



Director-General Mr. Ville Itälä  
European Anti-Fraud Office (OLAF)  
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Our ref. 18.12.2024

No 11-4.1/5683-1

**Notification of competent authority  
as per Art 7 (3a) of OLAF  
Regulation**

Dear Mr Itälä,

We have agreed to name as the relevant competent authority that will give the necessary bank account information assistance to OLAF to be Tax and Customs Board ([emta@emta.ee](mailto:emta@emta.ee)). All other inquiries should be sent to AFCOS Estonia contacts.

We refer to our meeting with OLAF Unit D.1 on 20. November 2024 where we explained, in addition to our letter (9. September 2024 No 11-4.1/2152-3), our regulations concerning access to information as per Regulation No 883/2013 (OLAF Regulation), including the provisions of Article 7 (3a).

While we do not oppose the direct applicability of OLAF Regulation and would not hinder access to necessary information, we see some issues to be sorted out domestically as explained below and have therefore started the amendment of the Taxation Act to add a new responsibility to Tax and Customs Board, and it will take at least half a year.

The reasoning for the need to amend our regulations is following.

OLAF Regulation sets out two categories of information: 1) information available in the centralised automated mechanisms referred to in Article 32a (3) of Directive (EU) 2015/849 of the European Parliament and of the Council and 2) where strictly necessary for the purposes of the investigation, the record of transactions.

According to OLAF Regulation, the Member States shall provide assistance to OLAF, including by giving access to the bank account information, under the same conditions as applied to national competent authorities. As explained previously, there are no default rules or no administrative authorities with rights to get such information acting under the same or similar conditions.

As explained in our 9. September 2024 letter, the information mentioned under the first point, is accessible through Enforcement Register which is a database that serves to function as an information exchange channel to ensure that – to carry out tasks emanating from the law – queries can be made for information in the possession of credit and payment institutions. So, concerning the information referred to in Article 32a (3) of Directive (EU) 2015/849, access

to required information is provided domestically mostly through Enforcement Register. While Money Laundering and Terrorist Financing Prevention Act stipulates an obligation of a credit institution or a financial institution that has opened for a customer a payment account that has an International Bank Account Number (IBAN) or let them a safe-deposit box, to ensure that at least the particulars mentioned in subsections 1<sup>1</sup>–1<sup>5</sup> of section 81 are available via the Enforcement Register, there are different access rights applicable to different authorities depending on and related to their relevant duties, and are, therefore not unlimited or default.

In the case of Tax and Customs Board, the sources, and methods of gathering information, including banking information, are related to actual tax proceedings. According to Taxation Act, the tax authority has the right to request information from third parties, including credit institutions (through Enforcement Register), to ascertain facts relevant to tax proceedings. The abovementioned persons are required to submit information unless they have the right to refuse to disclose evidence or information based on law. In addition, prior to requesting information from a third party, the taxable person must be approached for information except in certain cases stated by law.

As regards to records of transactions, the same general rules apply (approaching the taxable person before requesting information from third parties), only such information is not always accessible through Enforcement Register.

Tax and Customs Board would need to have specific authorization to obtain banking information outside of tax proceedings for the purposes of OLAF Regulation and without first approaching the data subject.

So, to set up a mechanism in accordance with the rule of law, for access to information required by OLAF, but also since both categories of information contain banking secrets that Tax and Customs Board has access to pursuant to the provisions of the Taxation Act, we need to amend relevant regulations.

Please do not hesitate to ask for additional information if needed.

Yours sincerely,

*(signed digitally)*

Anu Alber

Head of the Financial Control Department.

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/\*Copy to

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Maksu- ja Tolliamet