



# **ANTI-MONEY LAUNDERING QUESTIONNAIRE**

**Guidance for the  
completion and  
submission of the  
Anti-Money  
Laundering  
Questionnaire to  
ICPAC**

**October 2019**

## **Introduction**

ICPAC is the competent Supervisory Authority for the purposes of the Prevention and Suppression of Money Laundering Activities Law, for the professional activities of auditors, external accountants, tax advisors, providers of administrative services and insolvency practitioners.

Under this capacity, and in line with the Institute's risk assessment process, each licensed firm is required to submit information in relation to the nature of services provided, type of clients and policies and procedures followed to prevent money laundering and terrorist financing as requested in the Questionnaire.

This Questionnaire should be completed by the Compliance Officers of all firms that hold any type of practising certificates from ICPAC for their provided services (i.e. General, Audit, Administration Services and Insolvency Practising Certificates). The term 'firm' includes the following:

- Licensed Limited Liability Companies,
- Licensed Partnerships,
- Licensed sole practitioners (self-employed)

The requirement to complete and submit the Questionnaire relates to all licensed firms, irrespective of whether they were practising in their professional capacity or they were dormant in the effective year and irrespective of whether they belong in a group of companies, which are also required to submit the Questionnaire.

## **Purpose**

This document aims at facilitating the Compliance Officers to complete and submit the Questionnaire, by providing basic guidelines for this purpose.

A glossary/definitions/reference section has been added for easy reference.

## **Questionnaire**

All practising firms are obligated to submit the Questionnaire to ICPAC on an annual basis.

The Questionnaire is part of the Institute's risk-based tool for off-site surveillance/monitoring which is used to assess the risk of each licensed member. The results of the questionnaire are used to categorise its licensed members to High, Medium or Low risk which is one of the criteria used to evaluate the frequency of the monitoring visits.

A personalised electronic link is sent to all licensed members. The questionnaire must be completed and submitted within the deadline. Failure to submit the Questionnaire on time will prevent ICPAC from meeting its compliance requirements and will therefore, inevitably give rise to enforcement actions against the firm.

The Questionnaire is available only in the English language and covers the reporting period from 1<sup>st</sup> January to 31<sup>st</sup> December 2018.

## **Content of the Questionnaire**

### **General**

All sections of the Questionnaire, including radio buttons, drop down menus and text boxes need to be completed.

Any clarification on the terminology can be found in the glossary/definitions/ reference section.

The Questionnaire can be completed and saved before the final submission. When the Questionnaire is fully completed, the submission will proceed only if all mandatory fields are completed. An error notice will appear with the missing information if at least one mandatory field is omitted.

Once the Questionnaire has been submitted, a note confirming submission will appear, and an automated electronic email will be sent to your email address.

#### **1. Information**

The section is already completed with the personalised information of each firm.

#### **2. Firm's ICPAC Practicing Certificate Numbers**

The section is already completed with the personalised information of each firm.

#### **3. Status of Firm**

The section is completed **only** by firms who are either non-active or have been incorporated for the sole purpose of holding shares in an entity which holds a practicing certificate and does not in itself carry out any activities.

Selecting any of the two options will only require a part completion of the questionnaire, namely two questions included in the 'Rules and Regulations' section (Questions 9.1 and 9.2) as well as full completion of the 'Other Comments' section (Questions 13.1 - 13.7).

Active firms **do not** need complete this question.

#### **4. Management**

All fields are mandatory.

#### **Notes:**

**Question 4.7:** Number of offices relates to the offices where there is common ownership and management. The number of network firms should not be included in the field.

## **5. Compliance Department**

All fields are mandatory.

### Notes:

*Question 5.4:* For guidance on how to inform MOKAS of the appointment of the Compliance officer, follow the [link](#) to circular GE\_13/2016.

If the appointed compliance officer is not the same person as the one appointed in 2017, the newly appointed compliance officer can complete and sign the Questionnaire.

## **6. Financial Information**

All fields are mandatory.

### Notes:

- a) Firms should include the figures of the last audited financial statements. If the audits of the underlying years have not been completed, the unaudited figures should be disclosed (based on a trial balance, management accounts etc).
- b) Amounts included must be reported in Euro (€) to the closest thousands ('000). No punctuations should be included for decimal or thousand separation.
- c) Income arising from the 'management or administration of trusts' and the 'corporate secretarial and administration services' cover the provisions of article 4 of the [Law 196\(I\)/2012](#) (ASP Law).

## **7. Other Professionals**

All fields are mandatory.

## **8. Client Statistics and Information**

All fields are mandatory.

