



The
LEGAL
500

**COUNTRY
COMPARATIVE
GUIDES 2022**

The Legal 500 Country Comparative Guides

Cyprus

BANKING & FINANCE

Contributing firm

Scordis, Papapetrou & Co LLC



Kyriacos Scordis

Managing Partner | k.scordis@scordispapapetrou.com

Sofia Tryfonos Avraam

Limited Partner | s.tryfonos@scordispapapetrou.com

Korina Hadjigeorgiou

Senior Associate | k.hadjigeorgiou@scordispapapetrou.com

Mikaella Eftychiou

Associate | m.eftychiou@scordispapapetrou.com

This country-specific Q&A provides an overview of banking & finance laws and regulations applicable in Cyprus.

For a full list of jurisdictional Q&As visit legal500.com/guides

CYPRUS

BANKING & FINANCE



1. What are the national authorities for banking regulation, supervision and resolution in your jurisdiction?

The national authority for banking regulation, supervision and resolution in the Republic of Cyprus is the Central Bank of Cyprus (“**CBC**”)^[1]. The CBC is governed by the Central Bank of Cyprus Law 2002, as amended (“**CBC Law**”). The CBC Law specifies the main responsibilities of the CBC in relation to banking regulation in the Republic of Cyprus.^[2] Since Cyprus is part of the Eurozone since January 2008 (and as such part of the Single Supervisory Mechanism (“**SSM**”)), the European Central Bank (“**ECB**”) assumed a number of tasks concerning policies relating to the prudential supervision of credit institutions established in SSM participating member states, which have been conferred on it by the [Council Regulation \(EU\) No 1024/2013](#). These include the task of authorisation of credit institutions within the SSM.

References

^[1] Section 2B (1) of the Business of Credit Institutions Laws of 1997 to 2021; Section 6 of the Central Bank of Cyprus Laws of 2002 (138(I)/2002).

^[2] Section 6 of the Central Bank of Cyprus Law of 2002 (138(I)/2002)

2. Which type of activities trigger the requirement of a banking licence?

According to the Business of Credit Institutions Laws of 1997 to 2021 (“**Law**”), a bank is prohibited from carrying out any activities other than those permitted under the banking license granted by CBC (“**Banking License**”). The permitted activities are as follows:

- Accepting deposits and other repayable funds
- Lending
- Provision of payment services
- Issuing and administering other means of

payment including travellers’ cheques and bankers’ drafts

- Guarantees and commitments
- Trading for own account or for account of customers in: (a) money market instruments including cheques, bills and certificates of deposit; (b) foreign exchange; (c) financial futures and options; (d) exchange and interest-rate instruments; (e) transferable securities.
- Participation in securities issues and the provision of services relating to such issues
- Advice to undertakings on capital structure, industrial strategy and related questions and advice as well as services relating the purchase of undertakings and mergers
- Money broking
- Portfolio management and advice
- Safekeeping and administration of securities
- Credit reference services
- Safe custody services,
- Issuance of electronic money

(“**Banking Services**”).^[1]

Reference

^[1] Annex IV of the Business of Credit Institutions Laws of 1997 to 2021.

3. Does your regulatory regime know different licenses for different banking services?

Different licenses are not required to carry out different Banking Services. Even though there are specific laws that regulate specific banking services, such as the Provision and Use of Payment Services and Access to Payment Systems Laws of 2018 and 2019 (“**Payment Services Law**”) for payment services and the Electronic Money Law of 2012 for issuance of electronic money, a single Banking License authorises the applicant to carry out all the Banking Services.

4. Does a banking license automatically permit certain other activities, e.g., broker dealer activities, payment services, issuance of e-money?

The Banking Licence automatically permits the Banking Services, as elaborated in question two, other activities are not automatically covered.

5. Is there a “sandbox” or “license light” for specific activities?

Yes, certain banks such as Hellenic Bank^[1] and Bank of Cyprus^[2] offer a sandbox service on their websites. Such a service enables the users to conduct specific activities, such as to perform multi-currency money movements,^[3] to access account information, to create subscriptions, and to connect their ERP systems to perform group and multiple payments.^[4] To date, the national banks of the Republic of Cyprus do not offer a “license light” for any activity.

References

^[1] <https://openapis.hellenicbank.com/test-apis>

^[2] <https://sandbox.bankofcyprus.com/>

^[3] <https://openapis.hellenicbank.com/>

^[4] <https://sandbox.bankofcyprus.com/>

6. Are there specific restrictions with respect to the issuance or custody of crypto currencies, such as a regulatory or voluntary moratorium?

