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REGISTRATION OF CRYPTO ASSET SERVICES PROVIDERS (CASPs) IN CYPRUS

The European Union in order to address AML risks emanating from crypto-asset activities, expanded its legal framework so as to include “crypto-custodian wallet providers” and “crypto exchange service providers” by defining them as obliged entities¹ under AMLD5.

The national transposition of AMLD5 took place on 23 February 2021 through the enactment of Law 13(I) 2021 (“**AML Law**”), amending the Prevention and Suppression of Money Laundering and Terrorist Financing Law 188 (I) 2017.

Under the new amended AML Law, Crypto Asset Services Providers (**CASPs**)² that provide their services in or from Cyprus, qualify as obliged entities within the scope of the AML Law and must therefore abide to their obligations stemming from the AML Law, the CySEC³ CASPs Registration Directive as well as the Directive on the Prevention and Suppression of Money Laundering and Terrorist Financing (collectively hereafter the “**CASPs Rules**”).

The AML Law also provides, inter alia for the:

- a. Fitness and integrity of the shareholders and executives of the CASPs
- b. Registration criteria
- c. Organisation and operational requirements
- d. Deregistration and sanctions

Who qualifies as a CASP?

CASP means a person or an entity that provides or exercises one or more of the following services or activities to another person or on behalf of another person, which do not fall under the services or activities mentioned in paragraphs (a) to (h) of Article 2A of the AML Law:

1. Exchange between crypto-assets and fiat currencies
2. Exchange between crypto-assets
3. Management, transfer, holding and/or safekeeping, including custody of crypto-assets or cryptographic keys or means which allow the exercise of control over crypto-assets
4. Offering and/or sale of crypto-assets, including initial coin/token offerings
5. Participation and/or provision of financial services regarding the distribution, offer and/or sale of crypto-assets, including the initial offerings

¹ Entities that are required to conduct KYC and other similar AML measures

² Also mentioned as Virtual Asset Services Providers

³ Cyprus Securities and Exchange Commission



As regards to the financial services in relation to the distribution, offer and/or sale of crypto-assets, its definition includes the following activities and services:

- a. Reception and transmission of orders
- b. Order execution on behalf of clients
- c. Dealing on own account
- d. Crypto-asset portfolio management
- e. Provision of investment advice
- f. Underwriting and/or placing of crypto assets with a firm commitment
- g. Placing of crypto-assets without a firm commitment
- h. Operation of a multilateral system, which brings together multiple third-party buying and selling interests in crypto-assets in a way that results in a transaction.

CASPs Register

According to sections 2A(I) and 61E(1) of the AML Law, persons who qualify as CASP, and provide their services in or from Cyprus, must formally register with CySEC who shall establish and maintain a Register of Crypto Asset Services Providers.

CySEC publishes the CASP Register on its website, which is accessible to the public, providing the following information:

- a. Name, trade name, legal form and legal entity identifier of the CASP
- b. Physical address of the CASP
- c. The services and activities exercised by the CASP
- d. Domain/website of the CASP

Registration Requirements

CASP applicants must submit all relevant application forms issued by CySEC for the registration in the CASP Register, duly completed. Applicants are expected to be in a position to satisfy CySEC in relation to the following:

- a. Due diligence information on persons of significant control, shareholders, directors and persons holding management positions in the CASP;
- b. The Board of directors shall be comprised of at least four (4) members-directors⁴, two (2) of which must direct the business activities of the CASP and two (2) must be independent members⁵ - non executive;
- c. Provide CySEC with an adequate AML manual;

⁴ Must satisfy the fitness and probity criteria test with a good reputation

⁵ "Independent Member" means the member of the Board of Directors of the CASP who has no relationship or links in the present or recent past with the CASP or with the other members of the Board of the CASP, which could affect the member's objective and balanced judgment and reduce the member's ability to make decisions independently;



- d. Submit an Internal Operation Manual, describing internal control mechanisms, effective risk assessment procedures and safeguard arrangements for data storage and information processing systems;
- e. A Business Plan comprising of, inter alia, a risk assessment conducted under a formulated stressed scenario, details regarding operations to be outsourced to third parties and their remuneration per third party;
- f. The applicant must be in a position to describe its group structure and satisfy CySEC that it does not undermine its ability to effectively supervise the CASP;
- g. Appoint an in house AML Compliance Officer;
- h. CASP's website shall be fully owned and exclusively used by the CASP, through which it will operate, without any other person being able to operate through it;⁶

Register a CASP (based in the EEA) in Cyprus

Where a CASP is established in another EEA member State, but provides services in Cyprus under any form or arrangement, is then deemed to be operating from Cyprus and therefore will be subject to registration and supervision under the CASP Rules.

