

SUBSIDIARY LEGISLATION 123.127

COOPERATION WITH OTHER JURISDICTION ON TAX MATTERS REGULATIONS

22nd July, 2011

LEGAL NOTICE 295 of 2011, as amended by Legal Notices 472 of 2012, 408, 481 of 2014, 384 of 2015, 400 of 2016, 344 of 2017, 342 of 2019 and 315 of 2020, 213 of 2021, 50 of 2022, 8 of 2023, 18 of 2025 and 162 of 2026.

1. The title of these regulations is the Cooperation with Other Jurisdictions on Tax Matters Regulations. Citation.

2. In these regulations, unless the context otherwise requires -
"arrangement" includes -

- (a) any agreement, convention, protocol or EU Directive pursuant to which Malta may cooperate on tax matters with another jurisdiction through the exchange of information; and
- (b) any administrative agreement or memorandum of understanding reached between the competent authority of Malta and the competent authority of another jurisdiction with which an arrangement referred to in paragraph (a) of this definition is in place, provided that such administrative agreement or memorandum of understanding is not contrary to the said arrangement;

Definitions.
Amended by:
L.N. 472 of 2012;
L.N. 384 of 2015;
L.N. 400 of 2016;
Amended by:
L.N. 344 of 2017;
L.N. 342 of 2019;
L.N. 315 of 2020;
L.N. 213 of 2021;
L.N. 18 of 2025;
L.N. 162 of 2026.

"authorised representative" means any official who is authorised to directly exchange information pursuant to an arrangement;

"beneficial owner" means any natural person or persons who ultimately own or control the customer and, or the natural person or persons on whose behalf a transaction or activity is being conducted and, or:

- (a) in the case of an entity, the beneficial owner shall consist of any natural person or persons who ultimately own or control that entity through direct or indirect ownership of twenty-five *per centum* (25%) plus one (1) or more of the shares or more than twenty-five *per centum* (25%) of the voting rights or an ownership interest of more than twenty-five *per centum* (25%) in that, including through bearer share holdings, or through control via other means, other than a company that is listed on a regulated market which is subject to disclosure requirements consistent with European Union law or equivalent international standards which ensure adequate transparency of ownership information:

Provided that a shareholding of twenty-five *per centum* (25%) plus one (1) share or more, or the holding of an ownership interest or voting rights of more than twenty-five *per centum* (25%)

in the customer shall be an indication of direct ownership when held directly by a natural person, and of indirect ownership when held by one or more body corporates or body of persons or through a trust or a similar legal arrangement, or a combination thereof:

Provided further that if, after having exhausted all possible means and provided there are no grounds of suspicion, no beneficial owner in terms of this paragraph has been identified, the beneficial owner shall be the natural person or persons who hold the position of senior managing official or officials, and record of the actions taken and any difficulties encountered to determine who the beneficial owner is in terms of this paragraph shall be kept.

- (b) in the case of express trusts the beneficial owner shall consist of:
 - (i) the settlor or settlors;
 - (ii) the trustee or trustees;
 - (iii) the protector or protectors, where applicable;
 - (iv) the beneficiaries, or the class of beneficiaries as may be applicable; and
 - (v) any other natural person exercising ultimate control over the trust by means of direct or indirect ownership or by other means;
- (c) in the case of legal entities such as foundations, and legal arrangements similar to trusts, the beneficial owner shall consist of the natural person or persons holding equivalent or similar positions to those referred to in paragraph (b);

"competent authority" means the authority which has been designated as such by a jurisdiction with regard to an arrangement;

"data breach" means a breach of security leading to destruction, loss, alteration or any incident of inappropriate or unauthorised access, disclosure or use of information, including but not limited to personal data transmitted, stored or otherwise processed, as the result of deliberate unlawful acts, negligence or accidents. A data breach may concern the confidentiality, availability and integrity of data;

"entities" includes any body of persons that -

- (a) is resident in Malta;
- (b) is created under Maltese law,
- (c) has a permanent establishment in Malta;
- (d) is a property company or a property partnership; or
- (e) is required to be registered, to be licensed or otherwise authorised in order to conduct business in Malta;

"EU Administrative Cooperation Directive" means Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC as amended by Council Directive 2014/107/EU, and Council Directives (EU) 2015/2376, 2016/881, 2018/822, 2020/876, 2021/514,

2023/2226 and 2025/872;

"express trust" means a trust created voluntarily and intentionally, either orally or in writing -

- (a) *inter-vivos* by the settlor executing an act or instrument of settlement made between the settlor and the trustees under which the settlor transfers assets to the trustees to hold subject to the terms of the trusts set out therein;
- (b) *inter-vivos* by the settlor transferring assets to the trustees and the trustees executing a declaration of trust (to which the settlor is not a party) whereby the trustees acknowledge that they hold the assets subject to the terms of the trusts set out in the instrument; or
- (c) on death by the will of the testator taking effect, whereby the testator's executors are directed to transfer all or part of the testator's estate to trustees (who may be the executors) to hold subject to the trusts set out in the will;

"FATCA Agreement" means the Agreement between the Government of the Republic of Malta and the Government of the United States of America to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act, in accordance with the Schedule to the Exchange of Information (United States of America) (FATCA) Order; S.L. 123.156.

"FATCA Regulations" means regulations 23 to 34, inclusive of both regulations;

"group request" means a request for information on a group of taxpayers, without naming such persons individually: provided that such request does not constitute a fishing expedition, that is to say the request is not in the form of a speculative request that has no apparent nexus to an open inquiry or investigation;

"joint audit" means an administrative enquiry jointly conducted by the competent authority in Malta and the competent authority of another one (1) or more Member States, and which is linked to one (1) or more persons of common or complementary interest to the competent authorities of those Member States;

"partnership" means any kind of partnership that is not a company;

"public collective investment scheme" means any collective investment scheme provided the units, shares or other interests in the scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the scheme can be readily purchased, sold or redeemed "by the public" if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;

"publicly traded company" means any company whose principal class of shares is listed on a stock exchange in Malta provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold "by the public" if the purchase or sale of

shares is not implicitly or explicitly restricted to a limited group of investors. For the purpose of this definition "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;

"requesting authority" means the competent authority of a jurisdiction with which Malta has an arrangement that is in place;

Cap. 386.

"share warrants" means a warrant to bearer referred to in article 121 of the Companies Act;

"tax" shall have the meaning found in the relevant arrangement that is in place with another jurisdiction.

Aim of these
regulations.
Substituted by:
L.N. 384 of 2015.

3. These regulations shall apply in order to ensure the effective cooperation with other jurisdictions on tax matters where arrangements that enable such cooperation are in place and shall be interpreted accordingly. Such cooperation shall include the exchange of information relating to a group request.

Availability of
ownership
information.
Amended by:
L.N. 472 of 2012;
L.N. 344 of 2017;
L.N. 213 of 2021.

4. (1) Entities shall keep updated information that identifies their owners and the level and type of their respective ownership stakes in such entities, including information on legal and beneficial owners. Such information is to be updated and documented not later than fourteen days from the date that the entity was notified or from the date the entity becomes aware of there being a new owner or of any change relating to existing owners. For the purposes of these regulations, "owners" include -

- (a) in the case of a company, partnership and other any other body of persons (other than a foundation), the legal owners and the beneficial owners; and
- (b) in the case of a foundation, the founders, the administrators, the members of the supervisory council, and the beneficiaries (where applicable), as well as any other person with the authority to represent the foundation;
- (c) for the purposes of paragraph (a) and (b) above, the term 'beneficiaries' shall mean both beneficiaries as identified in terms of article 2(1) of the Trusts and Trustees Act and beneficial owners as defined in regulation 2.

Cap. 331.

(2) The provisions of sub-regulation (1) do not apply to -

- (a) a publicly-traded company: provided that in the case of a publicly-traded company that is either resident in Malta or created under Maltese law, the required ownership information in relation to such companies is to be kept either by the company itself or by a central securities depository resident in Malta. For the purposes of this paragraph, "central securities depository" has the meaning found in article 2 of the Financial Markets Act; and

Cap. 345.

- (b) public collective investment schemes.

(3) For the purposes of these regulations -

- (a) where in any instance within an ownership chain, the

legal owner acts on behalf of any other person as a trustee, fiduciary (including nominee) or under a similar arrangement, such a legal owner shall have the obligation to keep the information that identifies such other person;

- (b) a company that has issued share warrants in accordance with article 121 of the Companies Act shall inform the competent authority in Malta of such issue not later than one month from the date of publication of these regulations in the case of share warrants issued before the said date, or fourteen days after the date of any issue made after the said date. Such companies shall also keep a register with the information that identifies the owners of such share warrants. Notwithstanding any other provision in any Act, a person in possession of a share warrant shall not be entitled to any rights in relation to such share warrant unless the relevant company has been provided with the information that identifies such person. Furthermore, notwithstanding any other provision in any Act, a transfer of such share warrant shall not be valid at law if the relevant company has not been informed within fourteen days of the said transfer of the information that identifies the new owner: Cap. 386.

Provided that the provisions of the preceding paragraph shall have effect up to 27 December 2017.

- (4) (a) Trustees that are established under the laws of Malta or that are resident in Malta shall take all reasonable measures to ensure that updated information is kept that identifies the settlor, other trustees, the protector (if any) and beneficiaries of express trusts (whether the proper law of such trusts is that of Malta or elsewhere).
- (b) Persons that are established under the laws of Malta or that are resident in Malta and that are entrusted with the administration of express trusts (whether the proper law of such trusts is that of Malta or elsewhere) shall have the same obligations as those found under paragraph (a).
- (5) Information that identifies a person includes -
- (a) in the case of an individual:
- (i) the full name and surname;
 - (ii) the passport number, ID number or tax identification number;
 - (iii) date and place of birth if no number referred to in sub-paragraph (ii) is available; and
 - (iv) address of residence;
- (b) in the case of persons that are not individuals:
- (i) name;
 - (ii) date of inception or incorporation; and

(iii) registered address.

(6) Information that identifies a person is to be kept in Malta. However, such records may be kept in a jurisdiction with which Malta has an arrangement, that would permit exchange of ownership information.

Availability of
accounting
information.

(7) Individuals (engaged in a trade, business, profession or vocation), entities and trustees are to ensure that reliable books of account are kept that -

- (a) correctly explain all transactions of such individual, entity or trust;
- (b) enable the financial position of such individual, entity or trust to be determined with reasonable accuracy at any time; and
- (c) allow financial statements to be prepared.

(8) Apart from the books of account referred to in sub-regulation (7) records to be kept shall further include underlying documentation, such as invoices, contracts, etc. and should reflect details of -

- (a) all sums of money received and expended and the matters in respect of which the receipt and expenditure takes place;
- (b) all sales and purchases and other transactions; and
- (c) the assets and liabilities of the relevant individual, entity or trust.

Cap. 386.
Cap. 442.

(9) In the case of a company that is considered to be an entity for the purposes of these regulations, the financial statements are to be prepared and audited as required under the Companies Act or the Co-operatives Act, as the case may be.

(10) Accounting records are to be kept in Malta. However, such records may be kept in a jurisdiction with which Malta has an arrangement that would permit exchange of information of such records.

Availability of
banking
information.
Amended by:
L.N. 213 of 2021.

(11) Banks that are considered to be entities for the purposes of these regulations are to ensure that banking information is kept on all account-holders in relation to their banking activity in Malta. For the purposes of these regulations, "banking information" includes:

- (a) information that identifies the legal owners of the accounts;
- (b) information that identifies the beneficial owners of the accounts; and
- (c) all records pertaining to the accounts and to related financial transactional information.

(12) The information that is required to be kept in accordance with this regulation shall be kept in such a way that it may be submitted without difficulty to the Commissioner following a request made pursuant to the provisions of article 10A of the Income Tax Management Act. Where, following representations made by the requested person, the Commissioner is satisfied that for reasons that are beyond the control of such requested person, information cannot be submitted within the time limit specified in the original request made by the Commissioner to such requested person, the Commissioner shall consider allowing such other time limit as may be reasonable for the particular case. In such cases, the provisions of regulation 6(1) and (2) shall apply taking into consideration such other time limit that is determined by the Commissioner.

Prompt transmission of information.

Cap. 372.

(13) Subject to the provisions of article 19 of the Income Tax Management Act, entities, trustees and other persons that are required to keep information, records or documents under any of the provisions of this regulation shall keep such information, records and documents for a minimum period of five years from the end of the year in which the relevant transactions, acts or operations took place (including where the relevant entity or trust is liquidated or is no longer in existence). This requirement shall also apply to any person referred to in regulation 5(1) acting in a professional capacity in relation to any such information or records that he holds in the carrying on of his business.

Retention period.
Cap. 372.

4A. (1) The Commissioner may give notice in writing to any person to furnish him, within a reasonable time stated in such notice, not being less than twenty days, such information as may be necessary in order to verify that such person is complying with the obligations set out in these regulations. Such requests shall be sent to that person either by electronic means to a verified email address of that person or sent by post to the person's registered address. Where any of the information requested is not submitted to the Commissioner within the time limit specified in the notice, the person shall be liable to a penalty of not less than five hundred euro (€500) and not exceeding nineteen thousand, two hundred and fifty euro (€19,250):

Compliance monitoring.
Added by:
L.N. 213 of 2021.
Amended by:
L.N. 50 of 2022.

Provided that where the Commissioner is satisfied that the default in respect of which the penalties have been imposed were justifiable, the Commissioner may remit such penalties in whole or in part as he may think fit. In every case the Commissioner shall inform the said person in writing.

(2) The provisions of article 20 of the Income Tax Management Act shall apply *mutatis mutandis* to the powers of the Commissioner to verify that such person is complying with the obligations set out in these regulations.

Cap. 372.

5. (1) The provisions of article 10A of the Income Tax Management Act shall be interpreted to give the widest possible powers in order to obtain and provide information to competent authorities of jurisdictions with which Malta has an arrangement. Thus, irrespective of any legal obligation that may be imposed on a person to maintain secrecy of information, the said provisions shall

Access to information.
Cap. 372.
Amended by:
L.N. 344 of 2017;
L.N. 342 of 2019;
L.N. 18 of 2025;
L.N. 162 of 2026.

be construed to mean, *inter alia*, that the Commissioner has the power to obtain and provide information referred to in regulation 4 that is held by or is in the possession or control of person in Malta, including any -

- (a) bank and other financial institution;
- (b) insurance company;
- (c) person acting in an agency or fiduciary capacity including nominees and trustees;
- (d) lawyer, notary and other independent legal professional, real estate agent, accountant, auditor, tax advisor, company service provider, person licensed to carry on investment business, stockbroker;
- (e) company, collective investment scheme, partnership, foundation and any other body of persons;
- (f) stock exchange in Malta; and
- (g) regulatory authority or body in Malta:

Provided that no person may be requested to provide information which is the subject of attorney client privilege. For the purposes of this sub-regulation, "information which is the subject of attorney client privilege" means confidential communications between a client and a lawyer or other legal representative produced for the purposes of seeking or providing legal advice or for the purposes of use in existing or contemplated legal proceedings.

Cap. 372.

(2) Apart from the powers granted under article 10A of the Income Tax Management Act, the Commissioner may use any information-gathering power under the Income Tax Acts, including those under the provisions of article 20 of the Income Tax Management Act, to obtain the information requested by the competent authority of the other jurisdiction, notwithstanding that the said information may not be required for the purposes of the Income Tax Acts.

(3) The competent authority in Malta shall arrange for the carrying out of any administrative enquiries necessary to obtain the information requested by the requesting authority. The request may contain a reasoned request for an administrative enquiry. If the competent authority in Malta takes the view that no administrative enquiry is necessary, it shall immediately inform the requesting authority of the reasons thereof.

(4) In order to obtain the requested information or to conduct the administrative enquiry requested, the competent authority in Malta shall ensure that the same procedures as those that would have been used when acting on its own initiative (or at the request of another authority in Malta - where this is applicable) are followed.

(5) For the purposes of these regulations "administrative enquiry" means those controls, checks and other actions used by the Commissioner in the performance of his duties when ensuring that the Income Tax Acts have been properly applied.

(6) In order for the Commissioner to access information, notice shall be served on a person either personally or by being sent by registered post to the last known business or private address, or through electronic communication as prescribed through guidelines published on the website of the Commissioner for Revenue under the provisions of article 96(2) of the Income Tax Act.

Cap. 123.

(7) For the purposes of the implementation and enforcement of the laws giving effect to the EU Administrative Cooperation Directive and to ensure the functioning of the administrative cooperation it establishes, the Commissioner shall have access to the mechanisms, procedures, documents and information referred to in regulations 7 and 13 of the Prevention of Money Laundering and Funding of Terrorism Regulations, the Centralised Bank Account Register Regulations, the Companies Act (Register of Beneficial Owners) Regulations and the Trusts and Trustees Act (Register of Beneficial Owners) Regulations.

S.L. 373.01
S.L. 373.03.

S.L. 386.19

S.L. 331.10

6. (1) Where there is failure to comply with a request for information made by the Commissioner in relation to a request made by a requesting authority under the provisions of an arrangement, the requested person shall be liable to a penalty of:

Penalties.
Substituted by:
L.N. 342 of 2019.
Amended by:
L.N. 213 of 2021;
L.N. 50 of 2022;
L.N. 162 of 2026.

- (a) one thousand euro (€1,000) where the information has not been submitted within the time-limit specified within the Commissioner's request; and
- (b) fifty euro (€50) for every day during which the default existed:

Provided that the penalty under this paragraph shall not exceed in total nineteen thousand, two hundred and fifty euro (€19,250).

(2) Where the person fails to show that the information was kept or was properly updated, as required under these regulations, the person who had the duty to keep or update such information shall be liable to a penalty of nineteen thousand, two hundred and fifty euro (€19,250).

(3) Notwithstanding any action that may be taken in accordance with the provisions of sub-regulations (1) or (2) where -

- (a) failure to comply with a request made by the Commissioner persists for more than six months from the date of the original request; or
- (b) the requested party refuses to be served with the notice either personally or through registered mail as contemplated in regulation 5(6) and the requested party is the proper addressee of the request; or
- (c) the information submitted by the requested party is found to be incorrect in such a way that it is misleading, deceitful or false,

the requested party shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of not less than five thousand

euro (€5,000) and not more than thirty thousand euro (€30,000), or to imprisonment for a period of not exceeding two years, or to both such fine (*multa*) and imprisonment.

Cap. 372. (4) Where any person from whom the Commissioner has requested information in accordance with these regulations or article 10A of the Income Tax Management Act, discloses to the person concerned or to a third party the fact that information has been requested by the Commissioner or that information has been or may be transmitted to the Commissioner, such person shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding one hundred and fifteen thousand euro (€115,000) or to imprisonment for a term not exceeding two (2) years or to both such fine and imprisonment.

Rights and
safeguards.

7. (1) On receipt of a valid request from a requesting authority, the competent authority in Malta shall notify the person (or his authorised representative) concerning whom the request is made, that a request for information concerning him has been received. The competent authority in Malta shall not effect such notification where -

- (a) the requesting authority specifically requests that no such notification is made;
- (b) the competent authority in Malta determines that the request is of a highly urgent nature and that notification could delay the forwarding of information requested; or
- (c) the competent authority in Malta determines that such notification is reasonably expected to jeopardise the relevant investigation or audit being carried out in the relevant jurisdiction.

Any determination made by the competent authority in Malta under this sub-regulation shall not be questioned in any appeal.

(2) Notwithstanding any other provision in any law to the contrary, any person that complies with a request under these regulations shall not be treated as being in breach of any restriction upon the disclosure of information imposed by any law, contract or rules of professional conduct. Except as provided in regulation 6, no civil or criminal action shall be taken against any person that provides information in accordance with the provision of these regulations.

Competent
authority in Malta.

8. The competent authority in Malta shall be the Minister responsible for finance or his authorised representative. An authorised representative shall be the competent official that is identified as such and whose name and designation are published on the website of the Commissioner for Revenue.

Time limits.
Amended by:
L.N. 18 of 2025.

9. (1) The competent authority in Malta shall confirm receipt of a request for information not later than seven working days from the receipt of such a request.

(2) The competent authority in Malta shall, within one week of receipt of a request for information, notify the requesting authority of any deficiencies in the request and of the need for any additional

background information. In such a case, the time limits provided for in sub-regulation (3) shall start from the day after the competent authority in Malta receives such additional information.

(3) Unless otherwise agreed to between the two (2) relevant competent authorities, the competent authority in Malta shall provide the requesting authority with the requested information as soon as practicable, and not later than three (3) months from the date of receipt of the request:

Provided that where the competent authority in Malta is unable to respond to the request by the relevant time limit, it shall inform the requesting authority immediately and in any event within three (3) months of the receipt of the request, of the reasons for its failure to do so, and the date by which it considers it may be able to respond. The time limit shall not be longer than six (6) months from the date of receipt of the request:

Provided further that where the competent authority in Malta is already in possession of the requested information, the said information shall be transmitted within two (2) months of the date of receipt of the request:

Provided further that where the competent authority in Malta is unable to provide the requested information, an update of the situation shall be given every three (3) months until the matter is settled.

(4) *Deleted by Legal Notice 18 of 2025.*

(5) Where the competent authority in Malta is not in possession of the requested information and cannot respond to the request, it shall inform the requesting authority of the reasons thereof immediately and in any event within one month of receipt of the request.

10. (1) The competent authority in Malta shall provide the requesting authority with the requested information provided that the requesting authority has exhausted the usual sources of information (including all the legally available avenues available to it) which it could have used in the circumstances for obtaining the information requested without running the risk of jeopardising the achievement of its objectives.

Certain limitations.
Amended by:
L.N. 162 of 2026.

(2) The competent authority in Malta may decline to provide information where:

- (a) the requesting authority is unable, for legal reasons, to provide similar information;
- (b) it is not satisfied that the jurisdiction of the requesting authority has sufficiently adequate safeguards in place to ensure that the information obtained is treated as confidential and that such information may only be disclosed to persons or authorities as provided for in the relevant arrangement;
- (c) the provision of information would likely lead to the disclosure of a commercial, industrial or professional

secret or of a commercial process, or of information whose disclosure would be contrary to public policy.

Implementation of
Council Directive
2011/16/EU.

Added by:

L.N. 472 of 2012.

Amended by:

L.N. 408 of 2014;

L.N. 384 of 2015.

11. (1) (a) By means of regulations 11 to 22, the provisions of the EU Administrative Cooperation Directive shall have effect in relation to the Income Tax Acts.

(b) For the purposes of the EU Administrative Cooperation Directive, the competent authority in Malta shall waive all claims for the reimbursement of expenses incurred in applying EU Council Directive 2014/107/EU except, where appropriate, in respect of fees paid to experts.

(2) For the purposes of the EU Administrative Cooperation Directive -

"person" shall mean -

- (a) a natural person;
- (b) a legal person;
- (c) where Maltese legislation in force so provides, an association of persons recognised as having the capacity to perform legal acts but lacking the status of a legal person; or
- (d) any other legal arrangement of whatever nature and form, regardless of whether it has legal personality, owning or managing assets, which, including income derived therefrom, are subject to any of the taxes covered by the EU Administrative Cooperation Directive;

"tax" shall mean all taxes of any kind levied in Malta except for:

- (a) value added tax, customs duties and excise duties covered by other Union legislation on administrative cooperation between Member States;
- (b) compulsory social security contributions payable in Malta;
- (c) fees, such as for certificates and other documents issued by public authorities; and
- (d) dues of a contractual nature, such as consideration for public utilities.

(3) For the purposes of the EU Administrative Cooperation Directive, information shall, as far as possible, be provided by electronic means using the CCN network. The Commissioner is responsible for the development of systems that are necessary to enable such information to be exchanged using the CCN network and for ensuring the security of such systems. In this context -

- (a) "electronic means" means using electronic equipment for the processing, including digital compression, and storage of data, and employing wires, radio transmission, optical technologies or other electromagnetic means; and

- (b) "CCN network" means the common platform based on the common communication network developed by the European Union for all transmissions by electronic means between competent authorities in the area of customs and taxation.

(4) When the competent authority in an EU Member State forwards information to the competent authority in Malta and also requests feedback on such information, the competent authority in Malta shall, without prejudice to the rules on tax secrecy and data protection applicable in Malta, send feedback to the competent authority which provided the information as soon as possible and no later than three months after the outcome of the use of the requested information is known. Such feedback shall be given in line with the practical arrangements made by the EU Commission in accordance with the procedure referred to in Article 26(2) of the EU Administrative Cooperation Directive.

(5) The competent authority in Malta shall send feedback on the automatic exchange of information made pursuant to regulation 13 to the other EU Member States concerned once a year in accordance with practical arrangements agreed upon bilaterally with such EU Member States. Such practical arrangements may take any form that is provided for in the definition of the term "arrangement" in regulation 2.

12. (1) At the request of the competent authority of an EU Member State, the competent authority in Malta shall communicate to the requesting authority any information that is foreseeably relevant to the administration and enforcement of the domestic laws of that Member State concerning the taxes referred to in regulation 11(2) that the competent authority in Malta has in its possession or that it obtains as a result of administrative enquiries.

Exchange of
information on
request.
Added by:
L.N. 472 of 2012.
Amended by:
L.N. 408 of 2014;
L.N. 18 of 2025.

(2) The provisions of regulations 1 to 10 shall apply for the purposes of exchanging information referred to in sub-regulation (1).

(3) When specifically requested by a requesting authority of an EU Member State, the competent authority in Malta shall communicate original documents provided that this is not contrary to the provisions in force in Malta.

(4) (a) For the purposes of a request referred to in sub-regulation (1), the requested information is foreseeably relevant where, at the time that the request is made, the requesting authority considers that, in accordance with its national law, there is a reasonable possibility that the requested information shall be relevant to the tax affairs of one (1) or several taxpayers, whether identified by name or otherwise, and be justified for the purposes of the investigation.

Foreseeable
relevance.

(b) With the aim to demonstrate the foreseeable relevance of the requested information, the requesting authority shall provide at least the following information to the competent authority in Malta:

(i) the tax purpose for which the information is sought; and

(ii) a specification of the information required for the administration or enforcement of its national law.

(c) Where a request referred to in sub-regulation (1) relates to a group of taxpayers who cannot be identified individually, the requesting authority shall provide at least the following information to the competent authority in Malta:

(i) a detailed description of the group;

(ii) an explanation of the applicable law and of the facts based on which there is reason to believe that the taxpayers in the group have not complied with the applicable law;

(iii) an explanation on how the requested information would assist in determining compliance by the taxpayers in the group; and

(iv) where relevant, the facts and circumstances related to the involvement of a third party that actively contributed to the potential non-compliance of the taxpayers in the group with the applicable law.

Automatic exchange of information.
Added by:
L.N. 472 of 2012.
Amended by:
L.N. 384 of 2015.
Substituted by:
L.N. 400 of 2016.
Amended by:
L.N. 344 of 2017;
L.N. 342 of 2019;
L.N. 315 of 2020;
L.N. 18 of 2025;
L.N. 162 of 2026.

13. (1) The competent authority in Malta shall, by automatic exchange, communicate to the competent authority of any other EU Member State all information that is available concerning residents of such other EU Member State, on the following specific categories of income and capital:

- (a) income from employment;
- (b) director's fees;
- (c) life insurance products not covered by other Union legal instruments on exchange of information and other similar measures;
- (d) pensions;
- (e) ownership of and income from immovable property;
- (f) royalties;
- (g) non-custodial dividend income other than income from dividends exempt from corporate income tax in accordance with Articles 4, 5 or 6 of Council Directive 2011/96/EU of 30 November 2011 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States, as transposed through the European Union Directives Regulations.

(2) Reporting Malta Financial Institutions shall perform the reporting and due diligence rules included in Annexes I and II. In accordance with such applicable reporting and due diligence rules, the competent authority in Malta shall, by automatic exchange, communicate to the competent authority of any other Member State, the following information regarding taxable periods as from 1 January 2016 concerning a Reportable Account of residents in such other Member State:

Automatic exchange of financial account information.

- (a) the name, address, TINs and date and place of birth, in the case of an individual, of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of due diligence rules consistent with the Annexes I and II, is identified as having one (1) or more Controlling Persons that are Reportable Persons, the name, address, and TINs of the Entity and the name, address, TINs and date and place of birth of each Reportable Person;
- (b) the account number, or functional equivalent in the absence of an account number;
- (c) the name and identifying number, if any, of the Reporting Financial Institution;
- (d) the account balance or value including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value, as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;
- (e) in the case of any Custodial Account:
 - (i) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account, or with respect to the account, during the calendar year or other appropriate reporting period; and
 - (ii) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;
- (f) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period;
- (g) in the case of any account not described in paragraphs (e) or (f), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period

with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period;

- (h) whether a valid self-certification has been provided for each Account Holder;
- (i) the roles by virtue of which each Reportable Person that is a Controlling Person of an Entity Account Holder is a Controlling Person of the Entity and whether a valid self-certification has been provided for each such Reportable Person;
- (j) the type of account, whether the account is a Pre-existing Account or a New Account and whether the account is a joint account, including the number of joint Account Holders; and
- (k) in the case of any Equity Interest held in an Investment Entity that is a legal arrangement, the roles by virtue of which the Reportable Person is an Equity Interest holder:

Provided that for the purposes of exchange of information under this sub-regulation, unless otherwise foreseen in this sub-regulation or in the Annexes, the amount and characterisation of payments made with respect to Reportable Accounts shall be determined in accordance with Maltese legislation:

Provided further, the first paragraph of this sub-regulation shall prevail over paragraph (c) of sub-regulation (1) or any other Union legal instrument, to the extent that the exchange of information at issue would fall within the scope of paragraph (c) of sub-regulation (1) above or of any other Union legal instrument.

Automatic exchange of information relating to advance cross-border rulings or advance pricing arrangements.

- (3) (a) The competent authority in Malta, where an advance cross-border ruling or an advance pricing arrangement was issued, amended or renewed after 31 December 2016 shall, by automatic exchange, communicate information thereon to the competent authorities of all other EU Member States as well as to the European Commission, with the limitation of cases set out in the proviso to paragraph (e).
- (b) The competent authority in Malta shall also communicate information to the competent authorities of all other EU Member States as well as to the European Commission, with the limitation of cases set out in the proviso to paragraph (e), on advance cross-border rulings and advance pricing arrangements issued, amended or renewed within a period beginning five years before 1 January 2017:

Provided that if advance cross-border rulings and advance pricing arrangements are issued, amended or

renewed between 1 January 2012 and 31 December 2013, such communication shall take place under the condition that they were still valid on 1 January 2014:

Provided further that if advance cross-border rulings and advance pricing arrangements are issued, amended or renewed between 1 January 2014 and 31 December 2016, such communication shall take place irrespective of whether they are still valid:

Provided also that information on advance cross-border rulings and advance pricing arrangements issued, amended or renewed before 1 April 2016 to a particular person or a group of persons, excluding those conducting mainly financial or investment activities, with a group-wide annual net turnover, as defined in point (5) of Article 2 of Directive 2013/34/EU of the European Parliament and of the Council of less than forty million euro (€40,000,000), or the equivalent amount in any other currency, in the fiscal year preceding the date of issuance, amendment or renewal of those cross-border rulings and advance pricing arrangements shall be excluded from the communication referred to in this sub-regulation.

- (c) Bilateral or multilateral advance pricing arrangements with third countries shall be excluded from the scope of automatic exchange of information under this sub-regulation where the arrangements under which the advance pricing arrangement was negotiated does not permit its disclosure to third parties. Such bilateral or multilateral advance pricing arrangements will be exchanged under regulation 14, where the arrangements under which the advance pricing arrangement was negotiated permits its disclosure, and the competent authority of the third country gives permission for the information to be disclosed:

Provided that where the bilateral or multilateral advance pricing arrangements would be excluded from the automatic exchange of information under the first sentence of this paragraph, the information identified in paragraph (e) referred to in the request that lead to issuance of such a bilateral or multilateral advance pricing arrangement shall instead be exchanged under paragraphs (a) and (b).