Currently, there is no legal or regulatory framework in force in Cyprus regarding crypto currencies, either directly for crypto currencies or making specific references to crypto currencies. There is, however, regulation of activities regarding companies who offer services related to crypto currencies and blockchain.

The Prevention and Suppression of Money Laundering and Terrorist Financing Law of 2007 to 2021 (“**AML Law**”) is currently the only legislation in Cyprus that recognizes and defines crypto assets. The AML Law provides that the issuance or custody of crypto currencies can only be exercised by a crypto asset service provider (“**CASP**”) and that an Authorised Credit Institution (“**ACI**”) cannot be registered as a CASP.^[1]

The Cyprus Securities and Exchange Commission

(“**CYSEC**”), has been designated as the local, competent, supervisory authority for overseeing and supervising compliance of CASPs with AML Law. CYSEC published the Directive for the Prevention and Suppression of Money Laundering and Terrorist Financing (Register of Crypto Assets Services Providers) (“**CASP Directive**”), which provides guidance in relation to the registration and operational requirements of CASPs.

Although there is no restriction per se, under Cyprus law in relation to crypto currency ownership which prevents ownership of crypto currency, by either natural or legal persons, the issuance or custody of crypto currencies, as stated in question 2 above, is not an activity permitted to be exercised by an ACI and therefore banks cannot deal with crypto currencies.^[2]

In support of the aforementioned, the CBC has over the years issued a number of warnings in relation to the risks associated with the purchase, holding or trading of crypto currencies. In April 2021 the CBC warned anew the public to take into account the high degree of risks involved.^[3]

References

^[1] Section 2(1), The Prevention and Suppression of Money Laundering and Terrorist Financing Law of 2007 to 2021

^[2] Annex IV of the Business of Credit Institutions Laws of 1997 to 2021; Part V, Section 14(1) of the Business of Credit Institutions Laws of 1997 to 2021.

^[3] <https://www.centralbank.cy/en/announcements/cbc-statement-regarding-cryptocurrencies-virtual-currencies-28-04-2021>;
<https://www.centralbank.cy/en/announcements/07022014>

7. Do crypto assets qualify as deposits and, if so, are they covered by deposit insurance and/or segregation of funds?

Presently, crypto assets do not qualify as bank deposits, since, as explained in question 6, an ACI cannot deal with crypto assets nor are crypto assets issued or guaranteed by any central bank or public authority in Cyprus.^[1]

The banking sector in Cyprus, has generally taken a cautious approach regarding proceeds generated from crypto currencies trading as the sources of funds used for as well as the funds derived from the sale of such crypto currencies, is not transparent enough to meet the

AML Law criteria. As a result, banking institutions in Cyprus refuse to transfer funds to or accept funds from crypto currency exchange platforms. At present there is no indication from CYSEC and the CBC as to when, in their view, a crypto asset might constitute a financial instrument or electronic money for the purposes of the Investment Services Law or the national law implementing the Electronic Money Directive.^[2] Consequently, we cannot for the time being consider how crypto assets will be legally qualified in Cyprus in the near future.

It is noted however that the expansive new Digital Finance Package adopted by the European Commission ("EC") in September 2020 includes a comprehensive new legislative proposal on Markets in crypto assets (MiCA), developed to help streamline distributed ledger technology and virtual asset regulation across all EU Member States whilst protecting users and investors. Therefore, undoubtedly Cyprus will be keeping a close eye on these developments and will be taking aboard any future developments in this field.

References

^[1] <https://www.centralbank.cy/en/announcements/cbc-statement-regarding-cryptocurrencies-virtual-currencies-28-04-2021>

^[2] Directive 2009/110/EC

8. What is the general application process for bank licenses and what is the average timing?

The applicant or its authorised representative submits an application for obtaining authorisation to carry out the Banking Services to the CBC. Such an application must be accompanied by a programme of operations specifying the types of business activities planned and the organisational structure of the bank and any other related information and documents as may be required by the CBC.^[1]

The CBC will either refuse authorisation and notify the applicant of its reasoned decision within 6 months of receipt of the application, or if the application is incomplete, the CBC will request from the applicant additional information and/or documents and will notify its decision within six months of the receipt of the complete application.^[2] The CBC will conduct a preliminary check of the application and will notify the applicant of its decision within 12 months of receipt of its complete application.^[3]

According to the Law, the applicant may oppose the decision of the CBC to refuse its application by way of appeal under the Constitution.^[4]

References

^[1] Part II, Section 4(2)(a) of the Business of Credit Institutions Laws of 1997 to 2021.

