



STATUTORY INSTRUMENTS.

S.I. No. 387 of 2021

EUROPEAN UNION (ACCESS TO ANTI-MONEY LAUNDERING
INFORMATION BY TAX AUTHORITIES) REGULATIONS 2021

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I, PASCHAL DONOHOE, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Council Directive (EU) 2016/2258 of 6 December 2016¹ amending Directive 2011/16/EU as regards access to anti-money laundering information by tax authorities, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Access to Anti-Money Laundering Information by Tax Authorities) Regulations 2021.

2. (1) In these Regulations –

“AML Directive” means Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015² on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) 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 as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018³;

“authorised officer” means an officer of the Revenue Commissioners authorised under Regulation 8 of the Mandatory Automatic Exchange of Information in the Field of Taxation Regulations 2015 (S.I. No. 609 of 2015);

“beneficial owner” has the same meaning it has in the AML Directive;

“designated person” has the same meaning it has in Part 4 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No. 6 of 2010);

“Directive” means Council Directive (EU) 2016/2258 of 6 December 2016¹ amending Directive 2011/16/EU as regards access to anti-money laundering information by tax authorities;

“EU Administrative Cooperation Directive” means Council Directive 2014/107/EU of 9 December 2014⁴ amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation.

(2) A word or expression that is used in the Directive and is also used in these Regulations has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

¹ OJ No. L 342, 16.12.2016, p. 1

² OJ No. L 141, 5.6.2015, p. 73

³ OJ No. L 156, 19.6.2018, p.43

⁴ OJ No. L 359, 16.12.2014, p.1

3. (1) Subject to paragraph (6), the Revenue Commissioners shall have access to the mechanisms, procedures, documents and information referred to in –

- (a) Articles 13, 30, 31 and 40 of the AML Directive, and
- (b) any provisions of the law of the State transposing the said Articles 13, 30, 31 and 40.

(2) For the purposes of paragraph (1), an authorised officer, in particular –

- (a) shall have access to the Central Register of Beneficial Ownership of Companies and Industrial and Provident Societies, the Central Register of Beneficial Ownership of Irish Collective Asset-management Vehicles, Credit Unions and Unit Trusts and the Central Register of Beneficial Ownership of Trusts, and
- (b) may, by notice in writing, require a designated person to deliver to the officer, within a period specified in the notice, such information (including copies of any relevant books, records or other documents) as is relevant to the compliance with any obligation imposed on the designated person by Chapter 3 of Part 4 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 and retained by that designated person under section 55 of that Act.

(3) For the purposes of a notice served under paragraph (2)(b) the period to be specified in it shall not be less than 14 days.

(4) Where an authorised officer –

- (a) accesses any of the registers referred to in paragraph (2)(a), the beneficial owner concerned shall be notified in writing by the authorised officer of the access to the register –
 - (i) in a case where the identity of the beneficial owner concerned is known to the authorised officer at the time the register is accessed, at that time or as soon as practicable thereafter, and
 - (ii) in any other case, as soon as practicable after the identity of the beneficial owner concerned becomes known to the authorised officer,
- or
- (b) serves a notice under paragraph (2)(b), the beneficial owner concerned shall be notified in writing by the authorised officer of the service of the notice and of the name of the person upon whom it was served –
 - (i) in a case where the identity of the beneficial owner concerned is known to the authorised officer at the time the notice is served, at that time or as soon as practicable thereafter, and

(ii) in any other case, as soon as practicable after the identity of the beneficial owner concerned becomes known to the authorised officer.

(5) The Data Protection Act 2018 (No.7 of 2018) shall apply to the access that this regulation affords to an authorised officer in respect of the information in the registers referred to in paragraph (2)(a) and the information referred to in paragraph (2)(b).

(6) Access by the Revenue Commissioners to information as provided for by this regulation shall be for the purposes only of compliance with their obligations under Section IX of Annex I to the EU Administrative Cooperation Directive to ensure the effective implementation of, and compliance with, the reporting and due diligence procedures as required by Article 8(3a) of that Directive.

4. (1) On there being made of the Registrar of Beneficial Ownership of Companies and Industrial and Provident Societies, the Registrar of Beneficial Ownership of Irish Collective Asset-management Vehicles, Credit Unions and Unit Trusts or the Registrar of Beneficial Ownership of Trusts, as the case may be, by an authorised officer, a request for access, in accordance with Regulation 3(2)(a) to a register referred to in Regulation 3(2)(a), the Registrar concerned shall afford the authorised officer access, in a timely manner, to the register.

(2) An authorised officer may require a designated person to provide any such additional information, explanations and particulars and to give all assistance to him or her which the authorised officer may reasonably require for the purpose of inspecting the information delivered to him or her under Regulation 3(2)(b).



GIVEN under my Official Seal,
21 July, 2021.

PASCHAL DONOHOE,
Minister for Finance.

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DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2,
D02 DR67.

Tel: 076 110 6834
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€3.00

(PRDDF-92) 75. 7/21. Propylon.