

**REGULATION**  
**on the automatic exchange of information on financial accounts**

**Chapter I. General provisions**

1. The Regulation on the automatic exchange of information on financial accounts (hereinafter – Regulation) establishes the way of implementation by the reporting financial institutions of the provisions of Law no. 69/2023 on the implementation of the provisions of the Multilateral Agreement of the competent authorities for the automatic exchange of information on financial accounts (hereinafter - Law no. 69/2023), in accordance with the Common Reporting Standard of the Organization for Economic Cooperation and Development (OECD) (hereinafter continuation - CRS).

2. This Regulation establishes:

- 1) reporting financial institutions;
- 2) the subjects that are the subject of the report;
- 3) reportable accounts;
- 4) categories of information regarding the identification of reportable subjects;
- 5) the precautionary rules applicable by these institutions in order to identify reportable accounts, as well as the procedure for reporting this information.

3. For the purposes of this Regulation, in addition to those established in Law no. 69/2023, the following notions are defined:

1) financial asset – security (for example, shares in the capital of a commercial company; participations in equity or the right to benefits in a partnership owned by many partners or listed on the stock exchange or in a trust; promissory notes, bonds, unsecured bonds or other debt securities); rights arising from a partnership, a commodity, a swap (e.g. interest rate swap, currency swap, basis swap, interest rate with maximum ceiling, interest rate with minimum threshold, commodity swap, equity swap, swap on stock indices and similar agreements); an insurance contract or an annuity contract or any interest (including a futures, forward or options contract) in relation to a security; rights arising from a partnership, a commodity, a swap, an insurance contract or an annuity contract. The term "financial asset" does not include direct rights to immovable property, which are not debt securities.

For the purposes of this subsection, equity participation means, in the case of a partnership that is a financial institution, a participation in either the capital or the profits of the partnership. In the case of a trust that is a financial institution, an equity interest is deemed to be held by any person assimilated to a settlor or a beneficiary of the whole or part of the trust or any other natural person exercising effective control definitely on the trust. A reporting person will be considered a beneficiary of a trust if that reporting person is entitled to receive, directly or indirectly, for

example, through a trustee, a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust;

2) tax identification number – unique combination of letters or numbers, assigned by a jurisdiction of a natural or legal person and used to identify the natural or legal person for the purpose of applying the tax laws of that jurisdiction or its functional equivalent if there is no tax identification number;

3) governmental entity – the Government of a jurisdiction, political subdivision of a jurisdiction (which includes a state, province, district or locality) or anybody or agency wholly owned by a jurisdiction or one or more of its subdivisions its political entities, each representing a governmental entity. This category is made up of constituent parts, controlled entities and political subdivisions of the jurisdiction:

a) an "integral part" of the jurisdiction means any person, organization, agency, office, fund, public body or other body, by whatever name, which constitutes a public authority of the jurisdiction. The net revenues of the public authority must be credited to its own account or other accounts of the jurisdiction and no part of them must accrue to the benefit of any natural person or legal entity under private law. An integral party does not include any natural person who is a member of the Government, official or administrator acting in a private or personal capacity;

b) a "controlled entity" means an entity that is formally separate from the jurisdiction or that otherwise constitutes a separate legal entity, provided that:

- the entity is wholly owned and controlled by one or more governmental entities, directly or through one or more controlled entities;

- the entity's net income should be credited to its own account or to other accounts of one or more governmental entities, and no part of them should benefit any natural person or legal entity under private law;

- the assets of the entity shall revert to one or more governmental entities at the time of its dissolution;

c) for the purposes of this subsection, the income does not benefit natural persons or legal entities under private law if those persons are the target beneficiaries of a government program, and the activities within the program are carried out for the general public in the general interest or refers to the administration of a part of the Government. However, subject to the foregoing provisions, income shall be deemed to inure to the benefit of private individuals or legal entities where it is derived from the use of a government entity to carry on a commercial activity, such as a commercial banking activity, that provide financial services to individuals or legal entities under private law.

4) international organization – any international organization, agency or body wholly owned by it. This category includes any intergovernmental organization (including a supranational organization) that is composed primarily of governments, that has a headquarters agreement or a fundamentally similar agreement in force with the jurisdiction in which it is located, and whose income does not accrue to the benefit of natural persons or legal persons under private law;

5) central bank – institution which, by virtue of the law or a public decision, is the main authority, other than the government of the jurisdiction, that issues instruments intended to be used as

currency. This institution may be a separate body from the jurisdiction's government and may or may not be wholly or partially owned by the latter. In accordance with Law no. 548/1995 regarding the National Bank of Moldova, the Central Bank of the Republic of Moldova is the National Bank of Moldova;

6) pension fund with wide participation – fund established to provide pension benefits or disability or death benefits or any combination thereof to beneficiaries who are current or former employees or the persons designated by said employees of one or to several employers in exchange for services rendered, provided that the fund:

a) not to have a single beneficiary entitled to more than 5% of the fund's assets;

b) to be authorized and report information to the tax authorities;

c) meet at least one of the following requirements:

- the fund is generally exempt from paying tax on investment income or the taxation of such income is deferred or taxed at a reduced rate, due to its status as a pension fund or pension scheme;

- the fund receives at least 50% of its total contributions, other than asset transfers from other pension funds provided for in this sub-point and sub-points 7) and 8) or from the pension accounts provided for in point 33 sbp. 1), from the employers who finance them;

- payments or withdrawals from the fund are allowed only in the event of the occurrence of certain events related to retirement, disability or death, with the exception of periodic payments to other pension funds provided for in subsections 6-8 of this article and the pension accounts provided for in point 33 sbp. 1) lit. a) or, in case of making payments or withdrawals before the determined events, sanctions are applied;

- employee contributions, other than certain authorized contributions to the fund, are limited according to the income earned by the employee or cannot exceed, annually, the equivalent in Moldovan lei of 50,000 USD, applying the rules set forth in Chapter VIII regarding currency conversion.

7) pension fund with limited participation - fund established to provide pension benefits or disability or death benefits to beneficiaries who are current or former employees or the persons designated by said employees of one or more employers in exchange of services provided, with the following conditions:

a) the fund has less than 50 participants;

b) the fund is financed by one or more employers who are not investment entities or passive ENFs;

c) the contributions of the employee and the employer to the fund, other than the transfers of assets from the pension accounts provided for in point 33 sbp. 1) lit. a), to be limited according to the earned income and, respectively, the remuneration of the employees;

d) participants who are not residents of the Republic of Moldova are not entitled to more than 20% of the fund's assets;

e) the fund is subject to the legal norms in force and to report information to the tax authorities.

8) pension fund of a governmental entity, international organization or central bank – fund established by a governmental entity, international organization or central bank to provide pension benefits or disability or death benefits to beneficiaries or participants who are current or former employees or designees of such employees or who are not current or former employees, if such

benefits are provided to such beneficiaries or participants in exchange for personal services performed for the relevant governmental entity, international organization or central bank;

9) qualified credit card issuer – financial institution that meets the following requirements:

a) the financial institution has this status only because it is a credit card issuer that attracts deposits only when a customer makes a payment that exceeds the balance due on the card and the overpayments are not immediately returned to the customer;

b) from the effective date of this Regulation or before this date, the financial institution implements policies and procedures either to prevent a customer from making an overpayment that exceeds the Moldovan lei equivalent of USD 50,000, or to ensure that any excess payment made by a customer over the respective amount is returned to the customer within 60 days, applying, in each case, the rules set out in Chapter VIII regarding currency conversion. In this sense, a customer overpayment does not refer to credit balances related to disputed debits, but includes credit balances resulting from returns of goods.

