



Shell Companies/Entities

On 14th of June 2018, the Central Bank of Cyprus (the “CBC”), issued a circular with immediate effect, introducing the term ‘Shell Company/Company’ and advised its licensed members to justify or avoid any business relationship with such entities.

As per CBC circular, the term “shell company/entity” refers to a limited liability Company or any other legal entity that:

- Has no physical presence or operations in its country of registration/incorporation (other than a mailing address) and;
- It has no established economic activity in its country of incorporation/registration, little to no independent economic value and no documentary proof to the contrary;

AND

- It is registered in a jurisdiction where companies/entities are not required to submit to the authorities independently audited financial statements and does not voluntarily prepare audited financial statements by independent qualified professional accountants who are licensed or regulated and/or;
- It has a tax residence in a jurisdiction included in the EU list of non-cooperative jurisdictions for tax purposes or the OECD’s list of non-cooperative jurisdictions for tax purposes or has no tax residence.

If an entity falls into the above definition, then business relationships with such entities should be avoided and existing relationships to be terminated.

Revised definition and exclusions

On the 2nd of November 2018, the Central Bank of Cyprus (the “CBC”) issued a 2nd circular with the purpose of clarifying the definition of “Shell Companies” and how the service providers and banks should classify them.

The revised definition aims to offer clarity and certainty as to the legal requirements underpinning the shell companies.

Physical presence of a company/entity is construed as having a place of business or operations (own or rented premises) in the country of registration/incorporation. Also, absence of meaningful mind and management could be construed as lack of physical presence. The presence of a third person providing merely nominee services including company secretary duties does not constitute on its own physical presence.

Established Economic activity could be indicated by the following circumstances:

- The company/entity is established for the purpose of holding stock or shares or other equity instruments of another business entity or entities engaged in legitimate business with identifiable ultimate beneficial owner(s);
- The company/entity is established for the purpose of holding intangible or other assets, including real estate, ship, aircraft, portfolio of investments, debt and financial instruments;
- The company/entity is established to facilitate currency trades and asset transfers, corporate mergers as well as carrying out asset management activities and trading of shares;

- The company/entity acts as a treasurer for companies recognized as a group or manages the activities of the group;
- Any other case where convincing evidence can be provided that the company/entity is engaged in legitimate business, with identifiable ultimate beneficial owner(s).

Following the revised circular of 2nd November 2018, the banking institutions may decide whether they wish to create a business relationship by applying a risk-based approach, in accordance with the applicable legislation and regulatory framework of the jurisdiction where the company is incorporated.