Further, EEA domiciled CASPs who are registered with one or more EEA National Competent Authority (NCA) for AML/CFT purposes, are exempted from the obligation to be registered with CySEC when providing services and/or undertaking activities in relation to crypto assets in Cyprus. Although, such EEA domiciled CASPs must submit to CySEC a notification form, providing sufficient evidence in relation to their valid registration for each service and activity with the relevant NCAs for the purposes of the respective national law transposing AMLD5.

Where such services or activities are not covered by the framework under which the CASP was registered for AML/CFT purposes, then the CASP must submit an application to be registered as a CASP under the supervision of CySEC before the commencement of its operations in Cyprus.

Register a CASP (based in a third country) in Cyprus

CASPs registered in third countries, must be registered with CySEC in order to be able to provide services and/or perform activities, in relation to crypto-assets in Cyprus. Nonetheless, such registration is contingent to CySEC being satisfied with the applicant's compliance to the CASP Rules. CySEC will consider applications on a case by case basis, taking into account inter alia the following:

- a. CASP's organisational and operational characteristics;
- b. Geopolitical location;
- c. Whether there are existing communication channels between CySEC and a competent authority;
- d. Whether the registration of the CASP is likely to undermine CySEC's ability to effectively supervise and/or enforce its policies;
- e. CySEC is more likely to register a third country CASP where services and activities in question are carried out on a limited scale. For instance, services and activities provided to institutional counterparties such as a Cyprus based CASP supervised by CySEC, rather than services that are provided directly to consumers.

⁶ Except for cases where a number of criteria are satisfied and prior approval is given by CySEC



Third country CASPs registered with CySEC, will be listed in a bespoke section on CySEC's website.

Capital adequacy

The CASP must maintain - at all times - own funds equal to the greater of the following:

- a. the amount of the initial capital (see table below), depending on the nature of its functions and activities;
- b. one quarter (1/4) of the fixed overheads of the CASP during the previous year, reviewed annually.

Minimum initial Capital

CLASS	Type of Crypto-Asset Activity	Initial Capital
Class 1	CASPs that provide investment advice	€50.000
Class 2	CASPs providing the service referred to in Class 1 and/or any of the following services: <ul style="list-style-type: none">· reception and transmission of client orders· execution of orders on behalf of clients· exchange between crypto-assets and fiat currency· exchange between crypto-assets· participation and/or provision of financial services related to the distribution, offering and/or sale of crypto-assets, including the initial offering· placement of crypto-assets without firm commitment· portfolio management.	€125.000
Class 3	CASPs that provide any of the services referred to in Class 1 or 2 and/or: <ul style="list-style-type: none">· administration, transfer of ownership, transfer of site, holding, and/or safekeeping, including custody, of crypto-assets or cryptographic keys or means enabling control over crypto-assets· underwriting and/or placement of crypto-assets with firm commitment· operation of a multilateral system, which brings together multiple third-party buying and selling interests in crypto-assets in a way that results in a transaction.	€150.000



CySEC registration fees and renewal charges

- a. €10.000 for the examination of an application. Successful applicants will not be required to pay an additional fee for the first year of their registration.
- b. In case an application for registration in the CASP Register is not approved by CySEC, the fee paid by CASP is non-refundable;
- c. €5.000 for the purpose of renewal of registration per year.

The purpose of this legal briefing is to provide a general guideline on the subject and not to be considered, in any way, as legal advice. It is advisable to seek professional and legal advice on this subject before proceeding with any general information provided to you. For further clarifications and advice please contact us at legal@economideslegal.com.

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