^[2] Part II, Section 4(3)(a) of the Business of Credit Institutions Laws of 1997 to 2021.

^[3] Part II, Section 4(3)(b) of the Business of Credit Institutions Laws of 1997 to 2021.

^[4] Part XVA, Section 42D(2) of the Business of Credit Institutions Laws of 1997 to 2021.

9. Is mere cross-border activity permissible? If yes, what are the requirements?

Yes, cross border activity is permissible.

An ACI of another Member State, that is an ACI situated in a member state of the European Union or other state which is party to the Agreement for the European Economic Area, may carry out the activities permitted by the Banking License in the Republic of Cyprus either through the establishment of a branch or through the provision of services. In order for this cross-border activity to take place, the CBC must be notified by the competent authority of the other Member State.^[1] Then, the CBC will supervise the branch so as to indicate, if needed the conditions under which those activities shall be commenced in the Republic of Cyprus.

A branch of a third country institution is allowed to perform the activities permitted by the Banking License in the Republic of Cyprus, provided that it is entitled under the laws of that third country to carry on business of a credit institution.^[2] In order for this cross-border activity to take place, the third country institution must obtain the authorisation of the CBC.^[3]

Also, an ACI incorporated in the Republic of Cyprus may establish or maintain a branch or a representative office outside the Republic of Cyprus, provided it obtains the approval of the CBC.^[4] The CBC shall also be notified and provided with information specified in the Law, before the ACI establishes a branch within the territory of another member state.^[5]

References

^[1] Part IV, Section 10A(1) of the Business of Credit

Institutions Laws of 1997 to 2021.

^[2] Part IV, Section 8(1) of the Business of Credit Institutions Laws of 1997 to 2021.

^[3] Part II, Section 4(1)(b)(i) of the Business of Credit Institutions Laws of 1997 to 2021.

^[4] Part IV, Section 7(1) of the Business of Credit Institutions Laws of 1997 to 2021.

^[5] Part IV, Section 10C(1),10C(1A) of the Business of Credit Institutions Laws of 1997 to 2021.

10. What legal entities can operate as banks? What legal forms are generally used to operate as banks?

The legal entities that can operate as banks are the following:

- A credit institution incorporated in the Republic of Cyprus to which a licence has been granted under the provisions the Law;^[1]
- A credit institution incorporated and authorised in a Member State pursuant to corresponding legislation of that Member State in order to operate in the Republic of Cyprus through a branch;^[2]
- A credit institution established and authorised in a third country pursuant to corresponding legislation of that country in order to operate in the Republic of Cyprus through a branch.^[3]

It is worth noting that aside the operation of banks, payment institutions (authorized to provide and execute payment services throughout the EU), can upon meeting the necessary criteria be licensed to operate as such by the CBC, since the Payment Services Directive^[4] has been transposed into the Cypriot law through the Payment Services Law. The Central Bank of Cyprus is the competent authority in Cyprus for the authorisation and supervision of such payment institutions.

References

^[1] Part II, Section 4(1)(b)(i) of the Business of Credit Institutions Laws of 1997 to 2021

^[2] Part II, Section 4(1)(b)(ii) of the Business of Credit Institutions Laws of 1997 to 2021

^[3] Part II, Section 4(1)(b)(i) of the Business of Credit Institutions Laws of 1997 to 2021

^[4] Directive 2007/64/EC

11. What are the organizational requirements for banks, including with respect to corporate governance?

The organizational requirements are specified under the Directive to Credit Institutions on Governance and Management Arrangements in Credit Institutions of July 2014 ("**CBC Governance Directive**"). In brief, the CBC Governance Directive provides that: institutions must ensure that they have an independent member in their management who holds the position of the Chairman; a non-executive member who holds the position of the vice chairperson to carry out the role and the responsibilities of the Chairman when the latter is absent; an independent member appointed as a senior member but shall not also hold the position of the chairman or the vice chairperson; to establish committees of appropriate size, composition, structure and responsibilities to effectively carry out the role and responsibilities of the management body.^[1]