- (d) (i) paragraphs (a) and (b) shall not apply in the case where an advance cross-border ruling exclusively concerns and involves the tax matters of one (1) or more natural persons:

Provided that where such an advance cross-border ruling was issued, amended or renewed after 1 January 2026 and where:

- (A) the amount of the transaction or series of transactions of the advance cross-border ruling exceeds one million and five hundred thousand

- euro (€1,500,000) or the equivalent amount in any other currency if such amount is referred to in the advance cross-border ruling; or
- (B) the advance cross-border ruling determines whether a person is resident for tax purposes in Malta or otherwise;
 - (ii) for the purposes of paragraph (A) of the proviso to sub-paragraph (i) and without prejudice to the amount referred to in the advance cross-border ruling, in a series of transactions regarding different goods, services or assets the amount of the advance cross-border ruling shall comprise the total underlying value. The amounts shall not be aggregated if the same goods, services or assets are transacted several times;
 - (iii) notwithstanding the provisions of paragraph (B) of the proviso to sub-paragraph (i), the exchange of information on advance cross-border rulings concerning natural persons shall not include such rulings on taxation at source with regard to non-residents' income from employment, director's fees or pensions.
- (e) The information to be communicated by the competent authority in Malta pursuant to paragraphs (a) and (b) shall include the following:
- (i) the identification of the person, other than a natural person, except where the advance-cross border ruling concerns a natural person and shall be communicated pursuant to paragraphs (a) and (d), and where appropriate the group of persons to which it belongs;
 - (ii) a summary of the advance cross-border ruling or advance pricing arrangement, including a description of the relevant business activities or transactions or series of transactions and any other information that could assist the competent authority in assessing a potential tax risk, without leading to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information whose disclosure would be contrary to public policy;
 - (iii) the dates of issuance, amendment or renewal of the advance cross-border ruling or advance pricing arrangement;
 - (iv) the start date of the period of validity of the advance cross-border ruling or advance pricing arrangement, if specified;
 - (v) the end date of the period of validity of the advance cross-border ruling or advance pricing arrangement, if specified;
 - (vi) the type of the advance cross-border ruling or

advance pricing arrangement;

- (vii) the amount of the transaction or series of transactions of the advance cross-border ruling or advance pricing arrangement if such amount is referred to in the advance cross-border ruling or advance pricing arrangement;
- (viii) the description of the set of criteria used for the determination of the transfer pricing or the transfer price itself in the case of an advance pricing arrangement;
- (ix) the identification of the method used for determination of the transfer pricing or the transfer price itself in the case of an advance pricing arrangement;
- (x) the identification of the other EU Member States, if any, likely to be concerned by the advance cross-border ruling or advance pricing arrangement;
- (xi) the identification of any person, other than a natural person, except where the advance-cross border ruling concerns a natural person and shall be communicated in accordance with paragraphs (a) and (d), in the other EU Member States, if any, likely to be affected by the advance cross-border ruling or advance pricing arrangement;
- (xii) the indication whether the information communicated is based upon the advance cross-border ruling or advance pricing arrangement itself or upon the request referred to in paragraph (c):

Provided that information as defined under subparagraphs (i), (ii), (viii) and (xi) shall not be communicated to the European Commission.

- (f) The competent authority in Malta shall confirm immediately, if possible by electronic means, receipt of the information to the competent authority of the other EU Member State which provided the information without delay and in any event no later than seven working days.
- (g) The competent authority in Malta shall in accordance with regulation 12, provide additional information, including the full text of an advance cross-border ruling or an advance pricing arrangement.
- (4) (a) The Ultimate Parent Entity of an MNE Group that is resident for tax purposes in Malta, or any other Reporting Entity in accordance with Section II of Annex III, shall file with the Commissioner for Revenue a country-by-country report with respect to its Reporting Fiscal Year in accordance with Section II of Annex III.
- (b) The competent authority in Malta shall, by means of

Country-by-country reporting.

automatic exchange, communicate the report received pursuant to paragraph (a) to any other EU Member State in which, on the basis of the information in the country-by-country report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes, or are subject to tax with respect to the business carried out through a permanent establishment within the time limit laid down in sub-regulation (8)(d). Such information shall be exchanged by electronic means using the CCN network.

- (c) The country-by-country report shall contain the following information with respect to the MNE Group:
- (i) aggregate information relating to the amount of revenue, profit (loss) before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees, and tangible assets other than cash or cash equivalents with regard to each jurisdiction in which the MNE Group operates;
 - (ii) an identification of each Constituent Entity of the MNE Group setting out the jurisdiction of tax residence of such Constituent Entity, and where different from such jurisdiction of tax residence, the jurisdiction under the laws of which such Constituent Entity is organised, and the nature of the main business activity or activities of such Constituent Entity.

(5) For the purposes of this regulation, any capitalised term shall have the same meaning as assigned to it in the Annexes.

Reporting obligations.
*Substituted by:
L.N.344 of 2017.*

(6) For the purposes of regulation 13(4), a Maltese Constituent Entity shall annually report the country-by-country report as specified in Tables 1, 2 and 3 of Section III of Annex III in such manner as set out in Annex III and within twelve months of the last day of the fiscal year of the MNE group.

Automatic exchange of information on reportable cross-border arrangements.
*Substituted by:
L.N. 342 of 2019.
Amended by:
L.N. 315 of 2020.*

(7) (a) Intermediaries shall file information that is within their knowledge, possession or control on reportable cross-border arrangements with the Commissioner within thirty (30) days beginning:

- (i) on the day after the reportable cross-border arrangement is made available for implementation; or
- (ii) on the day after the reportable cross-border arrangement is ready for implementation; or
- (iii) when the first step in the implementation of the reportable cross-border arrangement has been made,

whichever occurs first:

Provided that intermediaries referred to in paragraph (b) of the definition "intermediary" shall also be required to file information within thirty (30) days beginning on the day after they provided, directly or by means of other persons, aid, assistance or advice.

- (b) In the case of marketable arrangements, a periodic report shall be made by the intermediary every three (3) months, providing an update which contains new reportable information as referred to in sub-paragraphs (i), (iv), (vii) and (viii) of paragraph (o) that has become available since the last report was filed.
- (c) An intermediary is liable to file information on reportable cross-border arrangements with the Commissioner for Revenue in the following instances, taken in the following order:
 - (i) the intermediary is resident in Malta for tax purposes;
 - (ii) the intermediary is not resident for tax purposes in any EU Member State (including Malta) but has a permanent establishment in Malta through which the services with respect to the arrangement are provided;
 - (iii) the intermediary is incorporated in Malta or is governed by the laws of Malta and the provisions of sub-paragraphs (i) and (ii) do not apply;
 - (iv) the intermediary is registered with a professional association related to legal, taxation or consultancy services that is established in Malta and sub-paragraphs (i), (ii) and (iii) do not apply.
- (d) Where information is to be filed with the Commissioner and the same information is to be filed with any other competent authority of an EU Member State, the intermediary shall be exempt from filing the information in Malta if it has proof that the same information has been filed in another EU Member State:

Provided that the proof may be in such form as the Commissioner may determine.

- (e) An intermediary whose profession is referred to in article 3 of the Professional Secrecy Act has the right to a waiver from filing information on a reportable cross-border arrangement where the reporting of such information would constitute an offence under article 257 of the Criminal Code. In such circumstances, the intermediary must notify, without delay and in any event no later than seven working days from the relevant date established by paragraph (a), any other intermediary or, if there is no such intermediary, the

Cap. 377.

Cap. 9

relevant taxpayer of their reporting obligations under sub-regulation (6):

Provided that intermediaries may only be entitled to a waiver under this paragraph to the extent that they operate within the limits of the relevant national laws that define their professions:

Provided further that where an intermediary has waived such reporting obligation, the intermediary shall provide an annual update to the Commissioner, consisting of a list of the reportable cross-border arrangements where the reporting obligation has been waived on to another intermediary or the relevant taxpayer. Such information shall be in such form as the Commissioner may determine:

Cap. 377.

Provided further that an intermediary whose profession in accordance with the Professional Secrecy Act is that of an advocate, notary and legal procurator and such intermediary has waived such reporting obligation, the intermediary shall notify, without delay and in any event not later than seven (7) working days from the relevant date established by paragraph (a), his client, if such client is an intermediary or, where there is no such intermediary, such client is the relevant taxpayer, of that client's reporting obligations under sub-regulation (6). For the purposes of this paragraph, the term "client" means any intermediary or relevant taxpayer, who receives services, including assistance, advice, counsel or guidance, from a legal professional as defined in accordance with Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained, in relation to a reportable cross-border arrangement:

Provided further that with effect from 1st January 2027, an intermediary shall only have the right to a waiver from filing information on a reportable cross-border arrangement in terms of this sub-regulation if such intermediary is a legal professional as defined in terms of Directive 98/5/EC of the European Parliament and of the Council.

- (f) Where there is no intermediary or the intermediary notifies the relevant taxpayer or another intermediary of the application of a waiver under paragraph (e), the obligation to file information on a reportable cross-border arrangement shall lie with the other notified intermediary, or, if there is no such intermediary, with the relevant taxpayer.
- (g) The relevant taxpayer with whom the reporting obligation lies shall file the information with the Commissioner within thirty (30) days, beginning on:

- (i) the day after the reportable cross-border arrangement is made available for implementation to that relevant taxpayer, or
- (ii) when it is ready for implementation by the relevant taxpayer, or
- (iii) when the first step in its implementation has been made in relation to the relevant taxpayer,

whichever occurs first:

- (h) A relevant taxpayer has an obligation to file information on the reportable cross-border arrangement with the Commissioner for Revenue, in the following instances, taken in the following order:
 - (i) the relevant taxpayer is resident in Malta for tax purposes;
 - (ii) the relevant taxpayer is not resident for tax purposes in any EU Member State (including Malta) but has a permanent establishment in Malta benefiting from the arrangement;
 - (iii) the relevant taxpayer receives income or generates profits in Malta, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any EU Member State and the provisions of sub-paragraphs (i) and (ii) do not apply;
 - (iv) the relevant taxpayer carries on an activity in Malta, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any other EU Member State and sub-paragraphs (i), (ii) and (iii) do not apply.
- (i) Where, pursuant to paragraph (g), there is a multiple reporting obligation, the relevant taxpayer shall be exempt from filing the information if it has proof that the same information has been filed in another EU Member State:

Provided that the proof may be in such form as the Commissioner may determine.
- (j) Where there is more than one intermediary, the obligation to file information on the reportable cross-border arrangement shall lie with all intermediaries involved in the same reportable cross-border arrangement. An intermediary shall be exempt from filing the information only to the extent that it has proof that the same information referred to in paragraph (o) has already been filed by another intermediary:

Provided that the proof may be in such form as the Commissioner may determine.
- (k) (i) Where the reporting obligation lies with the relevant taxpayer and where there is more than one relevant

taxpayer, the relevant taxpayer that is to file information in accordance with paragraph (f) shall be the one that features first in the list below:

(A) the relevant taxpayer that agreed the reportable cross-border arrangement with the intermediary;

(B) the relevant taxpayer that manages the implementation of the arrangement.

(ii) Any relevant taxpayer shall only be exempt from filing the information to the extent that it has proof that the same information referred to in paragraph (o) has already been filed by another relevant taxpayer:

Provided that the proof may be in such form as the Commissioner may determine.

(l) A relevant taxpayer shall file information as the Commissioner may determine, about the use of the arrangement to the tax administration in each of the years for which they use it.

(m) Intermediaries and relevant taxpayers shall file information on reportable cross-border arrangements the first step of which was implemented between 25th June 2018 and 30th June 2020. Intermediaries and relevant taxpayers, as appropriate, shall file information on those reportable cross-border arrangements by 28th February 2021.

(n) The competent authority in Malta shall, by means of an automatic exchange, communicate the information specified in paragraph (o) to the competent authorities of all other EU Member States.

(o) The information to be communicated by the competent authority in Malta pursuant to paragraph (n) shall contain the following, as applicable:

(i) the identification of intermediaries, other than intermediaries exempt from the reporting obligation in accordance with paragraph (e), and relevant taxpayers, including their name, date and place of birth, in the case of an individual, residence for tax purposes, TIN and, where appropriate, the persons that are associated enterprises to the relevant taxpayer;

(ii) details of the hallmarks set out in Annex IV that make the cross-border arrangement reportable;

(iii) a summary of the content of the reportable cross-border arrangement, including a reference to the name by which it is commonly known, if any, and a description of the relevant arrangements and any

other information which may assist the receiving competent authority in assessing a potential tax risk, without leading to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information the disclosure of which would be contrary to public policy;

- (iv) the date on which the first step in implementing the reportable cross-border arrangement has been made or will be made;
- (v) details of the national provisions that form the basis of the reportable cross-border arrangement;
- (vi) the value of the reportable cross-border arrangement;
- (vii) the identification of the EU Member State of the relevant taxpayer(s) and any other EU Member States which are likely to be concerned by the reportable cross-border arrangement;
- (viii) the identification of any other person in an EU Member State likely to be affected by the reportable cross-border arrangement, indicating to which EU Member States such person is linked:

Provided that information as defined under subparagraphs (i), (iii) and (viii) shall not be communicated to the European Commission.

- (p) The fact that the Commissioner does not trigger an enquiry in relation to a reportable cross-border arrangement shall not in any way affect any of the powers of the Commissioner under the provisions of the Income Tax Management Act

Cap. 372.

(8) The communication of information shall take place as follows:

- (a) for the categories laid down in sub-regulation (1), at least once a year, within six months following the end of the year immediately preceding the year of assessment during which the information became available;
- (b) for the information stipulated in sub-regulation (2), annually, within nine (9) months following the end of the year of assessment during which the information became available:

Provided that the competent authority in Malta shall communicate the information referred to in paragraphs (h) to (k) regarding taxable periods as from 1st January 2026;

- (c) for the information laid down in sub-regulation (3):
 - (i) within three months following the end of the half of the calendar year during which the advance cross-border rulings or advance pricing

arrangements have been issued, amended or renewed, in respect of the information exchanged pursuant to sub-regulation (3)(a):

Provided that with effect from 1st January 2023, the communication of information shall take place without delay after the advance cross-border rulings or advance pricing arrangements have been issued, amended or renewed and at the latest three (3) months following the end of the half of the calendar year during which the advance cross-border rulings or advance pricing arrangements were issued, amended or renewed;

- (ii) before 1 January 2018 in respect of the information exchanged pursuant to sub-regulation (3)(b).
- (d) for the information laid down in sub-regulation (4), annually, within fifteen months of the last day of the fiscal year of the MNE Group to which the country-by-country report relates. The first country-by-country report shall be communicated for the fiscal year of the MNE Group commencing on or after 1 January 2016, which shall take place within eighteen months after the last day of that fiscal year.
- (e) for the information laid down in sub-regulation (7), within one (1) month of the end of the quarter in which the information was filed. The first information shall be communicated by 30th April 2021;
- (f) for the information laid down in sub-regulation (12), within two (2) months following the end of the Reportable Period to which the reporting requirements applicable to the Reporting Malta Platform Operator relate. The first information shall be communicated for Reportable Periods as from 1st January 2023;
- (g) for the information stipulated in sub-regulation (13), within nine (9) months following the end of the calendar year to which the reporting requirements applicable to Reporting Malta Crypto-Asset Service Providers relate. The first information shall be communicated for the relevant calendar year or other appropriate reporting period as from 1 January 2026.
- (9) For the purposes of this regulation:

"automatic exchange of information" means:

- (a) for the purposes of sub-regulations (1), (3), (4), (7), (12) and (13), the systematic communication of pre-defined information to another Member State, without a prior request, at pre-established regular intervals. For the purposes of sub-regulation (1), the reference to available information relates to information in the tax files of Malta, which is retrievable in accordance with the procedures for gathering and processing information in

Malta;

- (b) for the purposes of sub-regulation (2), the systematic communication of pre-defined information on residents in other EU Member States to the relevant EU Member State of residence, without prior request, at pre-established regular intervals;
- (c) for the purposes of the provisions of these regulations that implement the EU Administrative Cooperation Directive, other than sub-regulations (1), (2), (3), (4), (7), (12) and (13), the systematic communication of pre-defined information provided in paragraphs (a) and (b);

"advance cross-border ruling" means any agreement, communication, or any other instrument or action with similar effects, including one issued, amended or renewed in the context of an enquiry in terms of article 13 of the Income Tax Management Act, including a tax audit, and which meets the following conditions:

Cap. 372.

- (a) is issued, amended or renewed by the Commissioner, or on behalf of, the Government of Malta, irrespective of whether it is effectively used;
- (b) is issued, amended or renewed, to a particular person or a group of persons, and upon which that person or a group of persons is entitled to rely;
- (c) concerns the interpretation or application of a legal or administrative provision concerning the administration or enforcement of Maltese law relating to taxes;
- (d) relates to a cross-border transaction or to the question of whether or not activities carried on by a person in another jurisdiction create a permanent establishment or to the question of whether or not a natural person is resident for tax purposes in the Member State issuing the ruling; and
- (e) is made in advance of the transactions or of the activities in another jurisdiction potentially creating a permanent establishment or in advance of the filing of a tax return covering the period in which the transaction or series of transactions or activities took place.

For the purpose of this definition:

- (i) a cross-border transaction may involve, but is not restricted to, the making of investments, the provision of goods, services, finance or the use of tangible or intangible assets and does not have to directly involve the person receiving the advance cross-border ruling;
- (ii) "cross-border transaction" means a transaction or series of transactions where:
 - (A) not all of the parties to the transaction or series of transactions are resident for tax purposes in Malta;

- (B) any of the parties to the transaction or series of transactions is simultaneously resident for tax purposes in more than one jurisdiction;
- (C) one of the parties to the transaction or series of transactions carries on business in another jurisdiction through a permanent establishment and the transaction or series of transactions forms part or the whole of the business of the permanent establishment. A cross-border transaction or series of cross-border transactions shall also include arrangements made by a person in respect of business activities in another jurisdiction which that person carries on through a permanent establishment; or
- (D) such transactions or series of transactions have a cross border impact.

Cap. 372.

"advance pricing arrangement" means any agreement, communication or any other instrument or action with similar effects, including one issued, amended or renewed in the context of an enquiry in terms of article 13 of the Income Tax Management Act, including a tax audit, and which meets the following conditions:

- (a) is issued, amended or renewed by the Commissioner, or on behalf of, the Government of Malta or more EU Member States irrespective of whether it is effectively used;
- (b) is issued, amended or renewed, to a particular person or a group of persons and upon which that person or a group of persons is entitled to rely; and
- (c) determines in advance of cross-border transactions between associated enterprises, an appropriate set of criteria for the determination of the transfer pricing for those transactions or determines the attribution of profits to a permanent establishment.

For the purpose of this definition:

- (i) enterprises are associated enterprises where one enterprise participates directly or indirectly in the management, control or capital of another enterprise or the same persons participate directly or indirectly in the management, control or capital of the enterprises;
- (ii) transfer prices are the prices at which an enterprise transfers physical goods and intangible property or provides services to associated enterprises, and "transfer pricing" is to be construed accordingly;
- (iii) "cross-border transaction" means a transaction

or series of transactions involving associated enterprises which are not all resident for tax purposes in the territory of a single jurisdiction or a transaction or series of transactions which have a cross border impact, and "enterprise" means any form of conducting business.

"arrangement" shall also include a series of arrangements. An arrangement may comprise more than one step or part;

"cross-border arrangement" means an arrangement concerning either more than one EU Member State or an EU Member State and a third country where at least one of the following conditions is met:

- (a) not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- (b) one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;
- (c) one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment;
- (d) one or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction;
- (e) such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership;

"reportable cross-border arrangement" means any cross-border arrangement that contains at least one of the hallmarks set out in Annex IV;

"hallmark" means a characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance, as listed in Annex IV;

"intermediary" means any person:

- (a) that designs, markets, organises or makes available for implementation or manages the implementation of a reportable cross-border arrangement;
- (b) that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of a reportable cross-border arrangement;

Provided that any person shall have the right to provide evidence that such person did not know and could not reasonably be expected to know that that person was involved in a reportable cross-border arrangement. For this purpose, that person may refer to all relevant facts and circumstances as well as available information and their relevant expertise and understanding.

In addition to the above, in order to be an intermediary, a person shall meet at least one of the following additional conditions:

- (a) be resident for tax purposes in an EU Member State;
- (b) have a permanent establishment in an EU Member State through which the services with respect to the arrangement are provided;
- (c) be incorporated in, or governed by the laws of an EU Member State;
- (d) be registered with a professional association related to legal, taxation or consultancy services in an EU Member State.

"relevant taxpayer" means any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement.

For the purposes of sub-regulation (7), "associated enterprise" means a person who is related to another person in at least one of the following ways:

- (a) a person participates in the management of another person by being in a position to exercise a significant influence over the other person;
- (b) a person participates in the control of another person through a holding that exceeds 25% of the voting rights;
- (c) a person participates in the capital of another person through a right of ownership that, directly or indirectly, exceeds 25% of the capital;
- (d) a person is entitled to 25% or more of the profits of another person:

Provided that:

- (i) if more than one person participates, as referred to in paragraphs (a) to (d), in the management, control, capital or profits of the same person, all persons concerned shall be regarded as associated enterprises;
- (ii) if the same persons participate, as referred to in paragraphs (a) to (d), in the management, control, capital or profits of more than one person, all persons concerned shall be regarded as associated enterprises;

- (iii) for the purposes of this definition, a person who acts together with another person in respect of the voting rights or capital ownership of an entity shall be treated as holding a participation in all of the voting rights or capital ownership of that entity that are held by the other person;
- (iv) in indirect participations, the fulfilment of requirements under paragraph (c) shall be determined by multiplying the rates of holding through the successive tiers. A person holding more than 50% of the voting rights shall be deemed to hold 100%;
- (v) an individual, his or her spouse and his or her lineal ascendants or descendants shall be treated as a single person;

"marketable arrangement" means a cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customised;

"bespoke arrangement" means any cross-border arrangement that is not a marketable arrangement;

"non-custodial dividend income" means dividends or other income treated as dividends in the payer's Member State which are paid or credited to an account other than a Custodial Account as defined in sub-paragraph (3) of paragraph C of Section VIII, of Annex I;

"life insurance products not covered by other Union legal instruments on exchange of information and other similar measures" means Insurance Contracts, other than Cash Value Insurance Contracts subject to reporting under Section I of Annex I, where benefits under the contracts are payable on the death of a policy holder;

"distributed ledger address" means distributed ledger address referred to in Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937;

(10) The coming into effect of the above provisions shall be as follows:

- (a) the provisions of sub-regulation (1) and (7)(a) shall be on 1 January 2015:
Provided that the provisions of sub-regulation (1)(f) shall be deemed to have come into force on 1 January 2024;
- (b) the provisions of sub-regulation (2) and (7)(b) shall be on 1 January 2016;
- (c) the provisions of sub-regulation (3) and (7)(c) shall be on 1 January 2017;
- (d) the provisions of sub-regulation (4) and (7)(d) shall be on 5 June 2017;

- (e) the provisions of sub-regulations (7) and (8)(e) shall be on 1 July 2020;
- (f) the provisions of sub-regulations (8)(f) and (12) shall be deemed to have come into force on 1st January 2023;
- (g) the provisions of sub-regulations (2)(h) to (k) and (13) shall be deemed to have come into force on 1 January 2026.

Statistics on
automatic
exchange of
information.

(11) The competent authority in Malta shall provide the Commission, on an annual basis, with statistics on the volume of automatic exchanges in accordance with this regulation and, to the extent possible, with information on the administrative and other relevant costs and benefits relating to exchanges that have taken place and any potential changes, for both tax administrations and third parties.

Automatic
exchange of
information
reported by
Platform
Operators.
*Substituted by:
L.N. 18 of 2025.*

(12) (a) A Reporting Malta Platform Operator shall apply the due diligence procedures and fulfil reporting requirements laid down in Sections II and III of Annex V.

(b) The competent authority in Malta shall, by means of automatic exchange, communicate the report received in accordance with paragraph (a) within the time limit laid down in sub-regulation (8)(f), to the competent authority of the Member State in which the Reportable Seller is resident as determined pursuant to paragraph D of Section II of Annex V and, where the Reportable Seller provides immovable property rental services, in any case to the competent authority of the Member State in which the immovable property is located.

(c) The information regarding each Reportable Seller to be communicated by the competent authority in Malta pursuant to paragraph (b) shall be the following:

(i) the name, the registered office address, the TIN and, where relevant, the identification number of the Reporting Malta Platform Operator, as well as the business name of the Platform in respect of which the Reporting Platform Operator is reporting;

(ii) the name and surname of the Reportable Seller who is an individual, and the legal name of the Reportable Seller that is an Entity;

(iii) the Primary Address;

(iv) any TIN of the Reportable Seller, including each Member State of issuance or, in the absence of a TIN, the place of birth of the Reportable Seller who is an individual;

(v) the business registration number of the

Reportable Seller that is an Entity;

(vi) the VAT identification number of the Reportable Seller, where available;

(vii) the date of birth of the Reportable Seller who is an individual;

(viii) the Financial Account Identifier to which the Consideration is paid or credited, insofar as it is available to the Reporting Malta Platform Operator, and unless the competent authority of the Member State where the Reportable Seller is resident within the meaning of paragraph D of Section II of Annex V has not notified the competent authorities of all other Member States that it does not intend to use the Financial Account Identifier for this purpose;

(ix) where different from the name of the Reportable Seller, in addition to the Financial Account Identifier, the name of the holder of the financial account to which the Consideration is paid or credited, to the extent available to the Reporting Malta Platform Operator, as well as any other financial identification information available to the Reporting Malta Platform Operator with respect to such account holder;

(x) each Member State in which the Reportable Seller is resident determined pursuant to paragraph D of Section II of Annex V;

(xi) the total Consideration paid or credited during each quarter of the Reportable Period and the number of Relevant Activities in respect of which it was paid or credited; and

(xii) any fees, commissions or taxes withheld or charged by the Reporting Malta Platform Operator during each quarter of the Reportable Period;

(xiii) the Identification Service identifier and the Member State of issuance, where the Reporting Platform Operator relies on direct confirmation of the identity and residence of the Seller through an Identification Service made available by a Member State or the Union to ascertain the identity and tax residence of the Seller; in such cases it is not necessary to communicate to the Member State of issuance of the Identification Service identifier the information referred to in sub-paragraphs (iii) to (vii):

Provided that where the Reportable Seller provides immovable property rental services, the following additional information shall be communicated:

(i) the address of each Property Listing, determined on the basis of the procedures set out in paragraph E of Section II of Annex V and the respective land registration number or its equivalent under the national law of the Member State where it is located, where available;

(ii) the total Consideration paid or credited during each quarter of the Reportable Period and the number of Relevant Activities provided with respect to each Property Listing; and

(iii) where available, the number of days each Property Listing was rented during the Reportable Period and the type of each Property Listing.

(d) Where the information that is required to be reported in accordance with paragraph B of Section III of Annex V is incomplete or inaccurate, the Commissioner may request the reporting of complete and accurate information as is required in accordance with these regulations.

(e) A Reporting Malta Platform Operator within the meaning of sub-paragraph A(7) of Section 1 of Annex V shall register with the Commissioner in such manner and within such period of time that the Commissioner may require, by means of guidelines published on the website of the Commissioner for Revenue in accordance with the provisions of article 96(2) of the Income Tax Act:

Cap. 123.

Provided that a Reporting Malta Platform Operator within the meaning of sub-paragraph A(7)(e) of Section 1 of Annex V shall register once it commences its activity as a Platform Operator:

Provided further that a Reporting Malta Platform Operator within the meaning of part A(7)(e) of Section 1 of Annex V shall use service providers to fulfil its registration and reporting obligations specified in these regulations, which obligations shall remain the responsibility of the Reporting Malta Platform Operator:

Provided further that a Reporting Platform Operator within the meaning of sub-paragraph A(4)(b) of Section I of Annex V shall not be required to register with the Commissioner for the purpose of these regulations, if such Platform Operator is resident for tax purposes in a non-Union jurisdiction which has an Effective Qualifying Competent Authority Agreement, which already provides for the automatic exchange of equivalent information with Malta on

Reportable Sellers resident in Malta.

(f) The Reporting Platform Operator, having successfully registered with the Commissioner in Malta as its Member State of its single registration, shall notify the competent authority in Malta of any change in the information provided in accordance with sub-paragraph B(2) of Section III of Annex V.

(g) (i) Notwithstanding the administrative penalties stipulated in regulation 52, where a Reporting Platform Operator, after having registered with the Commissioner in Malta as its Member State of its single registration, fails to report the information required to be reported in accordance with sub-paragraph A(3) of Section III of Annex V following two (2) reminders by the Commissioner, it shall have its registration revoked. The registration shall be revoked not later than after the expiration of ninety (90) days but not prior to the expiration of thirty (30) days after the second reminder.

(ii) A Reporting Platform Operator whose registration has been revoked may be permitted to re-register with the Commissioner on the condition that it provides appropriate assurances as regards to its commitment to comply with the reporting requirements within the Union, including any outstanding unfulfilled reporting requirements.

(iii) The competent authority in Malta, as the competent authority of the Member State of single registration, shall remove a Reporting Platform Operator from the central register in the following cases:

(A) the Platform Operator notifies the Commissioner in Malta that it no longer carries out any activity as a Platform Operator;

(B) in the absence of a notification pursuant to point (A), there are grounds to assume that the activity of a Platform Operator has ceased;

(C) the Platform Operator no longer meets the conditions laid down in A(7)(c) of Section I of Annex V;

(D) the Commissioner in Malta revoked the registration pursuant to this paragraph.

(h) Where a Platform Operator is deemed to be an

Excluded Platform Operator, the competent authority in Malta shall notify the competent authorities of all other Member States accordingly, including any subsequent changes.

Cap. 372.

(i) Subject to the provisions of article 19 of the Income Tax Management Act, a Reporting Malta Platform Operator shall maintain and retain all the documentation and information it collects in the course of meeting its reporting and due diligence obligations specified in this sub-regulation and Sections II and III of Annex V for a minimum period of five (5) years which start to run from the end of the year to which the information relates. In so doing, a Reporting Malta Platform Operator shall keep records of the steps undertaken in relation to any evidence relied upon for the performance of its obligations and adequate measures to obtain the said records.

Automatic
exchange of
information
reported by
Reporting Crypto-
Asset Service
Providers.
Added by:
L.N. 162 of 2026.

(13) (a) A Reporting Malta Crypto-Asset Service Provider shall apply the due diligence procedures and fulfil reporting requirements established in Sections II and III of Annex VI.

(b) The competent authority in Malta shall, by means of automatic exchange, communicate the information specified in paragraph (c) to the competent authorities of the EU Member States concerned within the time limit established in sub-regulation (8)(g).

(c) The competent authority in Malta shall communicate the following information regarding each Reportable Person:

(i) the name, address, Member States of residence, TINs and, in the case of an individual, date and place of birth of each Reportable User and, in the case of any Entity that, after application of the due diligence procedures established in Section III of Annex VI is identified as having one (1) or more Controlling Persons that is a Reportable Person, the name, address, Member States of residence and TINs of the Entity and the name, address, Member States of residence, TINs and date and place of birth of each Controlling Person of the Entity that is a Reportable Person, as well as the roles by virtue of which each such Reportable Person is a Controlling Person of the Entity:

Provided that where the Reporting Crypto-Asset Service Provider relies on direct confirmation of the identity and residence of the Reportable Person through an Identification Service made available by a Member State or the Union to ascertain the identity and tax residence of the Reportable Person, the information which shall be communicated to the Member State of issuance of the Identification Service identifier regarding the Reportable Person shall include the name, the Identification Service identifier and the Member State of issuance, as well as the roles by virtue of which each Reportable Person is a

Controlling Person of the Entity;

(ii) the name, address, TIN and, if available, the individual identification number referred to in paragraph (g) and the global legal entity identifier of the Reporting Crypto-Asset Service Provider;

(iii) for each type of Reportable Crypto-Asset with respect to which the Reporting Crypto-Asset Service Provider has effectuated Reportable Transactions during the relevant calendar year or other appropriate reporting period, where relevant:

(A) the full name of the type of Reportable Crypto-Asset;

(B) the aggregate gross amount paid, the aggregate number of units and the number of Reportable Transactions in respect of acquisitions against Fiat Currency;

(C) the aggregate gross amount received, the aggregate number of units and the number of Reportable Transactions in respect of disposals against Fiat Currency;

(D) the aggregate fair market value, the aggregate number of units and the number of Reportable Transactions in respect of acquisitions against other Reportable Crypto-Assets;

(E) the aggregate fair market value, the aggregate number of units and the number of Reportable Transactions in respect of disposals against other Reportable Crypto-Assets;

(F) the aggregate fair market value, the aggregate number of units and the number of Reportable Retail Payment Transactions;

(G) the aggregate fair market value, the aggregate number of units and the number of Reportable Transactions and subdivided by transfer type where known by the Reporting Crypto-Asset Service Provider, in respect of Transfers to the Reportable User not covered by points (B) and (D);

(H) the aggregate fair market value, the aggregate number of units and the number of Reportable Transactions, and subdivided by transfer type where it is known by the Reporting Crypto-Asset Service Provider, in respect of transfers by the Reportable User not covered by points (C), (E) and (F); and

(I) the aggregate fair market value, as well as the aggregate number of units of Transfers effectuated by the Reporting Crypto-Asset Service Provider to distributed ledger addresses referred to in Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations No (EU) 1093/2010 and No (EU) 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 not known to be associated with a virtual asset service provider or Financial Institution:

Provided that for the purposes of points (B) and (C), the amount paid or received shall be communicated in the Fiat Currency in which it was paid or received. In case the amounts were paid or received in multiple Fiat Currencies, the amounts shall be communicated in a single Fiat Currency, converted at the time of each Reportable Transaction in a manner that is consistently applied by the Reporting Crypto-Asset Service Provider:

Provided further that for the purposes of points (D) and (I), the fair market value shall be determined and communicated in a single Fiat Currency, valued at the time of each Reportable Transaction in a manner that is consistently applied by the Reporting Crypto-Asset Service Provider:

Provided further that the information communicated shall specify the Fiat Currency in which each amount is reported.

