

**Annex 2 [Note verbale reference: CU 2023/225/DTA/CEB/CSS]**

***“Progress made and challenges encountered in implementing resolution 9/1”***

States parties are invited to provide relevant information in line with paragraph 25 of resolution 9/1, entitled Sharm el-Sheikh declaration on strengthening international cooperation in the prevention of and fight against corruption during times of emergencies and crisis response and recovery, in which the Conference:

*[Requested] the secretariat to submit to the Conference of the States Parties at its tenth session a report on **progress made and challenges encountered in implementing [resolution 9/1]**<sup>1</sup>.*

**A. Contact Information**

Please provide contact details for potential follow-up questions. Contact details will be treated confidentially.

*Country: CYPRUS*

*Government Agency: MINISTRY OF JUSTICE AND PUBLIC ORDER*

*Department: OFFICE OF TRANSPARENCY AND PREVENTION OF CORRUPTION*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**B. Questions**

**1. Progress made**

Please describe the measures or steps your country has taken (or is planning to take, together with the related appropriate time frame) to implement operative paragraphs 1 to 21 of resolution 9/1. *Please state the relevant operative paragraphs in your answer.*

**Par. 1.**

2022 is a landmark year for Cyprus with regards to the fight against corruption. Three significant legislations were approved by the Parliament, enhancing even more both institutionally and legally the existing anti-corruption framework: (a) legislation establishing the Independent Authority Against Corruption (b) legislation on the regulation of lobbying activities (c) legislation on whistleblowers protection. Additionally, a National Horizontal Action Plan as it was revised in 2021, continues to be implemented. The said Action Plan aims

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<sup>1</sup> Please note that the secretariat has collected information on the implementation of paragraphs 22 and 23 of resolution 9/1 separately.

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at enhancing to the maximum the legal, political, financial and social environment through 27 specific actions that are divided in 3 pillars, namely:

- (a) prevention, education and awareness
- (b) reinforcement and modernisation of the existing legal framework
- (c) supervision, risk assessment and active involvement of the Civil Society

## **Par.2**

The newly establishes Anti-Corruption Authority (hereinafter “The Authority”) is defined as the competent authority for the coordination of actions of the services of the public sector, of the wider public sector and of the private sector for the prevention and combating of acts of corruption at a national level and has, inter alia, the following competences and powers:

- (a) to supervise the actions of the services of the public sector, the wider public sector and of the private sector in matters of prevention and combating of acts of corruption.
- (b) to assess whether the results of the actions of the services of the public sector, of the wider public sector and of the private sector in matters of prevention and combating of acts of corruption are compatible with the expected results and the prescribed objectives based on internationally recognized best practices and standards for the prevention and combating of acts of corruption and whether such actions are implemented as these were planned and, if deemed necessary, it shall take measures within its competences for the implementation of the actions as these were planned and for achieving the prescribed objectives;
- (c) to draw up, on its own motion, reports with opinions, recommendations and proposals for the prevention and combating of acts of corruption and for the observance of the fundamental principles against corruption, which it shall send to the competent services for update, opinions and/or any actions;
- (d) to assess the risks related to acts of corruption, to determine the assessment indicators and, provided it is deemed necessary, to draw up reports with opinions, suggestions and recommendations for the prevention and combating of such acts, which it shall send to the competent authorities, as appropriate, for information purposes, opinions and/or any actions;

It is important to note that during the COVID-19 pandemic, a control mechanism had been launched, linked to the Social Insurance Services’ database, allowing for automatic checks on beneficiaries of COVID-19 related subsidies (also called “special scheme”). In case of violation of the criteria to qualify for the “special scheme”, the Ministry of Labour, Welfare and Social Insurance has demanded for the relevant benefits be returned. In the health sector, price ceiling on essentials for protection against the disease (for example masks of COVID-19 medical tests) are among the measures aimed at addressing corruption risks.

## **Par.3.**

Pursuant to the provisions of the Law establishing the Anti-Corruption Authority (article 24), the Authority and its staff, during the exercise of their competences shall not request or accept instructions from the government or from any body or authority or from any other person. Furthermore, the said Law provides that (article 27) “The expenses of the Authority, including the salary of the members and its staff, shall be included in the public budget of the Republic,

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under the Chapter “Budget for the Independent Authority against Corruption”. The Authority has not faced any problems so far regarding approval of its budget. The 2023 budget of the Authority amounts to: €1,019.173.

#### **Par.4.**

Among the measures included in the National Action Plan against Corruption, is the establishment of a mechanism for the rotation of civil servants who are exposed to risk of corruption. With a Circular, dated 31/08/2021, the Public Administration and Personnel Department (“PAPD”) addressed a number of recommendations to Ministries, Deputy Ministries, Independent Offices, Departments and Services aiming to combat and minimize the risk of corruption in the public service. The PAPD recommended the following:

1. The Heads of the public services should implement rotation measures and specifically, among the civil servants dealing with sensitive and more exposed to risk of corruption duties.
2. The Heads of the public services, as the responsible persons to assign tasks and duties to the personnel, should proceed with the rotation of civil servants within a reasonable time, in order to avoid civil servants remaining in specific tasks (and avoid the development of an environment conducive to the creation of phenomena of entanglement and corruption).
3. Heads of the public services are expected to assess the risk for such phenomena and then proceed with the rotation of the civil servants exposed to the risk of corruption every 5-6 years.
4. In case the rotation of staff cannot be implemented – due to expertise of the civil servant or due to lack of personnel or due to any other justified reason, the Heads of public services should take other measures eg. Enhancing supervision, promoting team work, transferring specific tasks to other teams/sections of the public services.
5. The Heads of public services may reallocate tasks among the civil servants. There are also several rotation/mobility tools available in the public service that can also be used (transfer, movement, secondment, assignment of specific tasks).