In addition, the CBC Governance Directive requires that: the management body must have a minimum of seven members and a maximum of 13 members; that at least 50% plus one of its members must be independent; there must be at least two executive members constituting not more than 25% of the total members of the management body and of whom one must be the chief executive officer. There must also be diversity with respect to gender, age, education, profession, in order to have a wide range of experience, independent opinions and critical challenge; the members of the management body must have the required knowledge, skills and expertise to enable the management body to understand the bank's risks and activities.^[2]

References

^[1] Part III, Section 7(1) of the Directive to Credit Institutions on Governance and Management Arrangements in Credit Institutions, July 2014

^[2] Part III, Section 6 of the Directive to Credit Institutions on Governance and Management Arrangements in Credit Institutions, July 2014

12. Do any restrictions on remuneration policies apply?

In accordance with the CBC Governance Directive, the following restrictions apply on remuneration policies:

- The remuneration policy must be consistent with and endorse effective risk management. It should not encourage engaging in risk

management as well as risk-taking that exceeds the level of risk which the institution can tolerate.

- The remuneration policy must be in line with the institution's objectives, values, strategy, and interests. It should also implement measures in order to prevent conflicts of interest.
- The general principles of the remuneration policy should be adopted in the supervisory functions of the management body of the institution which should be responsible for overseeing the remuneration policy's implementation.
- The remuneration policy's implementation shall be reviewed at least once a year so as to ensure that it complies with the remuneration policies and procedures adopted by the management body in its supervisory function.
- The staff that in the control functions shall be independent from the business units they supervise, they should have the requisite authority, and should be remunerated in accordance with the performance of the objectives related to their functions, independent of the performance of the areas of the business they manage.
- The remuneration committee must oversee the remuneration of the senior officers in the control functions. This is done by combined nomination and remuneration committee.
- The remuneration policy distinguishes between criteria for setting basic fixed remuneration - which should mainly reflect significant professional experience and organisational responsibility - and variable remuneration - which should reflect a risk adjusted and sustainable performance as well as performance that exceeds that needed to fulfil the employee's job description as part of the terms of employment.^[1]

Reference

^[1] Part IV, Section 50(1) of the Directive to Credit Institutions on Governance and Management Arrangements in Credit Institutions, July 2014.

13. Has your jurisdiction implemented the Basel III framework with respect to regulatory capital? Are there any major deviations, e.g., with respect to certain categories of banks?

The Basel III framework has been transposed into the

Law^[1] to the extent that it has been incorporated in EU Directive 2013/36/EU (Access to the Activity of Credit Institutions and the Prudential Supervision of Credit Institutions and Investment Firms).

Reference

^[1] Parts 1 to 8 of Annex I of Commission Implementing Regulation (EU) No 650/2014 of 4 June 2014.

14. Are there any requirements with respect to the leverage ratio?

The EU Directive 2013/36/EU requires the bank in the Republic of Cyprus to completely and accurately disclose the information on the leverage ratio to the competent authorities.^[1] Such information is:

- The leverage ratio.
- A breakdown of the total exposure measure and a reconciliation of the total exposure measure with the relevant information reported in published financial statements.
- The amount of derecognised fiduciary items, where applicable.
- An outline of the method used to manage the risk of excessive leverage.
- An outline of the factors that affected the leverage ratio during the period to which the disclosed leverage ratio refers.^[2]

The leverage ratio is expressed as a percentage and is calculated as the bank's capital measure (the Tier 1 capital) divided by that bank's total exposure measure. The bank must calculate the leverage ratio at the reporting reference date.^[3] There is a leverage ratio requirement of 3%.^[4]

References

^[1] Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on Access to the Activity of Credit Institutions and the Prudential Supervision of Credit Institutions and Investment Firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, Article 67(1)(i).

^[2] Regulation (EU) No 575/2013 of the European Parliament and of Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, Article 451(1).

^[3] Regulation (EU) No 575/2013 of the European Parliament and of Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, Article 429(2).

^[4] Regulation (EU) No 575/2013 of the European Parliament and of Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, Article 92(1)(d).

15. What liquidity requirements apply? Has your jurisdiction implemented the Basel III liquidity requirements, including regarding LCR and NSFR?