10) exempted collective investment undertaking – investment entity that is regulated as a collective investment undertaking, provided that all rights over the collective investment undertaking are held by or through natural persons or entities that are not subject persons reporting, except for a passive NFE with controlling persons who are reportable persons. The mere fact that the collective investment undertaking has issued units (securities) on paper (in physical form) does not prevent an investment entity that is regulated as a collective investment undertaking from qualifying as an exempt collective investment undertaking under the following conditions:

a) the collective investment organization has not issued and will not issue any units (securities) on paper (in physical form) after December 31, 2023;

b) the collective investment organization to withdraw all the respective units (securities) in case of redemption;

c) the collective investment undertaking to comply with the precautionary rules set out in Chapters IV-VIII and to report any requested information that must be reported with respect to any such units (securities) when said units (securities) are presented for redemption or other forms of payment;

d) the collective investment undertaking has established policies and procedures to ensure that such units (securities) are redeemed or immobilized as soon as possible and, in any case, before 1 January 2025.

11) account holder – the person registered or identified as the holder of a financial account by the financial institution that maintains the account. A person, other than a financial institution, who holds a financial account for the benefit or on behalf of another person, as an agent, custodian, trustee, signatory, investment adviser or intermediary, is not considered to be the account holder for the purposes of this Regulation, but the other person is considered as the owner of the account. In this sense, the reporting financial institution can rely on the information in its possession, including the information collected in accordance with the provisions of articles 5, 7 and 8 of Law no. 308/2017 on the prevention and combating of money laundering and the financing of terrorism, on the basis of which it can reasonably determine whether a person is acting for the benefit of or on behalf of another person. In the case of a cash value insurance contract or an

annuity contract, the account holder is any person who has the right 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 designated as the owner in the contract and any person with a right to payment in accordance with the contract terms. At the maturity of a cash value insurance contract or an annuity contract, each person who is entitled to receive a payment under the contract is considered to be an account holder;

12) the term of self-certification from Law no. 69/2023 has the meaning of self-responsible declaration in this Regulation.

4. The provisions of this Regulation are supplemented by the guidelines on the automatic exchange of information on financial accounts developed by the Organization for Economic Cooperation and Development (OECD).

5. When fulfilling the obligations established by Law no. 69/2023, financial institutions and other concerned subjects will apply and be governed by the provisions of this Regulation.

6. Non-compliance with the provisions of this Regulation attracts the application of the sanctions provided by Law no. 69/2023.

## **Chapter II. Reporting financial institutions**

### **Section 1. General Provisions**

7. The reporting financial institution represents the financial institution from the Republic of Moldova, with the exception of the following entities:

1) government entity, an international organization or a central bank, except in situations that refer to a payment deriving from an obligation incurred in connection with a commercial financial activity of the type carried out by a specified insurance company, by a custody institution or a depository institution;

2) a pension fund with broad participation; a limited participation pension fund; a pension fund of a government entity, international organization or central bank; or a qualified credit card issuer;

3) any other entity that presents a low risk of being used for tax evasion, which has substantially similar characteristics to any of the entities provided for in subsections 1) and 2), provided that the status of that entity as a non-reporting financial institution does not violates the provisions of Law no. 69/2023 regarding the automatic exchange of information on financial accounts;

4) an exempt collective investment organization;

5) a trust, to the extent that the trustee is a reporting financial institution and reports all the information provided by art. 3 of Law no. 69/2023 regarding all trust accounts that are subject to reporting.

8. The financial institution from the Republic of Moldova, within the meaning of this Regulation, represents:

- 1) any financial institution that is resident in the Republic of Moldova, excluding the branches of the respective financial institution located outside the Republic of Moldova;
- 2) any branch of a financial institution that is not resident in the Republic of Moldova, if that branch is located in the Republic of Moldova.

9. Financial institution, for the purposes of this Regulation, means a specified custody institution, depository institution, investment entity or insurance company.

### **Section 2. Custody Institution**

10. The custodial institution represents any entity that holds, as a substantial part of its activity, financial assets for the account of third parties.

11. An entity holds, as a substantial part of its activity, financial assets for the account of third parties, if the entity's gross income attributable to the holding of financial assets and related financial services is equal to or greater than 20% of the entity's gross income for the following periods:

- 1) the last three fiscal periods;
- 2) in case the condition from sbp. 1) is not met, the period since the entity exists.

12. The gross income attributable to the holding of financial assets and related financial services refers to:

- 1) fees and any other types of payments related to custody administration;
- 2) revenues earned from transactions with financial assets held in custody;
- 3) fees for providing financial advice in relation to financial assets held or likely to be held in custody.

### **Section 3. Depository Institution**

13. Depository institution means any entity that accepts deposits in the normal course of banking or other similar activities.

14. An entity is considered to be engaged in "banking or other similar activities" if, in the ordinary course of its business with customers, the entity attracts deposits or other similar investments of funds and regularly engages in one or more of next activities:

- 1) grant loans;
- 2) buy, sell, discount or negotiate payment instruments and money market instruments;
- 3) issues documentary letters of credit and negotiates documents used pursuant to them;
- 4) provides trusts and fiduciary services;
- 5) finance transactions with instruments based on the exchange rate;
- 6) conclude or transact financial leasing contracts or leased assets.

15. An institution is not considered to be involved in a banking activity or other similar activities if the institution accepts deposits from individuals, only as guarantees related to a sale or lease of real estate or according to another similar financial agreement concluded between the institution and the person who holds the deposit with this entity.

#### **Section 4. Investment Entity**

16. The investment entity represents any entity that falls into one of the following categories:

1) entity that carries out, as its main activity, one or more of the activities with financial instruments provided for in Law no. 171/2012 on the capital market;

2) entity that cumulatively meets the following conditions:

a) the gross income comes mainly from investment, reinvestment or trading activities with financial assets;

b) the entity is managed by an entity that is a depository institution, a custody institution, a specified insurance company or an investment entity described in point 16 sbp. 1). The entity is managed by an entity that is a depository institution, a custody institution, a specified insurance company or an investment entity described in point 16 sbp. 1), if it performs directly, or through another entity, any of the activities with financial instruments provided for in Law no. 171/2012 on the capital market.

17. An entity is considered to carry out as its main activity one or more of the activities with financial instruments provided for in Law no. 171/2012 on the capital market or the gross income of an entity is mainly attributable to the activities of investment, reinvestment or trading with financial assets within the meaning of point 16 sbp. 2), if the gross income of the entity attributable to the relevant activities is equal to or greater than 50% of the gross income of the entity for the following periods:

1) the last three fiscal periods;

2) in case the condition from sbp 1) is not met, the period since the entity exists.

18. The term investment entity should be interpreted in a manner consistent with that used in the definition of the term "financial institution" in the Financial Action Task Force on Money Laundering (FATF) recommendations.

#### **Section 5. Specified Insurance Company**

19. Specified insurance company means any entity that is an insurance company or insurance holding company that issues or is obligated to make payments with respect to a cash value insurance contract or an annuity contract.

20. An insurance company is considered the entity regulated and licensed according to Law no. 92/2022 regarding the insurance or reinsurance activity and which meets one of the following conditions:

1) the gross income resulting from the insurance and reinsurance activity for the previous fiscal period exceeds 50% of the total gross income from the current fiscal period;

2) the total value of the assets related to the insurance and reinsurance activity for the previous fiscal period exceeds 50% of the total assets at any time during the current fiscal period.

