

Cyprus Anti Money Laundering **Legislation**

UNIT FOR COMBATING MONEY LAUNDERING (MOKAS)

According to the Law, a reporting system has been set up since 1996. More specifically, the law provides for the establishment of a “Unit for Combating Money Laundering” (MOKAS), the FIU of Cyprus, with investigative powers which became operational in January 1997 and is composed of Counsels of the Republic from the Attorney General’s Office, Police Officers, Customs Officers and Financial Analysts. The Unit is headed by a member of the Attorney General’s Office.

The Law provides for a mandatory reporting of suspicious transactions to MOKAS and the obligation to take the appropriate preventive measures (e.g. identification of customers, record keeping, mandatory reporting) is applied to all persons who are engaged in financial businesses including lawyers and accountants. The Unit may apply to the Court and obtain freezing, confiscation and disclosure orders. It is pointed out, that with the disclosure orders bank secrecy can be lifted.

There is close co-operation between the banking and other financial institutions, on the one hand and the Unit, on the other, based on the relevant provisions of the Law as well as on guidance notes issued by the supervisory authorities of the financial institutions.

The Unit for Combating Money Laundering (MOKAS) was established according to

It is a comprehensive legal framework which contains provisions both, for the prevention and suppression of money laundering, including provisions on tracing, restraint/freezing and confiscation of criminal proceeds.

MEASURES IN THE FINANCIAL SECTOR

The “Supervisory Authorities” appointed concerning the preventive measures in the financial sector are the following: The Central Bank of Cyprus for all persons licensed to carry on banking business in or from Cyprus as well as for international financial services companies operating through Cyprus; The Securities and Exchange Commission with regard to the participants to the Cyprus Stock Exchange; The Superintendent of Co-operative Societies and Co-operative Development for the Co-operative Credit Societies and the Superintendent of Insurance for insurance companies, the Council of the Bar Association for lawyers, the Council of the Institute of the Certified Public Accountants for Accountants and the FIU for the Real Estate Agents and the Dealers in precious metals and stones.

The Law recognises the important role of the financial sector for the forestalling and effective prevention of money laundering activities and places additional administrative requirements on all institutions, including banks, engaged in financial activities.

Specifically, the law requires all persons carrying on “relevant financial business” to establish and maintain specific policies and procedures to guard against their

section 54 of the Prevention and Suppression of Money Laundering Activities Law 2007 (former Law No.61(I)/96), in December 1996 and became operational in January 1997. It functions under the Attorney General of the Republic and it is composed of representatives of the Attorney General, the Chief of Police, and the Director of the Department of Customs and Excise. The members of the Unit are appointed by detachment and the Unit is headed by the representative of the Attorney General. In relation to the composition of the Unit, the Law was amended in 2003 in order to include other professionals. As a result, the Unit recruited accountants and financial analysts.

The FIU is the national center for receiving, requesting, analyzing and disseminating disclosures of suspicious transaction reports and other relevant information concerning suspected money laundering and terrorist financing.

Its main functions are to gather, classify, evaluate and analyse information relevant to money laundering and the financing of terrorism offences, which is submitted by reporting entities in accordance with the legislation and regulations, together with information from international and domestic partners. The Unit, inter alia, has the following powers: it co-operates and exchanges information with other FIUs, the Police and other professionals. It issues administrative orders for the postponement of transactions and protects the privacy of the information it possess. Members of the Unit can also apply and obtain court orders, ie, disclosure orders, freezing orders, confiscation orders.

It cooperates with reporting entities such as financial institutions and professionals, the Customs and Excise Department and all the Supervisory Authorities, which are: the Central Bank of Cyprus, the Superintendent of Co-operative Banks, the Securities and Exchange Commission, the Superintendent of Insurance, the Institute of Certified Public Accountants of Cyprus, the Council of the Cyprus Bar Association, the Registrar of Companies, the Cyprus Police, the Ministry of Justice and Public Order and the Ministry of Finance.

It cooperates with the Financial Intelligence Units of other countries, competent Law Enforcement, Judicial and other Authorities worldwide, Interpol, Europol, the European Commission (Committee on the Prevention of Money Laundering and

to establish and maintain specific policies and procedures to guard against their business being used for the purposes of money laundering. In essence these procedures are designed to achieve two objectives: Firstly, through the strict implementation of the “Know your customer” – principle to facilitate the recognition of suspicious transactions and, secondly, through adequate records keeping procedures to enable a bank, other financial institution or professional if a customer comes under investigation, to provide an audit trail to law enforcement agencies.

Bank Secrecy is not an obstacle for possible investigations. According to the Law, Bank secrecy is lifted in the course of the investigations for possible criminal activities, including money laundering. The same applies for the beneficial owner of international business companies; the real identity of the natural person behind the company are revealed to investigative authorities and the banks when opening a bank account.