- (d) The European Commission shall not have access to the information referred to in sub-paragraphs (c)(i) and (ii).
- (e) For the purpose of complying with the reporting requirements referred to in paragraph (a), a Crypto-Asset Operator within the meaning of sub-paragraph B(2) of Section IV of Annex VI shall register with the Commissioner in such manner and within such period of time that the Commissioner may require, by means of guidelines published on the website of the Commissioner for Tax and Customs in accordance with the provisions of article 96(2) of the Income Tax Act.
- (f) A Crypto-Asset Operator whose registration has been revoked in accordance with sub-paragraph F(7) of Section V of Annex VI shall only be permitted to register again if it provides to the Commissioner appropriate assurance as regards its commitment to comply with the reporting requirements within the Union, including any outstanding unfulfilled reporting requirements.
- (g) Paragraphs (e) and (f) shall not apply to Crypto-Asset Service Providers within the meaning of sub-paragraph

B(1) of Section IV, of Annex VI.

14. (1) The competent authority in Malta shall communicate the information referred to in regulation 12(1) to the competent authority of any other EU Member State concerned, where:

Spontaneous
exchange of
information.
Added by:
L.N. 472 of 2012.

- (a) the competent authority in Malta has grounds for supposing that there may be a loss of tax in another EU Member State; or
- (b) a person liable to tax obtains a reduction in, or an exemption from, tax in Malta which would give rise to an increase in tax or to liability to tax in the other EU Member State; or
- (c) business dealings between a person liable to tax in Malta and a person liable to tax in another EU Member State are conducted through one or more countries in such a way that a saving in tax may result in Malta or the other EU Member State or in both; or
- (d) the competent authority in Malta has grounds for supposing that a saving of tax may result from artificial transfers of profits within groups of enterprises; or
- (e) information forwarded to Malta by the competent authority of another EU Member State has enabled information to be obtained which may be relevant in assessing liability to tax in the latter EU Member State.

(2) The competent authority in Malta may also communicate, by spontaneous exchange, to the competent authorities of another EU Member State any information of which it is aware and which it considers to be useful to the competent authorities of that other Member State.

(3) The competent authority in Malta shall forward any of the information referred to in this regulation that becomes available to it to the competent authority of any other EU Member State concerned as quickly as possible, and no later than one month after such information becomes available.

(4) Where the competent authority in Malta receives information in accordance with the provisions of Article 9 of the EU Administrative Cooperation Directive, it shall confirm receipt of such information to the competent authority which provided the information immediately and in any event no later than seven working days from the date of such receipt. The said confirmation shall be made, where possible, through electronic means.

(5) For the purposes of this regulation, "spontaneous exchange" means the non-systematic communication, at any moment and without prior request, of information to another EU Member State.

Presence in administrative offices and participation in administrative enquiries.
Added by:
L.N. 472 of 2012.
Amended by:
L.N. 18 of 2025.
Cap. 372.

15. (1) With a view of exchanging the information referred to in regulation 12(1), the competent authority in Malta may request the competent authority of another Member State that officials authorised by the competent authority in Malta and in accordance with the procedural arrangements laid down by the competent authority of the requested Member State:

- (a) be present in the offices where the administrative authorities of the requested Member State carry out their duties;
- (b) be present during administrative enquiries carried out in the territory of the requested Member State;
- (c) participate in the administrative enquiries carried out by the requested Member State through the use of electronic means of communication, where appropriate:

Provided that where the requested authority is the competent authority in Malta, it shall respond to the request within sixty (60) days of the receipt of the request, to confirm its agreement or communicate its reasoned refusal to the requesting authority:

Provided further that where the requested information is contained in documentation to which the officials of the competent authority in Malta have access, the officials of the requesting authority shall be given copies thereof.

(2) Where officials of the requesting authority are present during administrative enquiries, or participate in the administrative enquiries through the use of electronic means of communication, they may interview individuals and examine records subject to the procedural arrangements laid down by the requested Member State. Where such an interview is agreed to, any refusal by the person under investigation to respect the inspection measures of the authorized officials of the requesting authority shall be treated as if that refusal were committed against officials of the competent authority in Malta.

(3) Officials authorised by the requesting EU Member State to be present in Malta in accordance with the provisions of this regulation shall at all times be able to produce written authority stating their identity and their official capacity.

Simultaneous controls.
Added by:
L.N. 472 of 2012.
Amended by:
L.N. 18 of 2025.

16. (1) The competent authority in Malta may agree with the competent authorities of other EU Member States to conduct a simultaneous control (whether bilaterally or multilaterally) of one or more persons of common or complementary interest with a view to exchanging the information thus obtained. Where the competent authority in Malta is in agreement with the competent authorities of other EU Member States to enter into a simultaneous control, it shall, after consultation with the Commissioner, appoint a representative with responsibility for supervising and coordinating the control operation. Such representative may be appointed from any department that is considered suitable in relation to the particular simultaneous control.

(2) The competent authority in Malta shall identify independently the person or persons for whom it intends to propose a simultaneous control and where such person or persons have been identified it shall notify the competent authority of the other EU Member States concerned that it wishes to propose such a simultaneous control, giving reasons for its choice. The competent authority in Malta shall also specify the period of time during which those controls are to be conducted.

(3) The competent authority in Malta shall, upon receipt of a notification for a simultaneous control from the competent authority of another European Member State, decide whether it intends to take part in simultaneous controls and it shall confirm its agreement or communicate its reasoned refusal to the authority that proposed a simultaneous control within sixty (60) days of receiving the proposal.

16A. (1) The competent authority of one (1) or more Member States may request the competent authority of another Member State or other Member States to conduct a joint audit. Where the competent authority in Malta is a requested competent authority, it shall respond to the request within sixty (60) days of the receipt of the request. The competent authority in Malta may reject a request for a joint audit by the competent authority of a Member State on justified grounds.

Joint audit.
Added by:
L.N. 18 of 2025.

(2) Joint audits shall be conducted in a pre-agreed and coordinated manner, which include linguistic arrangements, by the competent authorities of the requesting and the requested Member States, and in accordance with the laws and procedural requirements of the Member State where the activities of a joint audit take place. Where the activities of a joint audit take place in Malta, the competent authority in Malta shall appoint a representative with the responsibility for supervising and coordinating the joint audit in Malta:

Provided that the rights and obligations of the officials of Member States who participate in a joint audit, when they are present in activities performed in a different Member State, shall be determined in accordance with the laws of the Member State where the activities of the joint audit take place:

Provided further that while complying with the laws of the Member State where the activities of the joint audit take place, the officials of another Member State shall not exercise any powers that would exceed the scope of the powers granted to them under the laws of their Member State.

(3) Without prejudice to the provisions of sub-regulation (2), when the activities of a joint audit take place in Malta, the Maltese tax administration shall take the necessary measures to:

(a) permit that officials of other Member States who participate in the activities of the joint audit interview individuals and examine records together with the officials of the Maltese tax administration, subject to the procedural

arrangements laid down in Malta;

(b) ensure that evidence collected during the activities of the joint audit can be assessed, including on its admissibility, under the same legal conditions as in the case of an audit carried out in Malta where only the officials of Maltese tax administration take part, including in the course of any process of complaint, review or appeal; and

(c) ensure that the person subject to a joint audit or affected by it enjoys the same rights and has the same obligations as in the case of an audit where only the officers of the Maltese tax administration take part, including in the course of any process of complaint, review or appeal.

(4) Where the competent authority in Malta conducts a joint audit with the competent authority of another one (1) or more Member States, the competent authorities shall endeavour to agree on the facts and circumstances relevant to the joint audit and endeavour to reach an agreement on the tax position of the audited person based on the results of the joint audit:

Provided that the findings of the joint audit shall be incorporated in a final report. Issues on which the competent authorities agree shall be reflected in the final report and be taken into account in the relevant instruments issued by the competent authorities of the participating Member States following such joint audit:

Provided further that the actions by the competent authority in Malta or any of its officers following a joint audit and any further processes, such as a decision of tax authorities, process of appeal or settlement relating thereto, shall take place in conformity with Maltese law.

(5) The audited persons shall be informed of the outcome of the joint audit, including a copy of the final report within sixty (60) days of the issuance of the final report.

Administrative
notifications.
Added by:
L.N. 472 of 2012.

17. (1) At the request of the competent authority of another EU Member State, the competent authority in Malta shall, in accordance with the rules governing the notification of similar instruments in Malta, notify the addressee of any instruments and decisions which emanate from the administrative authorities of the requesting EU Member State and concern the application in its territory of legislation on taxes covered by the EU Administrative Cooperation Directive.

(2) For a request for notification to be valid, such request shall indicate the subject of the instrument or decision to be notified and shall specify the name and address of the addressee, together with any other information which may facilitate identification of the

said addressee.

(3) The competent authority in Malta shall inform the requesting authority immediately of its response and, in particular, of the date of notification of the instrument or decision to the addressee.

(4) A request for notification pursuant to Article 13 of the EU Administrative Cooperation Directive shall only be considered to be valid when the competent authority in Malta receives assurances that the requesting authority is unable to notify in accordance with the rules governing the notification of the instruments concerned in the requesting Member State, or where such notification would give rise to disproportionate difficulties. Within this context, it is permissible for the competent authority of another EU Member State to notify any document by registered mail or electronically directly to a person within Malta.

(5) The competent authority in Malta may request the competent authority of other EU Member States for assistance in the notification to the addressee of any instruments and decisions which emanate from the administrative authorities of Malta and which concern the application in Malta of legislation on taxes covered by the EU Administrative Cooperation Directive. Any such request shall indicate the subject of the instrument or decision to be notified and shall specify the name and address of the addressee, together with any other information which may facilitate identification of the said addressee. Furthermore, such requests may only be made where it is not possible to make such a notification in accordance with the rules governing the notification of the instruments concerned in Malta or where such notification would give rise to disproportionate difficulties. Within this context, it is permissible for the competent authority in Malta to notify any relevant document by registered mail or electronically directly to a person within the territory of any other EU Member State.

18. (1) (a) Information communicated between Member States in any form pursuant to the EU Administrative Cooperation Directive (including information, reports and documents communicated by the EU Commission pursuant to Article 23a thereof) shall be covered by the obligation of official secrecy and enjoy the protection granted to similar information under the under the Income Tax Acts. The said information may be used for the assessment, administration and enforcement of Maltese law concerning the taxes referred to in Article 2 of the EU Administrative Cooperation Directive as well as VAT, other indirect taxes, customs duties and anti-money laundering and countering the financing of terrorism:

Disclosure of
information and
documents.
Added by:
L.N. 472 of 2012.
Amended by:
L.N. 384 of 2015;
L.N. 400 of 2016;
L.N. 18 of 2025;
L.N. 162 of 2026.

Cap. 123.

Provided that reports and documents produced by the EU Commission referred to in Article 23a of the EU Administrative Cooperation Directive may be used by EU Member States only for analytical purposes and shall not be published or made available to any other person or body without the express agreement of the EU Commission.

(b) Such information may also be used for the assessment and enforcement of other taxes and duties covered by

Article 2 of Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures, or for the assessment and enforcement of compulsory social security contributions.

- (c) In addition, such information may be used in connection with judicial and administrative proceedings that may involve penalties, initiated as a result of infringements of tax legislation, without prejudice to the general rules and provisions governing the rights of defendants and witnesses in such proceedings.
- (d) The competent authority in Malta shall ensure that each individual Reportable Person is notified of a breach of security with regard to his data when that breach is likely to adversely affect the protection of his personal data or privacy.

(2) (a) With the permission of the competent authority of the Member State communicating information pursuant to the EU Administrative Cooperation Directive, and only insofar as this is allowed under Maltese law, information and documents received pursuant to the said Directive may be used for other purposes than those referred to in sub-regulation (1). Such permission shall be granted if the information can be used for similar purposes in the Member State of the competent authority communicating the information.

- (b) The competent authority in Malta may communicate to the competent authorities of all other Member States a list of purposes for which, in compliance with Maltese law, information and documents other than those referred to in sub-regulation (1)(a) may be used. The competent authority that receives the information and documents may use the received information and documents without the permission referred to in paragraph (a) for any of the purposes listed by the competent authority in Malta.
- (c) The competent authority in Malta that receives information and documents may also use the received information and documents without the permission referred to in paragraph (a) for any purpose that is covered by an act based on Article 215 of the Treaty on the Functioning of the European Union and share them for such purpose with the competent authority in charge of restrictive measures in Malta in accordance with the decision taken under the said Article 215.

(3) Where the competent authority of another EU Member State requests permission for such other use as referred to in the third paragraph of Article 16(1) of the EU Administrative Cooperation Directive, the competent authority in Malta shall only grant such permission if the information can be used for similar purposes in Malta.

- (4) (a) When the competent authority in Malta considers that information which it has received from the competent authority of another EU Member State is likely to be useful for the purposes referred to in sub-regulation (1)(a) to the competent authority of a third Member State, it may transmit that information to the latter competent authority, provided that the transmission is in accordance with the rules and procedures established in these regulations. The competent authority in Malta shall inform the competent authority of the Member State from which the information originates about its intention to share that information with a third Member State. The Member State of origin of the information may oppose such a sharing of information within fifteen (15) calendar days of receipt of the communication from the competent authority in Malta that wants to share the information.
- (b) Where a competent authority of another EU Member State requests permission from the competent authority in Malta to transmit information which it has received from the competent authority in Malta to a third EU Member State because it considers that such information is likely to be useful for the administration and enforcement of legislation of such third EU Member State concerning the taxes referred to in Article 2 the EU Administrative Cooperation Directive, the competent authority in Malta shall give its permission or otherwise, depending on the case, not later than ten working days of receipt of such request.
- (5) Information obtained by the competent authority in Malta pursuant to the provisions of Article 16(2) of EU Administrative Cooperation Directive, and which has been transmitted pursuant to the provisions of Article 16(3) of that same Directive, may only be used in Malta if permission has been granted by the competent authority of the EU Member State from which the information originated.
- (6) Notwithstanding sub-regulation (1) to (4), information received from other EU Member States pursuant to Article 8aa of the EU Administrative Cooperation Directive shall be used for the purposes of assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, including assessing the risk of non-compliance by members of the MNE group with applicable transfer pricing rules, and where appropriate for economic and statistical analysis. Transfer pricing adjustments made by the Commissioner shall not be based on the information exchanged pursuant to Article 8aa of the EU Administrative Cooperation Directive. Notwithstanding the provisions of this sub-regulation, there is no prohibition on using the information communicated between EU Member States pursuant to Art. 8aa of the EU Administrative Cooperation Directive as a basis for making further enquiries into the MNE Group's transfer pricing arrangements or into other tax matters in the course of an enquiry in terms of article 13 of the Income Tax Management Act, including a tax audit and, as a result, appropriate adjustments to the

taxable income of a Constituent Entity may be made.

(7) Information, reports, statements and any other documents, or certified true copies or extracts thereof, obtained by the competent authorities of another EU Member State and communicated to the competent authority in Malta in accordance with the provisions of the EU Administrative Cooperation Directive may be invoked as evidence by the competent bodies in Malta on the same basis as similar information, reports, statements and any other documents provided by an authority of Malta.

Third countries.
Added by:
L.N. 472 of 2012.

19. Malta shall enter into an arrangement with other EU Member States that provides mutual and wider cooperation than that provided under the EU Administrative Cooperation Directive provided that -

- (a) Malta has entered into an arrangement that provides for such mutual and wider cooperation than that provided for under the EU Administrative Cooperation Directive with a jurisdiction that is not an EU Member State; and
- (b) the said EU Member State requests to enter into such an arrangement.

Exchange of
information with
third countries.
Added by:
L.N. 472 of 2012.

20. (1) Where the competent authority in Malta receives from a third country information that is foreseeably relevant to the administration and enforcement of the domestic legislation of Malta concerning the taxes referred to in Article 2 of the EU Administrative Cooperation Directive, it may, in so far as this is allowed pursuant to an arrangement with that third country, provide that information to the competent authorities of the EU Member States for which that information might be useful and to any requesting authorities.

(2) The competent authority in Malta may communicate, in accordance with the provisions on the communication of personal data to third countries found in Maltese legislation, information obtained in accordance with the provisions of the EU Administrative Cooperation Directive to a third country, provided that all of the following conditions are met:

- (a) the competent authority of the EU Member State from which the information originates has consented to that communication;
- (b) the third country concerned has given an undertaking to provide the cooperation required to gather evidence of the irregular or illegal nature of transactions which appear to contravene or constitute an abuse of tax legislation.

21. (1) (a) Every exchange of information in accordance with these regulations shall be made in conformity with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) and the Data Protection Act, including the regulations made thereunder.

Data protection.
Added by:
L.N. 472 of 2012.
Amended by:
L.N. 384 of 2015.
Substituted by:
L.N. 342 of 2019.
L.N. 18 of 2025.
Amended by:
L.N. 162 of 2026.
Cap. 586.

- (b) The Commissioner may restrict the rights and obligations established in Article 13, Article 14(1) and Article 15 of Regulation (EU) 2016/679, where such restriction respects the essence of the fundamental rights and freedoms and is a necessary and proportionate measure in a democratic society to safeguard the objective established in Article 23(1)(e) of Regulation (EU) 2016/679. Before applying a restriction, the Commissioner shall conduct a necessity and proportionality assessment and be able to demonstrate that the application of the restriction is necessary and proportionate.
- (c) The Commissioner shall keep a record of any such restriction and the reasons for such restriction.
- (d) Where a restriction applies, the Commissioner shall inform the data subject, in writing, of the rights and obligations being restricted, the reason for such restriction, and his right to file a data protection complaint with the Information and Data Protection Commissioner:

Provided that this requirement shall not apply where such information may be prejudicial to the purpose of the restriction.

- (e) The Commissioner shall periodically review the decision applying a restriction and assess the necessity and proportionality thereof to ensure that the justification for the restriction is still valid:

Provided that where the reason for the restriction no longer applies, the Commissioner shall lift the restriction without undue delay.

- (f) The data protection officer shall be consulted, properly and in a timely manner, with respect to such restriction as referred to in paragraph (a), both prior to and throughout the duration of such restriction.

(2) Regulation (EU) 2018/1725 of the European Parliament and of the Council of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC shall apply to any processing of personal data under the EU Administrative

Cooperation Directive by the Union institutions, bodies, offices and agencies. However, for the purposes of the correct application of the EU Administrative Cooperation Directive, the scope of the obligations and rights provided for in Article 15, Article 16(1), and Articles 17 to 21 of Regulation (EU) 2018/1725 shall be restricted to the extent required in order to safeguard the interests referred to in point (c) of Article 25(1) of the said Regulation.

Cap. 586.

(3) The Reporting Malta Financial Institutions, the intermediaries, the Reporting Malta Platform Operators, Reporting Crypto-Asset Providers and the competent authority in Malta shall be considered to be data controllers when, acting alone or jointly, they determine the purposes and means of the processing of personal data within the meaning of the regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) and the Data Protection Act.

(4) Notwithstanding the provisions of sub-regulation (1), the Commissioner shall ensure that each Reporting Malta Financial Institution, intermediary, or Reporting Malta Platform Operator, or Reporting Crypto-Asset Provider, as the case may be, which falls under the jurisdiction of Malta:

- (a) informs each individual concerned that information relating to such individual shall be collected and transferred in accordance with these regulations; and
- (b) provides to each individual concerned with all the information that the individual is entitled to from the data controller in sufficient time for such individual to exercise his data protection rights and, in any case, before the information is reported:

Provided that notwithstanding the provisions of this sub-regulation, each Reporting Malta Platform Operator shall inform Reportable Sellers of the reported consideration.

(5) Information processed in accordance with these regulations shall be retained for not longer than is necessary to achieve the purposes of these regulations:

Provided that information received through the automatic exchange of information in accordance with sub-regulations (1) to (13) of regulation 13 shall be retained for not longer than is necessary but in any event, not less than five (5) years from its date of receipt to achieve the purposes of these regulations.

(6) In the case that a data breach occurs in Malta:

- (a) the competent authority in Malta shall report the

data breach and any subsequent remedial action to the Commission without delay; and

(b) the competent authority in Malta shall investigate, contain and remedy the data breach and shall, by giving notice in writing to the Commission, request the suspension of the CCN access for the purposes of these regulations, if the data breach cannot be contained immediately and appropriately.

(7) In the case that a data breach occurs in another Member State, the competent authority in Malta may suspend the exchange of information to the Member State where the data breach occurred by giving notice in writing to the Commission and the Member State concerned. Such suspension shall have immediate effect.

(8) The competent authority in Malta together with the other Member States, assisted by the Commission, shall agree on the practical arrangements necessary for the implementation of the said Regulation, including data breach management processes which are aligned with internationally recognised good practices and, where appropriate, a joint data controller agreement, an agreement between the data processor and the data controller, or models thereof.

22. (1) Requests for information and for administrative enquiries pursuant to regulation 12 and their replies, acknowledgements, requests for additional background information, inability or refusal pursuant to regulation 10(2) shall, as far as possible, be sent using the standard form adopted by the Commission in accordance with the procedure referred to in Article 26(2) of the EU Administrative Cooperation Directive. The standard forms may be accompanied by reports, statements and any other documents, or certified true copies or extracts thereof. The standard form shall include at least the following information which shall be provided by the competent authority in Malta:

Requests for information and for administrative enquiries.
Added by:
L.N. 472 of 2012.
Substituted by:
L.N. 384 of 2015;
L.N. 400 of 2016.
Amended by:
L.N. 342 of 2019;
L.N. 18 of 2025;
L.N. 162 of 2026.

(a) the identity of the person under examination or investigation and, in the case of group requests, a detailed description of the group; and

(b) the tax purpose for which the information is sought:

Provided that the competent authority in Malta may, to the extent known and in line with international developments, provide the name and address of any person believed to be in possession of the requested information as well as any element that may facilitate the collection of information by the requested authority.

(2) Spontaneous information and its acknowledgement pursuant to regulation 14, requests for administrative notifications pursuant to regulation 17, feedback information pursuant to regulation 11(4) and (5), and communications pursuant to regulation 18(2) and (4) and regulation 20(1) shall be sent using the standard forms adopted by the Commission in accordance with the procedure referred to in Article 26(2) of the EU Administrative Cooperation Directive.

(3) The automatic exchange of information pursuant to the provisions of regulation 13(1) and (13) shall be carried out using a standard computerised format aimed at facilitating such automatic exchange, adopted by the Commission in accordance with the procedure referred to in Article 26(2) of the EU Administrative Cooperation Directive.

(4) A standard form, including the linguistic arrangements, shall be adopted by the EU Commission in accordance with the procedure referred to in Article 26(2) of the EU Administrative Cooperation Directive before 1 January 2017. The automatic exchange of information on advance cross-border rulings and advance pricing arrangements pursuant to regulation 13(3) shall be carried out using this standard form. This standard form shall not exceed the components for exchange of the information listed in regulation 13(3)(e) and other relating fields linked to these components necessary to achieve the objectives of regulation 13(3).

(5) The automatic exchange of information on country-by-country report pursuant to regulation 13(4) shall be carried out using the standard form provided in Tables 1, 2 and 3 of Section III of Annex III to these regulations and in accordance with linguistic arrangements adopted by the EU Commission in accordance with Article 26(2) of the EU Administrative Cooperation Directive.

(6) A standard form, including the linguistic arrangements, shall be adopted by the EU Commission in accordance with the procedure referred to in Article 26(2) of the EU Administrative Cooperation Directive before 30 June 2019. The automatic exchange of information on reportable cross-border arrangements pursuant to regulation 13(7) shall be carried out using this standard form. This standard form shall not exceed the components for exchange of the information listed in regulation 13(7)(o) and other relating fields linked to these components which are necessary to achieve the objectives of regulation 13(7).

(7) A standard form, including the linguistic arrangements, shall be adopted by the EU Commission in accordance with the procedure referred to in Article 26(2) of the EU Administrative Cooperation Directive before 30 June 2025. The automatic exchange of information on reportable Crypto-Assets in accordance with regulation 13(13) shall be carried out using this standard form. This standard form shall not exceed the components for exchange of the information listed in regulation 13(13)(c) and other relating fields linked to these components which are necessary to achieve the objectives of regulation 13(13).

(8) A reporting entity is allowed to obtain confirmation by electronic means of the validity of the information on the TIN of any taxpayer subject to the exchange of information under regulation 13(1) to (13). The confirmation of the information on the TIN may be requested only for the purposes of validation of the correctness of data referred to in regulation 13(1), (2), (3)(e), (4)(c), (7)(o), (12)(c) and (13)(c). A reporting entity may confirm validity of TIN information through a tool which shall be provided by the EU Commission,

allowing an electronic and automated verification of the correctness of the TIN provided by a reporting entity or a taxpayer for the purposes of the automatic exchange of information.

23. (1) The FATCA Agreement and the FATCA Regulations shall be implemented and interpreted (unless the context otherwise requires) in accordance with the guidelines published on the website of the Commissioner for Revenue under the provisions of article 96(2) of the Income Tax Act.

Implementation and interpretation of FATCA Agreement and FATCA Regulations.
Added by:
L.N. 408 of 2014.
Amended by:
L.N. 384 of 2015.
Cap. 123.

(2) For the purposes of the FATCA Regulations, words and expressions shall, unless the subject in context otherwise requires, have the same meaning and the same interpretation as the meanings and interpretations contained in the FATCA Agreement and in the published guidelines referred to in sub-regulation (1).

24. A Malta Financial Institution shall register with the Commissioner for the purposes of the FATCA Regulations in such manner and within such period of time that the Commissioner may by means of guidelines published on the website of the Commissioner for Revenue under the provisions of article 96(2) of the Income Tax Act require.

Registration requirements in relation to FATCA.
Added by:
L.N. 408 of 2014.
Amended by:
L.N. 384 of 2015.
Cap. 123.

25. A Reporting Malta Financial Institution shall:

- (a) have the obligations found in Article 4(1)(a) to (e) of the FATCA Agreement as implemented by the FATCA Regulations;
- (b) obtain, where this is required under the FATCA Agreement:
 - (i) satisfactory self-certification documentation; and
 - (ii) the U.S. TIN of each Specified U.S. Person, including the U.S. TIN for pre-existing individual accounts from 1st January, 2017 onwards.

Obligations of Reporting Malta Financial Institutions.
Added by:
L.N. 408 of 2014.

26. A Reporting Malta Financial Institution may use third party service providers to fulfil its obligations contemplated in the FATCA Regulations: provided that these obligations shall remain the sole responsibility of the Reporting Malta Financial Institution.

Use of third party service provider.
Added by:
L.N. 408 of 2014.

27. A Reporting Malta Financial Institution shall maintain the information specified in Article 2(2)(a) and Article 3(2) of the FATCA Agreement with respect to all U.S. Reportable Accounts taking into account the timing specified in Article 3 of the FATCA Agreement.

Information to be maintained.
Added by:
L.N. 408 of 2014.

28. (1) For the purposes of the FATCA Regulations, a Reporting Malta Financial Institution shall apply the due diligence procedures specified in Annex 1 of the FATCA Agreement to identify U.S. Reportable Accounts and accounts held by Non-participating Financial Institutions. For this purpose -

Due diligence obligations.
Added by:
L.N. 408 of 2014.
Amended by:
L.N. 481 of 2014;
L.N. 384 of 2015.

- (a) the due diligence procedures in respect of Pre-existing Individual Accounts shall be regulated in accordance with the provisions of section II of Annex I of the FATCA Agreement;

- (b) the due diligence procedures in respect of New Individual Accounts shall be regulated in accordance with the provisions of section III of Annex I of the FATCA Agreement;
- (c) the due diligence procedures in respect of Pre-existing Entity Accounts shall be regulated in accordance with the provisions of section IV of Annex I of the FATCA Agreement;
- (d) the due diligence procedures in respect of New Entity Accounts shall be regulated in accordance with the provisions of section V of Annex I of the FATCA Agreement.

(2) Notwithstanding the provisions of sub-regulation (1), and in accordance with the provisions of Section I paragraph C of Annex I of the FATCA Agreement, a Reporting Malta Financial Institution may opt to rely on procedures, described in the relevant U.S. Treasury Regulations to establish whether an account is a U.S. Reportable Account or an account held by a Non-participating Financial Institution:

Provided that the Reporting Malta Financial Institution shall make such an option separately for each section of the said Annex I with respect to all relevant Financial Accounts and it shall inform the Commissioner of this option on such form and in such manner as the Commissioner shall determine.

(3) A Reporting Malta Financial Institution may elect to review, identify and report accounts referred to in section II.A, III.A, IV.A and V.A of Annex I of the FATCA Agreement as applicable. Such an election shall be made in such manner as the Commissioner may determine.

Retention obligations.
Added by:
L.N. 408 of 2014,
Cap. 372.

29. Subject to the provisions of article 19 of the Income Tax Management Act, a Reporting Malta Financial Institution shall:

- (a) retain the information specified in Article 2(2)(a) and Article 3(2) of the FATCA Agreement for a minimum period of five years starting from the end of the year to which such information relates;
- (b) retain the information that is required to be used as evidence in determining the status of the account holder under regulation 28 of the FATCA Regulations for a minimum period of five years starting from the end of the year to which such information relates.

Reporting obligations.
Added by:
L.N. 408 of 2014.
Amended by:
L.N. 384 of 2015;
L.N. 18 of 2025.

30. (1) A Reporting Malta Financial Institution shall annually report the information specified in Article 2(2)(a) and Article 3(2) of the FATCA Agreement on U.S. Reportable Accounts together with an annual report on the measures and procedures it maintains and applies to fulfil its obligations with the FATCA Agreement in the manner and within such time period as set out in guidelines:

Provided that such reporting shall take into account the timing and exclusions specified in Article 3 of the FATCA Agreement.

(2) The information shall be reported to the Commissioner in the manner and within such time period as set out in guidelines published on the website of the Commissioner for Revenue under the provisions of article 96(2) of the Income Tax Act.

Cap. 123.

31. The Commissioner may use any information-gathering power under the Income Tax Acts, including those under the provisions of article 10A and article 20 of the Income Tax Management Act, to obtain any information specified in Article 2(2)(a) and Article 3(2) of the FATCA Agreement, notwithstanding that the said information may not be required for the purposes of the Income Tax Acts. The provisions of this regulation shall be interpreted widely in the same manner as the interpretation found in regulation 5.

Access to
information.
Added by:
L.N. 408 of 2014.
Cap. 372.

32. If a Reporting Malta Financial Institution enters into any transactions or schemes, the main purpose or one of the main purposes of which is to avoid any obligation under the FATCA Agreement or the FATCA Regulations, these regulations are to have effect as if such transactions or schemes had not been entered into.

Anti-avoidance.
Added by:
L.N. 408 of 2014.

33. (1) Where a Financial Institution fails to comply with any of the obligations established in the FATCA Agreement or the FATCA Regulations, the Financial Institution shall be liable:

Imposition of
penalties.
Added by:
L.N. 408 of 2014.
Amended by:
L.N. 342 of 2019;
L.N. 18 of 2025;
L.N. 162 of 2026.

- (a) where a Reporting Malta Financial Institution fails to maintain the information required to be maintained in terms of Article 2(2)(a) and Article 3(2) of the FATCA Agreement, to a penalty of two thousand five hundred euro (€2,500);
- (b) where a Reporting Malta Financial Institution fails to apply the due diligence procedures specified in Annex I of the FATCA Agreement to identify U.S. Reportable Accounts and accounts held by Non-participating Financial Institutions, to a penalty of five thousand euro (€5,000);
- (c) where a Reporting Malta Financial Institution fails to report the information required to be reported in terms of regulation 30 within the time stipulated in said regulation, to a penalty of:
 - (i) two thousand five hundred euro (€2,500); and
 - (ii) one hundred euro (€100) for every day during which the default existed: provided that this penalty shall not exceed in total twenty thousand euro (€20,000);
- (d) where a Reporting Malta Financial Institution fails to report the information required to be maintained in terms of Article 2(2)(a) and Article 3(2) of the FATCA Agreement in a complete and accurate manner, to a penalty of:
 - (i) in the case of minor errors -
 - (aa) two hundred euro (€200); and
 - (bb) fifty euro (€50) for every day during

- which the default existed: provided that this penalty shall not exceed in total five thousand euro (€5,000);
- (ii) in the case of significant non-compliance, fifty thousand euro (€50,000). Furthermore, where the United States commences to treat a Reporting Malta Financial Institution as a Non-participating Financial Institution and its details are published by the IRS, the Commissioner shall publish details identifying such an institution on the website of the Commissioner for Revenue and inform any relevant regulator in Malta of such;
 - (e) where a Financial Institution fails to comply with a request for information by the Commissioner made consequent to regulation 31, to a penalty of:
 - (i) one thousand euro (€1000); and
 - (ii) one hundred euro (€100) for every day during which the default existed: provided that this penalty shall not exceed in total thirty thousand euro (€30,000).
 - (f) where a Reporting Malta Financial Institution relies on an invalid self-certification, and such Reporting Malta Financial Institution knows or has reason to know that this is invalid, to a penalty of five thousand euro (€5,000). An account holder who provides a false self-certification, including signing or otherwise positively affirming a false self-certification, shall also be liable to a penalty of five thousand euro (€5,000).