### **Chapter III. Reportable accounts**

#### **Section 1. General Provisions**

21. Reportable account means a financial account that is managed by a reporting financial institution from the Republic of Moldova and is owned by one or more reportable persons or by a passive ENF controlled by one or more reportable persons, provided that it has been identified as such under precautionary rules.

22. Reportable person means a person who is resident in a reporting jurisdiction but who is not:

- 1) a commercial company the shares of which are regularly traded on one or more regulated securities markets;
- 2) any commercial company that is an entity affiliated to a commercial company provided for in sbp. 1);
- 3) a government entity;
- 4) an international organization;
  - 5) a central bank;
  - 6) a financial institution.

23. Person in a reporting jurisdiction means an individual or entity resident in a reporting jurisdiction under the tax laws of that jurisdiction, or the estate of a deceased person who was a resident of the jurisdiction respectively. In this sense, an entity such as a civil partnership, a company or a similar legal structure that does not have a tax residence is considered to be resident in the jurisdiction where the seat of effective management is located. A legal person or legal arrangement is considered to be similar to a partnership or business if it is not treated as a taxable person in a reporting jurisdiction under the tax laws of that jurisdiction. However, in order to avoid double reporting (taking into account the broad scope of the term "controlling persons" in the case of trusts), a trust that is a passive NFE cannot be considered a similar legal construction.

24. The residence of the natural person or the entity is established according to the precautionary rules provided in chapters IV-VIII.

25. The term "entity" means a legal person or legal arrangement, including a trust, joint venture or other association without legal personality.

26. An entity is an "affiliate" of another entity if either entity controls the other entity or both entities are under common control. Control includes direct or indirect ownership of more than 50% of the voting rights or value of the entity.

27. For the purposes of this Regulation, the term "persons exercising control" has the meaning of the term "effective beneficiary", as defined by Law no. 308/2017 on preventing and combating money laundering and terrorist financing.

28. The term "ENF" means any entity that is not a financial institution.



29. The term "passive ENF" represents the entity that meets one of the following conditions:

- 1) ENF that is not an active ENF;
- 2) an investment entity, which is not a financial institution in a participating jurisdiction.

30. The term "active ENF" means any entity that meets any of the following criteria:

- 1) less than 50% of the gross income for the previous fiscal period is passive income and less than 50% of the assets held during the previous fiscal period are assets that produce or are held to produce passive income;
- 2) the ENF's shares are regularly traded on a regulated securities market or the ENF is an entity affiliated with an entity whose shares are regularly traded on a regulated securities market;
- 3) The ENF is a government entity, an international organization, a central bank or an entity wholly owned by one or more of these entities;
- 4) all the activities of the ENF consist, in essence, of holding (in whole or in part) the subscribed shares issued by one or more subsidiaries whose transactions or activities are different from the activities of a financial institution or in the financing and provision of services to those subsidiaries. However, an entity does not have active entity status if it operates (or presents itself) as an investment fund, such as an investment fund in private companies, a venture capital fund, a buyout fund commercial or any other investment body whose purpose is to acquire or finance companies and to hold capital within those companies, representing capital assets for investment purposes;
- 5) The ENF is not yet engaged in, and has never engaged in, but invests capital in assets with the intent to engage in a commercial activity other than that of a financial institution, provided that the ENF does not qualify for this exception after when 24 months have passed since the initial date of establishment of the ENF;
- 6) The ENF has not been a financial institution in the last 5 years and is in the process of liquidating its assets or restructuring, with the intention of continuing or resuming operations in activities other than those of a financial institution;
- 7) the ENF's activities consist mainly of financing and hedging operations with or for affiliated entities that are not financial institutions, and the ENF does not provide financing or hedging services to any other entity that is not an assimilated entity, provided that the group to which the respective affiliated entities belong mainly carries out an activity different from the activities of a financial institution; or
- 8) ENF fulfills all the following conditions:
  - a) is established and carries out its activity in the Republic of Moldova or in another jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, sports or educational purposes; or is established and operates in the Republic of Moldova or in another jurisdiction of residence and is a professional organization, a business association, a chamber of commerce, a labor organization, an organization in the agricultural or horticultural sector, a civic association or an organization that operates exclusively for the promotion of social welfare;
  - b) is exempt from income tax in the Republic of Moldova or in another jurisdiction of residence;
  - c) has no shareholders or members who have ownership rights or benefits related to its assets or income;

- d) the national legislation applicable to the ENF or of another jurisdiction of residence of the ENF or the incorporation documents of the ENF do not allow any income or any asset of the ENF to be distributed or used for the benefit of a natural person or legal person under private law or an entity non-charitable other than for the purpose of carrying out ENF's charitable activities or as payment of reasonable compensation for services rendered or as payment representing the fair market value of the property that ENF purchased;
- e) the national legislation applicable to the ENF or of another jurisdiction of residence of the ENF or the incorporation documents of the ENF require that, at the time of liquidation or dissolution of the ENF, all its assets are distributed to a governmental entity or other non-profit organization or revert to the Government of the Republic of Moldova or another jurisdiction of residence of the ENF or any political subdivision thereof.

31. Passive income generally includes the part of the gross income that consists of:

- 1) dividends;
- 2) interest and other income economically equivalent to interest;
- 3) rents and royalties, other than rents and royalties derived from the active running of a business managed, at least in part, by the employees of an ENF;
- 4) annuities;
- 5) earnings from the sale or trading of financial assets that generate the passive income provided for above;
- 6) earnings from transactions (including futures contracts, forward contracts, options contracts and similar transactions) of any financial assets;
- 7) earnings from exchange rate differences;
- 8) net income from swap operations;
- 9) amounts received under cash value insurance contracts.

Notwithstanding the above, passive income does not include, in the case of an NFE that regularly acts as an intermediary in the market for financial assets, any income from any transaction carried out in the ordinary course of such intermediary's business.

## **Section 2. Financial Accounts**

32. The financial account is an account managed by a financial institution and includes:

- 1) deposit accounts;
- 2) custody accounts;
- 3) in the case of an investment entity, any rights related to the capital or debt belonging to the financial institution. Notwithstanding the foregoing, the term "financial account" does not include any right to the capital or debt of an entity that is an investment entity solely because it:
  - a) provides an investment advisory service and acts on behalf of a client; or
  - b) manages a client's portfolios and acts on his behalf for the purpose of making investments, managing or administering the financial assets deposited in the client's name at a financial institution, other than the said entity;
- 4) in the case of a financial institution that is not provided for in the sbp. 3), any right related to the capital or debt of the financial institution, if the category of rights has been established in order to avoid reporting;

5) any cash value insurance contract and any annuity contract issued or administered by a financial institution, other than an immediate life annuity, not linked to investments, non-transferable, which is issued to a natural person and corresponds to a pension or a disability benefits provided under an account that is an excluded account.