By the end of 2022, several public services responded to the abovementioned recommendations. Only in few cases they mentioned that rotation of civil servants cannot be implemented due to lack of personnel. In many public services there are already taken measures to combat corruption, by using rotation/mobility tools (eg. Treasury, Internal Audit Service, Public Service Commission, Directorate General Growth Ministry of Finance, Audit Service, Deputy Ministry of Tourism).

Concerning the issue of conflict of interest the newly adopted Law on Transparency in Public Decision-Making and Related Matters (Law 20(I)/2022) defines the notion of conflict of interest as “any circumstance in which the personal or private interest of an official or member of the civil service or of the wider public sector or employee for the benefit of an official or connected person influences or is likely to influence the impartial and objective manner in which s/he acts or will act in the performance of his/her duties”.

The Law imposes an obligation on officials to notify the Anti-Corruption Authority, in writing, when such conflicts arise, whilst obliging them to abstain from a decision-making process when they (or the persons connected to them) have a personal interest in the outcome of the decision.

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With regards to the proper understanding and effective application of the Law, the Anti-Corruption Authority is at the final stage issuing a Code of Conduct as well as Guides. Accordingly, both the said Code of Conduct and the guidelines are expected to raise awareness on conflict of interest prevention related provisions, as well as their understanding of what constitutes a conflict of interest, the risks they create and the ways in which they can be managed.

## **Part.5.**

Public procurement is regulated by domestic legislation transposing relevant EU Directives, including the Regulation of Concession Award Procedures and Related Matters (Law 11(I)/2017), the Regulation of Procedures for the Award of Public Contracts and Related Matters Law of 2016 (Law 73(I)/16), the Regulation of Procedures for the Award of Public Contracts by Authorities Acting in the Water, Energy, Transport and Postal Services Sectors and Related Matters (Law 140(I)/2016), and the Recourse Procedure in the field of Public Contracts Law (Law 104(I)/2010).

Cyprus applies the procurement procedures set out in EU Directives: open procedure, restricted procedure, competitive procedure with negotiation, competitive dialogue, innovation partnership, and use of negotiated procedure without prior publication (Pt. 2, Ch. 1 of Law 73(I)/2016). Open bidding is the default procedure.

Cyprus applies the same grounds for excluding bidders from participation as defined in EU Directives (e.g., corruption, fraud, and distortion of competition, etc.) (art. 57 of Law 73(I)/2016).

The Public Procurement Directorate of the Treasury is the competent authority for public procurement. It monitors the implementation of procedures and supports contracting authorities and bidders with instructions and recommendations.

It is mandatory for all contracting authorities to publish all the e-notices invitations to tender, and for all bidders to submit tenders and requests to participate, on the Electronic Procurement portal (e-PS), a platform managed by the Public Procurement Directorate that allows online organization of tender-related activities. It is obligatory for contracting authorities to publish all contract awards notices on the portal. Simplified procedures performed offline, valued over €2.000, are also obligatory to be recorded on the Portal.”

Procurement notices are required to contain information on the conditions for participation, including selection and award criteria (art. 48 of Law 73(I)/2016).

A Code of Conduct for the Award of Public Contracts, a Best Practices Guide on Public Procurement, and a Manual on Bid-rigging developed by relevant authorities inform stakeholders of expected correct behaviours and possible consequences of violations.

The Law on Appeal Procedures in the Field of Public Procurement (104(I)/2010) provides for a system of domestic review. The Tenders Review Authority (TRA) handles appeals against acts or decisions of contracting entities (art. 5 of Law 104(I)/2010). Decisions of the Tender Review Authority are subject to appeal to the Administrative Court (art. 46 of Law 104(I)/2010).

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**Par.6.**

Substantial reinforcement and effective operation of Internal Audit Units in all Ministries, Deputy-Ministries, has been achieved. The personnel staffing the Internal Audit Units of the Ministries and Deputy Ministries has successfully completed a training circle consisting of 12-day seminars. The seminars took place between March and June 2022 and included training on topics such as the control system in the Public Service, risk assessment and management, planning and conducting internal audit. Also, the personnel were provided with the appropriate coaching on risk identification and assessment process.

Moreover, a Manual of Procedures of the Audit Units has been prepared by the Internal Audit Service and forwarded to all the IAU. For the presentation and briefing of the personnel on the Manual, two seminars were held on 25 and 27 of May 2022.

The said Manual describes in detail the procedures that the IAU should follow in the performance of their duties and the procedures that should be applied in relation to the identification, assessment and risk management of the Ministries and Deputy Ministries as well as carrying out checks. It also includes flowcharts and model documents that should be used by IAU, during the exercise of their duties.