### Notes:

- a) All totals of:
  - a) 8.1. - 'number of clients',
  - b) 8.2. - 'client risk categorisation'
  - c) 8.3. - 'number of clients from',  
need to be equal between them.
- b) *Question 8.3:* The data should take into consideration whether the UBO's are foreign nationals.  
In cases where more than one UBO exist, classification should be made according to the category of the majority of the controlling interest of the UBOs.

- c) *Question 8.5.5*: Number of clients that the firm provides the service of management or administration of trusts including, without limitation, the undertaking or provision of trustee, wherever they are set up.
- d) *Question 8.5.7*: Number of clients that the firm provides safe keeping of financial instruments on behalf of clients, including acting as depositary, as defined in Annex III, Part II, paragraph 1 of the Investments Services and Activities and Regulated Markets Law, and other related services, unless this is provided as an ancillary service by an IF in the framework of the Investment Services and Activities and Regulated Markets Law.

**9. Rules and Regulations**

All fields are mandatory.

**10. KYC, Due Diligence and Other Procedures**

All fields are mandatory.

**11. Firm Information**

All fields are mandatory.

Note:

*Question 11.2*: The ICPAC AML monitoring visit should not be considered as an external audit carried out by the firm for AML purposes.

*Question 11.4*: Requirements on Compliance Officer Training are specified in paragraph 4(9) of section 2.700 of Members Handbook - [Members Handbook](#)

**12. Top 10 Client Information**

All fields are mandatory.

Note:

- a) If a firm services less than 10 (ten) clients, the radio button should be ticked in order to be able to submit the Questionnaire.
- b) The drop-down menus provide for a multi-selection option.
- c) For the definition of the Beneficial Owner, please refer to the glossary below.
- d) The country selection is a drop-down list with multi-selection option.

**13. Other Comments**

All fields are mandatory.

**14. Contact Details**

All fields are mandatory.

## **Glossary – Definitions - Reference**

**“Beneficial Owner”** means any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted and includes at least:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, or through control via other means, other than a company listed on a regulated market that is subject to disclosure requirements consistent with European Union law or subject to equivalent international standards which ensure adequate transparency of ownership information.

Provided that-

(a) A shareholding of 25 % plus one share or an ownership interest of more than 25 % in the customer held by a natural person shall be an indication of direct ownership; and

(b) A shareholding of 25 % plus one share or an ownership interest of more than 25 % in the customer held by a corporate entity, which is under the control of a natural person(s), or by multiple corporate entities, which are under the control of the same natural person(s), shall be an indication of indirect ownership.

Provided further that the control by other means can be verified, inter alia, based on the criteria provided for in section 142 (1) (b) and section 148 of the Companies Law;

(ii) if, after having exhausted all possible means and provided there are no grounds for suspicion, no person under sub paragraph (i) is identified, or if there is any doubt that the person(s) identified is the beneficial owner(s), the natural person(s) who hold the position of senior managing official(s):

Provided that the obliged entities shall keep record of the actions taken in order to identify the beneficial ownership under sub paragraphs (i) and (ii);

(b) In the case of trusts:

(i) the settlor;

(ii) the trustee(s);

(iii) the protector, if any;

(iv) the beneficiary, or where the individuals benefiting from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;

(v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means; and

(c) in the case of legal entities such as foundations, and legal arrangements similar to trusts, the natural person(s) holding equivalent or similar positions to those referred to in paragraph (b);

**“Client”** for AML purposes means any person (legal or natural) who seeks to form a business relationship or to conduct a single one-off transaction with an obliged entity in or from the Republic of Cyprus. - article 2 of the [Law188\(I\)2007-2018](#). It should be noted that the term refers to the number of active clients, meaning those to which the firm has provided services to in the last two years.

**“Client accounts”** bank accounts that are in the name of the firm and are used for holding client money.

**“Compliance Officer”** means an appropriate senior executive with skills, knowledge and expertise in financial or other activities - Prevention and Suppression of Money Laundering Activities - Directive of the Members of ICPAC paragraph 1.02.

**“Complex structure”** means any corporate structure where at least three layers of legal persons and/or arrangements interject in the chain of ownership before the UBO. Complex structure may also include the use of multiple jurisdiction and various delivery channels.

**“Complex or unusually large transactions”** includes any transaction that deviates or is inconsistent with the understanding of client’s normal operational management or utilizes different than normal means of payment or appears to be with no apparent economic or lawful purpose.

**“Control of client bank accounts”** represents cases where a member of the firm acts as Director or Signatory of a client in a way that allows control over bank accounts in the name of that client.

**“Cryptocurrency”** is a digital or virtual currency that uses cryptography for security. A cryptocurrency is difficult to counterfeit because of this security feature. A defining feature of a cryptocurrency, and arguably its most endearing allure, is its organic nature; it is not issued by any central authority, rendering it theoretically immune to government interference or manipulation (source: Investopedia).

