined and possible amendments will take place in future.

2. Business relationship by a trustee of an express trust established or resident outside the EU:

An express trust, whose trustee is established or resides outside the European Union (the 'Trust'), shall be registered in the Register of Beneficial Owners of Express Trusts and Similar Legal Arrangements (the 'CyTBOR') if it enters into a business relationship within the Republic (article 61C(5)(b)(ii) of the Prevention and Suppression of Money Laundering and Terrorist Financing Law ('the AML/CFT

Law')). It is the responsibility of the trustee to know his obligations in each country, where he enters into business relationship on behalf of the Trust.

In relation to the establishment of a 'business relationship' in the Republic by a Trust, CySEC re-examined the issue and notes the following:

- When an obliged entity (**section 2A of the AML/CFT Law**) provides services to a Cypriot legal entity, that has a Trust as shareholder, then a business relationship is established between the obliged entity and the Cypriot legal entity.

The customer of the obliged entity is the Cypriot legal entity itself and not the Trust. Hence, the Trust does not fall under the provisions of **section 61C(5)(a)(b)(ii) of the AML/CFT Law** and shall not be registered in the CyTBOR.

- When a trustee enters into a business relationship, in the name of the Trust, with an Obligated Entity, within the Republic, the customer of the obliged entity is the Trust itself and therefore the Trust must be registered in the CyTBOR. (i.e. opening of a bank account with a credit institution in Cyprus on behalf of the trust).
- A Trust does not fall under the obligation of registration in the CyTBOR, due to the fact that is the shareholder of a Cyprus company.

It is clarified, as well, that the case described in your letter ('... a foreign trust, having a Cyprus subsidiary...'), is not considered to form a 'business relationship'.

It is noted that, CySEC has proceeded with an amendment of the relevant **Question/Answer 13**, which can be found at CySEC's website, in the following link: <https://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=90c7427d-da2c-40d7-981f-0a52877b9155>.

3. Controlling interest of a Trust similar to legal arrangement registered with CyTBOR:

Kindly note that, the above requirement has been removed from the CyTBOR System.

4. Generation of Reports from CyTBOR:

Kindly, note that at the current stage, the user through the CyTBOR system, is able to print the information that are filled in both before and after the publication of an express trust, as per your suggestion.

Sincerely,



Dr. George Theocharides
Chairman
Cyprus Securities and Exchange Commission