33. The financial account does not include any account that is an excluded account. The category of excluded accounts includes:

1) a pension account that cumulatively meets the following requirements:

a) the account is regulated as a personal pension account or is part of a regulated pension plan for the provision of pension benefits or allowances, including disability or death allowances;

b) the account benefits from a favorable tax treatment, i.e. contributions to the account that would normally be subject to taxation are deductible or excluded from the gross income of the account holder or taxed at a reduced rate or the taxation of the investment income generated by the respective account is deferred or investment income is taxed at a reduced rate;

c) it is mandatory to report information about the account to the tax authorities;

d) withdrawals are conditional upon reaching a specified retirement age, disability or death or penalties are applied in the case of withdrawals made before such specified events;

e) annual contributions are limited to the Moldovan lei equivalent of USD 50,000 or less, or there is a maximum lifetime contribution limit equal to the Moldovan lei equivalent of USD 1,000,000 or less, in each case applying the rules provided for in Chapter VIII regarding aggregation of accounts and currency conversion. A financial account that otherwise meets the requirement of this subparagraph does not cease to meet that requirement solely because that financial account may receive assets or funds transferred from one or more financial accounts that meet the requirements of this subparagraph or of sbp. 2) or from one or more pension funds mentioned in point 7 sbp. 2).

2) an account regulated for purposes other than pensions, which benefits from a favorable tax treatment, if it cumulatively meets the following requirements:

a) the account is regulated as an investment vehicle for purposes other than pension and is regularly traded on a regulated securities market or the account is regulated as a savings instrument for purposes other than pension;

b) the account benefits from a favorable tax treatment, i.e. contributions to the account that would normally be subject to taxation are deductible or excluded from the gross income of the account holder or taxed at a reduced rate or the taxation of the investment income generated by the respective account is deferred or investment income is taxed at a reduced rate;

c) withdrawals are conditional on the fulfillment of specific criteria related to the purpose of the investment or savings account (for example, the granting of medical or educational benefits) or penalties are applied in the case of withdrawals made before these criteria are met;

d) annual contributions are limited to the equivalent in Moldovan lei of USD 50,000 or less, applying the rules set forth in Chapter VIII regarding aggregation of accounts and currency conversion.

A financial account that otherwise meets this requirement does not cease to meet this requirement solely because that financial account may receive assets or funds transferred from one or more financial accounts that meet the requirements of this subsection or the sbp. 1) or from one or more pension funds mentioned in point 7 sbp. 2).

3) a life insurance contract for a certain period of time provided that this contract cumulatively meets the following requirements:

a) the premiums are periodic, they do not decrease over time, they are paid at least once a year during the period in which the contract is in force or until the moment when the insured person reaches the age of 90, whichever of these periods is longer shorten;

b) no person can have access to the value of the contract by withdrawal, loan or otherwise, without the resolution of the contract;

c) the amount, other than a death benefit, which must be paid in the event of cancellation or termination of the contract, cannot exceed the total premiums paid for the contract, reduced by the amount representing taxes related to mortality, morbidity and expenses, whether or not they have been applied effective for the period or periods during which the contract is in force and any sums paid before the cancellation or termination of the contract;

d) the contract is not held by an assignee with onerous title.

4) a succession patrimony account if the documentation for that account includes a copy of the deceased person's will or death certificate. In this regard, the reporting financial institution must treat the account as having the same status as it had before the death of the account holder until the date on which it obtains such a copy;

5) an escrow account provided that it is established in connection with any of the following elements:

a) a judicial document;

b) a sale, exchange, rental of real or personal property, provided that this account meets the following requirements:

- the account is exclusively financed with an advance payment, an amount representing an advance payment that constitutes an account, an appropriate amount to secure an obligation directly related to the transaction or a similar payment, or it is financed with a financial asset that is deposited in account in connection with the sale, transfer or lease of property;

- the account is established and used exclusively to guarantee the obligation of the buyer to pay the purchase price of the property, the obligation of the seller to pay any contingent debt or the lessor or the lessee to pay any compensation related to the leased property, as agreed in lease;

- the assets of the account, including the income earned from these assets, will be paid or otherwise distributed for the benefit of the seller, buyer, lessor or lessee, including for the purpose of fulfilling an obligation of that person, when the asset is sold, transferred or surrendered or when the contract of the lease is settled;

- the account is not a margin account or a similar account established in connection with the sale or trading of a financial asset;

- the account is not associated with an account specified in the sbp. 6).

c) the obligation of a financial institution that pays the installments of a loan secured by real estate to reserve part of the payment exclusively for the purpose of facilitating the payment of taxes or insurance related to that real estate at a later time;

d) the obligation of a financial institution to facilitate the payment of taxes at a later time;

6) a deposit account due to excess payments if it meets the following requirements:

a) the account exists solely because a customer makes a payment in excess of the outstanding balance on a credit card or other revolving credit facility and the overpayment is not promptly refunded to the customer;

b) from the effective date of this Regulation or before this date, the financial institution implements policies and procedures, either to prevent a customer from making an overpayment that exceeds the equivalent in Moldovan lei of USD 50,000, or to ensure that any excess payment made by a customer that exceeds that amount is returned to the customer within 60 days, applying, in each case, the rules set out in Chapter VIII regarding currency conversion. In this sense, a customer overpayment does not refer to credit balances related to disputed debits, but includes credit balances resulting from returns of goods.

7) an excluded account with a low risk of being used for tax evasion, if it has substantially similar characteristics to any of the accounts provided for in the subsections listed in this point, provided that the status of that account as an excluded account does not affect the application of the provisions Law no. 69/2023 regarding the automatic exchange of information on financial accounts.

34. Deposit account means any commercial account, such as: current account, savings account, time deposit account or an account whose existence is documented by a certificate of deposit, savings, investment, a certificate of debt or other similar instrument held by a financial institution in the ordinary course of banking or similar activity. A deposit account also includes an amount held by an insurance company under a guaranteed investment contract or similar agreement that has the purpose of paying or crediting interest to the holder.

35. Custody account is an account that contains one or more financial assets for the benefit of a third party, with the exception of an insurance contract or annuity contract.

36. Annuity contract is a contract according to which the issuer agrees to make payments for a certain period of time, determined, in whole or in part, according to the life expectancy of one or more natural persons. The term also includes a contract that is deemed to be an annuity contract under the laws of the Republic of Moldova or other jurisdiction in which the contract was issued and under which the issuer agrees to make payments for a period for many years.

37. Insurance contract with cash value is an insurance contract that has a cash value, except for the reinsurance contract concluded between two insurance companies.

38. Cash value means the highest value between:

1) the amount that the holder of the insurance policy is entitled to receive in the event of redemption or termination of the contract, calculated without deducting any redemption fees or loans from the policy;

2) the amount that the holder of the insurance policy can borrow under or in connection with the contract.

39. Without prejudice to the provisions of point 38, the cash value does not include an amount payable under an insurance contract:

- 1) only due to the death of a natural person insured under a life insurance contract;
- 2) as compensation for a bodily injury, an illness or another reparative payment for an economic loss that occurs at the time of the occurrence of the insured event;
- 3) as reimbursement of a previously paid premium, with the exception of the cost of insurance fees, whether or not they are actually applied, in accordance with an insurance contract (other than a life insurance contract with an investment component or a contract of annuity), as a result of the cancellation or resolution of the contract, the reduction of risk exposure during the period in which the contract is effectively in force, or resulting from the correction of an entry error or a similar error regarding the premium stipulated in the contract;
- 4) as a dividend for the benefit of the holder of the insurance policy (apart from the dividends transferred at the termination of the contract) provided that said dividends are linked to an insurance contract in accordance with which the only indemnities to be paid are those provided for in the sbp. 2);
- 5) as a refund of an advance premium or a premium deposit for an insurance contract whose premium must be paid at least once a year, if the amount representing the advance premium or the premium deposit does not exceed the amount of the annual premium payment for the following year under the contract.

