

Anti-money laundering rules: the electronic central register for accounts

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On 11.07.2019, Law No. 129/2019 on preventing and combating money laundering and the financing of terrorism was put into effect. It underwent several changes, among which the one made through the Emergency Ordinance (“EO”) No. 111/2020.

Context

The changes are based on the fact that Romania has been imposed a penalty of 3 Million EUR by the European Commission due to the delay in implementing the EU-Directive on money laundering. Given the delay of 755 days, this does not come as a surprise.

The legislative change made through the EO proves that it is difficult to meet both the legal requirements and the needs of the everyday reality with the law on preventing and combating money laundering and the financing of terrorism.

Electronic central register for payment and bank accounts

Among the most important novelties of EO No. 111, one can point towards the implementation of a register (*Registrul central electronic pentru conturi de plăți și conturi bancare*) that includes relevant information about the bank and payment accounts of all physical and legal persons in Romania.

At the moment, the register is not functional; only the frame for its functioning has been created so far. It will be activated by the Tax Administration ANAF based on a disposition adopted by the ANAF President by the 15th of August.

After adopting the disposition, the companies will make available the payment or bank account and deliver the relevant information to the tax authorities within 10 days after activating the register, so that they will be registered.

The information that can be found in the register is as follows:

- regarding the account holder, the persons authorized to sign for the accounts and any person declaring to act in the name of the client: the name and all other relevant identification data according to the law No. 129/2019 (for physical persons all data with regard to the civil status that are included in the identification documents; for companies, the data included in the articles of incorporation or the registration certificate and the information regarding the legal representative of the legal person) or, as the case may be, the sole registration number for non-resident persons;
- regarding the real beneficiary of the account holder: the name and all other relevant identification data according to the Law No. 129/2019 or, as the case may be, the sole registration number for non-resident persons;
- regarding the bank and payment account: IBAN and date of opening and closing the account;

- regarding safe deposit boxes: the name of the lessee of the safe deposit box and all other relevant registration number for non-resident persons and the duration of the lease period.

Cryptocurrency

It is worth mentioning the fact that the register will include not only information about the “standard” bank account, but also about the payment accounts made available by an electronic money institution.

To this end, the EO defines cryptocurrencies as a “virtual currency”, i.e. a *digital representation of values, which are not issued or guaranteed by any central bank or public authority, not necessarily connected to a legally introduced currency and are not considered to be currencies or money from a legal point of view, but which, however, are accepted by physical or legal persons as exchange means and can be transferred, saved or traded electronically.*”

Access to information

The abovementioned information cannot be accessed publicly. The access to it will limit itself to certain authorities, such as the National Service for preventing and combating money laundering, the local tax authorities or the prosecution authorities.

In case one of the abovementioned authorities requests access to the information available in the register, it will gain such access only if it proves it is necessary for the enforcement of the legislation on preventing and combating money laundering and the financing of terrorism.

Thus, the information in the register may not be used for purposes other than those set by the legislative body. In such cases, for example for investigations in criminal files which do not concern the subject mentioned in the previous paragraph, the operator of the register will deny access.

The information from the register will be saved for as long as the business relationships between the clients and the bank/ the account provider exist and for another ten years following the termination of such relationships.

Contact and further information:



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