The Internal Audit Manual for the Internal Audit Service has also been prepared.

**Par.7.**

Transparency and accountability measures in place, regarding managing public finances, are not differentiated in respect of times of emergencies / crisis response and recovery, but remain as is in normal conditions. The legal and regulatory framework implemented, provides for a sound public financial management system, promoting both on transparency and accountability. A brief description of the system is given below:

According to the Constitution of the Republic of Cyprus (Article 126), the Accountant General and the Deputy Accountant General are appointed by the President of the Republic and they are permanent civil servants until their retirement. The Accountant General is the Head of the Treasury of the Republic of Cyprus, which is an independent office.

The role of the Treasury in Cyprus in accordance with the Constitution (Article 127) is to manage and oversee all accounting operations and execute the financial transactions of the government. The Treasury has constitutionally undertaken the role of collecting the government's income and execute the government's payments. Since the establishment of the Republic of Cyprus, back in 1960, the Treasury has been effectively recording all receipts and payments. Additionally, the Treasury acts as a second level of control, following the control procedures established by the Controlling Officers, ensuring all financial transactions are in line with the legal and regulatory framework in place and are properly recorded in the accounting records of the Republic. All the recordings of the Republic are kept for a specific period of time, which is provided by the regulatory framework and are available upon request to the relevant audit institutions.

The Accountant General is required by law to publish any information related to the financial transactions of the Republic, respecting the principles of equal treatment between citizens, except for those cases in which their non-disclosure is in the public interest and the principle of transparency and equal treatment.

Furthermore, the Treasury of the Republic initiated over the last ten years an ambitious reform program that aims to a holistic upgrade of the public financial management of the Republic.

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The public financial management reform aims to reinforce the decision-making process through the provision of relevant, comprehensive, trustworthy and prompt information, both to the decision makers and to the citizens, promoting in this way accountability and transparency, sound financial management and increasing the efficiency of the governmental operations.

This will be achieved through the following actions-pillars that are incorporated in said reform and are as follows:

- (a) The introduction and adoption of accrual accounting basis in the public sector, based on International Public Sector Accounting Standards (IPSAS);
- (b) The upgrade of the existing accounting system as well as other sub-systems (i.e. payroll and pension management systems) to be able to operate in a new technological environment and provide the ability of preparing financial statements on the basis of accrual accounting; and
- (c) The creation of Financial Management Directorates in each Ministry (already mentioned in the draft report), since 2018, under the leadership of professional accountants (CFO).

The legal and regulatory framework regarding public financial management (except public procurement which was covered in a different section in your report) mainly includes the following:

- 1) Law providing for the Accounting and Financial Management and the Financial Control of the Republic – (N.38(I)/2014)
- 2) Law providing for the Fiscal Responsibility (N.20(I)/2014)
- 3) Budget Law as approved by the Parliament each year
- 4) Financial and Accounting Instructions
- 5) Relevant circulars issued from the Treasury of the Republic, Ministry of Finance or any other ministry /deputy ministry / service of the Central Governance.

#### **Par.8.**

The Equality Unit of the Ministry of Justice and Public Order implements the National Action Plan on Equality between Men and Women 2019-2023. During 2023 the new National Action Plan for Equality between Men and Women is expected to be developed, in close collaboration with the Commissioner for Gender Equality, the relevant government bodies and civil Organisations.

At the same time, a comprehensive legal framework to combat gender-based violence has been set up, according to the provisions of Istanbul Convention. More specifically, the First National Strategy and the first National Action Plan to Prevent and Combat Violence Against Women 2023-2028, based upon the four basic pillars of the Istanbul Convention and the Recommendations of GREVIO Committee, have been adopted in 2022. Both the Strategy and the Action Plan include extensive provisions on gender equality and violence.

#### **Par.9.**

Among the competences and powers of the Anti-Corruption Authority is

- (a) to assess whether the results of the actions of the services of the public sector, of the wider public sector and of the private sector in matters of prevention and combating of acts of

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corruption are compatible with the expected results and the prescribed objectives based on internationally recognized best practices and standards for the prevention and combating of acts of corruption and whether such actions are implemented as these were planned and, if deemed necessary, it shall take measures within its competences for the implementation of the actions as these were planned and for achieving the prescribed objectives;

(b) to draw up, on its own motion, reports with opinions, recommendations and proposals for the prevention and combating of acts of corruption and for the observance of the fundamental principles against corruption, which it shall send to the competent services for update, opinions and/or any actions;

(c) to assess the risks related to acts of corruption, to determine the assessment indicators and, provided it is deemed necessary, to draw up reports with opinions, suggestions and recommendations for the prevention and combating of such acts, which it shall send to the competent authorities, as appropriate, for information purposes, opinions and/or any actions;

(d) to prepare studies, issue circulars to the competent, in each case, authorities, take measures within its competences towards ensuring its mission and issue manuals for information and education purposes.

#### **Par.10**

Among the competences and powers of the Anti-Corruption Authority are

(a) to cooperate with the competent professional associations for the proper implementation of internal control mechanisms of the private sector for the prevention and combating of acts of corruption,

(b) to inform the private sector of the internationally recognized best practices and standards for the prevention and combating of acts of corruption and to provide advice and guidance for their adoption and proper implementation,

(c) to prepare studies, issue circulars to the competent, in each case, authorities, take measures within its competences towards ensuring its mission and issue manuals for information and education purposes.