(2) In addition and without prejudice to any penalties incurred in terms of sub-article (1), where a Reporting Malta Financial Institution is found to have submitted information that is misleading, deceitful or false, every senior managing official of such Reporting Malta Financial Institution shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of not less than ten thousand euro (€10,000) and not more than thirty thousand euro (€30,000), or to imprisonment for a period of not exceeding two years, or both such fine (*multa*) and imprisonment:

Provided that a director, manager or other principal officer of such Reporting Malta Financial Institution shall not be guilty of such an offence in virtue of this sub-regulation if he proves that he was unaware and could not with reasonable diligence be aware of such act or omission and that he did everything within his power to prevent that act or omission.

34. (1) The Entities referred to in Annex II to the FATCA Agreement are to be treated as exempt beneficial owners or deemed compliant Foreign Financial Institutions, as the case may be.

(2) The accounts referred to in Annex II to the FATCA Agreement are to be excluded from the definition of Financial Accounts.

(3) Annex II of the FATCA Agreement may be modified by an arrangement entered into between the competent authorities of Malta and the United States:

- (a) to include additional Entities and accounts that present a low risk of being used by U.S. Persons to evade U.S. tax and that have similar characteristics to the Entities and accounts described in the said Annex II as of the date of signature of the Agreement; or
- (b) to remove Entities and accounts that, due to changes in circumstances, no longer present a low risk of being used by U.S. Persons to evade U.S. tax. Any such addition or removal shall be effective on the date of signature of the said arrangement, unless otherwise provided therein. Procedures for reaching such an arrangement may be included in the arrangement described in paragraph 6 of Article 3 of the FATCA Agreement.

35. (1) Where a person comes within the scope of the penalties as set out in these regulations, the Commissioner shall advise such person by means of a notice in writing which penalty the Commissioner intends to impose, the reason for its imposition and the time within which such penalty is to be paid:

Contestation
procedure in
relation to
penalties.
Added by:
L.N. 408 of 2014.
Amended by:
L.N. 342 of 2019.
Substituted by:
L.N. 213 of 2021.
Amended by:
L.N. 50 of 2022;
L.N. 162 of 2026.

Provided that in such cases, reference to the specific legal provision would constitute sufficient notice.

(2) The notice referred to in sub-regulation (1) may be served on the relevant person in the same manner as described in article 29(1) of the Income Tax Management Act.

Cap. 372.

(3) Where the penalty is not paid within the time specified in the notice referred to in sub-regulation (1), the Commissioner shall inform the person referred to in sub-regulation (1) and serve him with a demand notice advising that person that, unless the latter notice is contested in a court of law within thirty days from its date of service, it shall constitute an executive title in terms of article 40(1)(d) of the Income Tax Management Act. For this purpose only, the relevant penalty shall be considered to be a tax which should have been paid.

Cap. 372.

(4) Where the Commissioner is satisfied that the default in respect of which the penalties have been imposed under sub-regulation (1) was not due to any fault or neglect on the part of the relevant person, he shall remit the whole of the said penalties and, in any other case, may remit such part or all of the said penalties as he may think fit. In every case the Commissioner shall inform the said person accordingly.

(5) The payment by any person of any penalties imposed under these regulations shall in no way exonerate that person from its obligations under these regulations.

Cap. 372. (6) Where such penalty remains unpaid within the time specified in the notice referred to in sub-regulation (1), the provisions of article 47 of the Income Tax Management Act relating to the collection and recovery of tax shall apply to the collection and recovery of such penalty.

Implementation and interpretation.
Added by:
L.N. 384 of 2015.

Cap. 123.

36. The EU Administrative Cooperation Directive shall be implemented and interpreted (unless the context otherwise requires) in accordance with the guidelines published on the website of the Commissioner for Revenue under the provisions of article 96(2) of the Income Tax Act.

Registration requirements.
Added by:
L.N. 384 of 2015.

Cap. 123.

37. A Malta Financial Institution shall register with the Commissioner for the purposes of the EU Administrative Cooperation Directive in such manner and within such period of time that the Commissioner may determine by means of guidelines published on the website of the Commissioner for Revenue under the provisions of article 96(2) of the Income Tax Act require.

Use of third party service provider.
Added by:
L.N. 384 of 2015.

38. A Reporting Malta Financial Institution may use service providers to fulfil its reporting and due diligence obligations specified in these regulations: provided that these obligations shall remain the responsibility of the Reporting Malta Financial Institution.

Due diligence obligations.
Added by:
L.N. 384 of 2015.

39. For the purposes of the EU Administrative Cooperation Directive, a Reporting Malta Financial Institution shall apply the due diligence procedures specified in Section II to Section VII of Annex I, and Annex II to these regulations so as to be able to identify Reportable Accounts. In particular:

- (a) the due diligence procedures in respect of Pre-Existing Individual Accounts shall be regulated in accordance with the provisions of Section III of Annex I to these regulations;
- (b) the due diligence procedures in respect of New Individual Accounts shall be regulated in accordance with the provisions of Section IV of Annex I to these regulations;
- (c) the due diligence procedures in respect of Pre-Existing Entity Accounts shall be regulated in accordance with the provisions of Section V of Annex I to these regulations;
- (d) the due diligence procedures in respect of New Entity Accounts shall be regulated in accordance with the provisions of Section VI of Annex I to these regulations;

Provided that in carrying out this obligation, a Reporting Malta Financial Institution shall obtain satisfactory self-certification documentation or documentary evidence to establish the residence for tax purposes of the Account Holder. The term "documentary evidence" shall have the same meaning as that contained under E.6. of Section VIII of Annex I to these

regulations:

Provided further that the self-certification may be in such form as the Commissioner may determine.

40. Subject to the provisions of article 19 of the Income Tax Management Act, a Reporting Malta Financial Institution shall maintain and retain all the documentation and information it collects in the course of meeting its reporting and due diligence obligations specified in these regulations for a minimum period of five years starting from the end of the year in which the information relates. In so doing, a Reporting Malta Financial Institution shall keep records of the steps undertaken in relation to any evidence relied upon for the performance of its obligations and adequate measures to obtain those records.

Maintenance and retention obligations.
Added by:
L.N. 384 of 2015.
Cap. 372.

41. A Reporting Malta Financial Institution shall annually report the information specified in Section I of Annex I to these regulations in the manner and within such time period as set out in guidelines published on the website of the Commissioner for Revenue under the provisions of article 96(2) of the Income Tax Act.

Reporting obligations.
Added by:
L.N. 384 of 2015
Amended by:
L.N. 18 of 2025.

Cap. 123.

42. The Commissioner may use any information-gathering power under the Income Tax Acts, including those under the provisions of articles 10A and 20 of the Income Tax Management Act, to obtain any information specified in Section I of Annex I to these regulations, together with an annual report on the measures and procedures it maintains and applies to fulfil its obligations with Annex I notwithstanding that the said information may not be required for the purposes of the Income Tax Acts. The provisions of this regulation shall be interpreted widely in the same manner as the interpretation found in regulation 5.

Access to information.
Added by:
L.N. 384 of 2015.
Cap. 372.

43. If a Reporting Malta Financial Institution or any other person enters into any transactions or schemes, the main purpose or one of the main purposes of which is to avoid any obligation under the EU Administrative Cooperation Directive, these regulations are to have effect as if such transactions or schemes had not been entered into.

Anti-avoidance.
Added by:
L.N. 384 of 2015.
Substituted by:
L.N.344 of 2017.

44. (1) Where a Financial Institution fails to comply with any of the obligations established in the EU Administrative Cooperation Directive, the Financial Institution shall be liable:

Imposition of penalties.
Added by:
L.N. 384 of 2015.
Amended by:
L.N. 344 of 2017;
L.N. 342 of 2019;
L.N. 18 of 2025;
L.N. 162 of 2026.

- (a) where a Reporting Malta Financial Institution relies on an invalid self-certification, and such Reporting Malta Financial Institution knows or has reason to know that this is invalid, to a penalty of five thousand euro (€5,000). An account holder who provides a false self-certification, including signing or otherwise positively affirming a false self-certification, shall also be liable to a penalty of five thousand euro (€5,000);
- (b) where a Reporting Malta Financial Institution fails to retain the documentation and information it collected in the course of meeting its reporting and due diligence

obligations for a minimum period of five years starting from the end of the year in which the information relates, to a penalty of two thousand five hundred euro (€2,500);

- (c) where a Reporting Malta Financial Institution fails to apply the due diligence procedures specified in Section II through to Section VII of Annex I, including obtaining a self-certification for New Accounts, to a penalty of five thousand euro (€5,000);
- (d) where a Reporting Malta Financial Institution fails to report the information required to be reported in terms of regulation 41 within the time stipulated in the guidelines published on the website of the Commissioner for Revenue under the provisions of article 96(2) of the Income Tax Act, to a penalty of:
 - (i) two thousand five hundred euro (€2,500); and
 - (ii) one hundred euro (€100) for every day during which the default existed: provided that this penalty shall not exceed in total twenty thousand euro (€20,000);
- (e) where a Reporting Malta Financial Institution fails to report the information required to be reported in terms of regulation 41 in a complete and accurate manner, to a penalty of:
 - (i) in the case of minor errors -
 - (aa) two hundred euro (€200); and
 - (bb) fifty euro (€50) for every day during which the default existed: provided that this penalty shall not exceed in total five thousand euro (€5,000);
 - (ii) in the case of significant non-compliance, a penalty of fifty thousand euro (€50,000);
- (f) where a Financial Institution fails to comply with a request for information by the Commissioner made consequent to regulation 42, to a penalty of:
 - (i) one thousand euro (€1,000); and
 - (ii) one hundred euro (€100) for every day during which the default existed: provided that this penalty shall not exceed in total thirty thousand euro (€30,000).

(2) In addition, and without prejudice to any penalties incurred in terms of sub-regulation (1), where a Reporting Malta Financial Institution is found to have submitted information that is misleading, deceitful or false, every senior managing official of such Reporting Malta Financial Institution shall be guilty of an offence and shall on conviction be liable to a fine (*multa*) of not less than ten thousand euro (€10,000) and not more than thirty thousand euro (€30,000), or to imprisonment for a period of not exceeding two years, or both such fine (*multa*) and imprisonment:

Provided that a director, manager or other principal officer of such Reporting Malta Financial Institution shall not be guilty of such an offence in virtue of this sub-regulation if he proves that he was unaware and could not with reasonable diligence be aware of such act or omission and that he did everything within his power to prevent that act or omission.

45. The provisions of regulation 13(2), (7)(b), (8)(b) and (9)(b) and regulations 36 to 44 shall apply *mutatis mutandis* in relation to jurisdictions that are not EU Member States, hereinafter in these regulations referred to as "Non-EU Reportable Jurisdictions":

Extension of application to jurisdictions that are not EU Member States.
Added by:
L.N. 384 of 2015.
Amended by:
L.N. 400 of 2016;
L.N. 344 of 2017.

Provided that for the purposes of this regulation:

- (a) the term "Non-EU Reportable Jurisdiction" means a jurisdiction:
 - (i) with which an arrangement is in place pursuant to which there is an obligation in place to provide the information specified in Section 1 of Annex I to these regulations; and
 - (ii) which is identified in the list published by the Commissioner on the website of the Commissioner for Revenue under the provisions of article 96(2) of the Income Tax Act;
- (b) references in regulation 13(2), (3)(b), (4) and (5)(b), and in regulations 36 to 44 and in Annexes I and II of these regulations to "Member State", "Member State Person" and "EU Administrative Cooperation Directive" shall be construed to mean "Non-EU Reportable Jurisdiction", "a person resident in a Non-EU Reportable Jurisdiction" and "Common Reporting Standard" respectively. For the purposes of this regulation, the term "Common Reporting Standard" means the Standard for Automatic Exchange of Financial Account Information in Tax Matters as developed by the Organisation for Economic Co-operation and Development.

Cap. 123.

46. The provisions of regulation 39 shall apply *mutatis mutandis* to all financial accounts maintained by a Reporting Malta Financial Institution, irrespective of whether such accounts are held by a Reportable person or not:

Extension of regulation 39 to other jurisdictions.
Added by:
L.N. 384 of 2015.

Provided that this information is to be collected and maintained in accordance with regulation 21. For the purposes of regulation 21(4), the information is to be kept for not longer than nine years from the end of the year in which the information is collected.

47. The Commissioner may use any information-gathering power under the Income Tax Acts, including those under the provisions of article 10A and article 20 of the Income Tax Management Act, to obtain any information specified in Section III of Annex III to these regulations, notwithstanding that the said information may not be required for the purposes of the Income Tax Acts. The provisions of this regulation shall be interpreted widely

Access to information.
Added by:
L.N. 400 of 2016.
Cap. 372.

in the same manner as the interpretation found in regulation 5.

Imposition of
penalties.
Added by:
L.N. 400 of 2016.
Amended by:
L.N. 213 of 2021.

48. (1) Where a Maltese Constituent Entity fails to comply with any of the obligations set out in the EU Administrative Cooperation Directive, the Maltese Constituent Entity shall be liable to the following penalties:

- (a) where a Maltese Constituent Entity fails to retain the documentation and information it collected in the course of meeting its reporting obligations as provided in these regulations for a minimum period of five years starting from the end of the year in which the information relates, to a penalty of two thousand five hundred euro (€2,500);
- (b) where a Maltese Constituent Entity fails to report the information required to be reported in terms of sub-regulation 13(4) within the time stipulated in sub-regulation 13(5), to a penalty of:
 - (i) two hundred euro (€200); and
 - (ii) one hundred euro (€100) for every day during which the default existed: provided that this penalty shall not exceed in total twenty thousand euro (€20,000).

(2) Where a Maltese Constituent Entity fails to report the information required to be reported in terms of sub-regulation 13(4) in a complete and accurate manner, to a penalty of:

- (i) in the case of minor errors -
 - (aa) two hundred euro (€200); and
 - (bb) fifty euro (€50) for every day during which the default existed: provided that this penalty shall not exceed in total five thousand euro (€5,000);
- (ii) in the case of significant non-compliance, a penalty of fifty thousand euro (€50,000).

(3) Where a Maltese Constituent Entity fails to comply with a request for information by the Commissioner made consequent to regulation 42, to a penalty of:

- (i) one thousand euro (€1,000); and
- (ii) one hundred euro (€100) for every day during which the default existed: provided that this penalty shall not exceed in total thirty thousand euro (€30,000).

(4) Where a Maltese Constituent Entity that is neither the Ultimate Parent Entity nor the Surrogate Parent Entity nor the Constituent Entity referred to in point 1 of Section II of Annex III, fails to notify the Commissioner of the identity and tax residence of the Reporting Entity obliged to file a country-by-country report with respect to a Reporting Fiscal year by not later than the last day for filing of a tax return of that Constituent Entity for the preceding fiscal year, it shall be liable to a penalty of:

- (a) two hundred euro (€200); and
- (b) fifty euro (€50) for every day during which the default existed:

Provided that this penalty shall not exceed in total five thousand euro (€5,000).

(5) Where a Constituent Entity of a MNE Group that is resident for tax purposes in Malta, fails to notify the Commissioner of whether it is the Ultimate Parent Entity or the Surrogate Parent Entity or the Constituent entity referred to in point 1 of Section II of Annex III, by not later than the last day for filing of a tax return of that Constituent Entity for the preceding fiscal year, the Constituent Entity shall be liable to a penalty of:

- (a) two hundred euro (€200); and
- (b) fifty euro (€50) for every day during which the default existed: provided that this penalty shall not exceed in total five thousand euro (€5,000).

49. (1) The provisions of regulation 13(4), (5), (6), (7)(d), (8)(a) and (9)(d), and regulations 36 and 47 to 48 shall apply *mutatis mutandis* in relation to jurisdictions that are not EU Member States and:

Extension of application to jurisdictions that are not EU Member States.
Added by:
L.N.344 of 2017.

- (a) with which an arrangement is in place pursuant to which there is an obligation in place to provide the information specified in Section III of Annex III; and
- (b) which are identified in the list published by the Commissioner on the website of the Commissioner for Revenue under the provisions of article 96(2) of the Income Tax Act;

Cap. 123.

(2) In applying this regulation, the 2015 final consolidated report, entitled "Transfer Pricing Documentation and Country-by-Country Reporting, on Action 13 of the OECD/ G20 Action Plan on Base Erosion and Profit Shifting", as developed by the Organisation for Economic Cooperation and Development shall be used as a source of illustration or interpretation.

50. (1) Where an intermediary or relevant taxpayer that has an obligation to file information with the Commissioner fails to comply with any of the obligations set out in the EU Administrative Cooperation Directive, it shall be liable to the following penalties:

Imposition of penalties.
Added by:
L.N. 342 of 2019.

- (a) where such intermediary or relevant taxpayer fails to retain the documentation and information it collected in the course of meeting its reporting obligations as provided in these regulations for a minimum period of five years starting from the end of the year to which the information relates, to a penalty of two thousand five hundred euro (€2,500);
- (b) where such intermediary or relevant taxpayer fails to report any of the information required to be reported in terms of regulation 13(7) within the time stipulated therein, to a penalty of:

(i) two hundred euro (€200); and

(ii) one hundred euro (€100) for every day during which the default existed: provided that this penalty shall not exceed in total twenty thousand euro (€20,000).

(2) Where an intermediary or relevant taxpayer that has an obligation to file information with the Commissioner fails to report the information required to be reported in terms of regulation 13(7) in a complete and accurate manner, it shall be liable to a penalty of:

(a) two hundred euro (€200); and

(b) one hundred euro (€100) for every day during which the default existed: provided that this penalty shall not exceed in total twenty thousand euro (€20,000).

(3) Where an intermediary or relevant taxpayer that has an obligation to file information with the Commissioner fails to comply with a request for information made by the Commissioner, it shall be liable to a penalty of:

(a) one thousand euro (€1,000); and

(b) one hundred euro (€100) for every day during which the default existed: provided that this penalty shall not exceed in total thirty thousand euro (€30,000).

Service of notices.
Added by:
L.N. 50 of 2022.

51. For the purposes of regulations 4A, 5, 6 and 35, where the notice is not made because the taxpayer could not be found or for other reasons attributable to him and the Commissioner publishes a notice in the Gazette and in one or more daily newspapers stating that a notice has been made and inviting the taxpayer to call for it at the Department, then such notice shall also be deemed to have been duly notified.

Administrative
penalties for failure
to comply.
Added by:
L.N. 18 of 2025.

52. (1) Where a Reporting Malta Platform Operator fails to comply with any of the obligations set out in the EU Administrative Cooperation Directive, the Reporting Malta Platform Operator shall be liable to the following administrative penalties:

(a) where a Reporting Malta Platform Operator fails to register with the Commissioner in accordance with regulation 13(12)(e) and in such manner and within the period of time that the Commissioner requires, to an administrative penalty of five hundred euro (€500);

(b) where a Reporting Malta Platform Operator fails to retain the documentation and information it collected in the course of meeting its due diligence and reporting obligations for a minimum period of five (5) years starting from the end of the year in which the information relates, to an administrative penalty of two thousand five hundred euro (€2,500);

(c) where a Reporting Malta Platform Operator fails to apply the due diligence procedures specified in Section II of

Annex V, to an administrative penalty of five thousand euro (€5,000);

(d) where a Reporting Malta Platform Operator fails to report the information required to be reported in accordance with Section III of Annex V within the time stipulated in the said Section III, to an administrative penalty of:

(i) two thousand five hundred euro (€2,500);
and

(ii) one hundred euro (€100) for every day during which the default existed, which administrative penalty shall not exceed in total twenty thousand euro (€20,000);

(e) where a Reporting Malta Platform Operator fails to report the information required to be reported in accordance with Section III of Annex V in a complete and accurate manner, to a penalty of:

(i) in the case of minor errors:

(A) two hundred euro (€200); and

(B) fifty euro (€50) for every day during which the default existed, which administrative penalty shall not exceed in total five thousand euro (€5,000);

(ii) in the case of significant non-compliance, an administrative penalty of up to fifty thousand euro (€50,000).

(2) In addition, and without prejudice to any administrative penalties incurred in accordance with sub-regulation (1), where a Reporting Malta Platform Operator is found to have submitted information that is misleading or false, every senior managing official of such Reporting Malta Platform Operator shall be liable to an administrative penalty of not less than ten thousand euro (€10,000) and not more than thirty thousand euro (€30,000):

Provided that a senior managing official of the said Reporting Malta Platform Operator shall not be guilty of such an offence if he proves that he was unaware and could not with reasonable diligence be aware of such act or omission and that he did everything within his power to prevent that act or omission.

53. The effectiveness of administrative cooperation in accordance with these regulations and in accordance with the EU Administrative Cooperation Directive, including in combating tax evasion and tax avoidance, shall be monitored and assessed by the competent authority of Malta in relation to itself and it shall

Effectiveness of
administrative
cooperation.
Added by:
L.N. 162 of 2026.

communicate the results of its assessment to the EU Commission once a year.

Administrative
penalties for failure
to comply.
Added by:
L.N. 162 of 2026.

54. (1) Where a Reporting Malta Crypto-Asset Service Provider fails to comply with any of the obligations established in the EU Administrative Cooperation Directive, the Reporting Malta Crypto-Asset Service Provider shall be liable:

- (a) where a Reporting Malta Crypto-Asset Service Provider fails to register with the Commissioner in accordance with regulation 13(13)(e) and in such manner and within the period of time that the Commissioner requires, to an administrative penalty of five hundred euro (€500);
- (b) where a Reporting Malta Crypto-Asset Service Provider fails to retain the documentation and information it collected in the course of meeting its due diligence and reporting obligations for a minimum period of five (5) years starting from the end of the year in which the information relates, to an administrative penalty of two thousand five hundred euro (€2,500);
- (c) where a Reporting Malta Crypto-Asset Service Provider fails to report the information required to be reported in accordance with Section II of Annex VI within the time stipulated in Section III, to an administrative penalty of:
 - (i) two thousand five hundred euro (€2,500); and
 - (ii) one hundred euro (€100) for every day during which the default subsists, which administrative penalty and daily penalty shall not exceed in total twenty thousand euro (€20,000);
- (d) where a Reporting Malta Crypto-Asset Service Provider fails to report the information required to be reported in accordance with Section II of Annex VI in a complete and accurate manner, to an administrative penalty of:
 - (i) in the case of minor errors:
 - two hundred euro (€200); and
 - fifty euro (€50) for every day during which the default subsists, which administrative penalty and daily penalty shall not exceed in total five thousand euro (€5,000);
 - (ii) in the case of significant non-compliance, an administrative penalty of up to a

maximum of fifty thousand euro (€50,000);

- (e) where a Reporting Malta Crypto-Asset Service Provider fails to apply the due diligence procedures specified in Section III of Annex VI, to an administrative penalty of five thousand euro (€5,000).

(2) Without prejudice to any administrative penalties incurred in accordance with sub-regulation (1), when a Reporting Malta Crypto-Asset Service Provider is found to have submitted information that is misleading or false, every senior managing official of such Reporting Malta Crypto-Asset Service Provider shall be liable to an administrative penalty of not less than ten thousand euro (€10,000) and not more than thirty thousand euro (€30,000):

Provided that a senior managing official of the said Reporting Malta Crypto-Asset Service Provider shall not be guilty of such a breach if he proves that he was unaware and could not with reasonable diligence be aware of such act or omission and that he did everything within his power to prevent that act or omission.

55. (1) The TIN of reported individuals or entities issued by the Member State of residence shall be reported by the reporting entity or reporting individual when explicitly required by, and in accordance with the regulations and Annexes.

Reporting and
communication of
the TIN.
Added by:
L.N. 162 of 2026.

(2) For taxable periods starting on or after 1 January 2030, the TIN of residents issued by the Member State of residence shall be reported, where possible, with respect to the information referred to in regulation 13(1)(a), (b) and (d).

(3) For taxable periods starting on or after 1 January 2028, the TIN of individuals and entities issued by the Member State of residence shall be reported, where possible, with respect to the information referred to in regulation 13(3)(e)(i) and (xi), as well as of reported individuals and entities with respect to the information referred to in regulation 13(4)(c)(ii) and 13(7)(o). The competent authority in Malta shall include such information in its communication of the information referred to in regulation 13(4)(c)(ii) and 13(7)(o).

ANNEX I
REPORTING AND DUE DILIGENCE RULES FOR
FINANCIAL ACCOUNT INFORMATION

Added by:
L.N. 384 of 2015.
Amended by:
L.N. 344 of 2017;
L.N. 162 of 2026.

This Annex lays down the reporting and due diligence rules that have to be applied by Reporting Malta Financial Institutions in order to enable Malta to communicate, by automatic exchange, the information referred to in Article 8(3a) of the EU Administrative Cooperation Directive. This Annex also describes the rules and administrative procedures that Malta has in place to ensure effective implementation of, and compliance with, the reporting and due diligence procedures set out below.

SECTION I

GENERAL REPORTING REQUIREMENTS

A. Subject to paragraphs C to F, each Reporting Malta Financial Institution shall report to the competent authority of Malta with respect to each Reportable Account of such Reporting Malta Financial Institution:

1. the following information:
 - (a) the name, address, Member States of residence, TINs and date and place of birth, in the case of an individual, of each Reportable Person that is an Account Holder of the account and whether the Account Holder has provided a valid self-certification;
 - (b) in the case of any Entity that is an Account Holder and that, after application of the due diligence procedures consistent with Sections V, VI and VII, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, Member States and, if any, other jurisdictions of residence and TINs of the Entity and the name, address, Member States of residence, TINs and date and place of birth of each Reportable Person, as well as the roles by virtue of which each Reportable Person is a Controlling Person of the Entity and whether a valid self-certification has been provided for each Reportable Person;
 - (c) whether the account is a joint account, including the number of joint Account Holders;
2. the account number, or functional equivalent in the absence of an account number, the type of account and whether the account is a Pre-existing Account or a New Account;
3. the name and identifying number, if any, of the Reporting Malta Financial Institution;
4. the account balance or value, including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value, as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;
5. in the case of any Custodial Account:
 - (a) the total gross amount of interest, the total gross amount of dividends and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account or

with respect to the account during the calendar year or other appropriate reporting period; and

- (b) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Malta Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;

6. in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period;

7. in the case of any Equity Interest held in an Investment Entity that is a legal arrangement, the roles by virtue of which the Reportable Person is an Equity Interest holder; and

8. in the case of any account not described in sub-paragraph A(5) (6) or (7), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Malta Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

B. The information reported must identify the currency in which each amount is denominated.

C. Notwithstanding sub-paragraph A(1), with respect to each Reportable Account that is a Pre-existing Account, the TINs or date of birth is not required to be reported if such TINs or date of birth is not in the records of the Reporting Malta Financial Institution and is not otherwise required to be collected by such Reporting Malta Financial Institution under domestic law or any Union legal instrument. However, a Reporting Malta Financial Institution is required to use reasonable efforts to obtain the TINs and date of birth with respect to Pre-existing Accounts by the end of the second calendar year following the year in which Pre-existing Accounts were identified as Reportable Accounts and whenever it is required to update the information relating to the Pre-existing Account in accordance with domestic AML/KYC Procedures.

D. Notwithstanding sub-paragraph A(1), the TIN is not required to be reported if a TIN is not issued by the relevant Member State or other jurisdiction of residence.

E. Notwithstanding subparagraph A(1), the place of birth is not required to be reported unless:

- (1) the Reporting Malta Financial Institution is otherwise required to obtain and report it under domestic law or the Reporting Malta Financial Institution is or has been otherwise required to obtain and report it under any Union legal instrument in effect or that was in effect on 5 January 2015; and
- (2) it is available in the electronically searchable data maintained by the Reporting Malta Financial Institution.

F. Notwithstanding point (b) of sub-paragraph A(5) and unless the Reporting Malta Financial Institution elects otherwise with respect to any clearly identified group of accounts, the gross proceeds from the sale or redemption of Financial Assets are not required to be reported in so far as such gross proceeds from the sale or redemption of such Financial Assets are reported by the Reporting Malta Financial Institution in accordance with regulation 13(13).

SECTION II

GENERAL DUE DILIGENCE REQUIREMENTS

A. An account is treated as a Reportable Account beginning as of the date it is identified as such pursuant to the due diligence procedures in Sections II through VII and, unless otherwise provided, information with respect to a Reportable Account must be reported annually in the calendar year following the year to which the information relates.

B. The balance or value of an account is determined as of the last day of the calendar year or other appropriate reporting period.

C. Where a balance or value threshold is to be determined as of the last day of a calendar year, the relevant balance or value must be determined as of the last day of the reporting period that ends with or within that calendar year.

D. Reporting Malta Financial Institutions may use service providers to fulfil their reporting and due diligence obligations imposed on such Reporting Malta Financial Institutions, as contemplated in these Regulations, but these obligations shall remain the responsibility of the Reporting Malta Financial Institutions.

E. Reporting Malta Financial Institutions may apply the due diligence procedures for New Accounts to Pre-existing Accounts, and the due diligence procedures for High Value Accounts to Lower Value Accounts. Where a Reporting Malta Financial Institution opts to apply the due diligence procedures to New Accounts to be used for Pre-existing Accounts, the rules otherwise applicable to Pre-existing Accounts continue to apply.

SECTION III

DUE DILIGENCE FOR PRE-EXISTING INDIVIDUAL ACCOUNTS

A. Introduction. The following procedures apply for purposes of identifying Reportable Accounts among Pre-existing Individual Accounts.

B. Lower Value Accounts. The following procedures apply with respect to Lower Value Accounts.

1. Residence Address. If the Reporting Malta Financial Institution has in its records a current residence address for the individual Account Holder based on Documentary Evidence, the Reporting Malta Financial Institution may treat the individual Account Holder as being a resident for tax purposes of the Member State or other jurisdiction in which the address is located for purposes of determining whether such individual Account Holder is a Reportable Person.

2. Electronic Record Search. If the Reporting Malta Financial Institution does not rely on a current residence address for the individual Account Holder based on Documentary Evidence as set forth in subparagraph B(1), the Reporting Malta Financial Institution must review electronically searchable data maintained by the Reporting Malta Financial Institution for any of the following *indicia* and apply subparagraphs B(3) to (6):

- (a) identification of the Account Holder as a resident of a Member State;
- (b) current mailing or residence address (including a post office box) in a Member State;
- (c) one or more telephone numbers in a Member State and no telephone number in the Member State of the Reporting Malta Financial Institution;
- (d) standing instructions (other than with respect to a Depository Account)

to transfer funds to an account maintained in a Member State;

- (e) currently effective power of attorney or signatory authority granted to a person with an address in a Member State; or
- (f) a "hold mail" instruction or "in-care-of" address in a Member State if the Reporting Malta Financial Institution does not have any other address on file for the Account Holder.

3. If none of the *indicia* listed in subparagraph B(2) are discovered in the electronic search, then no further action is required until there is a change in circumstances that results in one or more *indicia* being associated with the account, or the account becomes a High Value Account.

4. If any of the *indicia* listed in sub-paragraph B(2)(a) through (e) are discovered in the electronic search, or if there is a change in circumstances that results in one or more *indicia* being associated with the account, then the Reporting Malta Financial Institution must treat the Account Holder as a resident for tax purposes of each Member State for which an *indicium* is identified, unless it elects to apply sub-paragraph B(6) and one of the exceptions in that sub-paragraph applies with respect to that account.

5. If a "hold mail" instruction or "in-care-of" address is discovered in the electronic search and no other address and none of the other *indicia* listed in subparagraph B(2)(a) through (e) are identified for the Account Holder, the Reporting Malta Financial Institution must, in the order most appropriate to the circumstances, apply the paper record search described in sub-paragraph C(2), or seek to obtain from the Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of such Account Holder. If the paper search fails to establish an *indicium* and the attempt to obtain the self-certification or Documentary Evidence is not successful, the Reporting Malta Financial Institution must report the account to the competent authority of Malta as an undocumented account.

