

Translation of Liechtenstein Law

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English title:	Law of 5 November 2015 on International Automatic Exchange of Information in Tax Matters (AEOI-Act, AIA-Gesetz)
Original German title:	Gesetz vom 5. November 2015 über den internationalen automatischen Informationsaustausch in Steuersachen (AIA-Gesetz)
Serial number (LR-Nr.):	354
First published:	21 December 2015
First publication no. (LGBl-Nr.):	2015-355
Last amended:	1 January 2021
Date of last amendment - publication no. (LGBl-Nr.):	2020-499
Translation date:	1 February 2021

Liechtenstein Law Gazette

2015

No. 355

issued on 21 December 2015

Law
of 5 November 2015
**on the International Automatic
Exchange of Information in Tax Matters
(AEOI-Act, AIA-Gesetz)**

I hereby grant My Consent to the following resolution adopted by the Liechtenstein Parliament:¹

I. General provisions

Art. 1

Object

1) This Act governs the implementation of the automatic exchange of information in tax matters (hereinafter “automatic exchange of information”) between the Principality of Liechtenstein and partner jurisdictions under international agreements (hereinafter “applicable agreements”), that provide for automatic exchange of financial account information on the basis of the OECD’s Common Reporting Standard.

2) It determines in particular:²

- a) the obligations of Liechtenstein Entities and Financial Institutions;
- b) the rights and obligations of Reportable Persons and Entities who are Account Holders;
- c) the transmission of information by the Fiscal Authority;

¹ Report and application, together with comments from the Government No. 73/2015 and 97/2015

² Art. 1 para. (2) amended by LGBL 2020 No. 499.

- d) confidentiality, data processing and data security;
 - e) the applicable procedures;
 - f) anti-abuse provisions;
 - g) penal provisions;
 - h) cooperation among authorities.
- 3) Differing provisions of the agreement applicable in individual cases remain reserved.

Art. 2

Definitions and designations

- 1) The following definitions are established for the purposes of this Act:
1. NFE (“Non-Financial Entity”): any Entity that is not a Financial Institution;
 2. Active NFE; any NFE that meets any of the following criteria:
 - a) less than 50% of the NFE’s gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
 - b) the stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
 - c) the NFE is a Governmental Entity, an International Organisation, a Central Bank or an Entity wholly owned by one or more of the foregoing;
 - d) substantially all of the activities of the NFE consist of holding (in whole or in part) of the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;

- e) the NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE;
- f) the NFE was not a Financial Institution in the past five years and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution;
- g) the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or
- h) the NFE meets all of the following requirements:³
 - aa) it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes, or it is established and operated in its jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
 - bb) it is exempt from income tax in its jurisdiction of residence;
 - cc) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - dd) the applicable law of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income and assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and
 - ee) the applicable law of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distrib-

³ Art. 2 para. (1) subpara. (2) letter h) amended by LGBl. 2018 No. 215.

uted to a Governmental Entity or other non-profit organisation or escheat to the government of the NFE's jurisdiction of residence or any political subdivision thereof;

3. Passive NFE:
 - a) any NFE, that is not an Active NFE;
 - b) an Investment Entity described in subpara. (10) (b), that is not a Participating Jurisdiction Financial Institution;
4. Entity: a legal person or a legal arrangement, such as a corporation, partnership, trust or foundation;
5. Liechtenstein Entity:
 - a) an Entity that is resident in Liechtenstein or subject to Liechtenstein law, but excludes branches of such Entity located outside of Liechtenstein; or
 - b) a branch of a Financial Institution not resident in Liechtenstein or not subject to Liechtenstein law, that is located in Liechtenstein;⁴
6. Related Entity: an Entity that
 - a) is controlled by another Entity or controls another Entity; or
 - b) is under common control with another Entity.