In the frame of the implementation of the legislation on the regulation of lobbying activities, the Authority, as the competent authority, is expected to issue Code of Ethics for lobbyists as well as circulars.

Any action by the Authority, the staff of the Authority, the inspection officers or a person authorized by the Authority to carry out tasks falling within the responsibilities and/or powers of the Authority shall be carried out in accordance with the provisions the GDPR and The Law providing for the Protection of Natural Persons with regard to the Processing of Personal Data and for the Free Movement of such Data of 2018 (Law 125(I)/2018)

#### **Par.11.**

In Cyprus the availability of beneficial ownership information is guaranteed through a multi-pronged approach, whereby, the information is collected and verified by a multitude of economic agents and authorities, contributing to its availability and accuracy.

#### **Legal Persons**

Under the Advocates Law (Section 2), the creation of every company requires the services of a licensed advocate (lawyer), who is eligible to submit the relevant documents to the Department of the Registrar of Companies and Intellectual Property -DRCIP. In particular the lawyer will prepare and submit the

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Articles of Association of a company and its Memorandum along with documents which include details on the directors, the company secretary, the shareholders and the registered office of the company. As lawyers are obliged entities and are supervised by the Cyprus Bar Association under the AML/CFT Law (section 59), customer due diligence is an integral part of this process, in an effort to prevent legal persons from being used for criminal purposes.

With respect to the availability of beneficial ownership information on companies, the following measures/practice also apply:

Based on the Administrative Services Law<sup>2</sup>, which was first enacted in 2012, the administrative services sector has become fully regulated and supervised. Previously only lawyers and accountants were regulated entities through the AML/CFT Law. The ASP Law (section 4) specifies which types of services can only be provided by licensed, regulated and supervised entities, namely lawyers licensed and regulated by the CBA, accountants licensed and regulated by ICPAC and any other professionals licensed and regulated by CySEC. This is in addition to relevant provision in the AML/CFT law.

The ASP Law provides that the regulated activities include *“managing companies, including, but not limited, to the management or the administration of companies, general or limited partnerships, or other organisations with or without separate legal personality, wherever these may be registered or established and the provision of the following services: providing directors for legal persons, providing a secretary, or assistant secretary of legal persons, holding the share capital of legal persons and registering the holder in the respective registers of shareholders on behalf of third persons; provision of registered office address and or the official mailing address and or electronic address of companies; provision of general or limited partners in partnerships, provision of other similar services, or in conjunction with the services described above, in relation to other legal persons organisations, with or without separate legal personality; opening or managing bank accounts; etc.”*- ASP law excerpt.

Within this framework, a company or any other legal entity, (if it does not fall within the exceptions of the law, catering mainly, for the case where a natural person is the owner of a company with at least 25% ownership, where it can act as director or company secretary), the above services must be provided by the licensed and supervised entities.

So going a step further, following the incorporation of a legal entity by a lawyer, if the shareholder of that entity is not the natural person owning the shares, but rather holds the shares on behalf of a third party, this shareholder will have to be a licensed lawyer, accountant or a Trust and Company Service Provider under the Administrative Services law, and would have to perform accordingly CDD measures when onboarding the new customer.

Furthermore, the registered office of companies should be located in Cyprus as well as the Company Secretary, who if not a natural person owning 25% shares of the company, will have to be a supervised and regulated TCSP.

Given the above provisions, unless companies have a simple setup (a few shareholders) with physical presence in Cyprus through their own headquarters, a regulated entity will always be involved in their management, either through a Company Secretary or a Director or as holding shares on their behalf of a third party or by providing registered office. This is especially the case of Cypriot companies owned by foreign nationals.

It is noted that following the provisions of the 4th and 5th EU AML Directive, a centralised register of beneficial owners of legal entities registered in Cyprus has been set up and operated by the DRCIP (as described elsewhere in this questionnaire) which is accessible by the competent supervisory authorities, the Police, the FIU, the Customs and Excise Department, the Tax Department as well as other government agencies and persons conducting customer due diligence.

### Legal Arrangements

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<sup>2</sup> <https://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=6273eb84-8dd8-4b4c-b2a3-e4185dc17bae>

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With respect to legal arrangements for Cyprus, this in practice involves express trusts and the following apply:

The provision of services relating to express trusts or similar legal arrangements fall under the ambit of the AML/CFT Law and covers the services of the trustee. As in the case of legal entities, the relevant provisions are further articulated in the ASP Law (section 4) also particularly referenced in the AML/CFT law (Section 2).

With respect to express trusts and similar legal arrangements, the regulated and supervised entities under the ASP law and non-regulated entities, must identify and verify the identity of the beneficial, owners of the trust.

This should include accurate and updated information on the following categories, (where and if these are applicable):

- (a) Trustees,
- (b) Settlers,
- (c) Beneficiaries or information on the class of beneficiaries including the beneficiaries to whom any distributions have been made pursuant to the trust,
- (d) Protector, where applicable, Investment advisor, accountant, tax consultant, where applicable, the activities of the trust
- (e) any other person who exercises effective control over the trust.

