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**RISK CONSULTING**

Crypto Assets Service  
Providers (CASPs)

## Crypto Assets Service Providers (CASPs)

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## 1. BACKGROUND INFORMATION

Following the publication of the Amending Law 13(I)/2021 in the Official Gazette on the 23rd of February 2021, which amends the Prevention and Suppression of Money Laundering and Terrorist Financing Law 188(I)/2007 (the “AML Law”) by implementing the EU Directive 2018/843 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (the “AMLD5 Directive”), the Cyprus Securities and Exchange Commission (the “CySEC”) has issued on the 25th of June 2021 the Directive for the prevention and suppression of money laundering and terrorist financing (Register of Crypto Asset Service Providers) (the “CySEC Directive”), in line with section 61(E) of the amended AML Law, that provides for the establishment and maintenance of the Register of Crypto-Asset Service Providers (CASP) by the CySEC.

With this newly-published CySEC Directive, namely Directive 269/2021, CySEC is putting into place the framework of registration and operation of crypto-asset service providers and the establishment of the Register of Crypto-Asset Providers, whose activities were brought into scope with the amended AML Law.

### What is a Crypto Asset?

Crypto asset means a digital representation of a value which is not issued by a central bank or public authority and is not guaranteed by them, it is not necessarily linked to legally circulating currency and does not have the legal status of currency or money, but is accepted by individuals as a medium of exchange or investment, it may be transported, stored or circulated electronically and is not:

- Fiat currency; or
- Electronic Money; or
- Financial instruments as defined in Part III of the First Appendix of the Law on the Provision of Investment Services and Activities and Regulated Markets.

### What is a Crypto Assets Service Provider?

A Crypto Assets Service Provider is defined as a person who provides or exercises, one or more, of the following services or activities to another person or on behalf of another person:

- a) The exchange between crypto-assets and fiat currencies;
- b) Exchange between crypto-assets;

- c) Management, transfer, holding, and/or safekeeping, including the custody of crypto-assets or cryptographic keys or means which allow the exercise of control on crypto-assets;
- d) Offering and/or sale of crypto-assets, including the initial offering; and
- e) Participation and/or provision of *financial services regarding the distribution, offer, and/or sale of crypto-assets*, including the initial offering.

The definition of 'Financial Services related to the distribution, offering and/or sale of crypto-assets' under the amended AML Law includes the following services and activities:

- a) Reception and transmission of orders;
- b) Execution of orders on behalf of clients;
- c) Dealing on own account;
- d) Portfolio management;
- e) Provision of investment advice;
- f) Underwriting and/or placing of crypto-assets on a firm commitment basis;
- g) Placing of crypto-assets without a firm commitment basis;
- h) 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.

## 2. REGISTER OF CASPs

CySEC publishes on its website the CASP register, which includes:

- the name, trade name, legal form and Legal Entity Identifier (LEI) of the CASP;
- the address of the CASP;
- the services offered by the CASP;
- the website of the CASP.

## 3. PROCEDURE FOR REGISTERING A CASP

Applications for the registration of CASPs must be presented to CySEC and include supporting documentation. Such documentation shall be prepared in the official language of the Republic or in English and are originals or, where this is not possible, are certified copies of the originals.

**The Application package for registration in the Crypto Assets Service Providers (CASPs) register shall include:**

- CySEC Application forms for CASP registration;
- Due diligence information on shareholders, directors and heads of key functions;
- AML Manual;
- Internal Operations Manual describing the procedures, control systems and security mechanisms in place ensuring the prudent operation of the CASP, including minimizing the risk of data corruption, information leakage and unauthorized access which in turn may lead to theft or loss of its customers' cryptocurrencies or funds;
- Organizational structure and Governance arrangements;
- Other internal policies and procedures addressing matters such as outsourcing, accounting, risk management, internal audit, record keeping, customer complaints, electronic data processing systems, authenticity of the means of transmitting information.

Upon submission of a duly completed application form, CySEC typically reaches a decision on the application within 6 months of its receipt.