6. Notwithstanding a finding of *indicia* under sub-paragraph B(2), a Reporting Malta Financial Institution is not required to treat an Account Holder as a resident of a Member State if:

- (a) the Account Holder information contains a current mailing or residence address in that Member State, one or more telephone numbers in that Member State (and no telephone number in the Member State of the Reporting Malta Financial Institution) or standing instructions (with respect to Financial Accounts other than Depository Accounts) to transfer funds to an account maintained in a Member State, and the Reporting Malta Financial Institution obtains, or has previously reviewed and maintains, a record of:
 - (i) a self-certification from the Account Holder of the Member State(s) or other jurisdiction(s) of residence of such Account Holder that does not include that Member State; and
 - (ii) Documentary Evidence establishing the Account Holder's non-reportable status;
- (b) the Account Holder information contains a currently effective power of attorney or signatory authority granted to a person with an address in that Member State, and the Reporting Malta Financial Institution obtains, or has previously reviewed and maintains, a record of:
 - (i) a self-certification from the Account Holder of the Member State(s) or other jurisdiction(s) of residence of such Account Holder that does not include that Member State; or

- (ii) Documentary Evidence establishing the Account Holder's non-reportable status.

C. Enhanced Review Procedures for High Value Accounts. The following enhanced review procedures apply with respect to High Value Accounts.

1. Electronic Record search. With respect to High Value Accounts, the Reporting Malta Financial Institution must review electronically searchable data maintained by the Reporting Malta Financial Institution for any of the *indicia* described in sub-paragraph B(2).

2. Paper Record Search. If the Reporting Malta Financial Institution's electronically searchable databases include fields for, and capture all of the information described in, sub-paragraph C(3), then a further paper record search is not required. If the electronic databases do not capture all of this information, then with respect to a High Value Account, the Reporting Malta Financial Institution must also review the current customer master file and, to the extent not contained in the current customer master file, the following documents associated with the account and obtained by the Reporting Malta Financial Institution within the last five years for any of the *indicia* described in sub-paragraph B(2):

- (a) the most recent Documentary Evidence collected with respect to the account;
- (b) the most recent account opening contract or documentation;
- (c) the most recent documentation obtained by the Reporting Malta Financial Institution pursuant to AML/KYC Procedures or for other regulatory purposes;
- (d) any power of attorney or signature authority forms currently in effect; and
- (e) any standing instructions (other than with respect to a Depository Account) to transfer funds currently in effect.

3. Exception To The Extent Databases Contain Sufficient Information. A Reporting Malta Financial Institution is not required to perform the paper record search described in sub-paragraph C(2) to the extent the Reporting Malta Financial Institution's electronically searchable information includes the following:

- (a) the Account Holder's residence status;
- (b) the Account Holder's residence address and mailing address currently on file with the Reporting Malta Financial Institution;
- (c) the Account Holder's telephone number(s) currently on file, if any, with the Reporting Malta Financial Institution;
- (d) in the case of Financial Accounts other than Depository Accounts, whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the Reporting Malta Financial Institution or another Malta Financial Institution);
- (e) whether there is a current "in-care-of" address or "hold mail" instruction for the Account Holder; and
- (f) whether there is any power of attorney or signatory authority for the account.

4. Relationship Manager Inquiry for Actual Knowledge. In addition to the electronic and paper record searches described in sub-paragraphs C(1) and (2), the

Reporting Malta Financial Institution must treat as a Reportable Account any High Value Account assigned to a relationship manager (including any Financial Accounts aggregated with that High Value Account) if the relationship manager has actual knowledge that the Account Holder is a Reportable Person.

5. Effect of Finding *Indicia*.

- (a) If none of the *indicia* listed in sub-paragraph B(2) are discovered in the enhanced review of High Value Accounts described in paragraph C, and the account is not identified as held by a Reportable Person in sub-paragraph C(4), then further action is not required until there is a change in circumstances that results in one or more *indicia* being associated with the account.
- (b) If any of the *indicia* listed in sub-paragraphs B(2)(a) through (e) are discovered in the enhanced review of High Value Accounts described in paragraph C, or if there is a subsequent change in circumstances that results in one or more *indicia* being associated with the account, then the Reporting Malta Financial Institution must treat the account as a Reportable Account with respect to each Member State for which an *indicium* is identified unless it elects to apply sub-paragraph B(6) and one of the exceptions in that sub-paragraph applies with respect to that account.
- (c) If a "hold mail" instruction or "in-care-of" address is discovered in the enhanced review of High Value Accounts described in paragraph C, and no other address and none of the other *indicia* listed in subparagraphs B(2)(a) through (e) are identified for the Account Holder, the Reporting Malta Financial Institution must obtain from such Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of the Account Holder. If the Reporting Malta Financial Institution cannot obtain such self-certification or Documentary Evidence, it must report the account to the competent authority of Malta as an undocumented account.

6. If a Pre-existing Individual Account is not a High Value Account as of 31 December 2015, but becomes a High Value Account as of the last day of a subsequent calendar year, the Reporting Malta Financial Institution must complete the enhanced review procedures described in paragraph C with respect to such account within the calendar year following the year in which the account becomes a High Value Account. If based on this review such account is identified as a Reportable Account, the Reporting Malta Financial Institution must report the required information about such account with respect to the year in which it is identified as a Reportable Account and subsequent years on an annual basis, unless the Account Holder ceases to be a Reportable Person.

7. Once a Reporting Malta Financial Institution applies the enhanced review procedures described in paragraph C to a High Value Account, the Reporting Malta Financial Institution is not required to reapply such procedures, other than the relationship manager inquiry described in sub-paragraph C(4), to the same High Value Account in any subsequent year unless the account is undocumented where the Reporting Malta Financial Institution should reapply them annually until such account ceases to be undocumented.

8. If there is a change of circumstances with respect to a High Value Account that results in one or more *indicia* described in sub-paragraph B(2) being associated with the account, then the Reporting Malta Financial Institution must treat the account as a Reportable Account with respect to each Member State for which an

indicium is identified unless it elects to apply subparagraph B(6) and one of the exceptions in that sub-paragraph applies with respect to that account.

9. A Reporting Malta Financial Institution must implement procedures to ensure that a relationship manager identifies any change in circumstances of an account. For example, if a relationship manager is notified that the Account Holder has a new mailing address in a Member State, the Reporting Malta Financial Institution is required to treat the new address as a change in circumstances and, if it elects to apply sub-paragraph B(6), is required to obtain the appropriate documentation from the Account Holder.

D. Review of Pre-existing High Value Individual Accounts must be completed by 31 December 2016. Review of Pre-existing Lower Value Individual Accounts must be completed by 31 December 2017.

E. Any Pre-existing Individual Account that has been identified as a Reportable Account under this Section must be treated as a Reportable Account in all subsequent years, unless the Account Holder ceases to be a Reportable Person.

SECTION IV

DUE DILIGENCE FOR NEW INDIVIDUAL ACCOUNTS

The following procedures apply for purposes of identifying Reportable Accounts among New Individual Accounts.

A. With respect to New Individual Accounts, upon account opening, the Reporting Malta Financial Institution must obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Malta Financial Institution to determine the Account Holder's residence(s) for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Malta Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures.

B. If the self-certification establishes that the Account Holder is resident for tax purposes in a Member State, the Reporting Malta Financial Institution must treat the account as a Reportable Account and the self-certification must also include the Account Holder's TIN with respect to such Member State (subject to paragraph D of Section I) and date of birth.

C. If there is a change of circumstances with respect to a New Individual Account that causes the Reporting Malta Financial Institution to know, or have reason to know, that the original self-certification is incorrect or unreliable, the Reporting Malta Financial Institution cannot rely on the original self-certification and must obtain a valid self-certification that establishes the residence(s) for tax purposes of the Account Holder.

SECTION V

DUE DILIGENCE FOR PRE-EXISTING ENTITY ACCOUNTS

The following procedures apply for purposes of identifying Reportable Accounts among Pre-existing Entity Accounts.

A. Entity Accounts Not Required to Be Reviewed, Identified or Reported. Unless the Reporting Malta Financial Institution elects otherwise, either with respect to all Pre-existing Entity Accounts or, separately, with respect to any clearly identified group of such accounts, a Pre-existing Entity Account with an aggregate account balance or value that does not exceed, as of 31 December 2015, an amount denominated in Euro that corresponds to USD 250 000, is not required to be

reviewed, identified, or reported as a Reportable Account until the aggregate account balance or value exceeds that amount as of the last day of any subsequent calendar year.

B. **Entity Accounts Subject to Review.** A Pre-existing Entity Account that has an aggregate account balance or value that exceeds, as of 31 December 2015, an amount denominated in Euro that corresponds to USD 250 000, and a Pre-existing Entity Account that does not exceed, as of 31 December 2015, that amount but the aggregate account balance or value of which exceeds such amount as of the last day of any subsequent calendar year, must be reviewed in accordance with the procedures set forth in paragraph D.

C. **Entity Accounts With Respect to Which Reporting Is Required.** With respect to Pre-existing Entity Accounts described in paragraph B, only accounts that are held by one or more Entities that are Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons, shall be treated as Reportable Accounts.

D. **Review Procedures for Identifying Entity Accounts With Respect to Which Reporting Is Required.** For Pre-existing Entity Accounts described in paragraph B, a Reporting Malta Financial Institution must apply the following review procedures to determine whether the account is held by one or more Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons:

1. **Determine Whether the Entity Is a Reportable Person.**
 - (a) Review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine whether the information indicates that the Account Holder is resident in a Member State. For this purpose, information indicating that the Account Holder is resident in a Member State includes a place of incorporation or organisation, or an address in a Member State.
 - (b) If the information indicates that the Account Holder is resident in a Member State, the Reporting Malta Financial Institution must treat the account as a Reportable Account unless it obtains a self-certification from the Account Holder, or reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person.
2. **Determine Whether the Entity is a Passive NFE with One or More Controlling Persons who are Reportable Persons.** With respect to an Account Holder of a Pre-existing Entity Account (including an Entity that is a Reportable Person), the Reporting Malta Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons who are Reportable Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. In making these determinations the Reporting Malta Financial Institution must follow the guidance in sub-paragraphs D(2)(a) through (c) in the order most appropriate under the circumstances.
 - (a) **Determining whether the Account Holder is a Passive NFE.** For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Malta Financial Institution must obtain a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the

Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in sub-paragraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.

- (b) Determining the Controlling Persons of an Account Holder. For the purposes of determining the Controlling Persons of an Account Holder, a Reporting Malta Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.
- (c) Determining whether a Controlling Person of a Passive NFE is a Reportable Person. For the purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Malta Financial Institution may rely on:
 - (i) information collected and maintained pursuant to AML/KYC Procedures in the case of a Pre-existing Entity Account held by one or more NFEs with an aggregate account balance or value that does not exceed an amount denominated in Euro that corresponds to USD 1 000 000; or
 - (ii) a self-certification from the Account Holder or such Controlling Person of the Member State(s) or other jurisdiction(s) in which the controlling person is resident for tax purposes.

E. Timing of Review and Additional Procedures Applicable to Pre-existing Entity Accounts

1. Review of Pre-existing Entity Accounts with an aggregate account balance or value that exceeds, as of 31 December 2015, an amount denominated in Euro that corresponds to USD 250 000, must be completed by 31 December 2017.
2. Review of Pre-existing Entity Accounts with an aggregate account balance or value that does not exceed, as of 31 December 2015, an amount denominated in Euro that corresponds to USD 250 000 but exceeds that amount as of 31 December of a subsequent year, must be completed within the calendar year following the year in which the aggregate account balance or value exceeds such amount.
3. If there is a change of circumstances with respect to a Pre-existing Entity Account that causes the Reporting Malta Financial Institution to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the Reporting Malta Financial Institution must re-determine the status of the account in accordance with the procedures set forth in paragraph D.

SECTION VI

DUE DILIGENCE FOR NEW ENTITY ACCOUNTS

The following procedures apply for purposes of identifying Reportable Accounts among New Entity Accounts.

Review Procedures for Identifying Entity Accounts With Respect to Which Reporting Is Required. For New Entity Accounts, a Reporting Malta Financial Institution must apply the following review procedures to determine whether the account is held by one or more Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons:

1. Determine Whether the Entity Is a Reportable Person.
 - (a) Obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Malta Financial Institution to determine the Account Holder's residence(s) for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Malta Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures. If the Entity certifies that it has no residence for tax purposes, the Reporting Malta Financial Institution may rely on the address of the principal office of the Entity to determine the residence of the Account Holder.
 - (b) If the self-certification indicates that the Account Holder is resident in a Member State, the Reporting Malta Financial Institution must treat the account as a Reportable Account, unless it reasonably determines based on information in its possession or that is publicly available that the Account Holder is not a Reportable Person with respect to such Member State.

2. Determine Whether the Entity is a Passive NFE with One or More Controlling Persons Who Are Reportable Persons. With respect to an Account Holder of a New Entity Account (including an Entity that is a Reportable Person), the Reporting Malta Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons who are Reportable Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. In making these determinations the Reporting Malta Financial Institution must follow the guidance in sub-paragraphs A(2)(a) through (c) in the order most appropriate under the circumstances.

- (a) Determining whether the Account Holder is a Passive NFE. For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Malta Financial Institution must rely on a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in sub-paragraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.
- (b) Determining the Controlling Persons of an Account Holder.

For the purposes of determining the Controlling Persons of an Account Holder, a Reporting Malta Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures, provided that such procedures are consistent with the procedures established in the Prevention of Money Laundering and Funding of Terrorism Regulations and any binding procedures and guidance issued by virtue of regulation 17 of the said regulations. If the Reporting Malta Financial Institution is not legally required to apply AML/KYC Procedures that are consistent with those outlined in the Prevention of Money Laundering and Funding of Terrorism Regulations, it shall apply substantially similar procedures for the purpose of determining the Controlling Persons.

- (c) Determining whether a Controlling Person of a Passive NFE is a

Reportable Person. For purposes of determining whether a controlling person of a Passive NFE is a Reportable Person, a Reporting Malta Financial Institution may rely on a self-certification from the Account Holder or such Controlling Person.

SECTION VII

SPECIAL DUE DILIGENCE RULES

The following additional rules apply in implementing the due diligence procedures described above:

A. Reliance on Self-Certifications and Documentary Evidence. A Reporting Malta Financial Institution may not rely on a self-certification or Documentary Evidence if the Reporting Malta Financial Institution knows or has reason to know that the self-certification or Documentary Evidence is incorrect or unreliable.

B. Alternative Procedures for Financial Accounts held by Individual Beneficiaries of a Cash Value Insurance Contract or an Annuity Contract and for a Group Cash Value Insurance Contract or Group Annuity Contract. A Reporting Malta Financial Institution may presume that an individual beneficiary (other than the owner) of a Cash Value Insurance Contract or an Annuity Contract receiving a death benefit is not a Reportable Person and may treat such Financial Account as other than a Reportable Account unless the Reporting Malta Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person. A Reporting Malta Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract or an Annuity Contract is a Reportable Person if the information collected by the Reporting Malta Financial Institution and associated with the beneficiary contains indicia as described in paragraph B of Section III. If a Reporting Malta Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person, the Reporting Malta Financial Institution must follow the procedures in paragraph B of Section III.

A Reporting Malta Financial Institution may treat a Financial Account that is a member's interest in a Group Cash Value Insurance Contract or Group Annuity Contract as a Financial Account that is not a Reportable Account until the date on which an amount is payable to the employee/certificate holder or beneficiary, if the Financial Account that is a member's interest in a Group Cash Value Insurance Contract or Group Annuity Contract meets the following requirements:

- (i) the Group Cash Value Insurance Contract or Group Annuity Contract is issued to an employer and covers 25 or more employees/certificate holders;
- (ii) the employee/certificate holders are entitled to receive any contract value related to their interests and to name beneficiaries for the benefit payable upon the employee's death; and
- (iii) the aggregate amount payable to any employee/certificate holder or beneficiary does not exceed an amount denominated in Euro that corresponds to USD 1 000 000.

The term "Group Cash Value Insurance Contract" means a Cash Value Insurance Contract that (i) provides coverage on individuals who are affiliated through an employer, trade association, labour union, or other association or group; and (ii) charges a premium for each member of the group (or member of a class within the group) that is determined without regard to the individual health characteristics other than age, gender, and smoking habits of the member (or class of members) of the group.

The term "Group Annuity Contract" means an Annuity Contract under which the obligees are individuals who are affiliated through an employer, trade association, labour union, or other association or group.

C. Account Balance Aggregation and Currency Rules

1. Aggregation of Individual Accounts. For purposes of determining the aggregate balance or value of Financial Accounts held by an individual, a Reporting Malta Financial Institution is required to aggregate all Financial Accounts maintained by the Reporting Malta Financial Institution, or by a Related Entity, but only to the extent that the Reporting Malta Financial Institution's computerised systems link the Financial Accounts by reference to a data element such as client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this sub-paragraph.

2. Aggregation of Entity Accounts. For purposes of determining the aggregate balance or value of Financial Accounts held by an Entity, a Reporting Malta Financial Institution is required to take into account all Financial Accounts that are maintained by the Reporting Malta Financial Institution, or by a Related Entity, but only to the extent that the Reporting Malta Financial Institution's computerised systems link the Financial Accounts by reference to a data element such as client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this sub-paragraph.

3. Special Aggregation Rule Applicable to Relationship Managers. For purposes of determining the aggregate balance or value of Financial Accounts held by a person to determine whether a financial account is a High Value Account, a Reporting Malta Financial Institution is also required, in the case of any Financial Accounts that a relationship manager knows, or has reason to know, are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person, to aggregate all such accounts.

4. Amounts Read to Include Equivalent in Other Currencies. All amounts denominated in the domestic currency of each Member State shall be read to include equivalent amounts in other currencies, as determined by domestic law.

D. Temporary lack of self-certification.

In exceptional circumstances where a self-certification cannot be obtained by a Reporting Malta Financial Institution in respect of a New Account in time to meet its due diligence and reporting obligations with respect to the reporting period during which the account was opened, the Reporting Malta Financial Institution shall apply the due diligence procedures for Pre-existing Accounts, until such self-certification is obtained and validated.

SECTION VIII
DEFINED TERMS

The following terms have the meanings set forth below:

A. Reporting Malta Financial Institution

1. The term "Reporting Malta Financial Institution" means any Malta Financial Institution that is not a Non-Reporting Malta Financial Institution.

2. The term "Malta Financial Institution" means:
 - (i) any Financial Institution that is resident in Malta, but excludes any branch of that Financial Institution that is located outside Malta; and
 - (ii) any branch of a Financial Institution that is not resident in Malta, if such branch is located in Malta.
3. The term "Participating Jurisdiction Financial Institution" means:
 - (i) any Financial Institution that is resident in a Participating Jurisdiction, but excludes any branch of that Financial Institution that is located outside such Participating Jurisdiction; and
 - (ii) any branch of a Financial Institution that is not resident in a Participating Jurisdiction, if such branch is located in such Participating Jurisdiction.
4. The term "Financial Institution" means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.
5. The term "Custodial Institution" means any Entity that holds, as a substantial portion of its business, Financial Assets for the account of others. An Entity holds Financial Assets for the account of others as a substantial portion of its business if the Entity's gross income attributable to the holding of Financial Assets and related financial services equals or exceeds twenty percent (20%) of the Entity's gross income during the shorter of:
 - (i) the three (3) year period that ends on 31 December, or the final day of a non-calendar year accounting period, prior to the year in which the determination is being made; or
 - (ii) the period during which the Entity has been in existence.
6. The term "Depository Institution" means any Entity which:
 - (a) accepts deposits in the ordinary course of a banking or similar business; or
 - (b) holds Electronic Money or Central Bank Digital Currencies for the benefit of customers.
7. The term "Investment Entity" means any Entity:
 - (a) which primarily conducts as a business one (1) or more of the following activities or operations for, or on behalf of a customer:
 - (i) trading in money market instruments, including cheques, bills, certificates of deposit, derivatives; foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
 - (ii) individual and collective portfolio management; or
 - (iii) otherwise investing, administering, or managing Financial Assets, money, or Reportable Crypto-Assets on behalf of other persons; or
 - (b) the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets or Reportable Crypto-Assets, if the Entity is managed by another Entity that is a Depository

Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity as described in sub-paragraph A(6)(a).

An Entity is treated as primarily conducting as a business one (1) or more of the activities described in sub-paragraph A(6)(a), or an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets or Reportable Crypto-Assets for the purposes of sub-paragraph A(6)(b), if the Entity's gross income attributable to the relevant activities equals or exceeds fifty percent (50%) of the Entity's gross income during the shorter of:

- (i) the three (3) year period ending on 31 December of the year preceding the year in which the determination is made; or
- (ii) the period during which the Entity has been in existence. For the purposes of sub-paragraph A(6)(a)(iii), the term "otherwise investing, administering, or managing Financial Assets, money, or Reportable Crypto-Assets on behalf of other persons" does not include the provision of services effectuating Exchange Transactions for or on behalf of customers. The term "Investment Entity" does not include an Entity that is an Active NFE because that Entity meets any of the criteria referred to in sub-paragraph D(8)(d) to (g).

This sub-paragraph shall be interpreted in a manner consistent with similar language established in the definition of "financial institution" in Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

8. The term "Financial Asset" includes a security, including a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness, partnership interest, commodity, swap, including interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements, Insurance Contract or Annuity Contract, or any interest, including a futures or forward contract or option in a security, Reportable Crypto-Asset, partnership interest, commodity, swap, Insurance Contract, or Annuity Contract. The term "Financial Asset" does not include a non-debt, direct interest in immovable property.

9. The term "Specified Insurance Company" means any Entity that is an insurance company, or the holding company of an insurance company, which issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.

10. For the purposes of this Annex, the term "Electronic Money" means any product that is:

- (a) a digital representation of a single Fiat Currency;
- (b) issued on the receipt of funds for the purpose of making payment transactions;
- (c) represented by a claim on the issuer denominated in the same Fiat

Currency;

- (d) accepted in payment by a natural or legal person other than the issuer; and
- (e) by virtue of regulatory requirements to which the issuer is subject, redeemable at any time and at par value for the same Fiat Currency upon request of the holder of the product.

The term "Electronic Money" does not include a product created for the sole purpose of facilitating the transfer of funds from a customer to another person pursuant to instructions of the customer. A product is not created for the sole purpose of facilitating the transfer of funds if, in the ordinary course of business of the transferring Entity, either the funds connected with such product are held longer than sixty (60) days after receipt of instructions to facilitate the transfer or, if no instructions are received, the funds connected with such product are held longer than sixty (60) days after receipt of the funds.

11. The term "Fiat Currency" means the official currency of a jurisdiction, issued by a jurisdiction or by a jurisdiction's designated Central Bank or monetary authority, as represented by physical banknotes or coins or by money in different digital forms, including bank reserves and Central Bank Digital Currencies. The term also includes commercial bank money and electronic money products (Electronic Money).

12. The term "Central Bank Digital Currency" means any digital Fiat Currency issued by a Central Bank or other monetary authority.

13. The term "Crypto-Asset" shall have the same meaning as assigned to it in Article 3(1), point (5), of Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937.

14. The term "Reportable Crypto-Asset" means any Crypto-Asset other than a Central Bank Digital Currency, Electronic Money, or any Crypto-Asset for which the Reporting Crypto-Asset Service Provider has adequately determined that it cannot be used for payment or investment purposes.

15. The term "Exchange Transaction" means any:

- (a) exchange between Reportable Crypto-Assets and Fiat Currencies; and
- (b) exchange between one (1) or more forms of Reportable Crypto-Assets.

B. Non-Reporting Malta Financial Institution

1. The term "Non-Reporting Malta Financial Institution" means any Financial Institution which is:

- (a) a Governmental Entity, International Organisation or Central Bank, other than:
 - (i) with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged by a Specified Insurance Company, Custodial Institution, or Depository Institution; or
 - (ii) with respect to the activity of maintaining Central Bank Digital

Currencies for Account Holders which are not Financial Institutions, Governmental Entities, International Organisations or Central Banks;

- (b) a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organisation or Central Bank; or a Qualified Credit Card Issuer;
- (c) any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in sub-paragraphs B(1)(a) and (b), and is included in the list of Non-Reporting Malta Financial Institutions referred to in Article 8(7a) of the EU Administrative Cooperation Directive, provided that the status of such Entity as a Non-Reporting Malta Financial Institution does not frustrate the purposes of the EU Administrative Cooperation Directive;
- (d) an Exempt Collective Investment Vehicle; or
- (e) a trust to the extent that the trustee of the trust is a Reporting Malta Financial Institution and reports all information required to be reported pursuant to Section I with respect to all Reportable Accounts of the trust.

2. The term "Governmental Entity" means the government of a Member State or other jurisdiction, any political subdivision of a Member State or other jurisdiction (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of a Member State or other jurisdiction or of any one or more of the foregoing (each, a "Governmental Entity"). This category is comprised of the integral parts, controlled entities, and political subdivisions of a Member State or other jurisdiction.

- (a) An "integral part" of a Member State or other jurisdiction means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of a Member State or other jurisdiction. The net earnings of the governing authority must be credited to its own account or to other accounts of the Member State or other jurisdiction, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity.
- (b) A "controlled entity" means an Entity which is separate in form from the Member State or other jurisdiction or which otherwise constitutes a separate juridical entity, provided that:
 - (i) the Entity is wholly owned and controlled by one or more Governmental Entities directly or through one or more controlled entities;
 - (ii) the Entity's net earnings are credited to its own account or to the accounts of one or more Governmental Entities, with no portion of its income inuring to the benefit of any private person; and
 - (iii) the Entity's assets vest in one or more Governmental Entities upon dissolution.
- (c) Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of

government. Notwithstanding the foregoing, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a Governmental Entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons.

3. The term "International Organisation" means any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation (including a supranational organisation) (i) that is comprised primarily of governments; (ii) that has in effect a headquarters or substantially similar agreement with the Member State; and (iii) the income of which does not inure to the benefit of private persons.

4. The term "Central Bank" means an institution that is by law or government sanction the principal authority, other than the government of the Member State itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the Member State, whether or not owned in whole or in part by the Member State.

5. The term "Broad Participation Retirement Fund" means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries who are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that the fund:

- (a) does not have a single beneficiary with a right to more than 5% of the fund's assets;
- (b) is subject to government regulation and provides information reporting to the tax authorities; and
- (c) satisfies at least one of the following requirements:
 - (i) the fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;
 - (ii) the fund receives at least 50% of its total contributions (other than transfers of assets from other plans described in sub-paragraphs B(5) through (7) or from retirement and pension accounts described in sub-paragraph C(17)(a)) from the sponsoring employers;
 - (iii) distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death (except roll-over distributions to other retirement funds described in sub-paragraphs B(5) through (7) or retirement and pension accounts described in sub-paragraph C(17)(a)), or penalties apply to distributions or withdrawals made before such specified events; or
 - (iv) contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed, annually, an amount denominated in Euro that corresponds to USD 50 000, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

6. The term "Narrow Participation Retirement Fund" means a fund established to provide retirement, disability, or death benefits to beneficiaries who are current or former employees (or persons designated by such employees) of one or more

employers in consideration for services rendered, provided that:

- (a) the fund has fewer than 50 participants;
- (b) the fund is sponsored by one or more employers that are not Investment Entities or Passive NFEs;
- (c) the employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described in sub-paragraph C(17)(a)) are limited by reference to earned income and compensation of the employee, respectively;
- (d) participants that are not residents of the Member State in which the fund is established are not entitled to more than 20% of the fund's assets; and
- (e) the fund is subject to government regulation and provides information reporting to the tax authorities.

7. The term "Pension Fund of a Governmental Entity, International Organisation or Central Bank" means a fund established by a Governmental Entity, International Organisation or Central Bank to provide retirement, disability, or death benefits to beneficiaries or participants who are current or former employees (or persons designated by such employees), or who are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services performed for the Governmental Entity, International Organisation or Central Bank.

8. The term "Qualified Credit Card Issuer" means a Financial Institution satisfying the following requirements:

- (a) the Financial Institution is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and
- (b) beginning on or before 1 January 2016, the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of an amount denominated in Euro that corresponds to USD 50 000, or to ensure that any customer overpayment in excess of that amount is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.

9. The term "Exempt Collective Investment Vehicle" means an Investment Entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through individuals or Entities that are not Reportable Persons, except a Passive NFE with Controlling Persons who are Reportable Persons.

An Investment Entity that is regulated as a collective investment vehicle does not fail to qualify under sub-paragraph B(9) as an Exempt Collective Investment Vehicle, solely because the collective investment vehicle has issued physical shares in bearer form, provided that:

- (a) the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after 31 December 2015;
- (b) the collective investment vehicle retires all such shares upon surrender;

- (c) the collective investment vehicle performs the due diligence procedures set forth in Sections II through VII and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and
- (d) the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilised as soon as possible, and in any event prior to 1 January 2018.

C. Financial Account

1. The term "Financial Account" means an account maintained by a Financial Institution, and includes a Depository Account, a Custodial Account and:

- (a) in the case of an Investment Entity, any equity or debt interest in the Financial Institution. Notwithstanding the foregoing, the term "Financial Account" does not include any equity or debt interest in an Entity that is an Investment Entity solely because it (i) renders investment advice to, and acts on behalf of; or (ii) manages portfolios for, and acts on behalf of, a customer for the purpose of investing, managing, or administering Financial Assets deposited in the name of the customer with a Financial Institution other than such Entity;
- (b) in the case of a Financial Institution not described in sub-paragraph C(1)(a), any equity or debt interest in the Financial Institution, if the class of interests was established with the purpose of avoiding reporting in accordance with Section I; and
- (c) any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a non-investment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an Excluded Account.

The term "Financial Account" does not include any account that is an Excluded Account.

2. The term "Depository Account" includes any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a Depository Institution. A Depository Account also includes:

- (a) an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest therein;
- (b) an account or notional account that represents all Electronic Money held for the benefit of a customer; and
- (c) an account that holds one (1) or more Central Bank Digital Currencies for the benefit of a customer.

3. The term "Custodial Account" means an account (other than an Insurance Contract or Annuity Contract) which holds one or more Financial Assets for the benefit of another person.

4. The term "Equity Interest" means, in the case of a partnership that is a Financial Institution, either a capital or profits interest in the partnership. In the case of a trust that is a Financial Institution, an Equity Interest is considered to be held by any person treated as a settlor or beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust. A

Reportable Person will be treated as being a beneficiary of a trust if such Reportable Person has the right to receive directly or indirectly (for example, through a nominee) a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust.

5. The term "Insurance Contract" means a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.

6. The term "Annuity Contract" means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation, or practice of the Member State or other jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.

7. The term "Cash Value Insurance Contract" means an Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value.

8. The term "Cash Value" means the greater of (i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan); and (ii) the amount the policyholder can borrow under or with regard to the contract. Notwithstanding the foregoing, the term "Cash Value" does not include an amount payable under an Insurance Contract:

- (a) solely by reason of the death of an individual insured under a life insurance contract;
- (b) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;
- (c) as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an Insurance Contract (other than an investment-linked life insurance or annuity contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;
- (d) as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an Insurance Contract under which the only benefits payable are described in sub-paragraph C(8)(b); or
- (e) as a return of an advance premium or premium deposit for an Insurance Contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract.

9. The term "Pre-existing Account" means:

- (a) a Financial Account maintained by a Reporting Financial Institution as of 31 December 2015 or, if the account is treated as a Financial Account solely by virtue of the amendments to Directive (EU) 2023/2226 of 17 October 2023 amending Directive 2011/16/EU made by Council Directive (EU) 2023/2226 as of 31 December 2025;
- (b) any Financial Account of an Account Holder, regardless of the date such Financial Account was opened, if:

- (i) the Account Holder also holds a Financial Account that is a Pre-existing Account under sub-paragraph C(9)(a) with the Reporting Malta Financial Institution, or with a Related Entity within Malta;
- (ii) the Reporting Malta Financial Institution and, as applicable, the Related Entity within Malta, treats both of the aforementioned Financial Accounts, and any other Financial Accounts of the Account Holder that are treated as a Pre-existing Account in accordance with sub-paragraph C(9)(b), as a single Financial Account for the purpose of satisfying the standards of knowledge requirements stipulated in Section VII, paragraph A, and for the purpose of determining the balance or value of any of the Financial Accounts when applying any of the account thresholds;
- (iii) with respect to a Financial Account that is subject to AML/KYC Procedures, the Reporting Malta Financial Institution is permitted to satisfy such AML/KYC Procedures for the Financial Account by relying upon the AML/KYC Procedures performed for the Pre-existing Account described in sub-paragraph C(9)(a); and
- (iv) the opening of the Financial Account does not require the provision of new, additional or amended customer information by the Account Holder other than for the purposes of these regulations.

10. The term "New Account" means a Financial Account maintained by a Reporting Malta Financial Institution opened on, or after 1 January 2016 or, if the account is treated as a Financial Account solely by virtue of the amendments to Directive (EU) 2023/2226 of 17 October 2023 amending Directive 2011/16/EU on administrative cooperation in the field of taxation, on, or after 1 January 2026.

11. The term "Pre-existing Individual Account" means a Pre-existing Account held by one or more individuals.

12. The term "New Individual Account" means a New Account held by one or more individuals.

13. The term "Pre-existing Entity Account" means a Pre-existing Account held by one or more Entities.

14. The term "Lower Value Account" means a Pre-existing Individual Account with an aggregate balance or value as of 31 December 2015 that does not exceed an amount denominated in Euro that corresponds to USD 1 000 000.