The person providing the services of management and administration of trusts must keep this information in the Republic of Cyprus and make them available for disclosure to and inspection by the relevant Competent Authority, at all times.

With respect to trusts governed by Cyprus law, additional provisions apply. Under article 25A of the Administrative Services Law, all trusts established under Cyprus Law have to register, with one of the above mentioned supervisory authorities. All the relevant supervisory authorities have developed systems for registering the trusts.

Although the trusts registers of each supervisory authority are currently not publicly available, they remain available for inspection by the competent authorities. Each trustee has 15 days to notify one the competent authorities that a trust has been registered and 15 days to notify of any changes made to the trust. Information provided to the competent authorities include (a) the name of the trust, (b) the name and full address of every trustee at all relevant times, (c) the date of establishment of the trust, (d) the date of any change in the law governing the trust and (d) the date of termination of the trust. ***This is in addition to the Beneficial Ownership Register for express trusts which has been developed and maintained by the Cyprus Securities and Exchange Commission, in which all trusts administered in Cyprus or which have a business relationship in Cyprus have to register and furnish their beneficial ownership information<sup>3</sup>.***

Further to the provisions of the law, the Central Bank of Cyprus (CBC) AML/CFT Directive paragraph 133 provides that credit institutions should seek evidence of registration of the trusts in addition to the trust deed, thus creating the additional obligation to foster the implementation of the law.

#### Supervisory functions

Apart from the actions of the Department of the Registrar of Companies and Intellectual Property, for the prompt filing of the relevant information by companies and other legal entities, the supervisory authorities which supervise the Administrative Services Sector (CBA, ICPAC, CySEC) have an active assessment program for the obliged entities under their supervision (lawyers, accountants, other TCSPs), and assess that the regulated entities, adhere to the provisions of the law and in particular in

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<sup>3</sup> <https://www.cysec.gov.cy/en-GB/cytbor/>

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maintaining the required information on the ownership of legal entities and arrangements as well as transaction monitoring of the legal entities of their clients for which in practice they offer director, shareholder or company secretary services.

As part of the offsite tools, the supervisory authorities collect questionnaires from all obliged entities, for risk-calibration purposes, where information on the following amongst other is submitted: personnel of obliged entity, procedures used, AML/CFT training received, STRs filed to the FIU, number of customers natural persons and legal persons, types of products they offer, origin and number of their customers (European , Cypriot, third countries), whether they rely on third parties for information, number of PEPs, breakdown of their customers according to risk classification (obliged entities have the responsibility to categorise their customers according to risk and employ the appropriate tools, e.g. EDD).

With this exercise, the supervisory authorities categorise the obliged entities with respect to risk and plan their review cycles accordingly.

During the onsite visit, as per their audit programs, the supervisory authorities check if the obliged entity representing the company has filed the relevant documents to the DRCIP including the Annual Return Form and if they have performed the CDD requirements with respect to their clients, including the identification and verification of the beneficial owners. ***With this mechanism the supervisory authorities, ensure that up to date basic and beneficial ownership information is present and ready to be provided to the appropriate authorities by the obliged entities.***

The design and implementation of this framework, was articulated under Cyprus' Economic Adjustment Programme and can be perused under Annex II of the Review Report of the summer of 2015, attached below. Relevant on-site and off-site supervision tools were also developed by the supervisor authorities for a risk based supervision of the sector.



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## **For expositional purposes we stipulate below, further articulation on the CDD procedures and supervisory setup and actions of CySEC and ICPAC**

### **Comments relating to CySEC functions:**

The collection of beneficial ownership information (including local or foreign legal entities) is an integral part of customer due diligence measures taken by all obliged entities. Thus, the main mechanism used for the collection of such data is the provisions for CDD included in the AML/CFT Law and CySEC's AML/CFT Directive. The obligation for collection of beneficial ownership information burdens the obliged entities during both the onboarding procedure and the business relationship through on-going monitoring.

Section 61 of the AML/CFT Law, prescribes the identification procedures and the customer due diligence measures to be applied by the obliged entities, which include information on the beneficial owners of any customer - legal entity, partnership, trust and similar legal arrangement, whether domestic or foreign.

In a similar way, paragraph 21 of CySEC's AML/CFT Directive dictates that the Obligated Entity obtains adequate data and information so as to understand the ownership and control structure of the customer and requests and obtains sufficient data and information regarding the customer's business activities and the expected pattern and level of transactions.

The Fifth Appendix of CySEC's AML/CFT Directive expands further on customer identification issues. Paragraph 6 of the Appendix provides for specific documents that need to be obtained by the Obligated Entities in order to fully ascertain the legal person's control and ownership structure as well as verify

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the identity of the natural persons who are the beneficial owners and exercise control over the legal person.

Additionally, in order to ensure that BO information is obtained consistently by all CySEC's obliged entities, CySEC issued Circular [C317](#) with the subject "National Risk Assessment on Money Laundering and Terrorist Financing - Improvement of data collection and statistics by Regulated Entities". Furthermore, CySEC have issued Circular [C357](#) on FATF Best Practices on Beneficial Ownership for Legal Persons, in order to communicate to the regulated entities the importance of adequacy, accuracy and timeliness of information held for beneficial ownership when implementing appropriate measures and procedures on a risk-based approach, and on implementing the customer identification and due diligence procedures. Also, CySEC have issued Circular [C465](#) on the Revised EBA Guidelines on ML/TF risk factors, with guidance on information obtained and monitored thereon for UBOs.