The Republic of Cyprus has implemented the Basel III liquidity requirements in relation to liquidity coverage ratio ("LCR"), as specified in Regulation (EU) 575/2013 which is directly applicable in Cyprus. The specified liquidity requirements are:

- Banks shall hold liquid assets, the sum of the values of which covers the liquidity outflows less the liquidity inflows under stressed conditions in order to make sure that banks preserve levels of liquidity buffers that are sufficient to face any probable imbalance between liquidity outflows and inflows under highly stressed conditions over a period of thirty days. During times of stress, banks are able to use their liquid assets so as to cover their net liquidity outflows.
- Banks shall not count double liquidity inflows and liquid assets.
- Banks are able to use the abovementioned liquid assets to meet their obligations under stressed circumstances.^[1]
- Banks must maintain a minimum LCR requirement.^[2]

It is also stated under the Law that the CBC may set a minimum ratio of liquefiable assets to be held by ACIs in relation to the liabilities and other obligations of ACIs that may arise or mature within a period.^[3]

Regulation (EU) 575/2013 has not implemented the liquidity requirements regarding the net stable funding ratio ("NSFR"), and it states that institutions shall observe a general funding obligation until the introduction of the NSFR.^[4]

References

^[1] Regulation (EU) No 575/2013 of the European Parliament and of Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, Article 412(1-3).

^[2] Regulation (EU) No 575/2013 of the European Parliament and of Council on prudential requirements for

credit institutions and investment firms and amending Regulation (EU) No 648/2012, Article 429(2), Article 460(2)

^[3] Part VIII, Section 23(1) of the Business of Credit Institutions Laws of 1997 to 2021.

^[4] Preamble 111 of Regulation (EU) No 575/2013 of the European Parliament and of Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012,

16. Do banks have to publish their financial statements? Is there interim reporting and, if so, in which intervals?

Banks incorporated in the Republic of Cyprus must publish, within six months from the end of each financial year, their balance sheets and profit and loss accounts for that year, as well as the approved report of the auditor.^[1] Banks, other than those incorporated in the Republic of Cyprus, must publish their balance sheets and profit and loss accounts for each financial year covering their business as a whole, in the manner provided by the CBC.^[2]

There is no requirement under the Law for interim reporting. To the extent that a bank is subject to other regulations (for example if a listed entity the Stock Exchange Rules), then more frequent reporting or other requirements may apply.

References

^[1] Part IX, Section 24(3) of the Business of Credit Institutions Laws of 1997 to 2021.

^[2] Part IX, Section 24(4) of the Business of Credit Institutions Laws of 1997 to 2021.

17. Does consolidated supervision of a bank exist in your jurisdiction? If so, what are the consequences?

Consolidated supervision of banks exists in the Republic of Cyprus and is carried out by the CBC. Consolidated supervision is exercised when the parent undertaking of an ACI incorporated in the Republic is a parent credit institution established in another member state in relation to an ACI incorporated in the Republic of Cyprus which has a parent financial holding company or a parent mixed financial holding company^[1] Where the ACI incorporated in the Republic of Cyprus has a parent financial holding company or a parent mixed financial holding company which is a member state or which is

established in the European Union, the CBC shall exercise supervision on a consolidated basis.^[2]

The consequences of carrying out a consolidated supervision are:

- Coordination of the gathering and sharing of important information in going concern and emergency situations.
- Planning and coordination the supervision of activities in going concern situations, in cooperation with the competent authorities involved.
- Planning and coordination, in cooperation with the competent authorities involved or in emergency situations the European Central Bank and other national central banks, of supervisory activities.^[3]

References

^[1] Means EU parent undertaking; Part I, Section 2 of the Business of Credit Institutions Laws of 1997 to 2021.

^[2] Part XV, Section 39(7)(b) of the Business of Credit Institutions Laws of 1997 to 2021.

^[3] Part X, Section 27(6) (a-c) of the Business of Credit Institutions Laws of 1997 to 2021.

18. What reporting and/or approval requirements apply to the acquisition of shareholdings in, or control of, banks?

An acquisition of shares in the capital of an ACI established in the Republic of Cyprus by any natural or legal person individually or in concert with other persons, directly or indirectly, which results to the proportion of the voting rights or of the capital held to reach or exceed, a qualifying holding of 10%^[1] or to further increase such holding to 20%, 30% or 50% ,or so that the ACI would become its subsidiary shall give prior notice to the CBC, specifying the size of the proposed holding and the relevant information.^[2] The CBC will then examine the notification and information provided by taking into account a number of criteria specified under the provisions of the Law.^[4]The ACI also has an obligation to inform the CBC of any acquisitions or disposals of qualifying holdings in its capital that cause holdings to exceed or fall below one of the thresholds referred to above .^[4]