15. The term "High Value Account" means a Pre-existing Individual Account with an aggregate balance or value that exceeds, as of 31 December 2015, or 31 December of any subsequent year, an amount denominated in Euro that corresponds to USD 1 000 000.

16. The term "New Entity Account" means a New Account held by one or more Entities.

17. The term "Excluded Account" means any of the following accounts:

- (a) a retirement or pension account that satisfies the following requirements:
 - (i) the account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits, including disability or death benefits;
 - (ii) the account is tax-favoured, that is, contributions to the account

that would otherwise be subject to tax are deductible or excluded from the gross income of the Account Holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate;

- (iii) information reporting is required to the tax authorities with respect to the account;
- (iv) withdrawals are subject to reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and
- (v) either:
 - annual contributions are limited to an amount denominated in euro that corresponds to USD \$50,000 or less; or
 - there is a maximum lifetime contribution limit to the account of an amount denominated in euro that corresponds to USD \$1,000,000 or less, in each case applying the rules established in paragraph C of Section VII for account aggregation currency translation.

A Financial Account that otherwise satisfies the requirement of sub-paragraph C(17)(a)(v) shall not fail to satisfy such requirement solely because such Financial Account may receive assets or funds transferred from one (1) or more Financial Accounts that satisfy the requirements of sub-paragraph C(17)(a) or (b) or from one (1) or more retirement or pension funds that meet the requirements of any of sub-paragraphs B(5) to (7);

(b) an account that satisfies the following requirements:

- (i) the account is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market, or the account is subject to regulation as a savings vehicle for purposes other than for retirement;
- (ii) the account is tax-favoured, that is contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the Account Holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate;
- (iii) withdrawals are subject to satisfying specific criteria related to the purpose of the investment or savings account, including, the provision of educational or medical benefits, or penalties apply to withdrawals made before such criteria are satisfied; and
- (iv) annual contributions are limited to an amount denominated in euro that corresponds to USD \$50,000 or less, applying the rules established in paragraph C of Section VII for account aggregation and currency translation.

A Financial Account that otherwise satisfies the requirement of sub-paragraph C(17)(b)(iv) shall not fail to satisfy such requirement solely because such Financial Account may receive assets or funds transferred from one (1) or more Financial Accounts that meet the requirements of sub-paragraph C(17)(a) or (b) or from one (1) or more retirement or pension funds that satisfy the requirements of any of sub-paragraphs B(5) to (7);

(c) a life insurance contract with a coverage period that ends before the

insured individual attains age ninety (90), provided that the contract satisfies the following requirements:

- (i) periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in force or until the insured attains age ninety (90), whichever period is shorter;
 - (ii) the contract has no contract value that any person may access, by withdrawal, loan, or otherwise, without terminating the contract;
 - (iii) the amount, other than a death benefit, payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges, whether or not actually imposed, for the periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and
 - (iv) the contract is not held by a transferee for value;
- (d) an account that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate;
- (e) an account established in connection with any of the following:
- (i) a court order or judgment;
 - (ii) sale, exchange, or lease of immovable or personal property, provided that the account satisfies the following requirements:
 - the account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a Financial Asset that is deposited in the account in connection with the sale, exchange, or lease of the property;
 - the account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed in accordance with the lease contract;
 - the assets of the account, including the income earned thereon, shall be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee, including to satisfy such person's obligation, when the property is sold, exchanged, or surrendered, or the lease terminates;
 - the account is not a margin or similar account established in connection with a sale or exchange of a Financial Asset; and
 - the account is not associated with an account described in subparagraph C(17)(f);
 - (iii) an obligation of a Financial Institution servicing a loan secured by immovable property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the immovable property at a later time;
 - (iv) an obligation of a Financial Institution solely to facilitate the payment of taxes at a later time;
 - (v) a foundation or capital increase of a company provided that the account satisfies the following requirements:
 - the account is used exclusively to deposit capital that is to be used for the purposes of the foundation or capital increase of a

- company, as prescribed by law;
 - any amounts held in the account shall be blocked until the Reporting Financial Institution obtains an independent confirmation regarding the foundation or capital increase;
 - the account is closed or transformed into an account in the name of the company after the foundation or capital increase;
 - any repayments resulting from a failed foundation or capital increase, net of service provider and similar fees, are made solely to the persons who contributed the amounts; and
 - the account has not been established more than twelve (12) months ago;
- (e) a Depository Account that represents all Electronic Money held for the benefit of a customer, if the rolling average ninety (90) days end-of-day aggregate account balance or value during any period of ninety (90) consecutive days did not exceed USD \$10,000 at any day during the calendar year or other appropriate reporting period;
- (f) a Depository Account that satisfies the following requirements:
- (i) the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and
 - (ii) beginning on, or before 1 January 2016, the Financial Institution implemented policies and procedures either to prevent a customer from making an overpayment in excess of an amount denominated in euro that corresponds to USD \$50,000, or to ensure that any customer overpayment in excess of that amount is refunded to the customer within sixty (60) days, in each case applying the rules established in paragraph C of Section VII for currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns;
- (g) a Depository Account that represents all Electronic Money held for the benefit of a customer, if the rolling average ninety (90) days end-of-day aggregate account balance or value during any period of ninety (90) consecutive days did not exceed USD \$10,000 at any day during the calendar year or other appropriate reporting period;
- (h) any other account that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the accounts described in subparagraphs C(17)(a) to (f), and is included in the list of Excluded Accounts referred to in Article 8(7a) of the EU Administrative Cooperation Directive, provided that the status of such account as an Excluded Account does not frustrate the purposes of the said Directive.

D. Reportable Account

1. The term "Reportable Account" means a Financial Account that is maintained by a Reporting Malta Financial Institution and is held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person, provided it has been identified as such pursuant to the due diligence procedures described in Sections II through VII.

2. The term "Reportable Person" means a Member State Person other than:

- (a) an Entity the stock of which is regularly traded on one (1) or more established securities markets;
- (b) any Entity that is a Related Entity of an Entity described in point (a);
- (c) a Governmental Entity;
- (d) an International Organisation;
- (e) a Central Bank; or
- (f) a Financial Institution.

3. The term "Member State Person" with regard to Malta means an individual or Entity that is resident in any other Member State under the tax laws of that other Member State, or an estate of a decedent that was a resident of any other Member State. For this purpose, an Entity such as a partnership, limited liability partnership or similar legal arrangement, which has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated.

4. The term "Participating Jurisdiction" with regard to Malta means:

- (a) any other Member State;
- (b) any other jurisdiction (i) with which Malta has an arrangement in place pursuant to which that jurisdiction will provide the information specified in Section I; and (ii) which is identified in a list published by Malta and notified to the European Commission;
- (c) any other jurisdiction (i) with which the Union has an agreement in place pursuant to which that jurisdiction will provide the information specified in Section I; and (ii) which is identified in a list published by the European Commission.

5. The term "Controlling Persons" means the natural persons who exercise control over an entity. In the case of a trust, that term means the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions.

The term "Controlling Persons" must be interpreted in a manner consistent with the definition of "Beneficial Owner" contained in regulation 2 of the Regulations as well as that contained in regulation 2 of the Prevention of Money Laundering and Funding of Terrorism Regulations (S.L. 373.01), and the level of control must also be determined in line with such definitions.

6. The term "NFE" means any Entity that is not a Financial Institution.

7. The term "Passive NFE" means any: (i) NFE that is not an Active NFE; or (ii) an Investment Entity described in subparagraph A(6)(b) that is not a Participating Jurisdiction Financial Institution.

8. The term "Active NFE" means any NFE that meets any of the following criteria:

- (a) less than 50% of the NFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
- (b) the stock of the NFE is regularly traded on an established securities

market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;

- (c) the NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
- (d) substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
- (e) the NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE;
- (f) the NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution;
- (g) the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or
- (h) the NFE meets all of the following requirements:
 - (i) it is established and operated in its Member State or other jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its Member State or other jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
 - (ii) it is exempt from income tax in its Member State or other jurisdiction of residence;
 - (iii) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - (iv) the applicable laws of the NFE's Member State or other jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and
 - (v) the applicable laws of the NFE's Member State or other

jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or escheat to the government of the NFE's Member State or other jurisdiction of residence or any political subdivision thereof.

E. Miscellaneous

1. The term "Account Holder" means the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of the EU Administrative Cooperation Directive, and such other person is treated as holding the account. In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder.

2. The term "AML/KYC Procedures" means the customer due diligence procedures of a Reporting Financial Institution pursuant to the anti-money laundering or similar requirements to which such Reporting Malta Financial Institution is subject.

3. The term "Entity" means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation.

4. An Entity is a "Related Entity" of another Entity if (i) either Entity controls the other Entity; (ii) the two Entities are under common control; or (iii) the two Entities are Investment Entities described in sub-paragraph A(6)(b), are under common management, and such management fulfils the due diligence obligations of such Investment Entities. For this purpose control includes direct or indirect ownership of more than 50% of the vote and value in an Entity.

5. The term "TIN" means Taxpayer Identification Number (or functional equivalent in the absence of a Taxpayer Identification Number).

6. The term "Documentary Evidence" includes any of the following:

- (a) a certificate of residence issued by an authorised government body (for example, a government or agency thereof, or a municipality) of the Member State or other jurisdiction in which the payee claims to be a resident;
- (b) with respect to an individual, any valid identification issued by an authorised government body (for example, a government or agency thereof, or a municipality), that includes the individual's name and is typically used for identification purposes;
- (c) with respect to an Entity, any official documentation issued by an authorised government body (for example, a government or agency thereof, or a municipality) that includes the name of the Entity and either the address of its principal office in the Member State or other jurisdiction in which it claims to be a resident or the Member State or

other jurisdiction in which the Entity was incorporated or organised;

- (d) any audited financial statement, third-party credit report, bankruptcy filing, or securities regulator's report.

7. The term "Identification Service" means an electronic process made available free of charge by a Member State or the Union to a Reporting Malta Financial Institution for the purpose of ascertaining the identity and tax residence of an Account Holder or Controlling Person.

With respect to a Pre-existing Entity Account, Reporting Malta Financial Institutions may use as Documentary Evidence any classification in the Reporting Malta Financial Institution's records with respect to the Account Holder that was determined based on a standardised industry coding system, that was recorded by the Reporting Malta Financial Institution consistent with its normal business practices for purposes of AML/KYC Procedures or another regulatory purposes (other than for tax purposes) and that was implemented by the Reporting Malta Financial Institution prior to the date used to classify the Financial Account as a Pre-existing Account, provided that the Reporting Malta Financial Institution does not know or does not have reason to know that such classification is incorrect or unreliable. The term "standardised industry coding system" means a coding system used to classify establishments by business type for purposes other than tax purposes.

SECTION IX

EFFECTIVE IMPLEMENTATION

Pursuant to Article 8(3a) of the EU Administrative Cooperation Directive, Member States must have rules and administrative procedures in place to ensure effective implementation of, and compliance with, the reporting and due diligence procedures set out above including:

- (1) rules to prevent any Financial Institutions, persons or intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures;
- (2) rules requiring Reporting Malta Financial Institutions to keep records of the steps undertaken and any evidence relied upon for the performance of the above indicated procedures and adequate measures to obtain those records, provided that such records shall be retained for not longer than is necessary to achieve the purposes of these regulations but in any event not less than five (5) years.
- (3) administrative procedures to verify Reporting Financial Institutions' compliance with the reporting and due diligence procedures; administrative procedures to follow up with a Reporting Financial Institution when undocumented accounts are reported;
- (4) administrative procedures to ensure that the Entities and accounts defined in domestic law as Non-Reporting Malta Financial Institutions and Excluded Accounts continue to have a low risk of being used to evade tax; and
- (5) effective enforcement provisions to address non-compliance.

Added by:
L.N. 162 of 2026.

SECTION X

TRANSITIONAL MEASURES

Notwithstanding sub-paragraphs A(1)(b) and (6a) of Section I, with respect to

each Reportable Account that is maintained by a Reporting Malta Financial Institution as of 31 December 2025 and for reporting periods ending by the second calendar year following such date, information with respect to the roles by virtue of which each Reportable Person is a Controlling Person or Equity Interest holder of the Entity is only required to be reported if such information is available in the electronically searchable data maintained by the Reporting Malta Financial Institution.

ANNEX II
COMPLEMENTARY REPORTING AND DUE
DILIGENCE RULES FOR FINANCIAL ACCOUNT
INFORMATION

*Added by:
L.N. 384 of 2015.*

1. Change in circumstances

A "change in circumstances" includes any change that results in the addition of information relevant to a person's status or otherwise conflicts with such person's status. In addition, a change in circumstances includes any change or addition of information to the Account Holder's account (including the addition, substitution, or other change of an Account Holder) or any change or addition of information to any account associated with such account (applying the account aggregation rules described in sub-paragraphs C(1) through (3) of Section VII of Annex I) if such change or addition of information affects the status of the Account Holder.

If a Reporting Malta Financial Institution has relied on the residence address test described in sub-paragraph B(1) of Section III of Annex I and there is a change in circumstances that causes the Reporting Malta Financial Institution to know or have reason to know that the original Documentary Evidence (or other equivalent documentation) is incorrect or unreliable, the Reporting Malta Financial Institution must, by the later of the last day of the relevant calendar year or other appropriate reporting period, or 90 calendar days following the notice or discovery of such change in circumstances, obtain a self-certification and new Documentary Evidence to establish the residence(s) for tax purposes of the Account Holder. If the Reporting Malta Financial Institution cannot obtain the self-certification and new Documentary Evidence by such date, the Reporting Malta Financial Institution must apply the electronic record search procedure described in sub-paragraphs B(2) through (6) of Section III of Annex I.

2. Self-certification for New Entity Accounts

With respect to New Entity Accounts, for the purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Malta Financial Institution may only rely on a self-certification from either the Account Holder or the Controlling Person.

3. Residence of a Financial Institution

A Financial Institution is "resident" in a Member State if it is subject to the jurisdiction of such Member State (i.e., the Member State is able to enforce reporting by the Financial Institution). In general, where a Financial Institution is resident for tax purposes in a Member State, it is subject to the jurisdiction of such Member State and it is, thus, a Member State Financial Institution. In the case of a trust that is a

Financial Institution (irrespective of whether it is resident for tax purposes in a Member State), the trust is considered to be subject to the jurisdiction of a Member State if one or more of its trustees are resident in such Member State except if the trust reports all the information required to be reported pursuant to the EU Administrative Cooperation Directive with respect to Reportable Accounts maintained by the trust to another Member State because it is resident for tax purposes in such other Member State. However, where a Financial Institution (other than a trust) does not have a residence for tax purposes (e.g., because it is treated as fiscally transparent, or it is located in a jurisdiction that does not have an income tax), it is considered to be subject to the jurisdiction of a Member State and it is, thus, a Member State Financial Institution if:

- (a) it is incorporated under the laws of the Member State;
- (b) it has its place of management (including effective management) in the Member State; or
- (c) it is subject to financial supervision in the Member State.

Where a Financial Institution (other than a trust) is resident in two or more Member States, such Financial Institution will be subject to the reporting and due diligence obligations of the Member State in which it maintains the Financial Account(s).

4. Account maintained.

In general, an account would be considered to be maintained by a Financial Institution as follows:

- (a) in the case of a Custodial Account, by the Financial Institution that holds custody over the assets in the account (including a Financial Institution that holds assets in street name for an Account Holder in such institution);
- (b) in the case of a Depository Account, by the Financial Institution that is obligated to make payments with respect to the account (excluding an agent of a Financial Institution regardless of whether such agent is a Financial Institution);
- (c) in the case of any equity or debt interest in a Financial Institution that constitutes a Financial Account, by such Financial Institution;
- (d) in the case of a Cash Value Insurance Contract or an Annuity Contract, by the Financial Institution that is obligated to make payments with respect to the contract.

5. Trusts that are Passive NFEs

An Entity such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes, according to subparagraph D(3) of Section VIII of Annex I, shall be treated as resident in the jurisdiction in which its place of effective management is situated. For these purposes, a legal person or a legal arrangement is considered "similar" to a partnership and a limited liability partnership where it is not treated as a taxable unit in a Member State under the tax laws of such Member State. However, in order to avoid duplicate reporting (given the wide scope of the term "Controlling Persons" in the case of trusts), a trust that is a Passive NFE may not be considered a similar legal arrangement.

6. Address of Entity's principal office

One of the requirements described in sub-paragraph E(6)(c) of Section VIII of Annex I is that, with respect to an Entity, the official documentation includes either

the address of the Entity's principal office in the Member State or other jurisdiction in which it claims to be a resident or the Member State or other jurisdiction in which the Entity was incorporated or organised. The address of the Entity's principal office is generally the place in which its place of effective management is situated. The address of a Financial Institution with which the Entity maintains an account, a post office box, or an address used solely for mailing purposes is not the address of the Entity's principal office unless such address is the only address used by the Entity and appears as the Entity's registered address in the Entity's organisational documents. Further, an address that is provided subject to instructions to hold all mail to that address is not the address of the Entity's principal office.

ANNEX III
FILING RULES FOR GROUPS OF
MULTINATIONAL ENTERPRISES

*Added by:
L.N. 400 of 2016.
Amended by:
L.N. 18 of 2025.*

SECTION I
DEFINED TERMS

1. The term "Group" means a collection of enterprises related through ownership or control such that it is either required to prepare Consolidated Financial Statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange.
2. The term "Enterprise" means any form of conducting business by any person referred to in points (b), (c) and (d) of Article 3 point 11 of the EU Administrative Cooperation Directive.
3. The term "MNE Group" means any Group that includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction, and is not an Excluded MNE Group.
4. The term "Excluded MNE Group" means, with respect to any Fiscal Year of the Group, a Group having total consolidated group revenue of less than EUR 750,000,000 or an amount in local currency approximately equivalent to EUR 750,000,000 as of January 2015 during the Fiscal Year immediately preceding the Reporting Fiscal Year as reflected in its Consolidated Financial Statements for such preceding Fiscal Year.
5. The term "Constituent Entity" means any of the following:
 - (a) any separate business unit of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange;
 - (b) any such business unit that is excluded from the MNE Group's Consolidated Financial Statements solely on size or materiality grounds;
 - (c) any permanent establishment of any separate business unit of the MNE Group included in (a) or (b) provided the business unit prepares a separate financial statement for such permanent establishment for

financial reporting, regulatory, tax reporting, or internal management control purposes.

6. The term "Reporting Entity" means the Constituent Entity that is required to file a country-by-country report conforming to the requirements in regulation 13(4)(c) in its jurisdiction of tax residence on behalf of the MNE Group. The Reporting Entity may be the Ultimate Parent Entity, the Surrogate Parent Entity, or any entity described in point 1 of Section II.

7. The term "Ultimate Parent Entity" means a Constituent Entity of an MNE Group that meets the following criteria:

- (a) it owns directly or indirectly a sufficient interest in one or more other Constituent Entities of such MNE Group such that it is required to prepare Consolidated Financial Statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence;
- (b) there is no other Constituent Entity of such MNE Group that owns directly or indirectly an interest described in point (a) in the first mentioned Constituent Entity.

8. The term "Surrogate Parent Entity" means one Constituent Entity of the MNE Group that has been appointed by such MNE Group, as a sole substitute for the Ultimate Parent Entity, to file the country-by-country report in that Constituent Entity's jurisdiction of tax residence, on behalf of such MNE Group, when one or more of the conditions set out in point (b) of point 1 of Section II apply.

9. The term "Fiscal Year" means an annual accounting period with respect to which the Ultimate Parent Entity of the MNE Group prepares its financial statements.

10. The term "Reporting Fiscal Year" means that Fiscal Year the financial and operational results of which are reflected in the country-by-country report referred to in regulation 13(4)(c).

11. The term "Qualifying Competent Authority Agreement" means an agreement that is between authorised representatives of Malta and non-Union jurisdictions that are parties to an International Agreement and that requires the automatic exchange of country-by- country reports between the party jurisdictions.

12. The term "International Agreement" means the Multilateral Convention for Mutual Administrative Assistance in Tax Matters, any bilateral or multilateral Tax Convention, or any Tax Information Exchange Agreement to which Malta is a party, and that by its terms provides legal authority for the exchange of tax information between jurisdictions, including automatic exchange of such information.

13. The term "Consolidated Financial Statements" means the financial statements of an MNE Group in which the assets, liabilities, income, expenses and cash flows of the Ultimate Parent Entity and the Constituent Entities are presented as those of a single economic entity.

14. The term "Systemic Failure" with respect to a jurisdiction means either that a jurisdiction has a Qualifying Competent Authority Agreement in effect with Malta but has suspended automatic exchange (for reasons other than those that are in accordance with the terms of that Agreement), or that a jurisdiction otherwise persistently failed to automatically provide to Malta country-by-country reports in its possession of MNE Groups that have Constituent Entities in Malta.

SECTION II
GENERAL REPORTING REQUIREMENTS

1. A Constituent Entity resident in Malta which is not the Ultimate Parent Entity of an MNE Group shall file a country-by-country report with respect to the Reporting Fiscal Year of an MNE Group of which it is a Constituent Entity, if the following criteria are satisfied:

- (a) the entity is resident for tax purposes in Malta;
- (b) one of the following conditions applies:
 - (i) the Ultimate Parent Entity of the MNE Group is not obligated to file a country-by-country report in its jurisdiction of tax residence;
 - (ii) the jurisdiction in which the Ultimate Parent Entity is resident for tax purposes has a current International Agreement to which Malta is a party but does not have a Qualifying Competent Authority Agreement in effect to which Malta is a party by the time specified in regulation 13(4)(a) for filing the country-by-country report for the Reporting Fiscal Year;
 - (iii) there has been a Systemic Failure of the jurisdiction of tax residence of the Ultimate Parent Entity that has been notified by Malta to the Constituent Entity resident for tax purposes in Malta.

Without prejudice to the obligation of the Ultimate Parent Entity referred to in regulation 13(4)(a) or its Surrogate Parent Entity to file the first country-by-country report for the fiscal year of the MNE Group commencing on or after 1 January 2016, the obligation for Constituent Entities set out in point 1 of this Section shall apply for country-by-country reports with respect to the Reporting Fiscal Years commencing on or after 1 January 2017 onwards.

A Constituent Entity resident in Malta as defined in paragraph 1 shall request its Ultimate Parent Entity to provide it with all information required to enable it to meet its obligations to file a country-by-country report, in accordance with regulation 13(4)(c). If despite that, that Constituent Entity has not obtained or acquired all the required information to report for the MNE Group, this Constituent Entity shall file a country-by-country report containing all information in its possession, obtained or acquired, and notify the Commissioner that the Ultimate Parent Entity has refused to make the necessary information available. This shall be without prejudice to the right of the Commissioner to apply penalties provided for in national legislation and the competent authority of Malta shall inform all EU Member States of this refusal.

Where there are more than one Constituent Entities of the same MNE Group that are resident for tax purposes in the Union and one or more of the conditions set out in point (b) apply, the MNE Group may designate one of such Constituent Entities to file the country-by-country report conforming to the requirements of regulation 13(4)(c) with respect to any Reporting Fiscal Year within the deadline specified in regulation 13(6) and to notify the Commissioner that the filing is intended to satisfy the filing requirement of all the Constituent Entities of such MNE Group that are resident for tax purposes in the Union. The competent authority of Malta shall, pursuant to regulation 13(4)(b), communicate the country-by-country report received to any other EU Member State in which, on the basis of the information in the country-by-country report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes, or are subject to tax with respect to the business carried out through a permanent establishment.

Where a Constituent Entity cannot obtain or acquire all the information required

to file a country-by-country report, in line with regulation 13(4)(c), then such Constituent Entity shall not be eligible to be designated to be the reporting entity for the MNE Group in accordance with the fourth paragraph of this point. This rule shall be without prejudice to the obligation of the Constituent Entity to notify the Commissioner that the Ultimate Parent Entity has refused to make the necessary information available.

2. By derogation from point 1, when one or more of the conditions set out in point (b) of the first paragraph of point 1 apply, an entity described in point 1 shall not be required to file a country-by-country report with respect to any Reporting Fiscal Year if the MNE Group of which it is a Constituent Entity has made available a country-by-country report in accordance with regulation 13(4)(c) with respect to such Fiscal Year through a Surrogate Parent Entity that files that country-by-country report with the tax authority of its jurisdiction of tax residence on or before the date specified in regulation 13(6) and that, in case the Surrogate Parent Entity is tax resident in a jurisdiction outside the Union, satisfies the following conditions:

- (a) the jurisdiction of tax residence of the Surrogate Parent Entity requires filing of country by-country reports conforming to the requirements of regulation 13(4)(c);
- (b) the jurisdiction of tax residence of the Surrogate Parent Entity has a Qualifying Competent Authority Agreement in effect to which Malta is a party by the time specified in regulation 13(6) for filing the country-by-country report for the Reporting Fiscal Year;
- (c) the jurisdiction of tax residence of the Surrogate Parent Entity has not notified the competent authority of Malta of a Systemic Failure;
- (d) the jurisdiction of tax residence of the Surrogate Parent Entity has been notified no later than the last day of the Reporting Fiscal Year of such MNE Group by the Constituent Entity resident for tax purposes in its jurisdiction that it is the Surrogate Parent Entity;
- (e) a notification has been provided to the Commissioner in accordance with point 4.

3. Any Constituent Entity of an MNE Group that is resident for tax purposes in Malta shall notify the Commissioner whether it is the Ultimate Parent Entity or the Surrogate Parent Entity or the Constituent Entity referred to in item 1, not later than the last tax return date applicable to such Constituent Entity as determined under regulation 2 of the Income Tax (Statutory Dates) Rules.

4. Where a Constituent Entity of an MNE Group, that is resident for tax purposes in Malta, is not the Ultimate Parent Entity nor the Surrogate Parent Entity nor the Constituent Entity referred to in item 1, it shall notify the Commissioner of the identity and tax residence of the Reporting Entity, not later than the last tax return date applicable to that Constituent Entity as determined under regulation 2 of the Income Tax (Statutory Dates) Rules.

5. The country-by-country report shall specify the currency of the amounts referred to in that report.

SECTION III Country-by-country Report

A. Template for the country-by-country report

Table 1: Overview of allocation of income, taxes and business

activities by tax jurisdiction

Name of the MNE group: Fiscal year concerned: Currency used:										
Tax Jurisdiction	Revenues			Profit (Loss) before Income Tax	Income Tax Paid (on Cash Basis)	Income Tax Accrued - Current Year	Stated Capital	Accumulated Earnings	Number of Employees	Tangible Assets other than Cash Equivalent
	Unrelated Party	Related Party	Total							

Table 2: List of all the Constituent Entities of the MNE group included in each aggregation per tax jurisdiction

Name of the MNE group: Fiscal year concerned:															
Tax Jurisdiction	Constituent Entities Resident in the Tax Jurisdiction	Tax Jurisdiction of Organisation or Incorporation if Different from Tax Jurisdiction of Residence	Main Business Activity(ies)												
			Research and Development	Holding or Managing Intellectual Property	Purchasing or Procurement	Manufacturing or Production	Sales, Marketing or Distribution	Administrative, Management or Support Services	Provision of Services to Unrelated Parties	Internal Group Finance	Regulated Financial Services	Insurance	Holding Shares or Other Equity instruments	Dormant	Other ¹
	1.														
	2.														
	3.														
	1.														
	2.														
	3.														

¹. Please specify the nature of the activity of the Constituent Entity in the "Additional Information"

Table 3: Additional Information

Name of the MNE group:	
Fiscal year concerned:	

Please include any further brief information or explanation you consider necessary or that would facilitate the understanding of the compulsory information provided in the country-by-country report

B. General instructions for filling in the country-by-country report

1. Purpose

The template shall be used for reporting a multinational enterprise's (MNE) group allocation of income, taxes and business activities on a tax jurisdiction-by-tax jurisdiction basis.

2. Treatment of Branches and Permanent Establishments

The permanent establishment data shall be reported by reference to the tax jurisdiction in which it is situated and not by reference to the tax jurisdiction of residence of the business unit of which the permanent establishment is a part. Residence tax jurisdiction reporting for the business unit of which the permanent establishment is a part shall exclude financial data related to the permanent establishment.

3. Period covered by the annual template

The template shall cover the fiscal year of the Reporting MNE. For Constituent Entities, at the discretion of the Reporting MNE, the template shall reflect on a consistent basis either of the following information:

- (a) information for the fiscal year of the relevant Constituent Entities ending on the same date as the fiscal year of the Reporting MNE, or ending within the 12 month period preceding such date;
- (b) information for all the relevant Constituent Entities reported for the fiscal year of the Reporting MNE.

4. Source of data

The Reporting MNE shall consistently use the same sources of data from year to year in completing the template. The Reporting MNE may choose to use data from its consolidation reporting packages, from separate entity statutory financial statements, regulatory financial statements, or internal management accounts. It is not necessary to reconcile the revenue, profit and tax reporting in the template to the consolidated financial statements. If statutory financial statements are used as the basis for reporting, all amounts shall be translated to the stated functional currency of the Reporting MNE at the average exchange rate for the year stated in the Additional Information section of the template. Adjustments need not be made, however, for differences in accounting principles applied from tax jurisdiction to tax jurisdiction.

The Reporting MNE shall provide a brief description of the sources of data used in preparing the template in the Additional Information section of the template. If a change is made in the source of data used from year to year, the Reporting MNE shall explain the reasons for the change and its consequences in the Additional Information section of the template.

C. Specific instructions for filling in the Country-by-Country Report

1. Overview of allocation of income, taxes and business activities by tax jurisdiction (Table 1)

1.1. Tax Jurisdiction

In the first column of the template, the Reporting MNE shall list all of the tax jurisdictions in which Constituent Entities of the MNE group are resident for tax purposes. A tax jurisdiction is defined as a State as well as a non-State jurisdiction which has fiscal autonomy. A separate line shall be included for all Constituent Entities in the MNE group deemed by the Reporting MNE not to be resident in any tax jurisdiction for tax purposes. Where a Constituent Entity is resident in more than one tax jurisdiction, the applicable tax treaty tie breaker shall be applied to determine the tax jurisdiction of residence. Where no applicable tax treaty exists, the Constituent Entity shall be reported in the tax jurisdiction of the Constituent Entity's place of effective management. The place of effective management shall be determined with internationally agreed standards.

1.2. Revenues

In the three columns of the template under the heading 'Revenues', the Reporting MNE shall report the following information:

- (a) the sum of revenues of all the Constituent Entities of the MNE group in the relevant tax jurisdiction generated from transactions with associated enterprises;
- (b) the sum of revenues of all the Constituent Entities of the MNE group in the relevant tax jurisdiction generated from transactions with independent parties;
- (c) the total of the sums referred to in points (a) and (b).

Revenues shall include revenues from sales of inventory and properties, services, royalties, interest, premiums and any other amounts. Revenues shall exclude payments received from other Constituent Entities that are treated as dividends in the payer's tax jurisdiction.

1.3. Profit (Loss) before Income Tax

In the fifth column of the template, the Reporting MNE shall report the sum of the profit (loss) before income tax for all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The profit (loss) before income tax shall include all extraordinary income and expense items.

1.4. Income Tax Paid (on Cash Basis)

In the sixth column of the template, the Reporting MNE shall report the total amount of income tax actually paid during the relevant fiscal year by all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. Taxes paid shall include cash taxes paid by the Constituent Entity to the residence tax jurisdiction and to all other tax jurisdictions. Taxes paid shall include withholding taxes paid by other entities (associated enterprises and independent enterprises) with respect to payments to the Constituent Entity. Thus, if company A resident in tax jurisdiction A earns interest in tax jurisdiction B, the tax withheld in tax jurisdiction B shall be reported by company A.

1.5. Income Tax Accrued (Current Year)

In the seventh column of the template, the Reporting MNE shall report the sum of the accrued current tax expense recorded on taxable profits or losses of the year of

reporting of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The current tax expense shall reflect only operations in the current year and shall not include deferred taxes or provisions for uncertain tax liabilities.

1.6. Stated Capital

In the eighth column of the template, the Reporting MNE shall report the sum of the stated capital of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. With regard to permanent establishments, the stated capital shall be reported by the legal entity of which it is a permanent establishment unless there is a defined capital requirement in the permanent establishment tax jurisdiction for regulatory purposes.

1.7. Accumulated Earnings

In the ninth column of the template, the Reporting MNE shall report the sum of the total accumulated earnings of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction as of the end of the year. With regard to permanent establishments, accumulated earnings shall be reported by the legal entity of which it is a permanent establishment.

1.8. Number of Employees

In the tenth column of the template, the Reporting MNE shall report the total number of employees on a full-time equivalent (FTE) basis of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. The number of employees may be reported as of the year-end, on the basis of average employment levels for the year, or on any other basis consistently applied across tax jurisdictions and from year to year. For this purpose, independent contractors participating in the ordinary operating activities of the Constituent Entity may be reported as employees. Reasonable rounding or approximation of the number of employees is permissible, providing that such rounding or approximation does not materially distort the relative distribution of employees across the various tax jurisdictions. Consistent approaches shall be applied from year to year and across entities.