The abovementioned obligations of the obliged entities are tested through annual offsite inspections of the AMLCO and Internal Auditor's Reports. Particularly, the AMLCO Report should include information on the inspections and reviews performed by the AMLCO in relation, among others, to customer identification and due diligence procedures for all types of customers.

Furthermore, compliance is tested through annual onsite inspections. Prior the conduct of the onsite inspection, the latest AML/CFT Internal Procedures Manual of the obliged entity is reviewed by ensuring that the relevant AML/CFT procedures and controls are appropriately documented and that these are in accordance to the AML/CFT Legislation. During the onsite inspection, compliance is tested by inspecting a sample of clients' files and completing the relevant working papers of CySEC's AML/CFT Audit Program.

Another mechanism which triggers the obligation for collection of beneficial ownership information is the Cyprus Beneficial Ownership Register of Express Trusts and Similar Legal Arrangements (the 'CyTBOR', the 'Register'), which is operational as of 17/05/2022. This project was completed within the context of harmonisation of the national legislation with the fourth and fifth EU AML Directives (section 61C of the AML/CFT Law). One of the main purposes of the Register is, among others, the enhancement of transparency in relation to the ownership and control of express trusts and similar legal arrangements. CySEC, within 2021, issued the [Directive for the prevention and suppression of money laundering and terrorist financing \(beneficial ownership register of express trusts and similar legal arrangements\)](#), which determines the characteristics, creation, operation, access and other related matters of the Register. The information to be submitted in CyTBOR can be divided into two main categories: i. information related to the express trust or the similar legal arrangement itself, and ii. information in relation to the beneficial owners of the trust or the similar legal arrangement (as the term 'beneficial owner' is interpreted at section 2 of the AML/CFT Law). Further to the afore-mentioned Directive, CySEC has also issued [User Guide Manuals, Q&As](#) and a [Videos/Presentations](#) section. All relevant information, including the CyTBOR platform link are available on CySEC's website, under the section '[Trusts Registry](#)'. The obligation for registration into CyTBOR, relates to express trusts and similar legal arrangements, as per the provisions of article 61C(5)(b)(i) and (ii) if:

(i) the trustee of an express trust or the person holding an equivalent position in a similar legal arrangement **is established or residing** [*thus also foreign trust managed*] **in the Republic**, or

(ii) the trustee of an express trust or the person holding an equivalent position in a similar legal position, who is established or resides outside the European Union, enters into a business relationship or acquires immovable property in the name of express trust or similar legal arrangement in the Republic.

### **Comments relating to ICPAC's function**

All Obligated Entities are required to collect and maintain information of beneficial owners of ALL legal entities, partnerships, trusts and similar legal arrangements irrespective of whether they are local or foreign. The obligation to collect such information is covered in articles 61, of the [Prevention and Suppression of Money Laundering Activities Law L. 188\(I\)/2007](#) as amended from time to time ("AML Law") and paragraphs 5.4, 5.5 and 5.6 and Annex III of [ICPACs AML/CFT Directive](#). All

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information collected on the beneficial owners need to be readily available to the competent authorities and the FIU. The obligation is covered by articles 68(2) and 68B of the [Prevention and Suppression of Money Laundering Activities Law L. 188\(I\)/2007](#) as amended from time to time (“AML Law”) and paragraph 8.1.2 of [ICPACs AML/CFT Directive](#).

Compliance with the above obligations is confirmed annually by ICPAC through the off-site monitoring performed to all obliged entities where a number of information is requested amongst which is the legal form of clients, the nationality of the clients and their beneficial owners etc.

Furthermore, during the on-site monitoring visits which are performed on a risk-based monitoring cycle, a number of client files are reviewed to assess the completeness of the records in relation to the KYC/CDD documents and the overall compliance with requirements and obligations.

### **Banking system**

#### *Supervisory aspects by the Central Bank of Cyprus (CBC)*

- The CBC is a supervisory authority, responsible for overseeing the implementation of preventive measures prescribed by the law as well as standards and best practice guidance from international bodies.
- The CBC conducts on-site and off-site supervision using the programs and tools developed with the technical assistance of the IMF. Offsite supervision is on-going by the dedicated team and a statistical tool developed with assistance by the IMF. Regular on-site inspections cover a wide spectrum of areas from governance, compliance, training and enhancing awareness to transactions' filtering, IT audits, correspondent banking, introduced business etc. Apart from regular on-site inspections, the CBC carries out targeted and ad hoc investigations. During the covid period, the CBC continued its offsite monitoring and also conducted targeted examinations in an offsite mode.
- Banks are required to have adequate and appropriate systems and procedures to monitor the transactions of customers vis-à-vis the customer economic profile and the assigned risk category, commensurate to the business transacted and the risks assumed. In this respect, IT systems are employed to facilitate transaction monitoring through the handling of alert messages for adverse indicators, red flags and generally scenario analysis. Any suspicious transactions or activities must be reported to the Cyprus FIU. The CBC follows these as part of its onsite and offsite supervisory activity. Deficiencies in these processes as well as failures to identify known ML/TF typologies and reporting to the FIU are subject to supervisory action by the CBC.
- Central Register of Bank Accounts, Payment Accounts and Safe Deposit Boxes  
All obliged entities supervised by the CBC shall provide to the “Bank Account Register” information about the name and identification data of the account holder including beneficial ownership information, and details of the account i.e. number, opening and closing date. The “Bank Account Register” has been developed and is maintained by the CBC. Access to the Bank account register is provided to the FIU, the Police, Tax Department and the Customs and Excise Department within the context of investigating and prosecuting the offences. Relevant provisions in the AML/CFT Law are under article 61D of the legislation.