In addition to the above, the ACI must disclose to the CBC in relation to any legal person who **holds** 5% or more of an ACI's issued share capital the names of its **ultimate beneficial owners** to whom each legal

person belongs to at least once a year or when such information is amended or changed.^[5]

In accordance with the Law on Transparency Requirements^[6], the acquisition or disposal of **listed shares (including those of ACIs)**, either listed in the Cypriot Stock Exchange ("CSE") or in any organised market of any other EU member state, crossing directly or indirectly 5%, 10%, 15%, 20%, 25%, 30%, 50%, 75% thresholds of the total voting rights of the issuing company must be notified to the issuer, the Cypriot Securities and Exchange Commission and/or the CSE.^[7]

References

^[1] "qualifying holding" has the meaning given to this term in Article 4(1) of Regulation (EU) No. 575/2013 of the European Parliament and of Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.

^[2] Part VI, Section 17(1) of the Business of Credit Institutions Laws of 1997 to 2021.

^[3] Part VI, Section 17A of the Business of Credit Institutions Laws of 1997 to 2021.

^[4] Part VI, Section 17D(1)(a) of the Business of Credit Institutions Laws of 1997 to 2021.

^[5] Part VI, Section 17D (4) of the Business of Credit Institutions Laws of 1997 to 2021.

^[6] Law 190(1) 2007

^[7] Part V, Section 32 of the Law on Transparency requirements (Law 190 (1) 2007).

19. Does your regulatory regime impose conditions for eligible owners of banks (e.g., with respect to major participations)?

A natural or legal person who plans to acquire a proportion of voting rights or capital in an ACI which reaches or exceeds twenty percent (20%) should notify the CBC, specifying the size of the proposed holding.^[1] A natural or legal person who decides to dispose its qualifying holding in an ACI must first notify in writing in advance the CBC indicating the size of its qualified holding.^[2]

In addition to the above and in accordance with the Law on Transparency Requirements (Law 190(1) 2007), the acquisition or disposal of **listed shares (including those of ACIs)**, either listed in the Cypriot Stock Exchange ("CSE") or in any organised market of any

other EU member state, crossing directly or indirectly 5%, 10%, 15%, 20%, 25%, 30%, 50%, 75% thresholds of the total voting rights of the issuing company must be notified to the issuer, the Cypriot Securities and Exchange Commission and/or the CSE.

References

^[1] Part VI, Section 17(1) of the Business of Credit Institutions Laws of 1997 to 2021.

^[2] Part VI, Section 17C (1) of the Business of Credit Institutions Laws of 1997 to 2021.

20. Are there specific restrictions on foreign shareholdings in banks?

There are no specific restrictions on foreign shareholdings in banks.

21. Is there a special regime for domestic and/or globally systemically important banks?

Regarding the domestic or otherwise other systematically important institutions ("O-SII") and globally systematically important institutions ("G-SII"), the CBC recognises a special regime:

- by setting the additional G-SII capital buffer that each G-SII credit institution must maintain, and
- by setting the additional O-SII capital buffer that each O-SII institution must maintain.^[1]

Reference

^[1] <https://www.centralbank.cy/en/financial-stability/macro-prudential-policy/capital-buffer-for-systemically-important-institutions-siis>

22. What are the sanctions the regulator(s) can order in the case of a violation of banking regulations?

The infringement of any provisions of the Law or any regulations or directives issued by the CBC under the said Law is an offence punishable by the following ways:

- imprisonment not exceeding 5 years
- a fine not exceeding one million Euros (€1.000.000)
- by both aforementioned ways.

In case of a continuing offence by a further fine not exceeding 5 thousand Euros (€5.000) for each day during which the offence continues.^[1]

Reference

^[1] Part XVI, Section 43(1) of the Business of Credit Institutions Laws of 1997 to 2021.

23. What is the resolution regime for banks?

The resolution regime for banks is based on the Resolution of Credit Institutions and Investment Firms Law^[1] ("Resolution Law"). The Resolution Law designates the CBC as the resolution authority.^[2] The resolution authority shall draw up a resolution plan for each ACI that is not part of a group subject to consolidated supervision.^[3] The resolution plan will include the actions that the CBC can take.^[4] The resolution measures that the resolution authority may apply include (a) the sale of operations measure, (b) the measure to transfer assets, rights or liabilities to a bridge institution, (c) the measure to transfer assets and rights to an asset management company, (d) the bail-in measure.^[5]

References

^[1] The Resolution of Credit Institutions and Investment Firms and Other Related Issues No 4556, 18.03.2016

