

Decree No. 1022 of 7 July 2017
Detailed implementation of Subparagraph 3-Paragraph “Sixth”
of Urgent Law No 55 of 27 October 2016
(Exchange of Information for Tax Purposes),

Article 1 – The scope

These Regulations enact the procedures set in Sixth of the law no 55 of 27 October 2016 related to Automatic Exchange of Information , to implement the obligations of Lebanon under the terms of the Agreement referred to in Eighth of the law

Article 2 – Definitions:

First: For the purpose of the Law n° 55 of 27 October 2016 and these regulations:

- (1) **“Law”** means the Law n° 55 of 27 October 2016, as amended from time to time.
- (2) **“Standard”** means the Common Reporting Standard including the Commentaries thereon, accredited by the Organisation for Economic Co-operation and Development as of 15 July 2014, which contains reporting and due diligence procedures for Automatic Exchange of Information, including any subsequent amendment or explanation made to it and published by the Organisation for Economic Co-Operation and Development
- (3) **“Participating jurisdiction”** means a jurisdiction which is listed in Schedule 3 of these Regulations.
- (4) **“Financial institutions”** means any bank or financial institution as defined in the law of money and credit no 13513 of 1/8/1963, any brokerage firm as defined in the law no 234 of 10/6/2000, any collective investment fund, any Specified Insurance Company , and any other company or fund on which the definition of “Financial institution”, as defined in Section VIII of the Standard, applies.
- (5) **“Lebanese Financial Institution”** is any Financial Institution as defined above that is:
 - (i) resident in Lebanon, but excludes any branch of that Financial Institution that is located outside of Lebanon
 - (ii) any branch resident in Lebanon to a non resident Financial Institution.

- (6) **“non-reporting financial institution”** means :
- (a) a financial institution as defined Section VIII of the Standard (subparagraphs B(1)(a), (b), (d) and (e)); or
 - (b) an entity listed in Schedule 2 of these Regulations.
- (7) **Reporting Financial Institution**” means any Lebanese Financial Institution that is not a non-reporting financial institution as defined above
- (8) **“Financial account”** means any account as defined in Section VIII of the Standard.
- (9) **“pre-existing account”** means a financial account maintained by a reporting financial institution as of 30 June 2017
- (10) **“new account”** means a financial account maintained by a reporting financial institution opened on or after 1 July 2017
- (11) **“high value account”** means a pre-existing individual account with an aggregate balance or value that exceeds US\$ 1,000,000 as of 30 June 2017, 31 December 2017 or 31 December of any subsequent year.
- (12) **“lower value account”** means a pre-existing individual account with an aggregate balance or value that does not exceed US\$ 1,000,000 as of 30 June 2017.
- (13) **“excluded account”** means:
- (a) an account as defined in Section VIII of the Standard (subparagraphs C(17)(a) to (f)); or
 - (b) an account listed as an excluded account in Schedule 1 of these Regulations.
- (14) **“Controlling person”** means any individual as defined in Section VIII of the Standard.
- (15) **“Competent Authority”** means the Minister of Finance or the Minister's authorized representative;
- (16) **“The supervising authorities”** means the authorities responsible of control and supervision over the reporting financing institutions as follows:
- i. The Central Bank of Lebanon for reporting financial institutions subject to its supervision
 - ii. The insurance control commission for reporting financial institutions subject to its supervision
 - iii. Revenue directorate for other reporting financial institutions that are not identified in (i) and (ii) above and subject to the definition of financial institutions by these regulations
- (17) **“Information return”** means a report, setting out the information specified in the decisions issued by the minister of finance and the Central Bank each according to its competence as set in subparagraph 2 of Sixth of the law
- (18) **“US\$”** means United States Dollars, the official currency of the United States of America.

(19) A “**change in circumstances**” includes any change that results in the addition of information relevant to a person's status or otherwise conflicts with such person's status. In addition, a change in circumstances includes any change or addition of information to the Account Holder's account (including the addition, substitution, or other change of an Account Holder) or any change or addition of information to any account associated with such account (applying the account aggregation rules described in subparagraphs C(1) through (3) of Section VII of the Standard) if such change or addition of information affects the status of the Account Holder.”