### **International oversight of the Cyprus AML/CFT framework and its implementation**

Cyprus is evaluated by the MONEYVAL Committee of the Council of Europe for AML/CFT compliance. On 12 February 2020, MONEYVAL, the Council of Europe’s expert committee on the evaluation of anti-money laundering and counter financing of terrorism (AML/CFT) measures, published a report summarising their findings on the Cyprus AML/CFT measures in place as part of the 5<sup>th</sup> round of mutual evaluations.

The report makes a comprehensive assessment of the effectiveness of the Cypriot AML/CFT system and its level of compliance against the 40 recommendations of the Financial Action Task Force (FATF). Cyprus achieved 3 Substantially Effective marks and 8 Moderately Effective scores for

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effectiveness. The Cyprus MONEYVAL report on technical compliance has awarded for 16 recommendations a Compliant score; for 21 the Largely Compliant score and for 3 recommendations the Partially Compliant with none non-compliant rating. *Cyprus' performance renders it in the top quartile as far as effectiveness internationally, based on the results found in FATF's comparative table<sup>4</sup>.*

Regarding CDD measures employed by the financial institutions some excerpts of the Report on CDD measures are the following:

Key finding 3, of the Mutual Evaluation Report under chapter 5, Preventive measures notes that . *“Among FIs, particularly banks, understanding of AML/CFT legal obligations is very high, and in addition banks are aware of international best practices and prudential considerations that go beyond legal obligations.”* Key finding 4 notes the following: *“4. FIs consistently refuse to engage in business with clients and customers that do not provide requested information for CDD purposes, but there is a widespread perception that banks are particularly intense in their collection and evaluation of CDD information”*

### **Par.12**

An Anti-Corruption Unit as the specialized Task – Force for investigating and prosecuting corruption offences, under the competence of the Attorney General of the Republic was established. This Unit, consists of officers of the Legal Service, the Unit for Combating Cover-up Offences (MOKAS) and police investigators, who, depending on the texture and extent of each case, will cooperate with other specialized police departments, such as the Laboratory of Microtraces, Typing, Graphology, and the accountant auditors of the Financial Crimes Subdirectorate.

In addition, there is the possibility of participation of representatives of other authorities such as the Taxation Department and the Department of Customs and Excise or organizations of the public or wider public sector where this is deemed necessary their involvement.

### **Par.13**

Interagency co-operation, as far as the FIU is concerned, is provided for in the provisions of the AML/CFT Law, which refers to the co-operation of the FIU at domestic level with the Police, the Customs and Excise Department and the Tax Department. Also, the same law provides the legal basis for the exchange of information between the FIU and the Supervisory Authorities for the purposes of prevention and suppression of ML offences.

Furthermore, on the basis of the provisions of the AML/CFT Law an Advisory Authority against money laundering and terrorist financing has been established, headed by a representative of the Ministry of Finance and the Ministry of Justice and Public Order, composed of the competent bodies and authorities of both the public and the private sector of the AML area, which has the authority, among other competences, to act as an advisory body to the Council of Ministers about measures that should be taken for the purpose of improving and enhancing the AML/CFT regime of the country.

### **Par.14**

According to the Law on the Establishment of the Anti-Corruption Authority, the Authority shall draw up and submit, quarterly, to the competent authorities included in the National Action Plan against Corruption in force from time to time, to all the ministries and to every service connected with matters of prevention and combating of acts of corruption, summary

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<sup>4</sup> <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Assessment-ratings.html>  
<https://www.pio.gov.cy/en/press-releases-article.html?id=12060#flat>

reports with its comments and/or recommendations on matters which concern the coordination of actions, the undertaking of initiatives, the implementation of audit measures, the creation of staff planning, the setting of priorities, the formation and enhancement of the legislative framework in force and any other matter, relevant to the better coordination of matters, as well as the effective prevention and combating of acts of corruption.

The Authority, after submitting the report, may consult in any appropriate manner for the implementation of its recommendations and for the prevention and combating of acts of corruption:

Provided that, in the event where a competent authority shall not provide information within the period specified as to its actions relating to the implementation of the proposals, suggestions or recommendations of the Authority or shall not accept their implementation and, provided the Authority shall consider that the proposed reasoning on behalf of the competent authority for not accepting them is not sufficiently justified, it shall submit the result of its consultations to the competent minister

The competent minister, after requesting the necessary clarifications, shall submit, within a reasonable period of time, a report to the Council of Ministers with his comments, for information purposes and for any instructions.

