

# Amendments to the trust regulation regime consolidate Cyprus's attractiveness as an international business centre and trust jurisdiction



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The Law Regulating Companies Providing Administrative Services and Related Matters of 2012 (the "ASP Law") transposed the provisions of Directive 2005/60/EC into national law and provided Cyprus with an effective regulatory framework for providers of fiduciary and corporate services.

In response to practical issues that emerged once the law took effect and following discussions between the Ministry of Finance, the "troika" of providers of international financial support to Cyprus, and the competent authorities (the Cyprus Securities and Exchange Commission ("CySEC"), the Cyprus Bar Association ("CBA") and the Institute of Certified Public Accountants of Cyprus ("ICPAC"), in July 2014 a number of amendments were made to the ASP Law in order to resolve these issues and to implement the commitments made by the government to the troika as a condition of international financial support.

The principal amendments are as follows:

- Cyprus companies offering administrative services only to fellow members of a group of companies of which they are a member and private trust companies controlled by the beneficiaries of the trust or their close relatives (spouses or relatives up to the fourth degree of kinship) are excluded from the scope of the ASP Law provided that they have a representative in Cyprus who is accessible and accountable for anti-money laundering purposes. Such companies are prohibited from advertising their services or soliciting clients for such services. The secretary of the company must be a natural person or a company that is regulated under the ASP Law.
- The role of protector of a trust is excluded from the scope of the ASP Law on the grounds that the protector is a person who the settlor appoints to exercise oversight in a personal capacity and that since the trustee is regulated there is no real need for the protector to be regulated.
- An ambiguity in the ASP Law which could be interpreted as requiring officers acting as signatories of bank accounts of certain companies to be authorised under the ASP Law has been re-

moved. This change was deemed necessary so as to ensure that all persons who can legally be appointed as directors may continue to be signatories of company bank accounts.

- Overseas providers of custodian services that are appropriately regulated in a home jurisdiction that has a co-operation agreement with Cyprus for regulatory purposes are excluded from the scope of the ASP Law.
- Occupational retirement benefit funds which are under the supervision of the Registrar of Occupational Retirement Benefit Funds regulated by the Establishment, Activities and Supervision of Occupational Retirement Benefit Funds Law of 2012 are excluded from the scope of the ASP Law.
- Companies falling within the scope of the ASP Law may employ a lawyer who does not hold a licence to practise law as an advocate in Cyprus in the role of in-house legal advisor. In such a case, the legal advisor should be employed in-house, whereas in the case of a licensed advocate, the lawyer should be retained.
- CySEC is required to provide a registration number to all service providers it authorises and to maintain a register of authorised service providers containing the following information:
  - o full details of the service provider;
  - o a description of the services offered;
  - o the names of any wholly-owned subsidiaries offering administrative services;
  - o the name and work address of its employees that offer administrative services; and
  - o the name and contact details of the compliance officer.

The CBA and the ICPAC are required to maintain registers containing the same information in respect of any of their members that provide regulated services.

These amendments will further enhance Cyprus's reputation as a leading trust jurisdiction with a robust and transparent legal infrastructure that entrenches jurisdictional and asset protection for trusts whilst fully complying with all applicable EU and domestic anti-money laundering laws and regulations. ■

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