Second: Any other term or expression which is defined in the Standard but not in Article 2 of the Law or in these Regulations has the meaning assigned to it in the Standard.

Article 3 – Determination of some Definitions:

- (1) For the purposes of applying Section I of the Standard and Articles 5 to 8 of these Regulations, “**Reportable Jurisdiction**” means any jurisdiction which is listed in Schedule 4 of these Regulations”.
- (2) For the purposes of applying the due diligence procedures described in Sections II to VII of the Standard and Article 4 of these Regulations, “**Reportable Jurisdiction**” means any jurisdiction other than Lebanon and the United states of America”.
- (3) For the purposes of these Regulations, the date specified in the definition of “**qualified Credit Card Issuer**” in subparagraph B(8) of Section VIII of the Standard is 1 July 2017.
- (4) For the purposes of these Regulations, the dates specified in the definition of “**exempt collective investment vehicle**” in section VIII of the Standard are :
 - i. subparagraph (B)(9)(a) :the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after 30 June 2016;
 - ii. subparagraph (B)(9)(d) :the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed and immobilised prior to first of January 2018.

Article 4 - Due diligence obligations

- (1) every reporting financial institution **shall:**
 - (a) establish, maintain and document due diligence procedures described in Sections II to VII of the Standard and the procedures described in this article and article 5 of these regulations

- (b) identify reportable accounts maintained by the institution by applying the due diligence procedures described in Sections II to VII of the Standard, taking into account subparagraph 2 of this article
 - (c) treat an account as a reportable account beginning as of the date it is identified as such pursuant to the due diligence procedures described in Sections II to VII of the Standard. Information with respect to a reportable account must be reported annually in the calendar year following the year to which the information relates
 - (d) For the purpose of these regulations, treat an account with a balance or value that is negative as deemed to have a balance or value equal to nil.
 - (e) If the balance or value of a financial account denominated in a currency other than US\$, and for the purpose of determining the threshold amounts, translate the balance or value to US\$ by applying the spot rate of exchange set by the Central bank on: 30 June 2017, 31 December 2017 or 31 December of any subsequent year.
 - (f) For the purpose of these regulations, treat a financial account held by an individual as a partner of a partnership and acting in that capacity as deemed to be an entity account.
 - (g) Where a Reporting Financial Institution relies on information collected and maintained pursuant to AML/KYC Procedures for purposes of determining the Controlling Persons of an Account Holder of a New Entity Account (subparagraph A(2)(b) of Section VI of the Standard), such AML/KYC Procedures must be consistent with Recommendations 10 and 25 of the FATF Recommendations (as adopted in February 2012), including always treating the settlor(s) of a trust as a Controlling Person of the trust and the founder(s) of a foundation as a Controlling Person of the foundation.
- (2) every reporting financial institution applying the due diligence procedures described in Sections II to VII of the Standard **may** :
- (a) apply the residence address procedure to a lower value account, as described in Section III of the Standard (subparagraph B(1))
 - (b) apply paragraphs A to C of Section V of the Standard to determine whether a pre-existing entity account is subject to the due diligence procedures described in Section V of the Standard.
 - (c) with respect to new entity accounts, and for the purposes of determining whether a controlling person of a passive NFE is a reportable person, only rely on a self-certification from either the account holder or the controlling person.