For this purpose control includes direct or indirect ownership of more than 50 % of the vote and value in an Entity;
7. Financial Institution: a Custodial Institution, a Depository Institution, an Investment Entity or a Specified Insurance Company;
8. Custodial Institution: any Entity that holds, as a substantial portion of its business, Financial Assets for the account of others. An Entity holds Financial Assets for the account of others as a substantial portion of its business if the Entity's gross income attributable to the holding of Financial Assets and related financial services equals or exceeds 20 % of the Entity's gross income during the shorter of:
 - a) the three-year period that ends on 31 December or the final day of a non-calendar year accounting period prior to the year in which the determination is being made; or
 - b) the period during which the Entity has been in existence;
9. Depository Institution: any Entity that accepts deposits in the ordinary course of a banking or similar business;
10. Investment Entity: any Entity: ⁵

⁴ Art. 2 para. (1) subpara. (5) letter b) amended by LGBL 2018 No. 215.

⁵ Art. 2 para. (1) subpara. (10) amended by LGBL 2018 No. 215.

- a) that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
 - aa) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities or commodity futures trading;
 - bb) individual and collective portfolio management; or
 - cc) otherwise investing, administering, or managing Financial Assets or money on behalf of other persons; or
- b) the gross income of which is primarily attributable to investing, re-investing or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company or an Investment Entity described under letter a).

An Entity is treated as primarily conducting as a business one or more of the activities described in letter a) or an Entity's gross income is primarily attributable to investing, reinvesting or trading in Financial Assets for purposes of letter b), if the Entity's gross income attributable to the relevant activities equals or exceeds 50% of the Entity's gross income, during the shorter of:

- the three-year period ending on 31 December of the year preceding the year in which the determination is made; or
- the period during which the Entity has been in existence.

The term "Investment Entity" does not include an Entity that is an Active NFE because it meets any of the criteria in subpara. (2) letter d) to g);

- 10a. Financial Asset: security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), Insurance Contract or Annuity Contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, Insurance Contract, or Annuity Contract. The term "Financial Asset" does not include a non-debt, direct interest in real property;⁶
11. Specified Insurance Company: any Entity that is an insurance company or the holding company of an insurance company that issues, or

⁶ Art. 2 para. (1) subpara. (10a) inserted by LGBL 2017 No. 293.

is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract;

12. Liechtenstein Financial Institution:

- a) a Financial Institution resident in Liechtenstein or subject to Liechtenstein law, but excludes branches of that Financial Institution located outside Liechtenstein; or
- b) a branch of a Financial Institution not resident in Liechtenstein or not subject to Liechtenstein law, that is located in Liechtenstein;

13. Reporting Financial Institution: any Financial Institution that is not a Non-Reporting Financial Institution;

14. Non-Reporting Financial Institution:

- a) a Governmental Entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution or Depository Institution;
- b) a Broad Participation Retirement Fund, a Narrow Participation Retirement Fund, a Pension Fund of a Governmental Entity, International Organisation or Central Bank or a Qualified Credit Card Issuer;
- c) any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in letter a) and b), and is defined in domestic law as a Non-Reporting Financial Institution, provided that the status of such Entity as a Non-Reporting Financial Institution does not frustrate the purposes of the Common Reporting Standard;
- d) an Exempt Collective Investment Vehicle; or
- e) a trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to Art. 9 with respect to all Reportable Accounts of the trust;⁷

15. Financial Account: an account maintained by a Financial Institution, and includes a Depository Account, a Custodial Account and:

- a) in the case of an Investment Entity, any equity and debt interest in the Financial Institution. Notwithstanding the above provision the term "Financial Account" does not include any equity or debt interest in an Entity that is an Investment Entity solely because it provides the following services for or on behalf of a customer:

⁷ Art. 2 para. (1) subpara. (14) letter e) amended by LGBL 2018 No. 215.

- aa) investment advice; or
- bb) portfolio management;
for the purpose of investing, managing or administering Financial Assets deposited in the name of the customer with a Financial Institution other than such Entity,
- b) in the case of a Financial Institution not described under letter a), any equity or debt interest in the Financial Institution, if the class of interests was established with a purpose of avoiding the reporting obligation pursuant to Art. 9; and⁸
- c) any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a noninvestment-linked, non-transferable immediate life annuity that is issued to an individual and monetise a pension or disability benefit provided under an account that is an Excluded Account.