1.9. Tangible Assets other than Cash and Cash Equivalents

In the eleventh column of the template, the Reporting MNE shall report the sum of the net book values of tangible assets of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. With regard to permanent establishments, assets shall be reported by reference to the tax jurisdiction in which the permanent establishment is situated. Tangible assets for this purpose do not include cash or cash equivalents, intangibles, or financial assets.

2. List of all the Constituent Entities of the MNE group included in each aggregation per tax jurisdiction (Table 2)

2.1. Constituent Entities Resident in the Tax Jurisdiction

The Reporting MNE shall list, on a tax jurisdiction-by-tax jurisdiction basis and by legal entity name, all the Constituent Entities of the MNE group which are resident for tax purposes in the relevant tax jurisdiction. As stated in point 2 of the General instructions with regard to permanent establishments, however, the permanent establishment shall be listed by reference to the tax jurisdiction in which it is situated. The legal entity of which it is a permanent establishment shall be noted.

2.2. Tax Jurisdiction of Organisation or Incorporation if Different from Tax Jurisdiction of Residence

The Reporting MNE shall report the name of the tax jurisdiction under whose laws

the Constituent Entity of the MNE is organised or incorporated if it is different from the tax jurisdiction of residence.

2.3. Main Business Activity(ies)

The Reporting MNE shall determine the nature of the main business activity(ies) carried out by the Constituent Entity in the relevant tax jurisdiction, by ticking one or more of the appropriate boxes.

ANNEX IV HALLMARKS

*Added by:
L.N. 342 of 2019.*

In the context of Annex IV, any capitalised term shall have the meaning that it has under the corresponding definitions set out in Annex I of these Regulations.

Part I. Main benefit test

Generic hallmarks under category A and specific hallmarks under category B and under sub-paragraphs (b)(i), (c) and (d) of paragraph 1 of category C may only be taken into account where they fulfil the "main benefit test".

That test will be satisfied if it can be established that the main benefit or one of the main benefits which, having regard to all relevant facts and circumstances, a person may reasonably expect to derive from an arrangement, is the obtaining of a tax advantage.

In the context of hallmark under paragraph 1 of category C, the presence of conditions set out in sub-paragraphs (b)(i), (c) or (d) of paragraph 1 of category C cannot alone be a reason for concluding that an arrangement satisfies the main benefit test.

Part II. Categories of hallmarks

A. Generic hallmarks linked to the main benefit test

1. An arrangement where the relevant taxpayer or a participant in the arrangement undertakes to comply with a condition of confidentiality which may require them not to disclose how the arrangement could secure a tax advantage vis-à-vis other intermediaries or the tax authorities.

2. An arrangement where the intermediary is entitled to receive a fee (or interest, remuneration for finance costs and other charges) for the arrangement and that fee is fixed by reference to:

- (a) the amount of the tax advantage derived from the arrangement; or
- (b) whether or not a tax advantage is actually derived from the arrangement. This would include an obligation on the intermediary to partially or fully refund the fees where the intended tax advantage derived from the arrangement was not partially or fully achieved.

3. An arrangement that has substantially standardised documentation and, or structure and is available to more than one relevant taxpayer without a need to be substantially customised for implementation.

B. Specific hallmarks linked to the main benefit test

1. An arrangement whereby a participant in the arrangement takes contrived steps which consist in acquiring a loss-making company, discontinuing the main activity of such company and using its losses in order to reduce its tax liability, including through a transfer of those losses to another jurisdiction or by the acceleration of the use of those losses.

2. An arrangement that has the effect of converting income into capital, gifts or other categories of revenue which are taxed at a lower level or exempt from tax.

3. An arrangement which includes circular transactions resulting in the round-tripping of funds, namely through involving interposed entities without other primary commercial function or transactions that offset or cancel each other or that have other similar features.

C. Specific hallmarks related to cross-border transactions

1. An arrangement that involves deductible cross-border payments made between two or more associated enterprises where at least one of the following conditions occurs:

- (a) the recipient is not resident for tax purposes in any tax jurisdiction;
- (b) although the recipient is resident for tax purposes in a jurisdiction, that jurisdiction either:
 - (i) does not impose any corporate tax or imposes corporate tax at the rate of zero or almost zero; or
 - (ii) is included in a list of third-country jurisdictions which have been assessed by EU Member States collectively or within the framework of the OECD as being non-cooperative;
- (c) the payment benefits from a full exemption from tax in the jurisdiction where the recipient is resident for tax purposes;
- (d) the payment benefits from a preferential tax regime in the jurisdiction where the recipient is resident for tax purposes.

2. Deductions for the same depreciation on the asset are claimed in more than one jurisdiction.

3. Relief from double taxation in respect of the same item of income or capital is claimed in more than one jurisdiction.

4. There is an arrangement that includes transfers of assets and where there is a material difference in the amount being treated as payable in consideration for the assets in those jurisdictions involved.

D. Specific hallmarks concerning automatic exchange of information and beneficial ownership

1. An arrangement which may have the effect of undermining the reporting obligation under the laws implementing Union legislation or any equivalent agreements on the automatic exchange of Financial Account information, including agreements with third countries, or which takes advantage of the absence of such legislation or agreements. Such arrangements include at least the following:

- (a) the use of an account, product or investment that is not, or purports not to be, a Financial Account, but has features that are substantially similar to those of a Financial Account;

- (b) the transfer of Financial Accounts or assets to, or the use of jurisdictions that are not bound by the automatic exchange of Financial Account information with the State of residence of the relevant taxpayer;
 - (c) the re-classification of income and capital into products or payments that are not subject to the automatic exchange of Financial Account information;
 - (d) the transfer or conversion of a Financial Institution or a Financial Account or the assets therein into a Financial Institution or a Financial Account or assets not subject to reporting under the automatic exchange of Financial Account information;
 - (e) the use of legal entities, arrangements or structures that eliminate or purport to eliminate reporting of one or more Account Holders or Controlling Persons under the automatic exchange of Financial Account information;
 - (f) arrangements that undermine, or exploit weaknesses in, the due diligence procedures used by Financial Institutions to comply with their obligations to report Financial Account information, including the use of jurisdictions with inadequate or weak regimes of enforcement of anti-money-laundering legislation or with weak transparency requirements for legal persons or legal arrangements.
2. An arrangement involving a non-transparent legal or beneficial ownership chain with the use of persons, legal arrangements or structures:
- (a) that do not carry on a substantive economic activity supported by adequate staff, equipment, assets and premises; and
 - (b) that are incorporated, managed, resident, controlled or established in any jurisdiction other than the jurisdiction of residence of one or more of the beneficial owners of the assets held by such persons, legal arrangements or structures; and
 - (c) where the beneficial owners of such persons, legal arrangements or structures, as defined in Directive (EU) 2015/849, are made unidentifiable.
- E. Specific hallmarks concerning transfer pricing
1. An arrangement which involves the use of unilateral safe harbour rules.
2. An arrangement involving the transfer of hard-to-value intangibles. The term "hard-to-value intangibles" covers intangibles or rights in intangibles for which, at the time of their transfer between associated enterprises:
- (a) no reliable comparables exist; and
 - (b) at the time the transaction was entered into, the projections of future cash flows or income expected to be derived from the transferred intangible, or the assumptions used in valuing the intangible are highly uncertain, making it difficult to predict the level of ultimate success of the intangible at the time of the transfer.
3. An arrangement involving an intra-group cross-border transfer of functions and, or risks and, or assets, if the projected annual earnings before interest and taxes (EBIT), during the three-year period after the transfer, of the transferor or transferors, are less than 50% of the projected annual EBIT of such transferor or transferors if the transfer had not been made.

Added by:

L.N. 18 of 2025.

Amended by:

L.N. 162 of 2026.

ANNEX V

In the context of Annex V, any capitalised term shall have the meaning that it has under the corresponding definitions set out in this Annex.

DUE DILIGENCE PROCEDURES, REPORTING REQUIREMENTS AND OTHER
RULES FOR PLATFORM OPERATORS.

This Annex lays down the due diligence procedures, reporting requirements and other rules that shall be applied by Reporting Malta Platform Operators in order to enable Malta to communicate, by automatic exchange, the information referred to in regulation 13(12). This Annex also describes the rules and administrative procedures that Malta has in place to ensure effective implementation of, and compliance with, the diligence procedures and reporting requirements set out below.

SECTION I
DEFINED TERMS

The following terms shall have the meanings set forth below:

A. Reporting Platform Operators

1. "Platform" means any software, including a website or a part thereof and applications, including mobile applications, accessible by users and allowing Sellers to be connected to other users for the purpose of carrying out a Relevant Activity, directly or indirectly, to such users. It also includes any arrangement for the collection and payment of a Consideration in respect of Relevant Activity.

The term "Platform" does not include software that without any further intervention in carrying out a Relevant Activity exclusively allows any of the following:

- (a) processing of payments in relation to Relevant Activity;
- (b) users to list or advertise a Relevant Activity;
- (c) redirecting or transferring of users to a Platform.

2. "Platform Operator" means an Entity that contracts with Sellers to make available all or part of a Platform to such Sellers.

3. "Excluded Platform Operator" means a Platform Operator which has demonstrated upfront and on an annual basis to the satisfaction of the competent authority in Malta that its entire business model is such that it does not have Reportable Sellers.

4. "Reporting Platform Operator" means any Platform Operator, other than an Excluded Platform Operator, which is in any of the following situations:

(a) is resident for tax purposes in a Member State or, where such Platform Operator does not have a residence for tax purposes in a Member State, it fulfils any of the following conditions:

(i) it is incorporated under the laws of a Member State;

(ii) it has its place of management, including effective management, in a Member State;

(iii) it has a permanent establishment in a Member State and is not a Qualified Non-Union Platform Operator;

(b) it is neither resident for tax purposes, nor incorporated or managed in a Member State, nor has a permanent establishment in a Member State, but facilitates the carrying out of a Relevant Activity by Reportable Sellers or a Relevant Activity involving the rental of immovable property located in a Member State and is not a Qualified Non-Union Platform Operator.

5. "Qualified Non-Union Platform Operator" means a Platform Operator for which all Relevant Activities that it facilitates are also Qualified Relevant Activities and that is resident for tax purposes in a Qualified Non-Union Jurisdiction or, where such Platform Operator does not have a residence for tax purposes in a Qualified Non-Union Jurisdiction, it fulfils any of the following conditions:

(a) it is incorporated under the laws of a Qualified Non-Union Jurisdiction; or

(b) it has its place of management, including effective management, in a Qualified Non-Union Jurisdiction.

6. "Qualified Non-Union Jurisdiction" means a non-Union jurisdiction that has in effect an Effective Qualifying Competent Authority Agreement with the competent authorities of all Member States which are identified as reportable jurisdictions in a list published by the non-Union jurisdiction.

7. "Reporting Malta Platform Operator" means any Platform Operator, other than an Excluded Malta Platform Operator, which is:

(a) resident for tax purposes in Malta and not resident for tax purposes in any other Member State;

(b) resident for tax purposes in Malta and any other Member State and has elected in accordance with part A(2) of Section III to fulfil its reporting obligations in Malta;

(c) has a permanent establishment in Malta and is not tax resident in Malta or in any other Member State and does not fulfil any of the conditions set out in point 4(a) in any other Member State and is not a Qualified Non-Union Platform Operator;

(d) has a permanent establishment in Malta and is not tax resident in

Malta or in any other Member State and fulfils any of the conditions set out in item 4(a) in any other Member State and is not a Qualified Non-Union Platform Operator, and has elected in accordance with part A(2) of Section III to fulfil its reporting obligations in Malta; or

(e) it is not a resident for tax purposes, is not incorporated or managed in a Member State, does not have a permanent establishment in a Member State, but facilitates the carrying out of a Relevant Activity by Reportable Sellers or a Relevant Activity involving the rental of immovable property located in a Member State and is not a Qualified Non-Union Platform Operator and has elected in accordance with the published guidelines referred to in regulation 13(12)(e) to fulfil its reporting obligations in Malta.

8. "Effective Qualifying Competent Authority Agreement" means an agreement between the competent authority in Malta and a non-Union jurisdiction that requires the automatic exchange of information equivalent to that specified in paragraph B of Section III as confirmed by an implementing act of the EU Administrative Cooperation Directive and in relation to which such non-Union jurisdiction is identified in the list published by the Commissioner on the website of the Commissioner for Tax and Customs under the provisions of article 96(2) of the Income Tax Act.

9. "Relevant Activity" means an activity carried out for Consideration and being any of the following:

(a) the rental of immovable property, including both residential and commercial property, as well as any other immovable property and parking spaces;

(b) a Personal Service;

(c) the sale of Goods;

(d) the rental of any mode of transport:

Provided that the term "Relevant Activity" does not include an activity carried out by a Seller acting as an employee of the Platform Operator or a related Entity of the Platform Operator.

10. "Qualified Relevant Activities" means any Relevant Activity covered by the automatic exchange pursuant to an Effective Qualifying Competent Authority Agreement.

11. "Consideration" means compensation in any form, net of any fees, commissions or taxes withheld or charged by the Reporting Platform Operator, that is paid or credited to a Seller in connection with the Relevant Activity, the amount of which is known or reasonably knowable by the Platform Operator.

12. "Personal Service" means a service involving time-based or task-based work performed by one (1) or more individuals, acting either independently or on behalf of an Entity, and which is carried out at the request of a user, either online or physically offline after having been facilitated by means of a Platform.

B. Reportable Sellers

1. "Seller" means a Platform user, either an individual or an Entity, that is registered at any moment during the Reportable Period on the Platform and carries out a Relevant Activity.

2. "Active Seller" means any Seller that either provides a Relevant Activity during the Reportable Period or is paid or credited Consideration in connection with a Relevant Activity during the Reportable Period.

3. "Reportable Seller" means any Active Seller, other than an Excluded Seller, that is resident in a Member State or that rented out immovable property located in a Member State.

4. "Excluded Seller" means any Seller:

(a) that is a Governmental Entity;

(b) that is an Entity the stock of which is regularly traded on an established securities market or a related Entity of an Entity the stock of which is regularly traded on an established securities market;

(c) that is an Entity for which the Platform Operator facilitated more than two thousand (2,000) Relevant Activities by means of the rental of immovable property in respect of a Property Listing during the Reporting Period; or

(d) for which the Platform Operator facilitated less than thirty (30) Relevant Activities by means of the sale of Goods and for which the total amount of Consideration paid or credited did not exceed two thousand euro (€ 2,000) during the Reporting Period.

C. Other definitions

1. "Entity" means a legal person or a legal arrangement, such as a corporation, partnership, trust or foundation. An Entity is a related Entity of another Entity if either Entity controls the other Entity, or the two (2) Entities are under common control. For this purpose, control includes direct or indirect ownership of more than fifty per cent (50%) of the vote and value in an Entity. In indirect participation, the fulfilment of the requirement for the holding of more than fifty per cent (50%) of the right of ownership in the capital of the other Entity shall be determined by multiplying the rates of holding through the successive tiers. A person holding more than fifty per cent (50%) of the voting rights shall be deemed to hold one hundred per cent (100%).

2. "Governmental Entity" means the Government of Malta or other jurisdiction, any political subdivision of Malta or other jurisdiction which includes a state, province, county, or municipality, or any wholly owned agency or instrumentality of Malta or other jurisdiction or of any one or more of the foregoing each, a "Governmental Entity".

3. "TIN" means a Taxpayer Identification Number, issued by a Member State,

or functional equivalent in the absence of a Taxpayer Identification Number.

4. "VAT identification number" means the unique number that identifies a taxable person or a non-taxable legal entity that is registered for value added tax purposes.

5. "Primary Address" means the address that is the primary residence of a Seller who is an individual, as well as the address that is the registered office of a Seller that is an Entity.

6. "Reportable Period" means the calendar year in respect of which reporting is being completed pursuant to Section III.

7. "Property Listing" means all immovable property units located at the same street address, owned by the same owner and offered for rent on a Platform by the same Seller.

8. "Financial Account Identifier" means the unique identifying number or reference available to the Platform Operator of the bank account or other similar payment services account to which the Consideration is paid or credited.

9. "Goods" means any tangible property.

10. "Identification Service" means an electronic process made available free of charge by a Member State or the Union to a Reporting Malta Platform Operator for the purpose of ascertaining the identity and tax residence of a Seller.

SECTION II DUE DILIGENCE PROCEDURES

The following procedures shall apply for the purpose of identifying Reportable Sellers.

A. Sellers not subject to review

For the purpose of determining whether a Seller that is an Entity qualifies as an Excluded Seller described in part B(4)(a) and (b) of Section I, a Reporting Malta Platform Operator may rely on publicly available information or a confirmation from the Seller that is an Entity.

For the purpose of determining whether a Seller qualifies as an Excluded Seller described in part B(4)(c) and (d) of Section I, a Reporting Malta Platform Operator may rely on its available records.

B. Collection of Seller Information

1. The Reporting Malta Platform Operator shall collect all of the following information for each Seller who is an individual and not an Excluded Seller:

(a) the name and surname;

(b) the Primary Address;

(c) any TIN issued to such Seller, including each Member State of issuance, and in the absence of a TIN, the place of birth of such Seller;

(d) the VAT identification number of that Seller, where available;

(e) the date of birth.

2. The Reporting Malta Platform Operator shall collect all of the following information for each Seller that is an Entity and not an Excluded Seller:

(a) the legal name;

(b) the Primary Address;

(c) any TIN issued to such Seller, including each Member State of issuance;

(d) the VAT identification number of such Seller, where available;

(e) the business registration number;

(f) the existence of any permanent establishment through which Relevant Activities are carried out in the Union, where available, indicating each respective Member State, where such a permanent establishment is located.

3. *Deleted by Legal Notice 162 of 2026.*

4. Notwithstanding the provisions of part B(1)(c) and part B(2)(c) and (e), the Reporting Malta Platform Operator shall not be required to collect the TIN or the business registration number, as the case may be, in any of the following situations:

(a) the Member State of residence of the Seller does not issue a TIN or business registration number to the Seller;

(b) the Member State of residence of the Seller does not require the collection of the TIN issued to the Seller.

C. Verification of Seller Information

1. The Reporting Malta Platform Operator shall determine whether the information collected pursuant to part A, part B(1), part B(2)(a) to (e) and part E is reliable, using all information and documents available to the Reporting Malta Platform Operator in its records, as well as any electronic interface made available to the public by a Member State or the Union free of charge to ascertain the validity of the TIN and, or VAT identification number.

2. Notwithstanding the provisions of part C(1), for the completion of the due diligence procedures pursuant to part F(2), the Reporting Malta Platform Operator may determine whether the information collected pursuant to part A, part B(1), part B(2)(a) to (e) and part E is reliable, using information and documents available to the Reporting Malta Platform Operator in its electronically searchable records.

3. In the application of part F(3)(b) and notwithstanding parts C(1) and C(2), in instances where the Reporting Malta Platform Operator has reason to believe that any of the information items described in parts B or E may be inaccurate by virtue of information provided by the competent authority of a Member State in a request concerning a specific Seller, the Reporting Malta Platform Operator is obliged to request the Seller to correct information items that were found to be incorrect and to provide supporting documents, data or information, which are reliable and of independent source, such as:

- (a) valid government-issued identification document;
- (b) recent tax residency certificate.

D. Determination of a Member State of residence of Seller for the purposes of regulation 13(12)

1. A Reporting Malta Platform Operator shall consider a Seller resident in the Member State of the Seller's Primary Address. Where different from the Member State of the Seller's Primary Address, a Reporting Malta Platform Operator shall consider the Seller as resident also in the Member State of issuance of TIN. Where the Seller has provided information with respect to the existence of a permanent establishment pursuant to part B(2)(f), a Reporting Malta Platform Operator shall consider the Seller resident also in the respective Member State as specified by the Seller.

2. Notwithstanding the provisions of part D(1), a Reporting Malta Platform Operator shall consider a Seller resident in each Member State confirmed by an electronic identification service made available by a Member State or the Union pursuant to part B(3).

E. Collection of information on rented immovable property

Where a Seller is engaged in Relevant Activity involving the rental of immovable property, the Reporting Malta Platform Operator shall collect the address of each Property Listing and, where issued, the respective land registration number or its equivalent under the national law of the Member State where it is located. Where a Reporting Malta Platform Operator facilitated more than two thousand (2,000) Relevant Activities by means of the rental of a Property Listing for the same Seller that is an Entity, the Reporting Malta Platform Operator shall collect supporting documents, data or information that the Property Listing is owned by the same owner.

F. Timing and validity of due diligence procedures

1. A Reporting Malta Platform Operator shall complete the due diligence procedures set out in parts A to E by 31st December of the Reportable Period.

2. Notwithstanding the provisions of part F(1), for Sellers that were already registered on the Platform as of 1st January 2023 or as of the date on which an Entity becomes a Reporting Malta Platform Operator, the due diligence procedures set out in parts A to E are required to be completed by 31st December of the second Reportable Period for the Reporting Malta Platform Operator.

3. Notwithstanding the provisions of part F(1), a Reporting Malta Platform

Operator may rely on the due diligence procedures conducted in respect of previous Reportable Periods, provided that:

(a) the Seller information required in parts B(1) and B(2) has been either collected and verified or confirmed within the last thirty-six (36) months; and

(b) the Reporting Malta Platform Operator does not have reason to know that information collected pursuant to parts A, B and E is, or has become unreliable or incorrect.

G. Application of the due diligence procedures to Active Sellers only

A Reporting Malta Platform Operator may elect to complete the due diligence procedures pursuant to parts A to F in respect of Active Sellers only.

H. Completion of the due diligence procedures by third parties

1. A Reporting Malta Platform Operator may rely on a third-party service provider to fulfil the due diligence obligations laid down in this Section, but such obligations shall remain the responsibility of the Reporting Malta Platform Operator.

2. Where a Platform Operator fulfils the due diligence obligations for a Reporting Malta Platform Operator with respect to the same Platform pursuant to part H(1), such Platform Operator shall carry out the due diligence procedures pursuant to the rules laid down in this Section. The due diligence obligations shall remain the responsibility of the Reporting Malta Platform Operator.

I. Procedure to ensure the collection of Seller information

Where a Seller does not provide the information required in parts A to E, after two (2) reminders following the initial request by the Reporting Malta Platform Operator, but not prior to the expiration of sixty (60) days, the Reporting Malta Platform Operator shall close the account of the Seller and prevent the Seller from re-registering on the Platform. Payment of the Consideration to the Seller shall be withheld by the Reporting Malta Platform Operator until the Seller provides the information requested.

SECTION III REPORTING REQUIREMENTS

A. Time and manner of reporting

1. A Reporting Malta Platform Operator shall report to the Commissioner the information set out in part B with respect to the Reportable Period not later than 31 January of the year following the calendar year in which the Seller is identified as a Reportable Seller. Where there is more than one (1) Reporting Platform Operator, a Reporting Malta Platform Operator shall be exempt from reporting the information if it has proof, in conformity with Maltese law, that the same information has been reported by another Reporting Platform Operator:

Provided that the proof may be in such form as the Commissioner may

determine.

2. If a Reporting Platform Operator within the meaning of part A(4)(a) of Section I fulfils any of the conditions listed therein in more than one (1) Member State, it shall elect one (1) of those Member States in which it shall fulfil the reporting requirements set out in this Section. This election shall be made in such form and manner as the Commissioner may require by means of guidelines published on the website of the Commissioner under the provisions of article 96(2) of the Income Tax Act. The Reporting Platform Operator shall notify all the competent authorities of those Member States of its election. The said Reporting Platform Operator shall report the information listed in part B with respect to the Reportable Period to the competent authority of the Member State of election, as this is determined in accordance with regulation 13(12)(e), not later than 31st January of the year following the calendar year in which the Seller is identified as a Reportable Seller. Where there is more than one (1) Reporting Platform Operator, any of those Reporting Platform Operators shall be exempt from reporting the information if it has proof, in conformity with the national law of the Member State of registration, that the same information has been reported by another Reporting Platform Operator in another Member State.

3. A Reporting Malta Platform Operator within the meaning of part A(7)(e) of Section I shall report the information set out in part B with respect to the Reportable Period to the Commissioner not later than 31st January of the year following the calendar year in which the Seller is identified as a Reportable Seller.

4. Notwithstanding the provisions of paragraph A(3), a Reporting Malta Platform Operator shall not be required to provide the information established in paragraph B with respect to Qualified Relevant Activities, covered by an Effective Qualifying Competent Authority Agreement, which already provides for the automatic exchange of equivalent information with Malta on Reportable Sellers resident in Malta.

5. A Reporting Malta Platform Operator shall also provide the information set out in parts B(2) and B(3) to the Reportable Seller to which it relates not later than 31st January of the year following the calendar year in which the Seller is identified as a Reportable Seller.

6. The information with respect to the Consideration paid or credited in a fiat currency shall be reported in the currency in which it was paid or credited. In case the Consideration was paid or credited in a form other than fiat currency, it shall be reported in the local currency, converted or valued in a manner that is consistently determined by the Reporting Malta Platform Operator.

7. The information about the Consideration and other amounts shall be reported in respect of the quarter of the Reportable Period in which the Consideration was paid or credited.

B. Information to be Reported

Each Reporting Malta Platform Operator shall report the following information:

1. The name, the registered office address, the TIN and, where relevant, the individual identification number of the Reporting Malta Platform Operator allocated

pursuant to regulation 13(12)(e), as well as the business name of the Platform in respect of which the Reporting Malta Platform Operator is reporting.

2. With respect to a Reporting Platform Operator having registered with the Commissioner in Malta as its Member State of its single registration, shall communicate to the Commissioner in Malta the following information:

- (a) name;
- (b) postal address;
- (c) electronic addresses, including websites;
- (d) any TIN issued to the Reporting Platform Operator;
- (e) a statement with the information about identification of such Reporting Platform Operator for VAT purposes within the Union, pursuant to Title XII, Chapter 6, Sections 2 and 3 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax;
- (f) Member States in which Reportable Sellers are residents within the meaning of part D of Section II.

3. With respect to each Reportable Seller that carried out Relevant Activity, other than immovable property rental:

- (a) the information items required to be collected pursuant to part B of Section II;
- (b) the Financial Account Identifier, insofar as it is available to the Reporting Malta Platform Operator and the competent authority of the Member State where the Reportable Seller is resident in the meaning of part D of Section II has not published that it does not intend to use the Financial Account Identifier for this purpose;
- (c) where different from the name of the Reportable Seller, in addition to the Financial Account Identifier, the name of the holder of the financial account to which the Consideration is paid or credited, to the extent available to the Reporting Malta Platform Operator, as well as any other financial identification information available to the Reporting Malta Platform Operator with respect to that account holder;
- (d) each Member State in which the Reportable Seller is resident for the purposes of regulation 13(12);
- (e) the total Consideration paid or credited during each quarter of the Reportable Period and the number of Relevant Activities in respect of which it was paid or credited;
- (f) any fees, commissions or taxes withheld or charged by the Reporting Malta Platform Operator during each quarter of the Reportable Period.

4. With respect to each Reportable Seller that carried out Relevant Activity involving immovable property rental:

(a) the information items required to be collected pursuant to part B of Section II;

(b) the Financial Account Identifier, insofar as it is available to the Reporting Malta Platform Operator and the competent authority of the Member State where the Reportable Seller is resident in the meaning of part D of Section II has not published that it does not intend to use the Financial Account Identifier for this purpose;

(c) where different from the name of the Reportable Seller, in addition to the Financial Account Identifier, the name of the holder of the financial account to which the Consideration is paid or credited, to the extent available to the Reporting Malta Platform Operator, as well as any other financial identification information available to the Reporting Malta Platform Operator with respect to the account holder;

(d) each Member State in which the Reportable Seller is resident for the purposes of regulation 13(12) as determined pursuant to part D of Section II;

(e) the address of each Property Listing, determined on the basis of the procedures set out in part E of Section II and the respective land registration number or its equivalent under the national law of the Member State where the Property Listing is located, where available;

(f) the total Consideration paid or credited during each quarter of the Reportable Period and the number of Relevant Activities provided with respect to each Property Listing;

(g) any fees, commissions or taxes withheld or charged by the Reporting Malta Platform Operator during each quarter of the Reportable Period;

(h) where available, the number of days each Property Listing was rented during the Reportable Period and the type of each Property Listing.

5. Notwithstanding the provisions of sub-paragraph B(2)(a), and sub-paragraph B(3)(a), the Reporting Malta Platform Operator shall not be required to report the information items required to be collected in accordance with paragraph B of Section II, when it reports to a competent authority that uses an Identification Service and relies on direct confirmation of the identity and residence of the Seller through an Identification Service made available by a Member State or the Union to ascertain the identity and all tax residencies of the Seller. In case the Reporting Malta Platform Operator relied on an Identification Service to ascertain the identity and all tax residencies of a Reportable Seller, the name, Identification Service identifiers and the Member States of issuance shall be reported.

*Added by:
L.N. 162 of 2026.*

ANNEX VI

REPORTING REQUIREMENTS, DUE DILIGENCE PROCEDURES AND OTHER RULES APPLICABLE TO REPORTING CRYPTO-ASSET SERVICE PROVIDERS

This Annex establishes the reporting requirements, due diligence procedures and other rules which shall be applied by the Reporting Malta Crypto-Asset Service Providers in order to enable Malta to communicate, by automatic exchange, the information referred to in Article 8ad of the EU Administrative Cooperation Directive. This Annex also establishes the rules and administrative procedures that Malta has in place in order to ensure the effective implementation of, and compliance with the reporting requirements and the due diligence procedures set out therein.

SECTION I OBLIGATIONS OF REPORTING CRYPTO-ASSET SERVICE PROVIDERS

A. A Reporting Malta Crypto-Asset Service Provider as defined in subparagraph B(3) of Section IV, is subject to the reporting and due diligence requirements established in Sections II and III, respectively, in Malta, if:

1. it is an Entity authorised by the Malta Financial Services Authority as the competent authority in accordance with Article 63 of Regulation (EU) 2023/1114 or allowed to provide Crypto-Asset Services following a notification to a Member State in accordance with Article 60 of the said Regulation; or
2. not an Entity authorised by the Malta Financial Services Authority as the competent authority in accordance with Article 63 of Regulation (EU) 2023/1114 or allowed to provide Crypto-Asset Services following a notification to the Malta Financial Services Authority as competent authority in accordance with Article 60 of the said Regulation and it is:
 - (a) an Entity or individual resident for tax purposes in Malta;
 - (b) an Entity that:
 - (i) is incorporated or organised under the laws of Malta; and
 - (ii) has legal personality in Malta or has an obligation to file tax returns or tax information returns in Malta with respect to the income of the Entity;
 - (c) an Entity managed from Malta; or
 - (d) an Entity or individual that has a regular place of business in a Malta.

B. A Reporting Malta Crypto-Asset Service Provider shall be subject to the reporting and due diligence requirements established in Sections II and III, respectively, in Malta with respect to Reportable Transactions effectuated through a Branch based in Malta.

C. A Reporting Malta Crypto-Asset Service Provider that is an Entity is not required to complete the reporting and due diligence requirements established in Sections II and III, respectively, in Malta if it falls within scope of sub-paragraph A(2)(b), (c) or (d), if those requirements are completed by such Reporting Malta Crypto-Asset Service Provider in any other Member State or in a Qualified Non-Union Jurisdiction by virtue of it being resident for tax purposes in such Member State or Qualified Non-Union Jurisdiction.

D. A Reporting Malta Crypto-Asset Service Provider that is an Entity is not required to complete the reporting and due diligence requirements established in Sections II and III, respectively, in Malta if it falls within the scope of sub-paragraph A(2)(c) or (d), if those requirements are completed by such Reporting Malta Crypto-Asset Service Provider in any other Member State or in a Qualified Non-Union Jurisdiction by virtue of it being an Entity that:

- (a) is incorporated or organised under the laws of such Member State or Qualified Non-Union Jurisdiction; and
- (b) has legal personality in the other Member State or Qualified Non-Union Jurisdiction or has an obligation to file tax returns or tax information returns to the tax authorities in the other Member State or Qualified Non-Union Jurisdiction with respect to the income of the Entity.

E. A Reporting Malta Crypto-Asset Service Provider that is an Entity is not required to complete the reporting and due diligence requirements established in Sections II and III, respectively, in Malta if it falls within scope of sub-paragraph A(2)(d), if those requirements are completed by such Reporting Crypto-Asset Service Provider in any other Member State or in a Qualified Non-Union Jurisdiction by virtue of it being managed from such Member State or Qualified Non-Union Jurisdiction.