### **Section 3. General Precautions**

40. An account is deemed to be a reportable account from the date it is identified as such in accordance with the prudential rules.
41. From the time an account is considered a reportable account, it continues to be a reportable account until the date on which it ceases to be a reportable account, even if the balance or value of the account is zero or negative or there is no amount paid or credited to that account or in connection with that account.
42. When an account is identified as a reportable account, based on its status at the end of the calendar year or other reporting period, information in relation to that account must be reported as if it had been a reportable account throughout of the calendar year or other reporting period in which it was identified as such.
43. When a reportable account is closed, the information reported in respect of that account must cover the period during which it was active. If the account was closed during the calendar year or other reporting period, the account closure information will be reported, without the obligation to report the account balance or value.
44. Information regarding a reportable account must be reported annually, in the calendar year following the year to which the information relates.
45. The balance or value of an account is determined as valid on the last day of the relevant calendar year or other reporting period.
46. If the account balance or value threshold is to be determined on the last day of a calendar year, the balance or value in question must be determined on the last day of the reporting period ending with or in that calendar year.
47. If the reporting period ends with the respective calendar year, then the account balance or value must be established on December 31st of the calendar year.

48. In the situation where the reporting period ends during the calendar year, then the balance or value in question must be established/established on the last day of the reporting period, but during the respective calendar year.
49. Reporting financial institutions may contract service providers to fulfill reporting and due diligence obligations. The responsibility for those obligations still rests with the reporting financial institutions and trained service providers, including their obligations regarding compliance with the legislation in the field of personal data processing.
50. Reporting financial institutions may apply the following procedures regarding compliance with general prudential rules:
- 1) for pre-existing accounts, the precautionary rules regarding new accounts may be applied. The precautionary rules regarding pre-existing accounts will continue to apply.
  - 2) for low value accounts the precautionary rules regarding high value accounts may be applied.
51. The term "pre-existing account" means:
- 1) financial account managed by a reporting financial institution until the date of entry into force of this Regulation;
  - 2) any financial account of an account holder, regardless of the date on which the said financial account was opened, if:
    - a) the account holder also holds at the reporting financial institution or at an entity affiliated with it in the Republic of Moldova a financial account that is a pre-existing account in accordance with the sbp. 1);
    - b) the reporting financial institution and, as the case may be, its affiliated entity in the Republic of Moldova treat both the previously mentioned financial accounts, as well as any other financial accounts of the account holder that are considered pre-existing accounts under the sbp. 2) as a single financial account for the purpose of complying with the measures applicable to the self-responsibility declaration and supporting documents, provided for in Chapter VIII, and for the purpose of establishing the balance or value of any of the financial accounts, when applying any of the thresholds related to the account;
    - c) with regard to a financial account that is subject to the precautionary measures regarding customers provided for by articles 5, 7 and 8 of Law no. 308/2017 regarding the prevention and combating of money laundering and the financing of terrorism, the reporting financial institution is authorized to comply with the respective measures regarding the financial account based on these measures carried out for the pre-existing account provided for in the sbp. 1);
    - d) the opening of the financial account does not imply the obligation to provide information about a new customer, additional or modified by the account holder, apart from those necessary for the purpose of applying the precautionary rules provided by these Regulations.
52. The term "new account" means a financial account managed by a reporting financial institution, opened after the effective date of this Regulation, unless it is considered as a pre-existing account pursuant to point 51 sbp. 2).

## **Chapter IV. Precautionary rules regarding the individual's pre-existing accounts**

### **Section 1. General rules**

53. This chapter contains precautionary rules necessary to identify the reportable accounts among the pre-existing accounts of the natural person.

54. The term "pre-existing account of the natural person" means a pre-existing account held by one or more natural persons.

55. The term "low value account" means a pre-existing account of the natural person with a balance or an aggregate value of the account that does not exceed on the date of entry into force of this Regulation or on December 31st of each year thereafter, the equivalent in Moldovan lei of USD 1,000,000.

56. The term "high value account" means a pre-existing account of the natural person with a balance or an aggregate value of the account that exceeds on the date of entry into force of this Regulation or on December 31st of each subsequent year, the equivalent in Moldovan lei of USD1,000,000.

### **Section 2. Precautionary Rules Regarding Small Value Accounts**

57. In the case of low-value accounts, in order to determine whether the individual account holder is a reportable person, the reporting financial institution may apply the following procedures:

- 1) the domicile/residence address test regarding the account holders of natural persons;
- 2) search in the electronic records of the reporting financial institution.

58. When applying the home address/residence test, in order to determine whether the respective account holder of the natural person is a reportable person, the reporting financial institution may consider that the account holder of the natural person has tax residence in the jurisdiction where the address of the natural person is located domicile/residence, if the following conditions are cumulatively met:

- 1) the reporting financial institution has in its records the domicile/residence address for the account holder of the natural person;
- 2) this home address/residence is current;
- 3) this home address/residence is based on supporting documents.

59. The domicile/residence address is considered to be current if it is the most recent domicile/residence address that was registered by the reporting financial institution with respect to the individual's account holder.

60. If the reporting financial institution elects to apply the home address/residence test, it must apply the test with respect to each small value account. If the reporting financial institution elects not to apply the home/residence test or one or more requirements of the test are not met, then it must perform the electronic record search with respect to that small value account.



61. The identity document, tax residence certificate, passport, driver's license or any other document issued by a public authority can be considered as supporting documents.

62. Under the domicile/residence test procedure, a reporting financial institution must have policies and procedures in place to verify the domicile/residence address against supporting documents.

63. If the reporting financial institution has applied the domicile/residence address procedure and there has been a change in circumstances, which causes the reporting financial institution to know that the supporting documents are not true, the financial institution has the obligation, until the last day of the calendar year or within 90 days of notification or discovery of such a change in circumstances, obtain an affidavit from the pre-existing account holder and a new supporting document to establish the tax residency of the pre-existing account holder.

64. The statement of the pre-existing account holder, given under the penalty of false statements, is only valid if it cumulatively meets the following conditions:

- 1) the reporting financial institution obtained this declaration pursuant to point 63;
- 2) contains the residential address of the pre-existing account holder;
- 3) is dated and signed by the pre-existing account holder.

65. If the reporting financial institution cannot identify the home address/residence of the account holder, the reporting financial institution must apply the search procedure in the electronic records.

66. Based on the electronic record search procedure, the reporting financial institution must examine the information available for electronic search in the institution's database, regarding the following indications:

- 1) identification of the account holder of the pre-existing natural person as a resident of a reporting jurisdiction;
- 2) mailing address or current domicile/residence, including a post office box, in a reporting jurisdiction;
- 3) one or more telephone numbers from a reporting jurisdiction and no telephone number from the Republic of Moldova;
- 4) standing instructions, other than for a deposit account, to transfer funds to an account managed in a reporting jurisdiction;
- 5) a valid power of attorney or other form of delegation of the right to sign, granted to a person with an address in a reporting jurisdiction;
- 6) an address marked "correspondence withheld" or "claimed by a person other than the account holder" in a reporting jurisdiction, if the reporting financial institution has no other address on file for the account holder.

67. If none of the indications listed in point 66 are discovered following the search in the electronic record, no additional measure is imposed until a change in circumstances occurs that

leads to the association of one or more indexes with the individual's pre-existing account, either when converting the account into a high-value account.

68. In the event that any of the clues listed in point 66 sub-points 1)-5) is discovered following the search in the electronic records or in the event that there is a change in the circumstances that lead to the association of one or more clues with the account pre-existing natural person, the reporting financial institution must consider the account holder as a tax resident in each reporting jurisdiction for which an indication is identified, unless it chooses to apply the procedure provided for in point 70 and with respect to that account, one of the exceptions provided for in that point applies.