The term "Financial Account" does not include any account that is an Excluded Account;

- 15a. Depository Account: any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a Financial Institution in the ordinary course of a banking or similar business. A Depository Account also includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon⁹;
- 15b. Custodial Account: an account (other than an Insurance Contract or Annuity Contract) that holds one or more Financial Assets for the benefit of another person;¹⁰
- 15c. Equity Interest: in the case of a partnership that is a Financial Institution, either a capital or profits interest in the partnership. In the case of a trust that is a Financial Institution, an Equity Interest is considered to be held by any person treated as a settlor or beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust. A Reportable Person will be treated as being a beneficiary of a trust if such Reportable Person has the right to receive directly or indirectly (for example, through a

⁸ Art. 2 para. (1) subpara. (15) letter b) amended by LGBL 2018 No. 215.

⁹ Art. 2 para. (1) subpara. (15a) inserted by LGBL 2017 No. 293.

¹⁰ Art. 2 para. (1) subpara. (15b) inserted by LGBL 2017 No. 293.

nominee) a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust;¹¹

15d. Insurance Contract: a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk;¹²

15e. Annuity Contract: contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years;¹³

15f. Cash Value Insurance Contract: Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value;¹⁴

15g. Cash Value: means the greater of:¹⁵

- a) the amount that the policyholder is entitled to receive upon surrender or termination of the contract determined without reduction for any surrender charge or policy loan, and
- b) the amount the policyholder can borrow under or with regard to the contract.

Notwithstanding the foregoing, the term "Cash Value" does not include an amount payable under an Insurance Contract:

- a) solely by reason of the death of an individual insured under a life insurance contract;
- b) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;
- c) as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an Insurance Contract (other than an investment-linked life insurance or annuity contract) due to cancellation or termination of the contract,

¹¹ Art. 2 para. (1) subpara. (15c) inserted by LGBL 2017 No. 293.

¹² Art. 2 para. (1) subpara. (15d) inserted by LGBL 2017 No. 293.

¹³ Art. 2 para. (1) subpara. (15e) inserted by LGBL 2017 No. 293.

¹⁴ Art. 2 para. (1) subpara. (15f) inserted by LGBL 2017 No. 293.

¹⁵ Art. 2 para. (1) subpara. (15g) inserted by LGBL 2017 No. 293.

decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;

- d) as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an Insurance Contract under which the only benefits payable are described in letter (b) of this subsection; or
- e) as a return of an advance premium or premium deposit for an Insurance Contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract;

16. Excluded Account:

- a) a retirement or pension account that satisfies the following requirements:
 - aa) the account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement and pension benefits (including disability or death benefits);
 - bb) the account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or are taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
 - cc) information reporting is required to the tax authorities with respect to the account;
 - dd) withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events;
 - ee) either the annual contributions are limited to USD 50 000 or less, or there is a maximum lifetime contribution limit to the account of USD 1 million or less, in each case applying the rules for account aggregation and currency translation.

A Financial Account that otherwise satisfies the requirements of letter ee) will not fail to satisfy such requirements solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of letter a) or b) or from one or more retirement or pension funds that meet the requirements of Broad Participation Retirement Fund, Narrow Participation Retirement Fund or Pension Fund of

- a Governmental Entity, International Organisation or Central Bank as referred to in subpara. (14) (b);
- b) an account that satisfies the following requirements:
 - aa) the account is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market or the account is subject to regulation as a savings vehicle for purposes other than for retirement;
 - bb) the account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
 - cc) withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (for example, the provision of educational or medical benefits) or penalties apply to withdrawals made before such criteria are met; and
 - dd) annual contributions are limited to USD 50 000 or less, applying the rules for account aggregation and currency translation.

