



## Crypto-Assets Service Providers in Cyprus

In 2022, the Cyprus Securities and Exchange Commission ("CySEC") has taken further steps to regulate crypto assets activities in Cyprus. The new 5th Anti – Money Laundering Directive, also known as the 'AML Directive' (188(I)/2007) has been introduced into the Cypriot national legislation. In essence, CySEC now requires Crypto-Assets Service Providers, also known as CASPs, to register and comply with rules and regulations for money service businesses such as liquidity risk management, compliance, place sound risk management mechanisms, governance procedures and compliance.

There are a few elements that make up the regulatory framework, including:

- The Prevention and Suppression of Money Laundering and Terrorist Financing Law (N. 188(I)/2017), as amended (the "**AML Law**");
- The CySEC Directive for the register of crypto asset services providers ("**CASPs**");
- The CySEC Directive for the prevention and suppression of money laundering and terrorist financing (the "**CySec AML Directive**"); and
- A policy statement on the registration and operation of Crypto-Assets Service Providers ('Policy Statement')

### What is a Crypto-Asset?

According to the AML law, a crypto-asset is "a digital representation of value that is neither issued nor guaranteed by a central bank or a public authority, it is not necessarily attached to a legally established currency and does not possess a legal status of currency or money, but is accepted by natural or legal persons as a means of exchange and which can be transferred,

stored, and traded electronically and is not (a) fiat currency; or (b) electronic money; or (c) financial instruments as defined in the Investment Services Law."

### CASPs Registration Requirements

The CASPs registration applies to certain listed business models and cases.

### What is a Crypto-Assets Service Provider, 'CASP'?

According to the AML law, a Crypto-Assets Service Provider is defined as persons providing to another person or on behalf of another person the below services or exercising one or more of the below activities:

- Cryptocurrency exchanges: online marketplaces where buying of crypto assets such as cryptocurrencies, altcoins, non-fungible tokens (NFT) takes place as fiat-to-crypto or crypto-to-crypto transactions
- Initial Offerings (ICO, IEO, IDO) offerings and/or sale of crypto-assets as well as participation, and/or provision of financial services related to the distribution, offering and/or sale of crypto-assets. These financial services include
  - Reception and transmission of orders;
  - Execution of orders on behalf of clients;
  - Dealing on own account;
  - Portfolio management;
  - Provision of investment advice;
  - Underwriting and/or placing of crypto-assets on a firm commitment basis;
  - Placing of crypto-assets without a firm commitment basis;



- Operation of a multilateral system where multiple third-party buying and selling trading interests in crypto-assets are able to interact in the system in a way that results in a transaction.
- Crypto Wallet businesses, including management providers, administration, transfer, transmission, retention, custodianship and safekeeping of crypto-assets, cryptographic keys, and any other means that facilitate the exercise of control in crypto-assets.

Business that are new must submit an application to register with CySEC before commencing their operations in or from Cyprus. In cases where these services or activities are not covered by the framework that governs their CASP registration for AML and CFT purposes, an application should be submitted for registration as a CASP with CySEC. Existing businesses that demonstrate a material existing crypto-asset activity will need to submit an application and be fully compliant with the AML/CFT Law and the Directives issued pursuant to the AML/CFT Law.

### **Application Form**

Registration of new businesses can be facilitated by submitting a duly completed application form that outlines:

- The name, trade name, legal form and legal entity identifier of the CASP;
- Business name;
- Physical address of the CASP;
- Services to be provided by the CASP;
- The website of CASP;
- The crypto-assets' addresses of the CASP;
- The crypto-assets in relation to which the CASP provides services or exercises activities;
- The types of clients the CASP services;
- Information as to whether the CASP offers payment services in crypto-assets;
- Information as to whether the Information operates crypto-assets ATMs, the number and the exact location thereof;
- The geographic jurisdictions in which the CASP operates;
- Information as to whether the CASP is registered or supervised in any other jurisdiction.

A non-refundable €10.000 examination fee is payable upon submitting the application. Successful applicants will not be required to pay an additional fee for the first year of their registration. Another €5.000 is payable for the purposes of renewal of registration per year.

### **Operational and Organisational Requirements for Registration**

There are a few policies and organisational systems that must be in place. The CASP must establish appropriate policies and procedures to ensure its compliance, including the compliance of its executives, employees and persons to whom functions are assigned to, in accordance with the Law and the Directive of the CySEC on the Prevention and Suppression of Money Laundering and Terrorist Financing. There must also be policies that ensure the prudent operation of the CASP. The CASP must also have its own funds to meet the required capital adequacy. Among other requirements, there must also be sound governance arrangements, with clearly defined, transparent and clearly



## ASP class, initial capital, registration and renewal fees

The initial capital, registration, and annual renewal fees required of crypto-asset services providers vary with class, as outlined below:

CASP	Type of crypto-asset activity	Initial Capital
<b>CLASS 1</b>	CASP that provide investment advice	€50'000
<b>CLASS 2</b>	CASPs providing the service referred to in Class 1 and/or any of the following services: <ul style="list-style-type: none"><li>• reception and transmission of client orders</li><li>• execution of orders on behalf of clients</li><li>• exchange between crypto-assets and fiat currency</li><li>• exchange between crypto-assets</li><li>• participation and/or provision of financial services related to the distribution, offering and/or sale of crypto-assets, including the initial offering</li><li>• placement of crypto-assets without firm commitment</li><li>• portfolio management.</li></ul>	€125'000
<b>CLASS 3</b>	CASPs that provide any of the services referred to in Class 1 or 2 and/or: <ul style="list-style-type: none"><li>• 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</li><li>• underwriting and/or placement of crypto-assets with firm commitment</li><li>• 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.</li></ul>	€150'000

identifiable reporting lines, sound administrative and accounting procedures, internal control mechanisms, effective risk assessment procedures and effective control and safeguard arrangements for information processing systems.

### Conditions for the registration in the CASP register

CySEC shall approve the application provided that the applicant meets certain conditions. Apart from submitting all the information required, it must be clear that the persons holding management positions are honest and competent, which is fulfilled if the persons have a good reputation, knowledge, skills and experience and devote sufficient time to the performance of their duties to the applicant.

Further conditions that have to be fulfilled are the disclosure of all the legal and beneficial holdings in the CASP structure, the moral integrity of the board and shareholders, experience of the management, effectiveness of the compliance and risk management tools and requirements for local offices and personnel. Importantly, the members of the Board of the CASP need to be at least 2 persons who are at all times of sufficiently good reputation and possess sufficient knowledge. There are limits on the number of directorships the directors can hold and other conditions which the directors of the CASP will need to satisfy (i.e., adequate training, adequate skills). In relation to the staff employed in Cyprus, this will be determined by the activities, structure, projected turnover of the company as well as the head offices of a CASP have to be in Cyprus.



Once the application for registration is approved, the Cyprus Securities and Exchange Commission shall immediately register the applicant in the CASP Register. Upon the successful registration of the CASP, the register which will be available to the public via CySEC's website will state the following information for each registered CASP:

- The name, business name, legal form and legal entity identifier of the CASP;
- Registered address;
- The services provided or intended to be provided by the CASP; and
- The CASPs website.

*Our crypto-assets regulation and compliance team will be happy to advise you in regard to to crypto-assets services provider registration, crypto investment firms or crypto investment funds.*