69. If an address with the mention "correspondence withheld" or "claimed by a person other than the account holder" is discovered following the electronic search and no other address and none of the other indications listed in point 66 sub-points 1)-5) is not identified with respect to the account holder, the reporting financial institution must, in the most appropriate order of the circumstances, conduct a paper record search or take action to obtain an affidavit from the account holder or supporting documents to establish the tax residence(s) of the respective account holder. If, following the file search, no clue is found, and the actions to obtain the affidavit or supporting documents do not yield results, the reporting financial institution must report the account to the State Tax Service as an undocumented account.

70. Subject to the identification of indications pursuant to point 66, the reporting financial institution is not obliged to consider an account holder as a resident of a reporting jurisdiction if:

1) the information regarding the holder of the pre-existing account of the natural person contains a mailing address or current residence in the respective jurisdiction that is the subject of the report, one or more telephone numbers in the respective jurisdiction that is the subject of the report and no telephone number in the Republic of Moldova or standing instructions with respect to financial accounts, other than deposit accounts, to transfer funds to an account administered in a reporting jurisdiction, and the reporting financial institution obtains or has previously reviewed and maintains records of the following information:

a) a self-responsible declaration from the holder of the natural person's pre-existing account regarding the jurisdiction/jurisdictions of residence, which does not include/include the jurisdiction/jurisdictions that are/are the subject of the report; and

b) supporting documents that establish the status of the holder of the pre-existing account of the natural person as not being the subject of the report.

2) the information relating to the holder of the pre-existing account of the natural person contains a power of attorney or another form of delegation of the right of valid signature, granted to a person with an address in the respective jurisdiction that is the subject of the report, and the reporting financial institution obtains or has previously examined and keeps record of the following information:

a) a self-responsible declaration from the holder of the natural person's pre-existing account regarding the jurisdiction/jurisdictions of residence, which does not include/include the jurisdiction/jurisdictions that are/are the subject of the report; or

b) supporting documents that establish the status of the holder of the pre-existing account of the natural person as not being the subject of the report.

### **Section 3. Precautionary Rules Regarding High Value Accounts**

71. In the case of high-value accounts, in order to establish whether the account holder of the natural person is a reportable person, the reporting financial institution may apply the following procedures:

- 1) search in the electronic records of the reporting financial institution;
- 2) search in paper documents kept by the reporting financial institution;
- 3) consulting the person in charge of customer relations in order to obtain concrete information.

72. Electronic records search must be performed for all high value accounts. The reporting financial institution must examine the information available for electronic search in the institution's database, regarding any of the indications described in point 66.

73. If the electronic record of the reporting financial institution does not include all the information provided in point 66, then it is obliged to search the paper documents only with regard to the information provided in point 66, which are not available in electronic format.

74. To the extent that the information provided for in point 66 is not included in the documents on paper, the reporting financial institution must examine the following documents associated with the account and obtained by it during the last 5 years, for any of the indications provided for in point 66:

- 1) the most recent supporting documents collected regarding the respective account;
- 2) the most recent contract or the most recent documentation regarding the opening of the account;
- 3) the most recent documentation obtained by the reporting financial institution in accordance with the precautionary measures regarding clients provided by articles 5, 7 and 8 of Law no. 308/2017 on preventing and combating money laundering and terrorist financing or for other regulatory purposes;
- 4) any valid power of attorney or delegation of the right to sign; and
- 5) any standing instructions in force, other than those relating to a deposit account, to transfer funds.

75. A reporting financial institution is not required to search the paper documents provided for in paragraphs 73 and 74, to the extent that the information available for electronic search in its database includes:

- 1) the status of the account holder in terms of residence;
- 2) residence address and mailing address of the account holder, found in the file of the reporting financial institution;
- 3) the telephone number(s) of the account holder, found in the file of the reporting financial institution, if applicable;

- 4) in the case of financial accounts, other than deposit accounts, if there are standing instructions to transfer funds from that account to another account (including an account at another branch of the reporting financial institution or at another financial institution);
- 5) if there is a mention of "correspondence withheld" or "claimed by a person other than the account holder" for the account holder; and
- 6) if there is any power of attorney or other form of delegation of the right to sign for the respective account.

76. In addition to searching electronic and paper records, the reporting financial institution must consider as a reportable account any high value account entrusted to a customer relationship officer, including any financial accounts aggregated to that high value account, if the customer relations officer has concrete documents according to which the account holder is a reportable person.

77. In order to fulfill the obligation provided for in point 76, the reporting financial institution designates a person/persons responsible for customer relations only for the purposes provided for in this point, in relation to the account that has a balance or an aggregated value of more than of USD 1,000,000 taking into account the rules set forth in Chapter VIII regarding aggregation of accounts and currency conversion.

78. If, following a thorough examination of high-value accounts, none of the indications listed in paragraph 66 are discovered, and the account is not identified as being held by a reportable person under paragraph 76, then no further action is required until in which there is a change in circumstances that leads to the association of one or more indicators with that account.

79. If, following the in-depth examination of high-value accounts, any of the indications listed in point 66 is discovered, or if there is a subsequent change in circumstances, which leads to the association of one or more indications with account, the reporting financial institution must treat the account as reportable in each reporting jurisdiction for which an indication is identified, unless it chooses to apply point 70 and one of the exceptions set out in that point. The clue identified during the examination procedure (for example: the search in paper documents or the consultation of the customer relations officer) cannot be used to clarify a clue identified during another examination procedure (for example: the search in the electronic record) .

80. If, following the in-depth examination of high-value accounts, an address marked "correspondence withheld" or "claimed by a person other than the account holder" is discovered and no other address is identified for the account holder and no among the other indications listed in point 66, the reporting financial institution must obtain from the respective account holder an affidavit or supporting documents to establish the fiscal residence/s of the respective account holder. If a reporting financial institution cannot obtain the respective affidavit or supporting documents, it must report the account to the State Tax Service as an undocumented account.

81. If a pre-existing account of the natural person is not a high-value account on the date of entry into force of this Regulation, but becomes a high-value account starting from the last day of the

following calendar year, the reporting financial institution must complete due diligence procedures in respect of that account in the calendar year following the year in which the account becomes a high value account. If, based on this examination, the respective account is identified as a reportable account, the reporting financial institution has the obligation to annually report the necessary information regarding the respective account for the year in which it is identified as a reportable account and for subsequent years, with unless the account holder ceases to be a reportable person.

82. Once a reporting financial institution applies due diligence procedures to a high-value account, the reporting financial institution is not required to apply those procedures again, apart from consulting the customer relationship officer as set out at point 76, about to the same high-value account in any subsequent year, unless the account is undocumented, in which case the reporting financial institution would have to reapply those procedures annually until the account ceases to be undocumented.

83. In the event that there is a change in the circumstances regarding a high-value account, which leads to the association with that account of one or more indicators provided for in point 66, the reporting financial institution must consider the account as a reportable account in connection with each reporting jurisdiction for which an indication is identified, unless it chooses to apply point 70 and with respect to that account one of the exceptions provided for in said point applies.

84. The reporting financial institution must have procedures in place to ensure that a customer relationship officer identifies any change in circumstances relating to an account. For example, if the customer relations officer is notified that the account holder has a new mailing address in a reporting jurisdiction, the reporting financial institution is required to treat the new address as a change in circumstances and, if it chooses to apply point 70, it is obliged to obtain the appropriate documents from the account holder.