A Financial Account that otherwise satisfies the requirements of letter dd) will not fail to satisfy such requirements solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of letter a) or b) or from one or more retirement or pension funds that meet the requirements of Broad Participation Retirement Fund, Narrow Participation Retirement Fund or Pension Fund of a Governmental Entity, International Organisation or Central Bank as referred to in subpara. (14) (b);

- c) a life insurance contract with a coverage period that will end before the insured individual attains the age 90, provided that the contract satisfies the following requirements:
 - aa) periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains the age 90, whichever is shorter;
 - bb) the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;

- cc) the amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and
- dd) the contract is not held by a transferee for value;
- d) an account that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate;
- e) an account established in connection with any of the following:
 - aa) a court order or a judgment;
 - bb) a sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:
 - the account is funded solely with a down payment, a deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a Financial Asset that is deposited in the account in connection with the sale, exchange or lease of the property;
 - the account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay contingent liabilities or the lessor or lessee to pay for damages relating to the leased property as agreed under the lease;
 - the assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor or lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates;
 - the account is not a margin or similar account established in connection with a sale or exchange of Financial Assets;
 - the account is not associated with an account described in letter f);
 - cc) an obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time;
 - dd) an obligation of a Financial Institution solely to facilitate the payment of taxes at a later time;

- f) a Depository Account that satisfies the following requirements:
 - aa) the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer;
 - bb) beginning on or before 1 January 2016 the Financial Institution implements policies and procedures, either to prevent a customer from making an overpayment in excess of USD 50 000, or to ensure that any customer overpayment in excess of USD 50 000 is refunded to the customer within 60 days, in each case applying the rules for currency translation. For this purpose a customer overpayment does not refer to credit balances to the extent of disputed charges, but does include credit balances resulting from merchandise returns;
 - g) any other account that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the accounts described in letter a) through f), and is defined in domestic law as an Excluded Account, provided that the status of such account as an Excluded Account does not frustrate the purposes of the Common Reporting Standard;
- 17. Reportable Account: an account held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person, provided it has been identified as such pursuant to the procedures for the fulfilment of the AEOI due diligence obligations;
- 18. Preexisting Account: ¹⁶
 - a) for purposes of the AEOI Agreement Liechtenstein-EU: ¹⁷ a Financial Account, maintained by a Reporting Liechtenstein Financial Institution as of 31 December 2015;
 - b) in the remaining cases: a Financial Account, maintained by a Reporting Liechtenstein Financial Institution as of 31 December 2016;
- 19. Preexisting Individual Account: a Preexisting Account held by one or more individuals;
- 20. New Account: ¹⁸

¹⁶ Art. 2 para. (1) subpara. (18) amended by LGBL 2017 No. 293.

¹⁷ Agreement between the Principality of Liechtenstein and the European Union on the automatic exchange of financial account information to improve international tax compliance, LGBL 2005 No. 111 in the version LGBL 2015 No. 354.

¹⁸ Art. 2 para. (1) subpara. (20) amended by LGBL 2017 No. 293.

- a) for purposes of the AEOI Agreement Liechtenstein-EU: a Financial Account maintained by a Reporting Liechtenstein Financial Institution opened on or after 1 January 2016;
 - b) in the remaining cases: a Financial Account maintained by a Reporting Liechtenstein Financial Institution opened on or after 1 January 2017;
21. Lower Value Account: ¹⁹
- a) for purposes of the AEOI Agreement Liechtenstein-EU: a Preexisting Individual Account with an aggregate balance or value as of 31 December 2015 that does not exceed USD 1 000 000;
 - b) in the remaining cases: a Preexisting Individual Account with an aggregate balance or value as of 31 December 2016 that does not exceed USD 1 000 000;
22. High Value Account: ²⁰
- a) for purposes of the AEOI Agreement Liechtenstein-EU: a Preexisting Individual Account with an aggregate balance or value that exceeds USD 1 000 000 as of 31 December 2015 or 31 December of any subsequent year;
 - b) in the remaining cases: a Preexisting Individual Account with an aggregate balance or value that exceeds USD 1 000 000 as of 31 December 2016 or 31 December of any subsequent year;
23. Repealed²¹
24. Reportable Person: a Reportable Jurisdiction Person, other than:
- a) a corporation the stock of which is regularly traded on one or more established securities markets;
 - b) any corporation that is a Related Entity of a corporation described in letter a);
 - c) a Governmental Entity; or
 - d) a Financial Institution;
- 24a. Reportable Jurisdiction Person: an individual or Entity that is resident in a Reportable Jurisdiction under the tax laws of such jurisdiction, or an estate of a decedent that was a resident of a Reportable Jurisdiction. For this purpose, an Entity such as a partnership, limited

