

Establishment of trust registers for Cyprus International Trusts

Philippos Aristotelous and Elena Christodoulou

Abstract

This article describes the new system of registration of trusts established in Cyprus, which took effect on 9 September 2013. It sets out the information to be obtained and recorded by service providers, and the procedures and time limits to be observed.

In December 2012 Cyprus enacted the Law Regulating Companies Providing Administrative Services and Related Matters, Law 196(I)/2012 ('the Fiduciaries Law'), which established a licensing and supervision regime for providers of corporate and fiduciary services and transposed the provisions of Directive 2005/60/EC into national law. Following intensive public consultations and discussions between the Cyprus government and the troika of international lenders in the context of Cyprus's commitment to increased transparency and enhanced standards, the Fiduciaries Law has been amended by Law 109(I)/2013, which entered into force on 9 September 2013 ('the amending law').

Section 3(7) of the Fiduciaries Law requires trustees and service providers who fall within its scope to identify and verify the main protagonists of trusts governed by Cyprus law that they establish or administer. They must keep accurate and up-to-date information and documentation regarding the trustee, the settlor, the beneficiaries or class of beneficiaries, any protector, fund manager, accountant, tax consultant, and any other person exercising effective control over the trust, as well as on the activities of the trust.

The amending law introduces detailed provisions regarding the establishment of registers of trusts by the three bodies responsible for supervising service providers, namely the Cyprus Securities and Exchange Commission ('CySEC'), the Cyprus Bar Association and the Institute of Certified Public Accountants of Cyprus ('the competent authorities').

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Service providers are required to notify their respective competent authority of the following information:-

- i. The name of the trust
- ii. The name of the trustee at all relevant times
- iii. The date of creation of the trust
- iv. The date of any change in the law governing the trust
- v. The date of termination of the trust

For trusts established on or after 9 September 2013 this information must be forwarded to the competent authority within 15 days of the establishment of the trust or the adoption of Cyprus law as the law governing the trust. Information on trusts governed by Cyprus law in existence on 9 September 2013 must be submitted to the relevant competent authority within six months of the entry into force of the amending law, that is, no later than 9 March 2014.

Subsequent changes in any relevant information, including termination of the trust or a change in the governing law from Cyprus law, must similarly be notified within 15 days. In the event of termination of the trust or a change in the governing law from Cyprus law the register will indicate that the trust has been terminated and the information on the trust will be kept for five years.

Failure to comply with these provisions is a criminal offence punishable on conviction by imprisonment for up to five years, a fine of up to €350,000 or both.

It is important to note that the trust registers to be maintained by each competent authority are not publicly available or accessible and will only be available for inspection by other competent authorities.

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Section 32 of the Fiduciaries Law provides for registration fees to be charged and a fee of €30 will be payable for the notification of the details of each trust with the respective competent authority and €20 for any subsequent amendments. Trusts will be registered only once the registration fee has been paid. The authorities are also exploring the option of electronic filing in order to streamline the process.

This development underscores Cyprus' commitment to remain at the forefront of European and global developments in the areas of anti-money laundering compliance and increased transparency in an ever-changing global economic environment.

Philippos Aristotelous and Elena Christodoulou. E-mail: info@neocleous.com