- (3) the due diligence procedures shall be applied as if the dates specified in:
- a) Section III “Due diligence for Pre-existing Individual accounts”
 - i. subparagraph C(6) : were 30 June 2017
 - ii. paragraph D: were 31 December 2017 for pre-existing high value individual accounts and 31 December 2018 for pre-existing lower value individual accounts ;
 - b) Section V “Due diligence for Pre-existing entity accounts”
 - i. paragraph A: were 30 June 2017;
 - ii. paragraph B: were 30 June 2017 in both the first and second instances;
 - iii. subparagraph E :
 - ✓ subparagraph (1) were 30 June 2017 in the first instance, and 31 December 2018 in the second instance
 - ✓ subparagraph (2) were is 30 June 2017
 - (c) in applying subparagraph C(6) of section III, paragraphs A and B of section V, subparagraph E(2) of section V, and subparagraph C(15) of section VIII, of the Common Reporting Standard, and only for these purposes, references to “last day of a subsequent calendar year” and “31 December of any subsequent calendar year” in those provisions shall be read as “31 December 2017 and 31 December of any subsequent year”

Article 5¹- Reporting obligation

- (1) A reporting financial institution shall file with the competent authority an information return setting out the information required by the decisions issued by the minister of finance and the Central Bank each according to its competence as set in subparagraph 2 of Sixth of the law, in relation to every financial account identified as a reportable account that is maintained by the institution at any time during a calendar year, in respect of the information of the calendar year 2017 and every following calendar year,
Each relevant authority defined in article 1 of these Regulations, is in charge of the sound implementation of the standard by the Financial institutions under its control
- (2) If a reporting financial institution applies the due diligence procedures described in Article 4 of these Regulations for a calendar year and no account is identified as a reportable account, the institution shall file an information return which provides that the institution maintains no such reportable accounts in respect of that year

¹- The last amendment to this Article was made pursuant to Decree No 3259 of 12 June 2018.

- (3) The information return is required to be submitted to the competent Authority in accordance with Article 6 of these regulations on or before 30 June of the year following the calendar year to which the return relates.
- (4) The Competent Authority will exchange the information to the competent authority of the reportable jurisdiction set in schedule 4 on or before 30 September of the year following the calendar year to which the return relates.
- (5) the first exchange of information will be on or before 30 September 2018.

Article 6 - Electronic return system

The information return defined in these regulations shall be filed electronically using such technology and such form as may be required by decision of the Competent Authority

Article 7 - Records

- (1) Every reporting financial institution shall keep records that the institution obtains or creates for the purpose of complying with these Regulations, including self-certifications and records of documentary evidence.
- (2) Every reporting financial institution required by these Regulations to keep records that does so electronically shall retain them in an electronically readable format for the retention period referred to in subsection (4).
- (3) Every reporting financial institution that obtains or creates records, as required under these Regulations, in a language other than Arabic shall, upon request, provide an Arabic translation to the relevant authority set in Article 2 of these regulations, at its expense.
- (4) Every reporting financial institution shall retain records required under these regulations, for a period of at least six years following:
 - (a) the date in which the financial account was closed, in the case of a self-certification,
 - (b) the end of the last calendar year in respect of which the record is relevant, in any other case,and in all cases this period shall not be less than the period set in the tax procedures code no 44 of 11/11/2008.

Article 8 - Inspection

- (1) the supervising authority is in charge of inspection and control over the books and records related to financial institutions defined in article 2 of these regulations, each according to its competence.
- (2) The supervising authority may , without prejudice to its rights set by its special laws, and for the purpose of inspecting the enforcement of these Regulations to:
 - A. require a financial institution, by notice in writing, to provide her within such time, not being less than 14 days, information required, including copies of any relevant books, records or other documents,
 - B. require a financial institution to produce books, records or other documentation; to provide information, explanations and particulars that may seem reasonable.
 - C. make extracts from or copies of all or any part of the books, records or other documents or other material made available to it or require that copies of books, records or other documents be made available to it.

Article 9 – Anti-avoidance

The person remains subject to any obligation set by the law or these regulations, even if the person entered into any arrangements or engaging in a practice aiming to avoid this obligation, and remains subject to the sanctions set in article 10 of these regulations.