¹⁹ Art. 2 para. (1) subpara. (21) amended by LGBL 2017 No. 293.

²⁰ Art. 2 para. (1) subpara. (22) amended by LGBL 2017 No. 293.

²¹ Art. 2 para. (1) subpara. (23) repealed by LGBL 2018 No. 215.

liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated;²²

25. Controlling Persons: the natural persons who exercise control over an Entity. In the case of a trust, such term means the settlors, the trustees, the protectors (if any), the beneficiaries or a class of beneficiaries and any other natural persons exercising ultimate effective control over the trust and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term "Controlling Persons" must be interpreted in a manner consistent with the Financial Action Task Force (FATF) Recommendations;
26. Account Holder: the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor or intermediary is not treated as holding the account for purposes of the Common Reporting Standard, and such other person is treated as holding the account. In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder;
27. Taxpayer Identification Number (TIN): the identification number of a taxable person under the law of the jurisdiction in which that person is resident;
28. Documentary Evidence: any of the following:
 - a) a certificate of residence issued by an authorised government body of the jurisdiction in which the payee claims to be a resident;
 - b) with respect to an individual, any valid identification issued by an authorised government body, that includes the individual's name and is typically used for identification purposes;
 - c) with respect to an Entity, any official documentation issued by an authorised government body that includes the name of the Entity and either the address of its principal office in the jurisdiction in

²² Art. 2 para. (1) subpara. (24a) inserted by LGBl. 2017 No. 293.

which the Entity claims to be a resident or the jurisdiction in which the Entity was incorporated or organised;

- d) any audited financial statement, third-party credit report, bankruptcy filing or securities regulator's report.
29. executive bodies authorised for representation: all executive bodies of a Liechtenstein Entity appointed to represent it externally without regard to the type of the signing authority and the number of executive bodies authorised for representation;²³
30. removal: the removal of an entity in the Commercial Register or the termination of an entity not entered in the Commercial Register.²⁴

2) The terms set out in para. (1), in particular the terms "Participating Jurisdiction", "Non-Reporting Financial Institution" and "Excluded Account" may be defined more specifically by a Government Ordinance.

3) If an applicable agreement or this Act refers to an amount denominated in USD, this is also to be understood as the relevant counter value in another currency.

4) Unless the applicable agreement or this Act specifies otherwise, the Fiscal Authority is the Competent Authority of Liechtenstein under the applicable agreement.

5) The designations used in this Act to denote persons and functions include persons of male and female gender.

II. Obligations of Liechtenstein Entities and Financial Institutions²⁵

Art. 3²⁶

Classification, notification and documentation obligations

1) Liechtenstein Entities shall, for the purposes of the applicable agreements and this Act, classify themselves as:

²³ Art. 2 para. (1) subpara. (29) inserted by LGBL 2020 No. 499.

²⁴ Art. 2 para. (1) subpara. (30) inserted by LGBL 2020 No. 499.

²⁵ Heading before Art. 3 amended by LGBL 2020 No. 499.

²⁶ Art. 3 amended by LGBL 2020 No. 499.

- a) Reporting Financial Institution or Non-Reporting Financial Institution if they classify themselves as Financial Institution;
 - b) Active or Passive NFE if they do not classify themselves as Financial Institution.
- 2) The classification pursuant to para. (1) and any changes thereto shall be made immediately and notified to the respective Reporting Liechtenstein Financial Institutions.
- 3) The classification pursuant to para. (1) and any changes thereto shall be documented by the Liechtenstein Entity. The following shall apply to the documentation:
- a) The documentation shall contain the steps undertaken that led to the classification and shall be kept in Liechtenstein.
 - b) The documentation shall be kept for ten years after the removal of the Liechtenstein Entity at a repository in Liechtenstein to be designated by the Liechtenstein Entity. The Fiscal Authority must be informed of the repository before the Liechtenstein Entity is removed.