The Commissioner for Transparency shall submit, quarterly, to the Council of Ministers and to the House of Representatives a memorandum, with a summary reference to the reports submitted to each competent authority, to its comments and/or recommendations and shall attach thereto the text of every report or circular which, in his opinion, concerns a serious case of corruption.

In addition to the above, according to article 21,

The Commissioner for Transparency shall submit to the President of the Republic an annual report on its work during the immediately preceding calendar year, the latest by the 31st January of each year, within the scope of the exercise of its mission and competences provided for in this Law, which shall include its comments and recommendations on the assessment of the risks from events of corruption.

The annual report of the Authority shall be submitted to the Council of Ministers and the House of Representatives, immediately after its submission to the President of the Republic and shall be published in the Official Gazette of the Republic.

Upon publication of the annual report the Authority, following an invitation, shall appear before the competent committee of the House of Representatives to discuss the contents of the report, the recommendations and the degree of response from the competent authorities, as this shall emerge from the summary reports drawn up pursuant to the provisions of section 20.

It must be clarified that, the above competences, do not affect in any way the mission and the competences of ministries, deputy ministries, independent authorities, departments and services of the Republic.

### **Par.15**

During the COVID-19 pandemic, a state grant was distributed, mainly consisting of advertising revenue disbursed to media outlets to inform the public about the Covid-19 pandemic.

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## **Par. 16**

The importance of the role of civil society, private sector, academia and media in the prevention of and the fight against corruption is well acknowledged, thus many actions included in the National Action Plan 2021-2026, are dealing with the active involvement of the civil society. Such measures/actions include, the establishment of a Scientific Council composed of academics and civil society figures with the aim of monitoring the situation and contributing to the evaluation and enrichment of anti-corruption measures, the signing of a memorandum of understanding with Academic Institutions with the aim of drawing on expertise and developing innovative methods/practices for the prevention and suppression of corruption as well as the signing of a Youth Declaration Against Corruption.

## **Par.17**

A legislation for the protection of Whistle-blowers was enacted in 2022. Individuals are encouraged to report any misconducts encountered in the working environment but especially acts of corruption. An enhanced protective regime is established to protect those individuals from any form of retaliation they may face because of their report.

At the moment, efforts are focused on raising awareness regarding the content of the law and the obligations and rights provided therein. In particular, the following measures are already taken:

-Three Guides (one addressed to the employees, one to the employers and one to the competent authorities) are already prepared, and are uploaded on the website and are publicly available,

-A list of “competent authorities” is prepared and uploaded on the website. The said list will help (1) the potential whistle-blowers to know where they can address and submit their complaints/ reports (to external reporting channels), and at the same time (2) the “competent authorities” to be aware of their authority to act as such, so that they can take the appropriate measures/procedures in order to receive external reports in accordance with the provisions of the Law.

-The Pertinent Ministry of Justice and Public Order intends to organize, through the competent authority, training and educational programs on Whistleblowers legislation, addressed to Officers and Directors of the public and the broader public sector. The Ministry has taken the appropriate steps in order for the said programs to be conducted by the Cyprus Academy of Public Administration, for the purpose of raising awareness on the whistleblower’s legislation and its implementation, and also for ensuring whistleblowers protection.

## **Par.18**

As per DIRECTIVE 2014/41/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 3 April 2014 regarding the European Investigation Order in criminal matters, Article 7 Transmission of the EIO, Cyprus, as an issuing authority transmits EIOs via the telecommunications system of the European Judicial Network (EJN), as set up by Council Joint Action. 98/428/JHA ( 1 ).

Furthermore, Cyprus is accepting electronic copies in the sending and receiving of mutual legal assistance requests.

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### **Par 19**

A new training cycle has been commenced in and a number of workshops addressed to civil servants, teachers as well as Liaison Officers of various Ministries / Services of Departments, who have been appointed for issues related to the implementation of the National Anti-Corruption Strategy have been completed. Training programs will be further designed and programmed by the Anti-Corruption Authority.

### **Par.20**

Will be undertaken by the Anti-Corruption Authority as its Law provides that the authority

- collaborates with international organizations, institutions and services of the European Union or other states for the preparation, undertaking, use, implementation of programs or strategic plans, the exchange of best practices and the receiving of technical assistance for the prevention and combating of acts of corruption,
- attends meetings or other events organized within the scope of the United Nations Organization, the Council of Europe and the European Union in which the national anti-corruption organizations participate, to cooperate with other corresponding institutions of the United Nations Organization, the Council of Europe and the European Union, as well as with anti-corruption organizations of other states and to advise regarding any information or data requested, within the framework of cooperation and/or exchange of information and/or reply, in case of mutual legal assistance, pursuant to any relevant bilateral agreement between the Republic and another state, which shall be ratified by a Law of the Republic.

### **Par.21**

See Par.18

## **2. Challenges encountered**

Please describe any challenges your country has encountered in implementing operative paragraphs 1 to 21 of resolution 9/1 regarding strengthening international cooperation in the prevention of and fight against corruption during times of emergencies and crisis response and recovery. *Please state the relevant operative paragraphs in your answer.*

As the majority of the implementing paragraphs fall under the competence of the newly established Anti-Corruption Authority, and as the Authority has just started (second quarter of 2023) the planning of the initiation of specific actions regarding its preventative role, there is no evidence of challenges encountered.

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