^[2] Part II, Section 4(1) of the Resolution of Credit Institutions and Investment Firms and Other Related Issues No 4556, 18.03.2016

^[3] Part III, section 10(1)(a) of the Resolution of Credit Institutions and Investment Firms and Other Related Issues No 4556, 18.03.2016

^[4] Part III, section 10(1)(b) of the Resolution of Credit Institutions and Investment Firms and Other Related Issues No 4556, 18.03.2016

^[5] Part VI, Section 45(1) and (3) of the Resolution of Credit Institutions and Investment Firms and Other Related Issues No 4556, 18.03.2016

24. How are client's assets and cash deposits protected?

The Law on Deposit Guarantee and Resolution of Credit Institutions and Other Institutions Scheme of 2016, modelled after the relevant EU Regulation, is meant^[1] to provide limited protection (up to €100,000^[2], the so-

called “Deposit Guarantee”) of a bank client’s cash deposits^[3]. Thus, according to the Law an ACI may accept deposits provided that it participates in the Deposit Guarantee Scheme.^[4]

The following deposits are covered up to fifty thousand Euros (€50.000), in addition to the aforementioned amount: (a) deposits from immovable property transactions that concern private residence, (b) deposits that serve social purposes.^[5]

References

^[1] We note that although the Deposit Guarantee Scheme was operation in 2013, it was not applied in the cases of Bank of Cyprus and Laiki Bank (whose depositors were bailed in) with the “Guaranteed Deposits” having been guaranteed by the monies of the depositors themselves (whose deposits exceeded the “guaranteed” €100,000)

^[2] Part II, Section 8(1) of the Law of the Deposit Guarantee and Resolution of Credit Institutions and Other Institutions Scheme of 2016, 5(I)/2016.

^[3] 5(I)/2016, as amended.

^[4] Part II, Section 3(5)(a) of the Business of Credit Institutions Laws of 1997 to 2021.

^[5] Part II, Section 8(2) of the Law of the Deposit Guarantee and Resolution of Credit Institutions and Other Institutions Scheme of 2016, 5(I)/2016.

25. Does your jurisdiction know a bail-in tool in bank resolution and which liabilities are covered?

As already mentioned, the bail-in tool was first applied within the Eurozone in Cyprus in 2013. The bail-in tool is meant^[1] to cover the following liabilities^[2]:

- a. To recapitalise an ACI or a relevant person that meets the conditions for resolution to the extent sufficient to:
 - o restore its ability to comply with the conditions for authorisation of the entity or, where such conditions exist for the relevant person, of the relevant person and
 - o to continue to carry out the activities for which it is authorised under the Investment Services and Activities and Regulated Markets Law or the Business of Credit Institutions Law as applicable, and
 - o to sustain sufficient market

confidence in the institution or relevant person;

- b. To convert to equity or reduce the principal number of claims or debt instruments that are transferred:
 - o To a bridge institution with a view to providing capital for that bridge institution; or
 - o Under the sale of operations measure or the measure to transfer assets and rights to an asset management company.^[3]

References

^[1] There are pending referrals to the ECJ in relation to the application of the bail-in tool with respect to the 2013 financial crisis in Cyprus, such as *Case T-147/18, APG Intercon and Others v Council and Others*

^[2] Chapter V, Part 1, Section 53 of the Resolution of Credit Institutions and Investment Firms and Other Related Issues L. 22(I)/2016

^[3] Chapter V, Part 1, Section 53(1) of the Resolution of Credit Institutions and Investment Firms and Other Related Issues L. 22(I)/2016

26. Is there a requirement for banks to hold gone concern capital (“TLAC”)?

The Financial Stability Board’s standards on Total Loss-Absorbing Capacity (TLAC) have been implemented into EU Law through Directive (EU) 2019/879,^[1] and apply only to G-SII. Cyprus has not yet transposed Directive (EU) 2019/879 into its national law.

Reference

^[1] Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019, amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC

27. In your view, what are the recent trends in bank regulation in your jurisdiction?

Cypriot banks, in keeping with the times, are turning their focus towards innovation and digitalization in preparation for a future increasingly driven by technology. During the COVID-19 pandemic, Cyprus banks invested in developing their level of digitalization, creating their own digital platforms, as it was the only

solution to continue operating smoothly.

