



**Significant amendments to the Prevention and Suppression of Money Laundering and Terrorist Financing Law (188 (I)/2007).**

**1. Article (2) – Definitions: “politically exposed persons”(PEP)**

The definition of politically person persons is extended to include specific categories of persons that fall within the definition of PEP. Additionally, a 12-month period following the date on which the person in concern has ceased to hold a public function, is set as a minimum period for which the obliged entity is required to take into account the continuing risk posed by that person and to apply appropriate and risk sensitive measures until such time as that person is deemed to pose no further risk specific to politically exposed persons.

Adding to these, the risk that this person poses need to be reassessed after the 12-month period time. This person may pose higher risk even if the person is not a PEP anymore, when other indicators are taken into account.

**2. “Beneficial owner”**

A beneficial owner is considered the natural person who ultimately owns or controls the 25 % plus one share or an ownership interest of more than 25 %.

**3. “Senior management”**

The definition of senior management has been added and it is defined as an officer or an employee of an obliged entity with sufficient knowledge of the obliged entities money laundering and terrorist financing risk exposure and with sufficient seniority to take decisions affecting its risk exposure and need not, in all cases, be a member of the board of directors.



#### **4. “High Risk Third Countries”**

The amended Law abolishes the “white list” which defines the third countries that have applied equivalent measures and have efficient systems in the national system for the prevention and suppression of money laundering and terrorist financing. The European Commission is empowered to adopt delegated acts in accordance with provisions of paragraph (2) of article 9 of the Directive 2015/849/EE in order to identify high-risk third countries, taking into account strategic deficiencies.

Third-country jurisdictions are considered those which have strategic deficiencies in their national AML/CFT regimes that pose significant threats to the financial system of the European Union (‘high-risk third countries’). Moreover, any third country, classified as high risk, in accordance with the risk assessment provided in article 58 A.

#### **5. Article 5<sup>A</sup> – Cash restrictions on sale of goods**

Based on article 5A of the amended law there is a prohibition of a person trading in precious stones and/or precious metals, motor vehicles, works of art and/or antiques within the context of their business activities to collect a cash amount equal to or greater than ten thousand euro (€10.000) irrespective of whether the transaction is carried out as a single transaction or a number of transactions which appear to be linked between them.

Infringement of this article is considered to be a criminal offence and is subject to a penalty of not more than ten percent (10%) of the amount received in cash.



**6. Article (58A) – Risk assessment of money laundering and terrorist financing.**

Considering article 58A the obliged entities are obliged to establish a risk based approach procedure in order to take appropriate steps to identify and assess the risks of money laundering and terrorist financing and mitigate the risk.

Obliged entities take appropriate steps to identify and assess the risks of money laundering and terrorist financing, taking into account risk factors including those relating to their customers, countries or geographic areas, products, services, transactions or bank service delivery channels.

Those measures should be proportionate to the size and nature of the obliged entity.

**7. Article 58B – Establishment of an independent audit function**

Depending on the size and nature of the activities of each obliged entity, an independent audit function should be established for the identification and verification of policies, controls and procedures, as they are stated in article 58 of the Law.

**8. Article 58C –Approval of policies, controls and procedures by senior management**

The senior management of the obliged entity is responsible for approving the policies, procedures and controls applied by the obliged entities and, where necessary, enhancing the measures taken.

**9. Article 58D – Appointment of a Board Member**

Obliged entities should identify a member of the Board of Directors, provided that there is a Board of Directors, which will be responsible for the implementation of the Law and of the applicable directives and/or circulars and/or regulations including any relevant acts of the European Union.



**10. Article 59(6) – Sanctions and fines imposed by the Supervisory Authorities**

Stricter measures and administrative sanctions (that cannot exceed the amount of 1.000.000 EUR) can be applied by the Supervisory Authorities in case that the supervised entities do not comply with the Law and/or the relevant Directives. The imposition of any sanctions by the supervisory authority will be published on the official webpage of the Authority.

**11. Article 61(A) – Beneficial Ownership Information**

The Law provides for the maintenance of a central register of beneficial owners of companies and other legal entities that will hold adequate, accurate and current information on their beneficial ownership.

The register will be accessible to:

**(a) Without any restriction:**

- The Competent Supervisory Authorities
- The Unit (MOKAS)
- The Department of Customs and Excise
- The Tax Department
- The Law Enforcement

**(b) Within the framework of customer due diligence:**

- Obligated entities

**(c) Person or organisation that can demonstrate legitimate interest**

The particular provisions of the operation of the registry as well as the procedures for verifying legitimate interest will be determined by relevant Regulations.



It is noted that access to the information on beneficial ownership shall be in accordance with provisions of the data protection rules. Exemptions rules for the access to the register are found in article 61A (9).

The specific provisions for the creation and operation of the register will be determined by relevant Regulations.

### **12. Article (61B) – Information held by the trustee of an express trust**

The Law provides for the maintenance of a central register of beneficial owners of trusts when the trusts generate tax obligations in the Republic of Cyprus.

The Register must hold adequate, accurate and current information on their beneficial ownership, including the identity of:

- the trustee,
- the settlor,
- the protector,
- the beneficiaries or class of beneficiaries and
- any other natural person exercising effective control over the trust.

Access, within the scope of their responsibilities, is granted to:

- The Competent Supervisory Authorities
- The Unit (FIU-MOKAS)
- The Department of Customs and Excise
- The Tax Department
- The Law Enforcement

Obligated entities will also have access to the beneficial owners within the scope of customer due diligence.

The specific provisions for the creation and operation of the register will be determined by relevant Regulations.



### **13. Article 63 – Simplified Customer Due Diligence**

Article 63 has been replaced (which set out specific categories of clients for which such measures could have been applied), with a provision that includes the ability of the obliged entity to apply simplified client due diligence measures, provided that the business relationship or the transaction presents a **lower degree of risk**.

The Law includes in **Appendix II** a list of factors relating to the types of customers, geographic areas, and particular products, services, transactions or delivery channels which may potentially indicate a lower degree of risk.

### **14. Article 64 – Enhance Due Diligence**

The factors which an obliged entity needs to take into account in order to adopt enhanced due diligence measures have been extended to cover the following:

- (i) When dealing with a natural person or legal entity established in a high-risk third country,
- (ii) With respect to cross-border correspondence relationships with an institution customer from a third country,
- (iii) With respect to transaction or a business relationship with a politically exposed person (or a family member or a close associate)

The Law includes in **Appendix III** a list of factors relating to the types of customers, geographic areas, and particular products, services, transactions or delivery channels which may potentially indicate a higher degree of risk and for which the obliged entity must apply enhanced due diligence measures.

### **15. Article 67 – Third party reliance**

A provision is included prohibiting obliged entities from relying on third parties established in high-risk third countries (exemptions included in article 67(2)(β)(ii)).



Additionally, obliged entities must require that the third party makes immediately available to them the evidence, information and identification documents received during the process of identification and customer due diligence, and forward directly to them, copies of the documents and information on the identity of the client and the beneficial owner.

### **16. Article 68 – Record keeping procedures**

Obliged entities must keep the following documents and information, for a period of five (5) years after the completion of the business relationship with their client or after the date of an occasional transaction:

- Copy of the documents and information which are necessary to comply with the customer due diligence requirements as defined in the Law,
- The supporting evidence and records of transactions, consisting of the original documents or copies which are necessary to identify transactions,
- Relevant correspondence documents with the customers and other persons with whom a business relationship is maintained.