

# Cyprus UBO Register for Express Trusts and Similar Legal Arrangements

September 2021

On 18 June 2021 the Cyprus Securities and Exchange Commission (CySEC), pursuant to Article 61C of the Prevention and Suppression of Money Laundering and Terrorist Financing Law of 2021 (AML Law), issued the Regulatory Administrative Act 257/2021 ("Directive") that provides information and guidance in relation to the registration of express trusts and similar legal arrangements in a new register of Cyprus trusts ("Register"). (Official text of the Directive is only provided in Greek.)

## Definitions

### Express Trust

This refers only to those trusts created expressly by a settlor at their own will, and does not include trusts arising by operation of law nor trusts for which the settlor shows no clear intention for their creation.

### Beneficial Owner

In the case of trusts, this refers to any natural person who ultimately owns or controls a legal entity and/or the natural person on whose behalf a transaction or activity is being conducted and includes at least:

- The settlor
- The trustee or commissioner

- The protector, if any
- The beneficiary or, where the individual benefiting from the legal arrangement or entity has yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates
- Any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means

In the case of legal entities such as foundations, and legal arrangements similar to trusts, this refers to any natural person holding equivalent or similar positions to the persons referred to above.

### Submission of Information and Data

The Register is kept electronically by CySEC and any express trust must be registered therein provided that:

- its trustee is located or residing in the Republic of Cyprus; or
- its trustee, which is located or residing outside the EU, establishes a business relationship or acquires immovable property on behalf of the express trust in the Republic.

Where the trustees of a trust are established or reside in different EU member states, or where the trustee of the trust enters into multiple business relationships in the name of the trust in different member states, there is an exception from registration if a certificate of proof of registration or an excerpt of the beneficial ownership information held in a register by another member state is provided.

The following information must be submitted for the registration:

#### For the Trusts and Similar Legal Arrangements

- Name of the trust
- Country and date of creation and/or establishment
- Termination date (if applicable)
- For similar legal arrangements, the type of such arrangement
- Country in which the trustee is located or residing and their residential address
- Date of commencement of the business relationship, the name of the person with whom such relationship is established together with the document which governs the relationship (applicable only in cases where the trustee resides outside the EU and establishes a business relationship on behalf of the trust in Cyprus)
- Registration number and address of the immovable property together with the title deed of the property (applicable only in cases where the trustee resides outside the EU and acquires immovable property on behalf of the express trust in Cyprus)
- Any other information and/or supporting documentation requested by CySEC for identification purposes

#### For the Ultimate Beneficial Owners (UBOs) of the Trust (Trustee, Settlor, Protector, Beneficiaries)

- Name and surname together with the father's name
- Date and place of birth
- Nationality(ies)
- Residential address
- Number, type and country of issuance of identification document

- Date of death (where applicable)
- Date on which the UBO became beneficial owner
- The nature and extent of the rights which are directly or indirectly held by the beneficial owner
- The role of the beneficial owner in the trust
- Any other information and/or supporting documentation requested by CySEC for identification purposes
- In cases where the trust has classes of beneficiaries, CySEC requests a description of classes, the members of each class, and the nature and extent of the rights of each class of beneficiaries

#### First Submissions and Actions

A six-month period from the effective date of the Directive (18 June 2021 which is the date of its publication in the Official Gazette of the Republic of Cyprus) has been granted for the submission of this information and documentation to the Register.

The trustee of an express trust or any other person holding an equivalent or similar position should upload on the register any change in the information initially filed with CySEC, within fifteen days from the day of which the change was effected or become known. In case the change concerns a change of trustee, then the change of information notification should be made by the new trustee.

In accordance with the Directive, only authorised users may access the Register. Authorised user means a natural person who registers in the Register under their capacity as a trustee and/or any other person holding an equivalent or similar position in an express trust. In addition, responsible supervisory authorities, i.e., the Financial Intelligence Unit, the Customs and Excise Department, the Tax Department and the police, have access with no restrictions. Additionally, the following persons may have access to the Register provided that certain conditions are met:

- Obligated entity as defined by the AML Law
- A person who proves to have a legitimate interest

#### Exceptions on the Disclosure of Information

The Directive provides some exceptions in relation to the disclosure of the beneficial owners of a trust in the following events:

- In cases where the granting of access would expose the beneficial owner to disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation, or in cases where the beneficial owner is a minor or in any other way legally incompetent.
- The exemption request is duly justified and submitted to and approved by the CySEC.

During the review of the application for the exception, the CySEC may, at its own judgement, request the applicant provide further information, evidence and/or documents. The CySEC may also request the opinion of any other person or authority.

It is expected that the Cyprus Trusts Beneficial Owners Registry ("CyTBOR") will become operational by the end of 2021. Since the CyTBOR is currently not available, we expect that the deadlines listed in the Directive will be granted an extension.

Please do not hesitate to contact your dedicated client relationship manager should you require any further clarification or assistance.

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