**“EU High-risk third countries”** as identified by the European Union  
[https://www.icpac.org.cy/zePortal/WebFiles/SELK/WebDocuments/Members/General%20Circulars/2018/15%202018/GC%2015\\_2018.pdf](https://www.icpac.org.cy/zePortal/WebFiles/SELK/WebDocuments/Members/General%20Circulars/2018/15%202018/GC%2015_2018.pdf)

**“EU tax list countries”** as identified by the European Union  
[https://ec.europa.eu/taxation\\_customs/tax-common-eu-list\\_en](https://ec.europa.eu/taxation_customs/tax-common-eu-list_en)

**“High-Net Worth Individuals”** means individuals with a Net Worth of at least €3 millions.

**“High-risk and non-cooperative jurisdictions”** as identified by the FATF <http://www.fatf-gafi.org/countries/#high-risk>

**“Initial Coin Offering (ICO)”** is the cryptocurrency space's rough equivalent to an IPO in the mainstream investment world. ICOs act as fundraisers of sorts where a company looking to create a new coin, app, or service launches an ICO and interested investors buy in to the offering, either with fiat currency or with pre-existing digital tokens. In exchange for their support, investors receive a new cryptocurrency token specific to the ICO (source: Investopedia).

**“Mining”** is an integral part of a cryptocurrency network that performs two important functions. First, it is used to generate and release new cryptocurrency tokens for circulation via the cryptocurrency network, and secondly, it is used to verify, authenticate and then add the ongoing network transactions to a public ledger (source: Investopedia).

**“Non face-to-face clients”** means the clients (or their legal representatives of those clients) who have not been physically present for identification purposes and the firm did not have a face-to-face contact. For such client, enhanced due diligence procedures are performed accordingly as per paragraphs 5.18 and 5.43 of the ICPAC AML Directive.

Note that when relying on a third party and in the eventuality where the third party has met the client face to face and the provisions of section 67 of the Law 188(I)/2007 have been fully applied, then these clients may not be classified as non face to face clients.

**“Politically Exposed Persons (PEP’s)”** means the natural persons who are or have been entrusted with prominent public functions in the Republic of Cyprus or in another country, and their immediate family members or persons known to be close associates of such persons - as defined in article 2 of [Law188\(I\)2007-2018](#).

**“Principal”** means an individual who is a partner, shareholder of a limited company or director, irrespective of the Member’s role as principal of the office – see ICPAC Regulations, section 1.201 paragraph 3.

**“Public Interest Entities – (PIE’s)”** means:

(a) entities that are governed by the national law of the Republic whose transferable securities are admitted for trading in an organised market or a regulated market of any Member State within the definition attributed to this term in article 2 of the Investment Services and Activities and Regulated Markets law (περί Επενδυτικών Υπηρεσιών και Δραστηριοτήτων και Ρυθμιζόμενων Αγορών Νόμου)

(b) licensed credit institutions as defined in article 2 of the operations of credit institutions law (περί Εργασιών Πιστωτικών Ιδρυμάτων Νόμου)

(c) insurance and reinsurance undertakings within the definition of article 2 of the Insurance and Reinsurance Operations and Other related matters Law (περί Ασκήσεως Ασφαλιστικών και Αντασφαλιστικών Εργασιών και Άλλων Συναφών Θεμάτων Νόμου), or

(d) any other entity designated by the Council of Ministers, upon the recommendation of the CyPAOA and which essentially has the features of the public interest.



**“Reliance on Third Party”** means the reliance placed on a third party for the implementation of Customer Identification and Due Diligence Procedures. A “third party” could be a credit institution, a financial institution, an auditor, an external accountant, a tax advisor, a trust and company service provider or an independent legal professional from a country which is a member of the European Economic Area or a third country that applies procedures and measures for the prevention of money laundering and terrorist financing equivalent to the EU Directive. Conditions for the reliance are that the third party is subject to professional registration in accordance with the competent law of its country of incorporation and/or operation, as well as supervision for the purposes of compliance with prescribed measures for the prevention of money laundering and terrorist financing.

It must be noted that the third party must make immediately available all information collected during the customer identification and due diligence process. Before accepting the client identification data by the third party, the firm should assess and evaluate the third party’s systems and procedures to ensure that these are carried out in accordance with Chapter 5 of the AML directive. Furthermore, the firm may rely on third parties only at the outset of establishing a business relationship. Any additional data and information for updating the client’s economic profile or for the purpose of examining unusual transactions should be obtained from the natural persons who control and manage the activities of the client.

**“Third countries”** means any other country that it is not included in the other categories of the referred section.

**“Top 10 clients”** are the largest clients in terms of the total annual fees invoiced to each client. The client must at least have one bank account.