With regards to the identification of the beneficial owners of legal entities it should be mentioned that the measures in Cyprus go beyond international standards. In particular according to the law there is an obligation to identify the natural persons who control 10% of the legal person, which is stricter than the obligation of 25% which is provided for in the 3rd EU AML Directive. Only Cyprus among the EU Member States applies stricter threshold than that provided in the Directive.

INTERNATIONAL CO-OPERATION

The Unit for Combating Money Laundering, (MOKAS) and other Law Enforcement Authorities strongly support international co-operation and to this end they give priority to requests for legal assistance submitted from foreign authorities, through formal requests for legal assistance (rogatory letters) and with the exchange of information on the F.I.U. level.

The Unit co-operates with foreign counterpart FIUs and can exchange information with any type of F.I.U.s (judicial, police, administrative) and has signed Memorandum of Understanding with a number of foreign FIUs. There is however, a specific provision in the Law, which enables MOKAS to co-operate with other FIUs without the need of a Memorandum of Understanding.

Terrorist Financing), the Council of Europe (Moneyval Committee) and the Egmont Group.

The Prevention and Suppression of Money Laundering Activities Law 2007 of Cyprus is in line with the following international conventions: the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) – 1988, the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime – 1990, the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism – 2005, the European Union Council 3 Directives of 1991, 2001, 2005, the EU Council Framework Decisions and the 40+9 Recommendations of the FATF on ML&FT. It participates in the following organizations: the Moneyval Committee of the Council of Europe, the EU Committee on the Prevention of Money Laundering and Terrorist Financing, the Camden Assets Recovery Inter-Agency Network (CARIN), the FIU Net Task Force, the Asset Recovery Offices Forum and the FIU Platform.

MONEY LAUNDERING SITUATION

The attractiveness of Cyprus for money laundering operations at the “placement stage” is diminished by virtue of the existence of the Law on the Control of the movement of cash, the relatively limited role of cash operations in the Cyprus economy and the absence of independent bureaux de change and casinos.

Cyprus has developed as a regional financial centre, offering international business facilities. The expansion of the international business sector in Cyprus is largely due to the country’s strategic geographical location, at the crossroads of Europe, Asia and Africa, its modern telecommunications and the existence of a wide network of treaties with other countries for the avoidance of double taxation. Some other factors are the legal framework, closely based on English Common Law and the high quality of the offered legal, accounting and audit and assurance services.

The Cypriot authorities recognising the dangers for possible abuse of its financial facilities for criminal activities including money laundering, have taken all measures, legislative and practical, both preventive and repressive,

F.I.U.S without the need of a memorandum of understanding.

It is important to stress the fact that the Cyprus FIU has the power according to the Law, to postpone a financial transaction, based on suspicions, without the need for a Court order, and this can be done on behalf of foreign Authorities as well. Such power goes beyond international standards. There is no such obligation neither in the FATF Recommendations nor in International or European legal instruments.

Moreover formal Requests for Legal Assistance submitted by other countries (EU as well as third countries) are executed in Cyprus, including the recognition and enforcement by the Cyprus Courts, foreign freezing and confiscation orders. Following their registration foreign Court Orders they have the same effect as if they were issued by a Cypriot Court. Cyprus has adopted and fully implemented the Council Framework Decisions 2003/577/JHA and 2006/783/JHA on the execution in the EU of orders freezing property and on the mutual recognition of confiscation orders.

Representatives from the Unit for Combating Money Laundering (F.I.U.) and the Central Bank participate in the Council of Europe Committee MONEYVAL, and in other international Bodies on this issue, and participate in the evaluation teams for other countries.

The anti-money laundering measures of Cyprus were evaluated by the aforementioned Committee of the **Council of Europe**, the **Financial Action Task Force** and the **International Monetary Fund**.

following and adopting all international measures in this area.

LEGISLATIVE MEASURES

The Republic of Cyprus ratified and implemented all international and EU instruments in the area of Money Laundering and Terrorist Financing.

In 1996 the first domestic legislation was enacted, namely “the Prevention and Suppression of Money Laundering Activities Law (No. 61(I)/96”) which was adopted in line with the International Conventions, the 40 Recommendations of the “Financial Action Task Force on Money Laundering” and the E.U. Council Directive of 10 June 1991. This Law was amended and consolidated in 2007, 2010 and 2012 adopting the subsequent EU (3rd Directive) and other international instruments.

The Law contains a broad definition of “laundering” which draws heavily upon relevant articles of the Council of Europe Conventions.

Cyprus:

▶ CYPRUS AS AN INTERNATIONAL BUSINESS CENTER

▶ CYPRUS TAX ADVANTAGES

▶ CYPRUS NON-TAX ADVANTAGES

▶ CYPRUS NATURAL GAS OPPORTUNITIES

▶ CYPRUS DOUBLE TAX TREATIES

▶ CYPRUS RESIDENCY

▶ CYPRUS ANTI MONEY LAUNDERING LEGISLATION

