

Implementation of the OECD Standard for the Automatic Exchange of Financial Account Information in Tax Matters in Luxembourg

Information on the Automatic Exchange of Financial Account Information in Tax Matters
Tax Group

A) Legal provisions and context of the automatic exchange of tax information in Luxembourg

Pictet & Cie (Europe) S.A. (the “Bank”) is a reporting Financial Institution and is required, based on the Law of 18 December 2015 on the Automatic Exchange of Financial Account Information in Tax Matters (“AEI Act”), to report information regarding certain accounts and follow related due diligence procedures, consistent with the scope of exchange contemplated by the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information of 29 October 2014 (“Agreement”).

The AEI Act is the legal basis for implementing the AEI Standard in Luxembourg.

B) Information to be reported

The reportable information includes personal data and information concerning the reportable account. The Bank has a duty to report the following information with respect to each reportable account to Luxembourg tax authorities:

- Name, address, home jurisdiction(s), and date and place of birth of the account holder, the beneficial owner and/or the controlling person.
- Tax Identification Number¹ (“TIN”) of the account holder, the beneficial owner and/or the controlling person.
- Number of the account held by the reporting bank;
- Name and identification number (where available) of the reporting Bank.
- Account balance as at calendar year-end or the indication that the account was closed if the account was closed in the course of the year.
- Total gross amount of dividends, interest and other income as well as gross proceeds from the sale or redemption of financial assets paid or credited to the account.

C) Luxembourg partner jurisdictions

Reporting Luxembourg Financial Institutions are required to report information annually on reportable accounts held by reportable persons annually to the Direct Tax Authority (“ACD”). After receiving this information, the ACD exchanges it with the tax authorities of the reportable person’s country of residence. Information is exchanged with partner jurisdictions only.

The list of AEI implementation agreements signed by Luxembourg with partner jurisdictions is established by Grand-Ducal Regulation. Details can be found by visiting the ACD website (French only)

http://www.impotsdirects.public.lu/fr/echanges_electroniques/CRS_NCD.html

¹The TINs to be reported are the TINs assigned to the account holder or to the controlling person by its reportable jurisdiction of residence. Information on the TINs (the type and the format) of the jurisdictions that have implemented the AEI is available on the OECD’s website: <https://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/>. It should be noted that some jurisdictions do not assign TINs.

D) Confidentiality and data safeguards

Generally, the information exchanged may be made available only to tax authorities of a partner jurisdiction in which the reportable person is resident and may be used solely for tax purposes referred to in the Agreement and the Convention on Mutual Administrative Assistance in Tax Matters ("Convention"). This has been drafted by the Council of Europe and the OECD. It is the instrument governing tax cooperation aimed at combatting tax evasion and fraud.

In principle, it is prohibited for the receiving partner jurisdiction to forward the information received to another jurisdiction. It shall treat all such information as confidential.

Generally, the receiving partner jurisdiction may make the information exchanged available only to persons and authorities responsible for handling or supervising taxation in that country.

All information exchanged is subject to the confidentiality rules and other safeguards provided for in the Convention, including the provisions limiting the use of the information exchanged and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards that may be specified by Luxembourg as required under its domestic law and listed in the annex of the Agreement.

E) Protection of personal data

Regarding the information collected by the Bank and the transmission of such information to the competent authorities of the partner jurisdictions, the reportable persons have the rights set forth under applicable laws, including the General Data Protection Regulation (EU): 2016/679 ("GDPR"), as follows:

- **Vis-à-vis the Bank**

The reportable person is entitled to the full extent of legal protection offered by the GDPR vis-à-vis the Bank. In particular, the reportable person has the right to request what information has been collected about him and which will be reported to the ACD.

The Bank must provide the reportable person with a copy of its report to the ACD on request. In this regard, it must be noted that the information about the reportable person that is collected and reported may differ from tax-relevant information.

Moreover, the reportable person is also entitled to request that incorrect data in the Bank's systems be corrected.

- **Vis-à-vis the ACD**

The reportable person is legally entitled vis-à-vis the ACD to access any information that concerns them. He is entitled to request that incorrect data resulting from errors in the exchange process be corrected.

If the exchange of information would result in disadvantages for the reportable person that are not permissible owing to a lack of constitutional guarantees, he may exercise his statutory rights.

The reportable person acknowledges that he may not be given authorisation to access ACD records. In this context, this person does not have the right to block the disclosure of personal details to the ACD. In addition, the reportable person is not entitled to have the legality of forwarding information outside Luxembourg reviewed or to block the forwarding and/or to demand the destruction of the data processed without a sufficient legal basis.