**Frequently asked questions/answers regarding the reporting obligation of Article 5r of Regulation 833/2014.**

**Important: This guidance is provided on an informal basis andshould not be construed as overriding the authoritative guidance that the European Commission is providing.**

1) Please confirm that the first reporting period for paragraph 1 of article 5r is the first quarter of the year 2024 with a reporting date of May 1, 2024.

Answer:

*The reporting of Q1 for par.(1) of article 5r of Regulation 833/2014 should be done on 1 May.*

2) Confirm whether the meaning of the term ΄Funds΄ includes only transfers of money within the banking system and not any other assets (eg, shares, cryptocurrencies, receivables, real estate, etc.).*The Regulation reads as follows:*

*“any transfer of* ***funds*** *exceeding 100 000 EUR out of the Union that they made during that quarter, directly or indirectly, in one or several operations.”*

*According to the definitions of the Regulation:*

(zd) “funds” means financial assets and benefits of every kind, including, but not limited to:

1. cash, cheques, claims on money, drafts, money orders and other payment instruments;
2. deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
3. publicly- and privately-traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivatives contracts;
4. interest, dividends or other income on or value accruing from or generated by assets;
5. credit, right of set-off, guarantees, performance bonds or other financial commitments;
6. letters of credit, bills of lading, bills of sale; and
7. documents showing evidence of an interest in funds or financial resources

3) Please confirm whether the term " Legal persons, entities and bodies established in the Union" includes Trusts and other similar legal arrangements established in the Union.

*No specific reference is made in article 5r of Regulation 833/2014 to a trust or any similar legal arrangement.*

4) Please clarify that legal entities that are owned by Russian citizens who have dual citizenship (e.g. Cypriot) have no reporting obligation with article 5r.

*According to European Commission Q&A Russian nationals with dual citizenship have reporting obligation.*

5) In the case of Funds registered with the Cyprus Securities and Exchange Commission, to clarify whether the 40% limit applies to the investors of the fund and not to the Fund managers.

*The limit applies to both investors and managers.*

6) Examples:

(a) Does accumulation of eligible funds in different jurisdictions apply (eg, Legal entity transfers €50,000 to UK and €60,000 to Israel)? Please clarify whether it is considered that more than €100,000 was transferred outside the Union and therefore there is an obligation to report.

*There is a reporting obligation.*

(b) Accumulation in relation to quarters applies as the reporting obligation for legal entities will occur on a quarterly basis (eg Legal entity transfers €50,000 to the UK in Q1 and €60,000 in Israel in Q2)? Please clarify whether the €100,000 limit should be calculated cumulatively and therefore the above example has an obligation to report in the 2nd quarter.

*Νο reporting obligation.*

(c) In addition to point (b) above, please clarify whether a transfer in the 3rd quarter of an amount of €50,000 to the US will be considered that the amount of transfer of funds cumulatively amounts to €160,000 and therefore a new reporting obligation is created for the total amount.

No reporting obligation.

7) Please confirm whether transfers from a Cypriot legal entity with a bank account in a jurisdiction outside the Union to a legal entity registered in the same jurisdiction that maintains a bank account in the same jurisdiction is considered a reportable transfer. For example, a Cypriot legal entity with a bank account in Switzerland transfers €150,000 to the Swiss bank account of a Swiss legal entity.

- Reporting is based on the understanding that reportable transfers are those that leave the EU jurisdiction. Thus, funds that the EU reporting entity holds on a third country bank account (where the bank is not a branch of an EU bank) would not be subject to the reporting requirement if transferred, because such funds are already outside EU jurisdiction.

- Conversely, funds transferred by the reporting entity (including its EU and non-EU branches) from an EU bank account to a non-EU bank account of the recipient are reportable, even if the recipient is an EU person or company.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Transferring Entity** | **Bank Account Transferor** | **Receiving Entity** | **Bank Account Recipient** | **Reportable** |
|  |  |  |  |  |
| EU Person | EU Bank Account | EU Person | Non-EU Bank Account | Yes |
| EU Person | EU Bank Account | Non-EU Person | EU Bank Account | No |
| EU Person | EU Bank Account | Non-EU Person | Non-EU Bank Account | Yes |
| EU Person | Non-EU Bank Account | Non-EU Person | Non-EU Bank Account | No |

8) In the reporting template there is a field to be filled in by the companies regarding the LEI number. By whom should it be completed?

*The field should be completed by those who have an LEI number. A company registration number should also be filled by everyone.*

*9)* Can we have an extension for the submission of data?

*Only if such an extension is granted by the European Commission.*

**The submission of data in accordance with article 5(r)(par.1) of Regulation 833/2014 is May 1st but due to Easter holidays in the Republic of Cyprus, the submission until 10/5/2024 will not be considered overdue.**

10) What consequences will I have if I do not submit the information on time or correctly?

*According to article 4 of N58(I)/2016, any person who violates any of the provisions of the Resolutions or Decisions of the Security Council (Sanctions) and/or the Decisions and Regulations of the Council of the European Union (Restrictive Measures), is guilty of an offense.*

11) Is there an obligation for nil reporting?

No reporting obligation.

**12) Please find attached a reporting template for Article 5r of 833/2014 which includes securities (tab 2.1)**



**13) To what extent do the provisions of the Regulation cover the case of former Russian citizens who have renounced their Russian citizenship, i.e. hold only one citizenship, which is not Russian**

*Once there is evidence that someone has renounced Russian citizenship and is no longer Russian, in our view, he does not fall under the provisions of Article 5r.*

**14) A Cyprus company is owned by a discretionary trust (with a non-EU trustee). The trust has two beneficiaries, one Russian national and one EU national. No distributions have been made so far. Is it considered that the Cypriot company, is more than, 40% owned by a Russian citizen so it is subject to the reporting obligation of article 5r?**

*According to the AML/CFT Law, the beneficial owner of a trust can be: the settlor, the trustee, the protector, the beneficiary and any another natural person that exercises ultimate control of the trust through direct or indirect ownership or by other means. The AML/CFT Law, does not distinguish the case of the discretionary trust, so in our view, the above applies to the discretionary trust as well. In example above, there are two beneficiaries of the trust and given that there are no provisions in the trust deed that specifically set the percentage of the Russian beneficiary's interest at less than 40%, in our view, this case is reportable*.