Art. 4²⁷

Active NFEs

Subject to the classification, notification and documentation requirements under Art. 3, Entities classified as Active NFEs have no obligations under this Act.

Art. 5²⁸

Passive NFEs

1) Liechtenstein Passive NFEs must notify the respective Reporting Liechtenstein Financial Institutions immediately and unrequested of all Controlling Persons, including the information to be exchanged pursuant to Art. 9 para. (2) (a). Art. 7 para. (12) applies mutatis mutandis. The Controlling Persons of the Passive NFE are to be determined pursuant to Art. 2 para. (1) (e) and (p) of the Liechtenstein Due Diligence Act.

2) Liechtenstein Passive NFEs are required to use reasonable efforts to obtain the Taxpayer Identification Number(s) of the Controlling Persons

²⁷ Art. 4 amended by LGBL 2020 No. 499.

²⁸ Art. 5 amended by LGBL 2020 No. 499.

and in the case of a natural person, the date of birth, for the purposes of notifying pursuant to para. (1).

3) Changes to the reported information pursuant to para. (1) must be notified to the Reporting Liechtenstein Financial Institutions immediately.

4) Liechtenstein Passive NFEs are responsible for the accuracy and completeness of the reported information. Reporting Liechtenstein Financial Institutions shall work on the assumption that the reported information is accurate and complete.

5) If a Liechtenstein Passive NFE fails to meet the reporting obligation immediately, the Reporting Liechtenstein Financial Institutions shall presume that the information for exchange that is in their possession is accurate and complete. Reporting Liechtenstein Financial Institutions shall immediately report this Passive NFE to the Fiscal Authority.

Art. 6²⁹

Repealed

Art. 7

AEOI due diligence procedures

1) Reporting Liechtenstein Financial Institutions must identify Reportable Accounts. The procedures for the fulfilment of the AEOI due diligence procedures contained in Sections II to VII of the applicable agreement shall be applied when identifying such accounts.³⁰

2) Reporting Liechtenstein Financial Institutions may determine beneficiaries of a Passive NFE, who are considered to be Controlling Persons in the same way as beneficiaries of an Investment Entity, who are considered to be Account Holders.

3) For Preexisting Entity Accounts, a Reporting Liechtenstein Financial Institution must determine the Controlling Persons of a Passive NFE pursuant to Art. 2 para. (1) (e) and (p) of the Due Diligence Act.³¹

4) Reporting Liechtenstein Financial Institutions may apply:

²⁹ Art. 6 repealed by LGBl. 2020 No. 499.

³⁰ Art. 7 para. (1) amended by LGBl. 2018 No. 215.

³¹ Art. 7 para. (3) amended by LGBl. 2020 No. 499.

- a) the AEOI due diligence procedures in respect of High Value Accounts for all or a clearly identified group of Lower Value Accounts;
- b) the AEOI due diligence procedures in respect of New Accounts for all or a clearly identified group of Preexisting Accounts; the remaining procedures for Preexisting Accounts continue to apply.

5) Reporting Liechtenstein Financial Institutions may:³²

- a) for purposes of the AEOI Agreement Liechtenstein-EU elect with respect to certain or all Preexisting Entity Accounts with an aggregate account balance or value that does not exceed USD 250 000 as of 31 December 2015 to not review, identify, or report as a Reportable Account until the aggregate account balance or value exceeds USD 250 000 as of the last day of any subsequent calendar year;
- b) in the remaining cases elect with respect to certain or all Preexisting Entity Accounts with an aggregate account balance or value that does not exceed USD 250 000 as of 31 December 2016 to not review, identify, or report as a Reportable Account until the aggregate account balance or value exceeds USD 250 000 as of the last day of any subsequent calendar year.