85. The review of pre-existing high net worth individual accounts and pre-existing low net worth individual accounts must be completed by 31st December 2023.

86. Any pre-existing account of the natural person, which has been identified as a reportable account under this chapter, must be treated as a reportable account in all subsequent years, unless the account holder ceases to be a reportable person.

#### **Chapter V. Precautionary rules regarding the new accounts of the natural person**

87. The term "new natural person account" means a new account held by one or more natural persons.

88. Regarding the new accounts of the natural person, at the time of opening the account, the reporting financial institution must obtain an affidavit of the account holder, given under penalty of falsehood in statements, which may be part of the account opening documentation and which enables the reporting financial institution to establish the tax residence(s) of the account holder.

89. Once the reporting financial institution has obtained the affidavit enabling it to establish the tax residence(s) of the account holder(s), the reporting financial institution must confirm the reasonableness of such declaration, based on information obtained upon opening account, including any documents collected in accordance with the provisions of articles 5, 7 and 8 of Law no. 308/2017 on preventing and combating money laundering and terrorist financing, this representing the "reasonableness test".

90. The reasonableness of the affidavit is confirmed if during the account opening procedures and during the examination of the information obtained at the time of opening the account, including according to the provisions of articles 5, 7 and 8 of Law no. 308/2017 on preventing and combating money laundering and terrorist financing, the reporting financial institution does not know or has no reason to know that the affidavit is incorrect or unreliable.

91. In the case of a statement that does not pass the reasonableness test, the reporting financial institution will take steps to obtain a valid self-responsible statement or a reasonable explanation and related documents, if applicable, which confirm during the account opening procedures the reasonableness of the affidavit, in which case it must keep a copy or record of such explanation and related documents.

92. In the event that an affidavit does not pass the reasonableness test and the reporting financial institution does not obtain another affidavit in accordance with point 91, it will report the reportable account both for the jurisdiction in which the account holder declared that he is a resident in the initial statement, as well as for the jurisdiction in which the account holder may be resident.

93. If the affidavit establishes that the holder of the natural person's new account is a tax resident in a reporting jurisdiction, the reporting financial institution must consider the account as a reportable account. The affidavit must allow the establishment of the tax residence(s) of the new account holder of the natural person.

94. With respect to the natural person's new accounts, the account holder's affidavit is the statement that provides its status and any other information that may be reasonably required by the reporting financial institution to fulfill its reporting obligations and of caution.

95. The affidavit ceases to be valid on the date on which the reporting financial institution holding the statement knows or has reason to know that circumstances have changed. The reporting financial institution may decide to treat a person as having the same status as they had before the change in circumstances until the earlier of: 90 days after the date on which the statement on its own liability loses its validity as a result of a change in circumstances, the date on which the validity of the declaration is confirmed or the date on which a new declaration is obtained.

96. The reporting financial institution may rely on the affidavit of the new account holder of the natural person without being obliged to examine possible changes in circumstances that may affect

the validity of the statement, apart from the situation in which it is in possession of documents which may cause her to know or have reason to know that these circumstances have changed.

97. If the reporting financial institution is unable to obtain confirmation of the validity of the original statement or a valid statement within 90 days of the date on which the affidavit becomes invalid due to a change in circumstances, the reporting financial institution must consider the account holder as a resident of the jurisdiction in which the account holder declared himself to be a resident in the original declaration and in the jurisdiction in which the account holder may be resident as a result of a change in circumstances.

98. Reporting financial institutions may use service providers to fulfill reporting and due diligence obligations. The reporting financial institution may use the documents obtained by the service providers to fulfill its reporting and due diligence obligations, and the reporting and due diligence obligations remain with the reporting financial institution.

99. The reporting financial institution that obtains an account from a predecessor or transferor in the event of a merger or takeover of accounts for consideration must rely on valid documents, including a valid self-responsibility statement, or copies thereof valid documents obtained by the predecessor or transferee.

100. A reporting financial institution that obtains an account through a merger or takeover of accounts for consideration from another reporting financial institution that has completed all reporting procedures with respect to the transferred accounts must rely on the status determination documentation to the holder of the natural person's new account, collected by the predecessor or transferee, until the moment he knows or has reason to know that the original affidavit is incorrect or there has been a change in circumstances.

#### **Chapter VI. Pre-existing Entity Accounts Precautionary Rules**

101. The term "entity pre-existing account" means a pre-existing account held by one or more entities that are reportable persons or passive NFEs that are controlled by one or more reportable persons.

102. Unless the reporting financial institution decides otherwise, either in respect of all of the entity's pre-existing accounts or separately, in respect of any clearly identified group of such accounts, a pre-existing account of the entity with an aggregate balance or value aggregate of the account that does not exceed, on the effective date of this Regulation, the equivalent in Moldovan lei of USD 250,000 is not subject to the obligation to examine, identify or report as a reportable account, until the moment when the aggregate balance or the aggregate value of account exceeds that amount on the last day of any subsequent calendar year.

103. Thus, the pre-existing accounts of the entity that are the subject of the examination are:

- 1) a pre-existing account of the entity with a balance or an aggregate value of the account that exceeds the equivalent in Moldovan lei of USD 250,000 on the effective date of this Regulation; and

2) a pre-existing account of the entity that does not exceed the equivalent in Moldovan lei of USD 250,000 on the effective date of this Regulation, but with a balance or an aggregate value of the account that exceeds this amount on the last day of any subsequent calendar year.

104. For the entity's pre-existing accounts, the reporting financial institution must apply the examination procedures established at point 105 to establish:

- 1) if the account is owned by one or more entities that are reportable persons;
- 2) if the account is held by one or more entities that are passive ENFs, controlled by one or more reportable persons.

105. Examination procedure if a pre-existing account of the entity is owned by one or more entities that are reportable persons within the meaning of point 104 sbp. 1), consists in analyzing:

1) information kept for regulatory or customer relations purposes, including information collected in accordance with the provisions of articles 5, 7 and 8 of Law no. 308/2017 on the prevention and combating of money laundering and the financing of terrorism, to determine whether the information indicates that the account holder is resident in a reporting jurisdiction. For this purpose, information indicating that the account holder is resident in a reporting jurisdiction includes: a place of incorporation or incorporation in a reporting jurisdiction; an address in a reporting jurisdiction; or an address of one or more trustees, as applicable, in a reporting jurisdiction, to the extent that such information is available;

2) if the information indicates that the account holder is resident in a reporting jurisdiction, the reporting financial institution must treat the account as a reportable account, unless it obtains an affidavit 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 in relation to that jurisdiction.

106. The examination procedure to determine whether the account is held by one or more entities that are passive ENFs, controlled by one or more reportable persons, the examination procedures set out in points 107-109 must be applied to determine:

- 1) if the account holder is a passive ENF;
- 2) the persons who exercise control over the account holder;
- 3) if any of these persons exercising control over a passive ENF is a reportable person.

107. In order to determine whether the account holder is a passive ENF, the reporting financial institution must obtain an affidavit from the account holder to establish its status, unless there is information in its possession or publicly available, on the basis of which it can establish that the account holder is not a passive ENF.

108. For the purpose of establishing the persons who control a passive ENF, a reporting financial institution also relies on the information collected and kept in accordance with the provisions of articles 5, 7 and 8 of Law no. 308/2017 on preventing and combating money laundering and terrorist financing.



