

New reporting requirements for payment service providers 1/17/22



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Council Directive 2020/284 of 18 February 2020 amending Directive 2006/112/EC as regards introducing certain requirements for payment service providers (the "Directive") states that these providers (credit institutions, payment institutions, electronic money institutions, and post office giro payment institutions) operating in the EU will have to keep electronic records of cross-border payment data and exchange those records with a newly formed Central Electronic System of Payment information (CESOP) database as from 1 January 2024.

Why these requirements are put in place

According to the Directive's preamble, an increase in e-commerce is facilitating cross-border sales of goods and services to end consumers in member states. However, fraudulent companies are exploiting e-commerce to obtain unfair market advantages without paying VAT.

The EU Council finds that in fighting VAT fraud it is important to require that the payment service providers (PSPs) keep sufficiently detailed records and report on particular cross-border payments designated as such according to the payer's location and the payee's location.

The reporting obligation

Cross-border payments will be subject to reporting if the payer is in one member state and the payee in another member state or in a third country. IBAN or BIC will be used for determining the payee's location. There is also a minimum threshold for reporting: more than 25 cross-border payment services for one payee in a calendar quarter. The table below shows how the reporting obligation is split between the payer's PSP and the payee's PSP:

Reporting obligation

The PSPs are in their respective member states

Payer PSP

Payee PSP

The payer's PSP is in a member state and the payee's PSP in a third country

X

X

The payer's PSP is in a member state, the payee in a third country, and the payee's PSP in a member state

X

Reportable information

The records a PSP has to keep include the following information:

- BIC or any other company's identification code that clearly identifies the PSP
- The payee's name or the company's name as it appears in the PSP's records
- If available – any VAT identification number or other national taxpayer registration number of the payee
- IBAN, or if IBAN is not available, any other identifier that clearly identifies the payee and indicates its location

- e. BIC or any other company identification code that clearly identifies the PSP acting on the payee's behalf and indicates its location if the payee receives funds without using any payment account
- f. If available – the payee's address as it appears in the PSP's records
- g. All the data on cross-border payments specified in article 243.b(1) of the Directive
- h. Data on all payment refunds identified as such that relate to cross-border payments mentioned at g) above

The information mentioned at g) and h) above includes the following data:

- The date and time of the payment or refund
- The amount and currency of the payment or refund
- The member state of origin of the payment received by or on behalf of the payee, accordingly the member state of the refund destination and the information used for determining the origin or destination of the payment or refund
- Any reference that clearly identifies the payment
- Where appropriate – information that the payment has been initiated on the trader's physical premises

The data must be gathered within a month after the end of the calendar quarter and made available:

- to the tax authority of the PSP's member state of establishment (*the member state in which the PSP has its registered office, or if the PSP does not have one under its national law, the member state in which it has its head office*); or
- to the tax authorities of host member states (*a member state that is not the member state of establishment and in which the PSP has an agent or a branch, or in which it provides payment services*) when the PSP provides payment services in any member state other than its member state of establishment.

The data will have to be retained for three calendar years after the end of the calendar year of the payment date. No information on the reporting format or method is available as yet.

Implementation in Latvia

The State Revenue Service is working on rules to transpose the Directive in Latvia. There are plans to include the mandate in the law and the State Revenue Service will prepare a cabinet rule and adapt the CESOP system. This draft legislation has yet to be published, but the Finance Ministry says Latvia plans to stick to the Directive's provisions.

If your company is subject to reporting, we would recommend assessing whether the required data is obtained and can be reported. It would also be necessary to identify the member state in which the reporting obligation will arise. This should be followed by analysing and meeting the member state's reporting requirements.