#### 4. CYSEC FEES AND CONTRIBUTIONS

For the review of an application for the registration of a CASP in the register, applicants shall pay to CySEC the fee of EUR 10,000.

The annual contribution for the renewal of the registration in the CASPs register is EUR 5,000.

**Note:** CASPs shall not pay any annual contributions for the first year of registration in the CASPs register.

#### 5. MINIMUM REGULATORY REQUIREMENTS

##### 5.1. Capital adequacy requirements:

The Company's available own funds shall, at all times, be equal or greater than the maximum of:

- the amounts described in the table below, depending on the nature, functions and activities of the CASP;
- the one fourth (1/4) of the previous year's fixed overheads of the CASP.

Type of Services in Crypto Assets	Initial Capital
<p>CASPs offering Investment Advice or/and any of the following services:</p> <ul style="list-style-type: none"> <li>i. Reception and Transmission of Orders;</li> <li>ii. Execution of Orders;</li> <li>iii. Exchange between crypto-assets and fiat currencies;</li> <li>iv. Exchange between crypto-assets;</li> <li>v. Participation and/or provision of financial services regarding the distribution, offer, and/or sale of crypto-assets, including the initial offering;</li> <li>vi. Portfolio Management.</li> </ul>	<p>EUR 125.000</p>
<p>CASPs offering any of the abovementioned services and:</p> <ul style="list-style-type: none"> <li>i. Management, transfer, holding, and/or safekeeping, including the custody of crypto-assets or cryptographic keys or means which allow the exercise of control on crypto-assets;</li> <li>ii. Offering and/or sale of crypto-assets, including the initial offering;</li> <li>iii. Operation of a multilateral system in which several persons interested in buying and selling cryptocurrencies can interact in a way that results in a transaction.</li> </ul>	<p>EUR 150.000</p>

## 5.2. Directors:

The Board of Directors of a CASP consists of at least four (4) persons. The two (2) Directors shall be responsible for managing the business activities of the CASP and the other two (2) shall be Independent Directors.

The CASP shall ensure that the persons appointed as Directors in the Company are honest and competent, have a good reputation, knowledge, skills and experience and devote sufficient time to the performance of their duties.

### 5.3. Internal Auditor:

Depending on its nature, scale and complexity, a CASP may appoint an Internal Auditor. The Internal Audit function shall be independent of its other functions and activities.

### 5.4. AML Compliance Officer:

In accordance with paragraph 8 of the CySEC AML Directive, a CASP shall appoint an in-house AML Compliance Officer (AMLCO). The AMLCO shall belong to the senior management of the CASP so as to command the necessary authority.

### 5.5. Website:

When operating through the internet, a CASP shall maintain a website exclusively owned and used, without the possibility of any other person operating through it.

## 6. OUR SERVICES

### 6.1. CASP Licensing Services

Our licensing services include:

- Consulting on the form of a group's presence in Cyprus and the rest of the EU;
- Project management of the CySEC application including the preparation of an Organisational structure that meets client-specific needs as well as the minimum operational regulatory requirements, Business Plan skeleton, Internal Operations Manual, AML manual, other policies and procedures, preparation of the relevant due diligence questionnaires and CySEC application forms and collation of all relevant information and documentation; and
- Liaising with CySEC and other competent authorities and preparing of responses during the application process.

### 6.2. Post Licensing Services

After obtaining CASP license by CySEC we provide you on-going support by assuming the role of the control functions of the Risk Manager and /or Internal Auditor, and by rendering support services to your in house appointed Compliance Officer and Anti-Money Laundering Compliance Officer.

In addition, we provide our clients with ongoing compliance support on regulatory topics and assistance in relation to:

- The company's license/authorisation with CySEC, including any extensions and/or amendments to the same;
- Changes to the company's shareholding and organisational structure;
- The implementation of regulatory amendments on the company's policies and procedures;
- Regulatory update notifications;
- Prudential treatment of crypto assets; and
- Enhancement of risk management procedures associated with crypto assets

***For more information on how we can help you with the CASP licensing process, other ongoing matters covered under the CySEC Directive 269/2021 as well as with ongoing compliance support, please contact us.***