109. For the purpose of determining whether a person exercising control over a passive ENF is a reportable person, a reporting financial institution may rely on:

1) the information collected and kept in accordance with the provisions of articles 5, 7 and 8 of Law no. 308/2017 on the prevention and combating of money laundering and the financing of terrorism, in the case of a pre-existing account of the entity held by one or more passive ENFs with a balance or an aggregate value not exceeding the equivalent in Moldovan lei of USD 1,000,000;

2) an affidavit from the account holder or controlling person, which may be provided in the same statement of the entity's pre-existing account holder regarding its status, regarding the jurisdiction(s) in which the controlling person has tax residence.

110. The additional procedures applicable to the entity's pre-existing accounts are the following:

1) the examination of the entity's pre-existing accounts with a balance or their aggregate value, which exceeds the Moldovan lei equivalent of USD 250,000 on the date of entry into force of this Regulation, must be completed by December 31st, 2023;

2) the examination of the entity's pre-existing accounts with a balance or their aggregate value, which does not exceed the Moldovan lei equivalent of USD 250,000 on the date of entry into force of this Regulation, but exceeds that respective amount on December 31st of a subsequent year, must be completed in the calendar year following the year in which the balance or aggregate value of the account exceeds this amount;

3) if there occurs a change in circumstances regarding a pre-existing account of the entity, as a result of which the reporting financial institution learns or has reason to learn that the account holder's affidavit or other documents associated with an account are incorrect or are unreliable, the reporting financial institution must re-establish the status of the account by the last day of the relevant calendar year or other appropriate reporting period or no later than 90 days after the change in circumstances is observed or discovered.

#### **Chapter VII. Precautionary rules regarding new entity accounts**

111. The reporting financial institution, for the purpose of identifying reportable accounts among the entity's new accounts, must apply the screening procedures, which require reporting financial institutions to determine whether the entity's new account is held by one or more reportable persons or passive ENFs that are controlled by one or more reportable persons.

112. To determine whether the entity's new account is owned by one or more reportable persons, at the time the account is opened, the reporting financial institution must:

1) obtain a self-responsible declaration, which may be part of the account opening documentation, which allows the reporting financial institution to establish the tax residence(s) of the account holder and to confirm the reasonableness of that declaration on the basis of the information obtained by the reporting financial institution in connection with the opening of the account, including any documents collected in accordance with the provisions of articles 5, 7 and 8 of Law no. 308/2017 on preventing and combating money laundering and terrorist financing. If the entity certifies that it does not have tax residency, the reporting financial institution may rely on the address of the entity's principal office to determine the account holder's residency. The address of the principal place of business of the entity is generally the place where the place of

effective management is located. The address of a financial institution at which the entity maintains an account, a post office box or an address used exclusively for correspondence is not the address of the entity's principal office, unless that address is the only address used by the entity and is listed as the address of record of the entity in the incorporation documents. At the same time, an address provided bearing the mention "mail held" is not the address of the main office of the entity.

2) consider the account as a reportable account if the affidavit indicates that the account holder is a resident of a reporting jurisdiction, unless the reporting financial institution reasonably determines, based on information in its possession or that is publicly available, that the account holder is not a reportable person in relation to that reporting jurisdiction.

113. The affidavit must allow the establishment of the tax residence(s) of the account holder.

114. The requirements for the validity of affidavits obtained in connection with the new accounts of the natural person are also applicable to the affidavits obtained in connection with the new accounts of the entity.

115. To determine whether the entity's new account is held by one or more passive ENFs that are controlled by one or more reportable persons, the reporting financial institution will apply the review procedures set out at points 106-109.

### **Chapter VIII. Additional precautionary rules**

116. This chapter contains additional precautionary rules, it is used in the process of implementing the aforementioned precautionary rules, which refer to:

- 1) resorting to obtaining an affidavit of the account holder and supporting documents;
- 2) the alternative procedures for the financial accounts held by natural beneficiaries of a cash value insurance contract or an annuity contract and for the group cash value insurance contract or for the group annuity contract;
- 3) aggregation of account balances and currency conversion.

117. A reporting financial institution may not rely on an account holder's affidavit or supporting documents where the statement or supporting documents are incorrect or contradict the individuals' statement of status.

118. The reporting institution may consider that an affidavit given by a person is incorrect within the meaning of point 116 sbp.1), if based on the documents it has reasons to consider that:

- 1) the affidavit is incomplete with regard to any of the elements of the declaration, relevant to the statements made by the persons;
- 2) the affidavit contains any information contradictory to the person's statements; or
- 3) the reporting financial institution owns information related to another account that differs from the person's statements.

119. The reporting financial institution may not rely on supporting documents provided by a person if they do not reasonably establish the identity of the person providing the supporting documents. The reporting financial institution may not rely on supporting documents if:

- 1) they contain information that contradicts the person's statements regarding his/her status;
- 2) the reporting financial institution owns information from another account that is in contradiction with the status of the persons; or
- 3) supporting documents do not contain the necessary information to establish a person's status.

120. In the sense of point 116 sbp. 2), a reporting financial institution may assume that an individual beneficiary (other than the holder) of a cash value insurance contract or an annuity contract, which benefits from a death benefit, is not a subject reporting and may treat such financial account as not being a reportable account, unless the reporting financial institution knows or has reason to know that the beneficiary is a reportable person.

121. Aggregation of financial accounts is a process of summing the balances or values of an individual's or an entity's financial accounts held by a reporting financial institution or an affiliated entity. Aggregation of accounts is carried out as follows:

- 1) the reporting financial institution has the obligation to aggregate or take into account all financial accounts managed by it or an affiliated entity, but only to the extent that the reporting financial institution's IT systems show a link between the financial accounts by reference to a data element, such as a customer number or tax identification number, and allows account balances or value to be aggregated;
- 2) each holder of a jointly held financial account shall be assigned the balance or full value of the jointly held financial account for the purpose of applying the aggregation requirements.

122. For the purposes of determining the balance or aggregate value of financial accounts held by a natural person, in order to determine whether a financial account is a high value account, a reporting financial institution must also, in the case of any financial accounts with which the customer relations officer knows or has reason to know are directly or indirectly owned, controlled or established by the same natural person, to aggregate all such accounts.

123. Reporting financial institutions must use the equivalent amounts in Moldovan lei for the amounts expressed in US dollars (USD), in order to establish the reporting thresholds in this Regulation. Reporting financial institutions operating in more than one state may apply threshold amounts denominated in United States dollars (USD) along with equivalent amounts in other foreign currencies.

124. In order to apply point 123, the reporting financial institutions must calculate the account balance or value by applying the official rate of the Moldovan leu established by the National Bank of Moldova, valid on the date of entry into force of this Regulation or on the last day of the relevant calendar year later or of another appropriate subsequent reporting period for which that account is reported.

### **Chapter IX. Reporting rules**

125. The information that is the subject of reporting according to this Regulation, is provided for at art. 3 of Law no. 69/2023.

126. Reporting financial institutions submit to the State Tax Service the information that is the subject of annual reporting by May 31st of the calendar year following the year to which the information refers.

127. The information that is the subject of reporting must be presented in electronic format, through the Information System of the State Tax Service.

128. Reporting financial institutions have the obligation to transmit the information that is the subject of reporting in the form and manner established by the State Tax Service.

129. Information must be reported in the currency in which the account is denominated, and the information reported must identify the currency in which each amount is denominated. In the case of an account denominated in multiple currencies, the reporting financial institution may choose to report the information in a currency in which the account is denominated and is required to identify the currency in which the account is reported.