



## Tax&Legal Highlights

### Romania

#### **The first EU regulations on virtual currency exchanges and wallets**

**On April 19, the European Parliament approved a directive whereby, among others, provides for the first time at European level a legal framework for virtual-fiat currency exchange platforms and custodian wallet providers.**

**In addition, the approved directive regulates expressly remote and electronic client identification, thus facilitating the digitalization of customer on-boarding across Europe.**

On April 19, the European Parliament adopted a legislative resolution approving a directive to amend the Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing – also known as “AMLD IV”.

In the approved text of the directive to amend AMLD IV, among others, virtual-fiat currency exchange platforms and custodian wallet providers have a legal framework for the first time at European level. In addition, it expressly regulates remote and electronic client identification, thus facilitating the digitalization of customer on-boarding across Europe.

## **Key aspects for the crypto industry**

- 1) Partial regulation of virtual-fiat currency exchange platforms and custodian wallet providers:
  - Virtual-fiat currency exchange platforms and custodian wallet providers will be subject to AML obligations and will have to adjust their business processes to meet their new regulatory obligations;
  - Virtual-fiat currency exchange platforms and custodian wallet providers will be subject to registration formalities, but each Member State will determine the registration procedure and the obligations deriving from registered status. An indication on the type of obligations crypto exchanges may expect is that the registration obligation has been regulated in the same article as licensing and registration formalities for fiat currency exchanges. Thus member states may consider applying a similar regime;
  - Virtual currencies and custodian wallet providers have a legal definition which is technologically neutral and which provides clarity on how are crypto currencies defined in Europe.
- 2) Express EU legal provisions regarding remote and electronic client identification:
  - The approved text of the directive expressly mentions that the customer's identity may be verified by electronic identification means and relevant trust services, as defined in eIDAS Regulation, or on any other secure, remote or electronic identification process regulated, recognized, approved or accepted by the relevant national authorities;
  - The proposed changes bring more clarity on remote and electronic means accepted for client identification purposes and create necessary legal grounds for more conservative national authorities;
  - Notably, the text of the directive does not refer only to qualified trust services as a permitted client identification method. However, each entity under customer due diligence obligations will have to prove its specific AML risks are balanced by reference to the client identification method used.

## **When it applies**

In order to enter into force, the Council of the European Union has to approve the text of the directive as well. However, the Council is expected to approve it, as the two institutions have already agreed the text of the directive during inter-institutional negotiations. Once published in the Official Journal of the European Union, the directive will enter into force within 20 days. Member States have to transpose it into national law in 18 months as of its entry into force. We expect that the changes will be applicable starting with the end of 2019.

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**Origin of goods – new certification rules in trade between the EU and India, Angola, Congo, Nepal and other GSP countries**

**Until June 30, 2018, exporters from India, Angola, Congo, Nepal and other GSP countries need to register in the EU Register of Exporters (REX system). After this date, FORM A certificates can no longer be used to certify origin for goods traded between such countries and the European Union.**

Registered exporter system (REX) is the self-certification origin tool applied inside the Generalised System of Tariff Preferences (GSP) where the EU unilaterally grants tariff preferences to less developed countries, starting with January 2017.

India, Angola, Congo, Bhutan, Burundi, Chad, Comoros, Kiribati, Mozambique, Nepal, Solomon Islands, Yemen, Zambia Certain GSP countries have postponed application of the new REX origin rules, until 30th June, 2018.

Therefore, exporters from the above countries can issue FORM A certificates in trade with originating products with the EU only until June 30th 2018.

After this date, certification of origin will need to be performed by a "statement on origin" only if such exporters are registered in the EU REX system.

**What to do?**

If you import goods originating from the above countries, in order to benefit from tariff preferences upon their importation in the EU (reduced or null customs duties) after June 30th, 2018, we recommend to ensure that your suppliers are registered in the REX system and can still provide you with a proof of origin.

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### **Self-evaluation form - an alternative to ANCEX's denial when exporting dual-use products**

The General Directorate of Customs issued a circular to all subordinate institutions introducing a positive measure on dual-use items. As such, exporters can present at the time of customs clearance a self-assessment form as an alternative to the dual-use advice request issued by ANCEX ("ANCEX denial"), thus reducing the time of customs clearance.

In Romania, the Department for Export Controls (ANCEX) is the national authority that controls dual-use product operations, issuing licenses for the export of dual-use products.

In the case of products that are not included in the control lists but are suspected of belonging to the dual-use category, ANCEX denial is required - for example for steel pipes, fans, car parts, various items of plastic.

Since last week, exporters are allowed to submit a self-assessment form at the time of customs clearance as an alternative to ANCEX's denial. This self-assessment form was previously proposed by ANCEX in Guide for Completing the Consultation Request and should be completed taking into account the technical specifications of the products to be exported as well as the final destination/ use of the products.

#### **What does this mean for you?**

By introducing this self-assessment form at the time of customs clearance, customs clearance time will be reduced with the few days required for preparation and submission of the advice request until the ANCEX denial is issued.

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