Article 10 – Sanctions

- (1) Every reporting financial institution that contravenes or fails to comply with these Regulations is liable to the penalties provided in the Law
- (2) Every person who makes a false statement or omission in respect of any information required under these Regulations is liable to the penalty set in the laws and regulations specially the Money Laundering law no 44 of 24/11/2015 and the decree setting penalties for not bidding by financial laws no 156 of 16/9/1983, unless in the case of information required in respect of another person, a reasonable effort was made by the person to obtain the information from the other person.
- (3) The Competent Authority imposes the sanctions mentioned above once incompliance was proved to be by the supervising Authority, without prejudice to the right of these authorities to which the financial institution

refers, to impose administrative sanctions and penalties in accordance with its special laws.

Article 11 - Modification of the Schedules

The Schedules 1 and 2 of these Regulations are amended by a decision of the Minister of Finance or the Central bank as per Sixth of the law.

The Schedules 3 and 4 of these Regulations are amended by a decision of the Minister of Finance

Any modifications to the Schedules have effect on the first day of the month following the publication of the decision.

Article 12 - Interpretation

The provisions of these Regulations must be read and applied consistently with the Standard.

Article 13 - Date of effect

These Regulations have effect from 1 July 2017.

Babda, July 7, 2017

Signed: Michel Aoun

Promulgated by the President of the Republic

The President of the Council of Ministers

Signed: Saad el-Din Hariri

Minister of Finance

Ali Hassan Khalil

SCHEDULE 1

EXCLUDED ACCOUNTS

For the purposes of the Standard there is no excluded account.

SCHEDULE 2

NON-REPORTING FINANCIAL INSTITUTIONS

For the purposes of the Standard, there is no “non-reporting financial institution”.

SCHEDULE 3

PARTICIPATING JURISDICTIONS

For the purposes of the Standard, the following are participating jurisdictions.

Andorra
Anguilla
Antigua and Barbuda
Argentina
Aruba
Australia
Austria
Bahamas
Bahrain
Barbados
Belgium
Belize
Bermuda
Brazil
British Virgin Islands
Brunei Darussalam
Bulgaria
Canada
Cayman Islands
Chile
China
Colombia
Cook Islands
Costa Rica
Croatia
Curaçao

Cyprus
Czech Republic
Denmark
Dominica
Estonia
Faroe Islands
Finland
France
Germany
Ghana
Gibraltar
Greece
Greenland
Grenada
Guernsey
Hong Kong (China)
Hungary
Iceland
India
Indonesia
Ireland
Isle of Man
Israel
Italy
Japan
Jersey
Korea
Kuwait
Latvia
Liechtenstein
Lithuania
Luxembourg
Macau (China)
Malaysia
Malta
Marshall Islands
Mauritius
Mexico
Monaco
Montserrat
Nauru
Netherlands
New Zealand

Niue
Norway
Panama
Poland
Portugal
Qatar
Romania
Russia
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Samoa
San Marino
Saudi Arabia
Seychelles
Singapore
Sint Maarten
Slovak Republic
Slovenia
South Africa
Spain
Sweden
Switzerland
Trinidad and Tobago
Turkey
Turks and Caicos Islands
United Arab Emirates
United Kingdom
Uruguay
Vanuatu

SCHEDULE 4**REPORTABLE JURISDICTIONS**

For the purposes of the Standard, the following are reportable jurisdictions.

Argentina
Australia
Bahamas
Belgium
Brazil
Bulgaria
Canada
Cayman Islands
Chile
China
Colombia
Costa Rica
Curaçao
Czech Republic
Estonia
Faroe Islands
Finland
France
Gibraltar
Greece
Greenland
Grenada
Guernsey
Hong Kong (China)
Iceland
India
Indonesia
Ireland
Isle of Man
Italy
Japan
Jersey
Korea
Kuwait
Latvia
Malaysia
Marshall Islands
Mauritius
Mexico
Montserrat

Nauru
Netherlands
Niue
Norway
Poland
Portugal
Qatar
Romania
Russia
Saint Lucia
Saint Vincent and the Grenadines
Saudi Arabia
Seychelles
Sint Maarten
Slovenia
Spain
Sweden
United Kingdom
Uruguay
Vanuatu