F. A Reporting Crypto-Asset Service Provider that is an individual is not required to complete the reporting and due diligence requirements established in Sections II and III, respectively, in Malta if it falls within scope of sub-paragraph A(2)(d), if those requirements are completed by such Reporting Crypto-Asset Service Provider in any other Member State or in a Qualified Non-Union Jurisdiction by virtue of it being resident for tax purposes in such Member State or Qualified Non-Union Jurisdiction.

G. A Reporting Crypto-Asset Service Provider is not required to complete the reporting and due diligence requirements established in Sections II and III, respectively, in Malta if it falls within the scope of sub-paragraph A(2)(a), (b), (c) or (d), if it has filed a notification with the Commissioner for Tax and Customs in such form as the Commissioner may determine, confirming that those requirements are completed by such Reporting Crypto-Asset Service Provider under the rules of any other Member State or Qualified Non-Union Jurisdiction pursuant to criteria that are substantially similar to sub-paragraph A(2)(a), (b), (c) or (d), respectively.

H. A Reporting Crypto-Asset Service Provider is not required to complete the reporting and due diligence requirements established in Sections II and III, respectively, in Malta with respect to Reportable Transactions it effectuates through a Branch in any other Member State or Qualified Non-Union Jurisdiction, if those requirements are completed by such Branch in such other Member State or Qualified Non-Union

Jurisdiction.

SECTION II REPORTING REQUIREMENTS

A. A Reporting Malta Crypto-Asset Service Provider within the meaning of Section I, paragraphs A and B, shall report the information mentioned in paragraph B of this Section to the competent authority of Malta, where it is subject to reporting requirements in accordance with Section I.

B. For each relevant calendar year or other appropriate reporting period, and subject to the obligations of Reporting Malta Crypto-Asset Service Providers established in Section I and the due diligence procedures established in Section III, a Reporting Crypto-Asset Service Provider shall report the following information with respect to its Crypto-Asset Users that are Reportable Users or that have Controlling Persons that are Reportable Persons:

1. the name, address, Member States of residence, TINs and, in the case of an individual, date and place of birth of each Reportable User and, in the case of any Entity that, after application of the due diligence procedures established in Section III, is identified as having one (1) or more Controlling Persons that is a Reportable Person, the name, address, Member States of residence and TINs of the Entity and the name, address, Member States of residence, TINs and date and place of birth of each Controlling Person of the Entity that is a Reportable Person, as well as the roles by virtue of which each such Reportable Person is a Controlling Person of the Entity;

Notwithstanding sub-paragraph B(1), first sub-paragraph, where the Reporting Malta Crypto-Asset Service Provider reports to a competent authority that uses an Identification Service and relies on direct confirmation of the identity and residence of the Reportable Person through an Identification Service made available by a Member State or the Union to ascertain the identity and all tax residencies of the Reportable Person, the information to be reported regarding the Reportable Person is the name, the Identification Service identifiers and the Member States of issuance, as well as the roles by virtue of which each Reportable Person is a Controlling Person of the Entity;

2. the name, address, TIN and, if available, the individual identification number referred to in regulation 13(13)(e) and the global legal entity identifier of the Reporting Crypto-Asset Service Provider;

3. for each type of Reportable Crypto-Asset with respect to which the Reporting Malta Crypto-Asset Service Provider has effectuated Reportable Transactions during the relevant calendar year or other appropriate reporting period, where relevant:

- (a) the full name of the type of Reportable Crypto-Asset;
- (b) the aggregate gross amount paid, the aggregate number of units and the number of Reportable Transactions in respect of acquisitions against Fiat Currency;
- (c) the aggregate gross amount received, the aggregate number of units and the number of Reportable Transactions in respect of disposals against Fiat Currency;

- (d) the aggregate fair market value, the aggregate number of units and the number of Reportable Transactions in respect of acquisitions against other Reportable Crypto-Assets;
- (e) the aggregate fair market value, the aggregate number of units and the number of Reportable Transactions in respect of disposals against other Reportable Crypto-Assets;
- (f) the aggregate fair market value, the aggregate number of units and the number of Reportable Retail Payment Transactions;
- (g) the aggregate fair market value, the aggregate number of units and the number of Reportable Transactions, and subdivided by transfer type where known by the Reporting Malta Crypto-Asset Service Provider, in respect of Transfers to the Reportable User not covered by points (b) and (d);
- (h) the aggregate fair market value, the aggregate number of units and the number of Reportable Transactions, and subdivided by transfer type where known by the Reporting Malta Crypto-Asset Service Provider, in respect of Transfers by the Reportable User not covered by points (c), (e) and (f); and
- (i) the aggregate fair market value, as well as the aggregate number of units of Transfers effectuated by the Reporting Malta Crypto-Asset Service Provider to distributed ledger addresses referred to in Regulation (EU) 2023/1114 not known to be associated with a virtual asset service provider or financial institution.

For the purposes of sub-paragraph B(3), points (b) and (c), the amount paid or received shall be reported in the Fiat Currency in which it was paid or received. In case the amounts were paid or received in multiple Fiat Currencies, the amounts shall be reported in a single currency, converted at the time of each Reportable Transaction in a manner that is consistently applied by the Reporting Malta Crypto-Asset Service Provider.

For the purposes of sub-paragraph B(3), points (d) to (i), the fair market value shall be determined and reported in a single currency, valued at the time of each Reportable Transaction in a manner that is consistently applied by the Reporting Malta Crypto-Asset Service Provider.

The information reported shall identify the Fiat Currency in which each amount is reported.

C. Notwithstanding sub-paragraph B(1), the place of birth is not required to be reported unless the Reporting Malta Crypto-Asset Service Provider is otherwise required to obtain and report it under domestic law.

D. The information listed in paragraph B shall be reported annually in the calendar year following the year to which the information relates. The first information shall be reported for the relevant calendar year or other appropriate reporting period as from 1 January 2026.

E. Notwithstanding paragraphs A and D of this Section, a Reporting Malta Crypto-Asset Service Provider within the meaning of Section I, sub-paragraph A(2), point (a), (b), (c) or (d), shall not be required to provide the information listed in paragraph B of this Section with respect to a Reportable

User or Controlling Person for which the Reporting Malta Crypto-Asset Service Provider completes the reporting of such information in a non-Union jurisdiction that is covered by an Effective Qualifying Competent Authority Agreement with the Member State of residence of such Reportable User or such Controlling Person.

SECTION III DUE DILIGENCE PROCEDURES

A Crypto-Asset User is treated as a Reportable User beginning as of the date when it is identified as such in accordance with the due diligence procedures described in this Section.

A. Due diligence procedures for Individual Crypto-Asset Users

The following procedures apply for the purpose of determining whether the Individual Crypto-Asset User is a Reportable User.

1. When establishing the relationship with the Individual Crypto-Asset User, or with respect to Pre-existing Individual Crypto-Asset Users by 1 January 2027, the Reporting Malta Crypto-Asset Service Provider shall obtain a self-certification that allows the Reporting Malta Crypto-Asset Service Provider to determine the Individual Crypto-Asset User's residences for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Malta Crypto-Asset Service Provider, including any documentation collected in accordance with Customer Due Diligence Procedures.

2. If at any point there is a change of circumstances with respect to an Individual Crypto-Asset User that causes the Reporting Malta Crypto-Asset Service Provider to know, or have reason to know, that the original self-certification is incorrect or unreliable, the Reporting Malta Crypto-Asset Service Provider cannot rely on the original self-certification and shall obtain a valid self-certification, or a reasonable explanation and, where appropriate, documentation supporting the validity of the original self-certification.

B. Due diligence procedures for Entity Crypto-Asset Users

The following procedures apply for the purpose of determining whether the Entity Crypto-Asset User is a Reportable User or an Entity, other than an Excluded Person or an Active Entity, with one (1) or more Controlling Persons who are Reportable Persons.

1. Determining whether the Entity Crypto-Asset User is a Reportable Person.
 - (a) When establishing the relationship with the Entity Crypto-Asset User, or with respect to Pre-existing Entity Crypto-Assets Users by 1 January 2027, the Reporting Malta Crypto-Asset Service Provider shall obtain a self-certification that allows the Reporting Malta Crypto-Asset Service Provider to determine the Entity Crypto-Asset User's residences for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Malta Crypto-Asset Service Provider, including any documentation collected in accordance

with Customer Due Diligence Procedures. If the Entity Crypto-Asset User certifies that it has no residence for tax purposes, the Reporting Malta Crypto-Asset Service Provider may rely on the place of effective management or the address of the principal office to determine the residence of the Entity Crypto-Asset User.

- (b) If the self-certification indicates that the Entity Crypto-Asset User is resident in a Member State, the Reporting Malta Crypto-Asset Service Provider shall treat the Entity Crypto-Asset User as a Reportable User, unless it reasonably determines based on the self-certification or on information in its possession or that is publicly available, that the Entity Crypto-Asset User is an Excluded Person.

2. Determining whether the Entity has one (1) or more Controlling Persons who are Reportable Persons. With respect to an Entity Crypto-Asset User, other than an Excluded Person, the Reporting Malta Crypto-Asset Service Provider shall determine whether it has one (1) or more Controlling Persons who are Reportable Persons, unless it determines that the Entity Crypto-Asset User is an Active Entity, based on a self-certification from the Entity Crypto-Asset User.

- (a) Determining the Controlling Persons of the Entity Crypto-Asset User. For the purpose of determining the Controlling Persons of the Entity Crypto-Asset User, a Reporting Crypto-Asset Service Provider may rely on information collected and maintained in accordance with the Customer Due Diligence Procedures, provided that such procedures are consistent with Directive (EU) 2015/849. If the Reporting Malta Crypto-Asset Service Provider is not legally required to apply Customer Due Diligence Procedures that are consistent with Directive (EU) 2015/849, it shall apply substantially similar procedures for the purpose of determining the Controlling Persons.
- (b) Determining whether a Controlling Person of an Entity Crypto-Asset User is a Reportable Person. For the purpose of determining whether a Controlling Person is a Reportable Person, a Reporting Malta Crypto-Asset Service Provider shall rely on a self-certification from the Entity Crypto-Asset User or such Controlling Person that allows the Reporting Malta Crypto-Asset Service Provider to determine the Controlling Person's residences for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Crypto-Asset Service Provider, including any documentation collected pursuant to Customer Due Diligence Procedures.

3. If at any point there is a change of circumstances with respect to an Entity Crypto-Asset User or its Controlling Persons that causes the Reporting Malta Crypto-Asset Service Provider to know, or have reason to know, that the original self-certification is incorrect or unreliable, the Reporting Malta Crypto-Asset Service Provider cannot rely on the original self-certification and shall obtain a valid self-certification, or a reasonable explanation and, where appropriate, documentation supporting the validity of the original self-certification.

C. Requirements for validity of self-certifications

1. A self-certification provided by an Individual Crypto-Asset User or Controlling Person is valid only if it is signed or otherwise positively affirmed by the

Individual Crypto-Asset User or Controlling Person, it is dated at the latest at the date of receipt and it contains the following information with respect to the Individual Crypto-Asset User or Controlling Person:

- (a) first and last name;
- (b) residence address;
- (c) Member States of residence for tax purposes;
- (d) with respect to each Reportable Person, the TIN with respect to each Member State;
- (e) date of birth.

2. A self-certification provided by an Entity Crypto-Asset User is valid only if it is signed or otherwise positively affirmed by the Entity Crypto-Asset User, it is dated at the latest at the date of receipt and it contains the following information with respect to the Entity Crypto-Asset User:

- (a) legal name;
- (b) address;
- (c) Member States of residence for tax purposes;
- (d) with respect to each Reportable Person, the TIN with respect to each Member State;
- (e) in the case of an Entity Crypto-Asset User other than an Active Entity or an Excluded Person, the information described in sub-paragraph C(1) with respect to each Controlling Person of the Entity Crypto-Asset User, unless such Controlling Person has provided a self-certification in accordance with sub-paragraph C(1), as well as the roles by virtue of which each Reportable Person is a Controlling Person of the Entity, if not already determined on the basis of Customer Due Diligence Procedures;
- (f) if applicable, information as to the criteria it meets to be treated as an Active Entity or Excluded Person.

D. General due diligence requirements

1. A Reporting Malta Crypto-Asset Service Provider that is also a Financial Institution for the purposes of these regulations may rely on the due diligence procedures completed in accordance with Sections IV and VI of Annex I for the purposes of the due diligence procedures pursuant to this Section. A Reporting Malta Crypto-Asset Service Provider may also rely on a self-certification already collected for other tax purposes, provided such self-certification meets the requirements of paragraph C of this Section.

2. A Reporting Malta Crypto-Asset Service Provider may rely on a third party to fulfil the due diligence obligations set out in this Section, but such obligations remain the responsibility of the Reporting Malta Crypto-Asset Service Provider.

SECTION IV
DEFINED TERMS

The following terms have the meaning established below:

A. Reportable Crypto-Asset

1. "Crypto-Asset" means crypto-asset as defined in Article 3(1), point (5), of Regulation (EU) 2023/1114.

2. "Central Bank Digital Currency" means any digital Fiat Currency issued by a Central Bank or other monetary authority.

3. "Central Bank" means an institution that is by law or government sanction the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the jurisdiction, whether or not totally or partially owned by the jurisdiction.

4. "Reportable Crypto-Asset" means any Crypto-Asset other than a Central Bank Digital Currency, Electronic Money, or any Crypto-Asset for which the Reporting Crypto-Asset Service Provider has adequately determined that it cannot be used for payment or investment purposes.

5. For the purposes of this Annex, "Electronic Money" means any Crypto-Asset that is:

- (a) a digital representation of a single Fiat Currency;
- (b) issued on the receipt of funds for the purpose of making payment transactions;
- (c) represented by a claim on the issuer denominated in the same Fiat Currency;
- (d) accepted in payment by a natural or legal person other than the issuer; and
- (e) by virtue of regulatory requirements to which the issuer is subject, redeemable at any time and at par value for the same Fiat Currency upon request of the holder of the product.

The term "Electronic money" does not include a product created for the sole purpose of facilitating the transfer of funds from a customer to another person pursuant to instructions of the customer. A product is not created for the sole purpose of facilitating the transfer of funds if, in the ordinary course of business of the transferring Entity, either the funds connected with such product are held longer than sixty (60) days after receipt of instructions to facilitate the transfer or, if no instructions are received, the funds connected with such product are held longer than sixty (60) days after receipt of the funds.

B. Reporting Crypto-Asset Service Provider

1. "Crypto-Asset Service Provider" means crypto-asset service provider as defined in Article 3(1), point (15), of Regulation (EU) 2023/1114.

2. "Crypto-Asset Operator" means a provider of Crypto-Asset Services other than a Crypto-Asset Service Provider.

3. "Reporting Crypto-Asset Service Provider" means any Crypto-Asset Service Provider and any Crypto-Asset Operator that conducts one (1) or more Crypto-Asset Services effectuating Exchange Transactions for, or on behalf of a Reportable User.

4. "Crypto-Asset Service" means crypto-asset service as defined in Article 3(1), point (16), of Regulation (EU) 2023/1114, including staking and lending.

C. Reportable Transaction

1. "Reportable Transaction" means any:

- (a) Exchange Transaction; and
- (b) Transfer of Reportable Crypto-Assets.

2. "Exchange Transaction" means any:

- (a) exchange between Reportable Crypto-Assets and Fiat Currencies; and
- (b) exchange between one (1) or more forms of Reportable Crypto-Assets.

3. "Reportable Retail Payment Transaction" means a Transfer of Reportable Crypto-Assets in consideration of goods or services for a value exceeding \$USD 50,000 or the equivalent amount in any other currency.

4. "Transfer" means a transaction that moves a Reportable Crypto-Asset from, or to the Crypto-Asset address or account of one (1) Crypto-Asset User, other than one maintained by the Reporting Crypto-Asset Service Provider on behalf of the same Crypto-Asset User where, based on the knowledge available to the Reporting Crypto-Asset Service Provider at the time of transaction, the Reporting Crypto-Asset Service Provider cannot determine that the transaction is an Exchange Transaction.

5. "Fiat Currency" means the official currency of a jurisdiction, issued by a jurisdiction or by a jurisdiction's designated Central Bank or monetary authority, as represented by physical banknotes or coins or by money in different digital forms, including bank reserves and Central Bank Digital Currencies. The term also includes commercial bank money and electronic money products (Electronic Money).

D. Reportable User

1. "Reportable User" means a Crypto-Asset User that is a Reportable Person resident in a Member State.

2. "Crypto-Asset User" means an individual or Entity that is a customer of a Reporting Crypto-Asset Service Provider for the purpose of carrying out Reportable Transactions. An individual or Entity, other than a

Financial Institution or a Reporting Crypto-Asset Service Provider, acting as a Crypto-Asset User for the benefit or account of another individual or Entity as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as a Crypto-Asset User, and such other individual or Entity is treated as the Crypto-Asset User. Where a Reporting Crypto-Asset Service Provider provides a service effectuating Reportable Retail Payment Transactions for, or on behalf of a merchant, the Reporting Crypto-Asset Service Provider shall also treat the customer that is the counterparty to the merchant for such Reportable Retail Payment Transactions as the Crypto-Asset User with respect to such Reportable Retail Payment Transaction, provided that the Reporting Crypto-Asset Service Provider is required to verify the identity of such customer by virtue of the Reportable Retail Payment Transaction in accordance with domestic anti-money laundering rules.

3. "Individual Crypto-Asset User" means a Crypto-Asset User that is an individual.

4. "Pre-existing Individual Crypto-Asset User" means an Individual Crypto-Asset User that has established a relationship with the Reporting Crypto-Asset Service Provider as of 31 December 2025.

5. "Entity Crypto-Asset User" means a Crypto-Asset User that is an Entity.

6. "Pre-existing Entity Crypto-Asset User" means an Entity Crypto-Asset User that has established a relationship with the Reporting Crypto-Asset Service Provider as of 31 December 2025.

7. "Reportable Person" means a Member State Person other than an Excluded Person.

8. "Member State Person" with regard to Malta means an Entity or individual that is resident in any other Member State under the tax laws of such Member State, or an estate of a deceased person who was a resident of any Member State. For that purpose, an Entity such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated.

9. "Controlling Persons" means the natural persons who exercise control over an Entity. In the case of a trust, such term means the settlors, the trustees, the protectors, if any, the beneficiaries or classes of beneficiaries, and any other natural persons exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term "Controlling Persons" must be interpreted in a manner consistent with the definition of "Beneficial Owner" contained in regulation 2 as well as that contained in regulation 2 of the Prevention of Money Laundering and Funding of Terrorism Regulations, and the level of control shall also be determined in line with such definitions, as far as Reporting Crypto-Asset Service Providers are concerned.

10. "Active Entity" means any Entity that meets any of the following criteria:

(a) less than fifty per cent (50%) of the Entity's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than fifty per cent (50%) of the assets held by the Entity during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;

(b) substantially all of the activities of the Entity consist of holding, in whole or in part, the outstanding stock of, or providing financing and services to, one (1) or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions, or holds itself out, as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;

(c) the Entity is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the Entity does not qualify for this exception after the date that is twenty-four (24) months after the date of the initial organisation of the Entity;

(d) the Entity was not a Financial Institution in the past five (5) years and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution;

(e) the Entity primarily engages in financing and hedging transactions with, or for Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or

(f) the Entity meets all of the following requirements:

(i) it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence, and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;

(ii) it is exempt from income tax in its jurisdiction of residence;

(iii) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;

(iv) the applicable laws of the Entity's jurisdiction of residence or the Entity's formation documents do not permit any income or assets of the Entity to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the Entity's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the Entity has purchased; and

(v) the applicable laws of the Entity's jurisdiction of residence or the Entity's formation documents require that, upon the Entity's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or transferred to the government of the Entity's jurisdiction of residence or any political subdivision thereof.

E. Excluded Person

1. "Excluded Person" means:

(a) an Entity the stock of which is regularly traded on one (1) or more established securities markets;

(b) any Entity that is a Related Entity of an Entity described in point (a);

(c) a Governmental Entity;

(d) an International Organisation;

(e) a Central Bank; or

(f) a Financial Institution other than an Investment Entity described in sub-paragraph E(5), point (b).

2. "Financial Institution" means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.

3. "Custodial Institution" means any Entity that holds, as a substantial portion of its business, Financial Assets for the account of others. An Entity holds Financial Assets for the account of others as a substantial portion of its business if the Entity's gross income attributable to the holding of Financial Assets and related financial services equals to, or exceeds twenty per cent (20%) of the Entity's gross income during the shorter of:

(i) the three (3) year period that ends on 31st December, or the final day of a non-calendar year accounting period, prior to the year in which the determination is being made; or

- (ii) the period during which the Entity has been in existence.
- 4. "Depository Institution" means any Entity that:
 - (a) accepts deposits in the ordinary course of a banking or similar business; or
 - (b) holds Electronic Money or Central Bank Digital Currencies for the benefit of customers.
- 5. "Investment Entity" means any Entity:
 - (a) that primarily conducts as a business one (1) or more of the following activities or operations for, or on behalf of a customer:
 - (i) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
 - (ii) individual and collective portfolio management; or
 - (iii) otherwise investing, administering, or managing Financial Assets, money, or Reportable Crypto-Assets on behalf of other persons; or
 - (b) the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets or Reportable Crypto-Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in sub-paragraph E(5), point (a).

An Entity is treated as primarily conducting as a business one (1) or more of the activities described in sub-paragraph E(5), point (a), or an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets or Reportable Crypto-Assets for the purposes of sub-paragraph E(5), point (b), if the Entity's gross income attributable to the relevant activities equals to or exceeds fifty per cent (50%) of the Entity's gross income during the shorter of:

- (i) the three (3) year period ending on 31st December of the year preceding the year in which the determination is made; or
- (ii) the period during which the Entity has been in existence.

For the purposes of sub-paragraph E(5), point (a)(iii), the term "otherwise investing, administering, or managing Financial Assets, money, or Reportable Crypto-Assets on behalf of other persons" does not include the provision of services effectuating Exchange Transactions for or on behalf of customers. The term "Investment Entity" does not include an Entity that is an Active Entity because it meets any of the criteria in sub-paragraph D(10), points (b) to (e).

This sub-paragraph shall be interpreted in a manner consistent with the

similar language stipulated in the definition of "financial institution" in Article 3, point (2), of Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

6. "Specified Insurance Company" means any Entity that is an insurance company, or the holding company of an insurance company, that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.

7. "Governmental Entity" means the government of a jurisdiction, any political subdivision of a jurisdiction, which for the avoidance of doubt, includes a state, province, county, or municipality, or any wholly owned agency or instrumentality of a jurisdiction or of any one or more of the foregoing. This category is comprised of the integral parts, controlled entities, and political subdivisions of a jurisdiction.

(a) An "integral part" of a jurisdiction means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of a jurisdiction. The net earnings of the governing authority shall be credited to its own account or to other accounts of the jurisdiction, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity.

(b) A "controlled entity" means an Entity that is separate in form from the jurisdiction or that otherwise constitutes a separate juridical entity, provided that:

(i) the Entity is wholly owned and controlled by one or more Governmental Entities directly or through one (1) or more controlled entities;

(ii) the Entity's net earnings are credited to its own account or to the accounts of one (1) or more Governmental Entities, with no portion of its income inuring to the benefit of any private person; and

(iii) the Entity's assets vest in one (1) or more Governmental Entities upon dissolution.

(c) Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of government. Notwithstanding the foregoing however, income is considered to inure to the benefit of private persons if the income is derived from the use of a governmental entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons.

8. "International Organisation" means any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation, including a supranational organisation:

- (a) that is comprised primarily of governments;
- (b) that has in effect a headquarters or substantially similar agreement with the jurisdiction; and
- (c) the income of which does not inure to the benefit of private persons.

9. "Financial Asset" includes a security, for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness, partnership interest, commodity, swap, for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements, Insurance Contract or Annuity Contract, or any interest, including a futures or forward contract or option, in a security, Reportable Crypto-Asset, partnership interest, commodity, swap, Insurance Contract, or Annuity Contract. The term "Financial Asset" does not include a non-debt, direct interest in real property.

10. "Equity Interest" means, in the case of a partnership that is a Financial Institution, either a capital or profits interest in the partnership. In the case of a trust that is a Financial Institution, an Equity Interest is considered to be held by any person treated as a settlor or beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust. A Reportable Person shall be treated as being a beneficiary of a trust if such Reportable Person has the right to receive directly or indirectly, for example, through a nominee, a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust.

11. "Insurance Contract" means a contract, other than an Annuity Contract, under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.

12. "Annuity Contract" means a contract under which the issuer agrees to make payments for a period of time totally or partially determined by reference to the life expectancy of one (1) or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the laws, regulations, or practices of the Member State or other jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.

13. "Cash Value Insurance Contract" means an Insurance Contract, other than an indemnity reinsurance contract between two (2) insurance companies, that has a Cash Value.

14. "Cash Value" means the greater of:
- (i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract, determined without reduction for any surrender charge or policy loan; and
 - (ii) the amount the policyholder can borrow under or with regard to the contract. Notwithstanding the foregoing, the term "Cash Value" does not include an amount payable under an Insurance Contract:

- (a) solely by reason of the death of an individual insured under a life insurance contract;
- (b) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;
- (c) as a refund of a previously paid premium, less cost of insurance charges whether or not actually imposed, under an Insurance Contract, other than an investment-linked life insurance or annuity contract, due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;
- (d) as a policyholder dividend, other than a termination dividend, provided that the dividend relates to an Insurance Contract under which the only benefits payable are described in point (b); or
- (e) as a return of an advance premium or premium deposit for an Insurance Contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium that shall be payable under the contract.

F. Miscellaneous

1. "Customer Due Diligence Procedures" means the customer due diligence procedures of a Reporting Crypto-Asset Service Provider pursuant to Directive (EU) 2015/849 or similar requirements to which such Reporting Crypto- Asset Service Provider is subject.

2. "Entity" means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation.

3. An Entity is a "Related Entity" of another Entity if either Entity controls the other Entity, or the two (2) Entities are under common control. For this purpose, control includes direct or indirect ownership of more than 50% of the vote and value in an Entity.

4. "Branch" means a unit, business or office of a Reporting Crypto-Asset Service Provider that is treated as a branch under the regulatory regime of a jurisdiction or that is otherwise regulated under the laws of a jurisdiction as separate from other offices, units, or branches of the Reporting Crypto-Asset Service Provider. All units, businesses, or offices of a Reporting Crypto-Asset Service Provider in a single jurisdiction shall be treated as a single branch.

5. "Effective Qualifying Competent Authority Agreement" means an agreement between the competent authorities of a Member State and a non-Union jurisdiction that requires the automatic exchange of information corresponding to that specified in Section II, paragraph B, of this Annex, as determined by an implementing act in accordance with Article 8ad(11) of the EU Administrative Cooperation Directive.

6. "Qualified Non-Union Jurisdiction" means a non-Union jurisdiction that has in effect an Effective Qualifying Competent Authority Agreement with the competent authorities of all Member States which are identified as reportable

jurisdictions in a list published by the non-Union jurisdiction.

7. "TIN" means Taxpayer Identification Number, or functional equivalent in the absence of a Taxpayer Identification Number. The TIN is any number or code that a competent authority uses to identify a taxpayer.

8. "Identification Service" means an electronic process made available free of charge by Malta or the Union to a Reporting Crypto-Asset Service Provider for the purpose of ascertaining the identity and tax residence of a Crypto-Asset User.

SECTION V EFFECTIVE IMPLEMENTATION

A. Rules to enforce the collection and verification requirements established in Section III

1. Reporting Malta Crypto-Asset Service Providers shall enforce the collection and verification requirements in accordance with Section III in relation to their Crypto-Asset Users.

2. Where a Crypto-Asset User does not provide the information required under Section III after two (2) reminders following the initial request by the Reporting Malta Crypto-Asset Service Provider, but not prior to the expiration of sixty (60) days, the Reporting Malta Crypto-Asset Service Provider shall prevent the Crypto-Asset User from performing Reportable Transactions.

B. Rules requiring Reporting Malta Crypto-Asset Service Providers to keep records of the steps undertaken and any information relied upon for the performance of the reporting requirements and due diligence procedures and adequate measures to obtain those records.

1. Reporting Malta Crypto-Asset Service Providers shall keep records of the steps undertaken and any information relied upon for the performance of the reporting requirements and due diligence procedures stipulated in Sections II and III, respectively. Such records shall remain available for a sufficiently long period of time and in any event for a period of not less than five (5) years but not more than ten (10) years following the end of the period within which the Reporting Malta Crypto-Asset Service Provider is required to report the information if the information is reportable pursuant to Section II.

2. Reporting Malta Crypto-Asset Service Providers shall ensure that all necessary information is reported to the Commissioner so that the competent authority of Malta can comply with the obligation to communicate information in accordance with regulation 13(13)(c).

C. Administrative procedures to verify compliance of Reporting Malta Crypto-Asset Service Providers with the reporting requirements and due diligence procedures

Administrative procedures shall be set to verify the compliance of Reporting

Malta Crypto-Asset Service Providers with the reporting requirements and due diligence procedures stipulated in Sections II and III, respectively.

D. Administrative procedures to follow up with Reporting Malta Crypto-Asset Service Providers where incomplete or inaccurate information is reported

Procedures shall be set for following up with Reporting Malta Crypto-Asset Service Providers where the reported information is incomplete or inaccurate.

E. Administrative procedure for authorisation of a Crypto-Asset Service Provider

The Malta Financial Services Authority, being the competent authority of Malta providing authorisation to Crypto-Asset Service Providers in accordance with Regulation (EU) 2023/1114 and the Markets in Crypto-Assets Act shall communicate on a regular basis and at the latest before 31 December of the relevant calendar year or other appropriate reporting period to the competent authority of Malta a list of all authorised Crypto-Asset Service Providers.

F. Administrative procedure for single registration of a Crypto-Asset Operator

1. A Crypto-Asset Operator that is a Reporting Malta Crypto-Asset Service Provider as defined in Section IV, sub-paragraph B(3), shall register, in accordance with regulation 13(13)(e), with the Commissioner, as determined in accordance with Section I, sub-paragraph A(2), point (a), (b), (c) or (d), or paragraph B, before the end of the period within which such Crypto-Asset Operator shall report the information stipulated in Section II, paragraph B. If such Crypto-Asset Operator fulfils the conditions in Section I, sub-paragraph A(2), point (a), (b), (c) or (d), or paragraph B, respectively, in more than one Member State, it shall register with the competent authority of one of those Member States, before the end of the period within which the Crypto-Asset Operator shall report the information stipulated in Section II, paragraph B.

Notwithstanding sub-paragraph F(1), first sub-paragraph, a Crypto-Asset Operator that is a Reporting Crypto-Asset Service Provider as defined in Section IV, sub-paragraph B(3), shall not register with the competent authority of a Member State in which such Crypto-Asset Operator is not required to complete the reporting and due diligence requirements established in Sections II and III, respectively, pursuant to Section I, paragraph C, D, E, F, G or H, by virtue of such requirements being completed by such Crypto-Asset Operator in any other Member State.

2. If Malta is the Member State chosen for the purposes of single registration, determined in accordance with sub-paragraph F(1), upon registration, the Crypto-Asset Operator shall communicate to the Commissioner the following information:

- (a) name;
- (b) postal address;
- (c) electronic addresses, including websites;
- (d) any TIN issued to the Crypto-Asset Operator;
- (e) Member States in which Reportable Users are residents within the

meaning of Section III, paragraphs A and B;

- (f) any Qualified Non-Union Jurisdiction as referred to in Section I, paragraphs C, D, E, F or H.

3. The Crypto-Asset Operator shall notify the Commissioner of any changes in the information provided under sub-paragraph F(2).

4. An individual identification number shall be allocated to the Crypto-Asset Operator and the competent authority of Malta shall notify it to the competent authorities of all Member States by electronic means.

5. If Malta is the Member State for single registration, the Commissioner shall be able to remove a Crypto-Asset Operator from the Crypto-Asset Operator register in the following cases:

- (a) the Crypto-Asset Operator notifies the Commissioner that it no longer has Reportable Users in the Union;
- (b) in the absence of a notification pursuant to point (a), there are grounds to assume that the activity of a Crypto-Asset Operator has ceased;
- (c) the Crypto-Asset Operator no longer meets the conditions established in Section IV, sub-paragraph B(2);
- (d) the Commissioner has revoked the registration pursuant to sub-paragraph F(7).

6. The competent authority of Malta shall forthwith notify the Commission of any Crypto-Asset Operator within the meaning of Section IV, sub-paragraph B(2), that has Reportable Users resident in the Union while failing to register itself in accordance with this paragraph.

7. Where a Crypto-Asset Operator does not comply with the obligation to report in accordance with Section II, paragraph B, of this Annex after two (2) reminders by the Commissioner, if Malta is the Member State of single registration, the Commissioner shall, without prejudice to Regulation 53, revoke the registration of the Crypto-Asset Operator made in accordance with regulation 13(13)(e). The registration shall be revoked not later than ninety (90) days after the second reminder and not earlier than thirty (30) days after the second reminder.