Additionally, it is noted that over the last couple of years, as a result of public health and hygiene concerns, cash usage plummeted in contrast to the use of digital payments. As a response to this the Assessment and Collection of Taxes Laws of 1978 to 2021 was amended in June 2020 creating an obligation on certain categories of businesses to accept card-based payment instruments upon completion of payment transactions by consumers.^[1]

The ever-increasing regulatory burden of the last few years with stricter ECB guidelines and compliance requirements has continued. Cyprus banks have sought to find a balance between safeguarding financial stability whilst at the same time not suppressing economic growth.

The global challenge in handling the Covid-19 pandemic has brought a welcome but temporary respite as regulators have decided to postpone deadlines, the enforcement of upcoming regulations and have proceeded to temporarily simplify regulations to give flexibility to the banking sector and capital markets. However, the current trend of increased regulatory burdens in the banking sector continues. Key changes under discussion relate more to capital markets and recommendations to remove regulatory obstacles and allow for market-based financing and banking finance to work better together which is in line with the High-Level Forum, instructed by the European Commission.

The Cyprus banking sector currently applies a high level of compliance and know-your-client frameworks, which is in some cases more stringent than the corresponding international and European requirements. In order to protect the financial sector for money laundering and terrorist financing, the Cypriot authorities conducted an assessment for the identification of any deficiencies in the regulatory framework in place and the evaluation of the procedures followed.^[2] The National Risk Assessment report was submitted to the Council of Ministers and the Cypriot regulatory authorities and the private sector started working on the suggested reforms and the implementation of the action plan since the beginning of 2018.^[3] In 2019 the CBC has issued the 5th Edition of the Directive on the Prevention of Money Laundering and Terrorist Financing which replaced the previous 4th Edition. The CBC aims at issuing more directives in accordance with identified needs.^[4] Regulatory trends in Cyprus will inevitably follow European and international regulatory trends.

The reforms in the Cyprus banking sector in the past few years have bolstered regulatory compliance and the

financial standing of Cyprus Banks, as evidenced by multiple assessments.

References

^[1] N. 126(I)/2020, Article 30A.

^[2] <https://www.centralbank.cy/en/licensing-supervision/prevention-and-suppression-of-money-laundering-activities-and-financing-of-terrorism-1>

^[3] Cyprus National Assessment of Money Laundering and Terrorist Financing Risks, October 2018.

^[4] Directive To Credit Institutions in Accordance with Article 59(4) Of The Prevention And Suppression Of Money Laundering Laws Of 2007 To 2019.

28. What do you believe to be the biggest threat to the success of the financial sector in your jurisdiction?

Non-performing loans (“NPLs”) and international competition from less regulated financial centres are the biggest threats. As the International Monetary Fund (“IMF”) has recently noted, “a set of legislative reforms aimed at addressing the crisis legacy of NPLs had been approved, catalysing the clean-up of bank balance sheets. Nevertheless, challenges remain. Risks have partially been transferred to the public sector as part of the bank clean-up strategy, but high debt will remain a burden on the private sector until NPLs, which constrain investor confidence and growth prospects, are resolved”. Moreover, the application of the most stringent regulatory obligations on banks in Cyprus has not only created significant and disproportionate operational hurdles and costs for every Cyprus based business but also to the banks themselves.

The outbreak of the COVID-19 pandemic has inevitably affected the finance sector, caused a number of adverse effects, whilst magnifying already existing issues. With growth-driving economic sectors heavily affected by the pandemic, the banking sector implemented extraordinary measures to minimize the impact on corporations and households. Key measures include a suspension on loan repayments initially until December 2020 and with a subsequent decree until mid-2021, and a postponement of foreclosures until 31st March 2021, to support the economy and households

In light of the pandemic, tackling NPLs still lies central within Cyprus’s fiscal policies. Even though to date substantial progress had been made in reducing NPL’s it is anticipated that these will inevitably rise following the

impact of the pandemic and in light of the suspension on loan repayment measures referred to above. Addressing the existing problem of NPL's will continue to feature as the most critical task facing the banking sector for the

next few years. Going forward it is imperative that the Cyprus banks continue to clean up their balance sheets, reduce costs and focus on non-performing debt to safeguard the sector's performance in the coming years.

Contributors

Kyriacos Scordis
Managing Partner

k.scordis@scordispapapetrou.com



Sofia Tryfonos Avraam
Limited Partner

s.tryfonos@scordispapapetrou.com



Korina Hadjigeorghiou
Senior Associate

k.hadjigeorghiou@scordispapapetrou.com



Mikaella Eftychiou
Associate

m.eftychiou@scordispapapetrou.com