6) For Preexisting Entity Accounts Reporting Liechtenstein Financial Institutions may in the performance of their AEOI due diligence procedures use any classification in their records with respect to the Account Holder that was implemented prior to the date to classify the Financial Account as a Preexisting Account and that is based on a standardised industry coding system, which they use in accordance with their normal business practices to combat money laundering or for other regulatory purposes other than tax purposes, as Documentary Evidence, provided that they do not know or have reason to know that such classification is incorrect or unreliable.

7) A self-certification (Art. 13) remains valid until there is a change of circumstances that causes the Reporting Liechtenstein Financial Institution to know, or have reason to know, that the original self-certification is incorrect or unreliable.³³

8) Preexisting Individual Accounts must be reviewed within the following time limits from the date of applicability of the automatic exchange of information with a partner jurisdiction:

- a) High-Value Accounts: within one year;
- b) Lower-Value Accounts: within two years.

³² Art. 7 para. (5) amended by LGBl 2017 No. 293.

³³ Art. 7 para. (7) amended by LGBl. 2020 No. 499.

9) Preexisting Entity Accounts must be reviewed within two years from the date of applicability of the automatic exchange of information with a partner jurisdiction.

10) As of the entry into force of this Act Reporting Liechtenstein Financial Institutions may also apply the AEOI due diligence procedures *mutatis mutandis* to Financial Accounts that were not considered Reportable Accounts at the time the AEOI due diligence procedures were carried out. For these purposes they may collect the Taxpayer Identification Number of the Reportable Persons and the Entities that are Account Holders. Para. (2) to (7) shall apply *mutatis mutandis*.

11) For the purposes of para. (10) Reporting Liechtenstein Financial Institutions may apply the time limits stated in para. (8) and (9) as from the date on which this Act enters into force.

12) Reporting Liechtenstein Financial Institutions must take appropriate organisational measures that ensure that they have all the information that has to be collected under the applicable agreement and this Act.

13) Within the context of the opening of a New Account, Reporting Liechtenstein Financial Institutions must obtain a self-certification and confirm the reasonableness thereof. Where the confirmation of reasonableness cannot be carried out within the context of the account opening, it must take place at the latest within 90 days from the opening of the account. If the Reporting Liechtenstein Financial Institution has received a self-certification that is valid but not reasonable, the account shall be blocked for all receipts and withdrawals until it is in possession of a valid and reasonable self-certification.³⁴

14) Notwithstanding para. (13), the Reporting Liechtenstein Financial institution may in exceptional cases obtain the self-certification after the opening of a New Account, but within 90 days from the opening of the account, and confirm the reasonableness thereof. Where a Reporting Liechtenstein Financial Institution does not have a valid and reasonable self-certification in its possession within 90 days from the opening of a New Account, the account shall be blocked for all receipts and withdrawals until it is in possession of a valid self-certification and the reasonableness thereof has been confirmed.³⁵

15) Reporting Liechtenstein Financial Institutions shall keep records of the steps undertaken and any evidence relied upon for the performance of the AEOI due diligence procedures. This documentation must be kept

³⁴ Art. 7 para. (13) amended by LGBl. 2018 No. 215.

³⁵ Art. 7 para. (14) amended by LGBl. 2018 No. 215.

for a period of ten years after the end of the reporting period for which a report last had to be made under Art. 9. Where a Reporting Liechtenstein Financial Institution is removed, Art. para. (3) (b) applies *mutatis mutandis*.³⁶

Art. 8³⁷

Registration obligation

1) Upon completion of their classification, Reporting Liechtenstein Financial Institutions must immediately and unsolicited register with the Fiscal Authority.

2) Changes to the data registered under para. (1) must be notified to the Fiscal Authority immediately.

3) If the capacity as a Reporting Liechtenstein Financial Institution comes to an end, the Financial Institution must deregister with the Fiscal Authority unsolicited.

Art. 9

Reporting obligation

1) Reporting Liechtenstein Financial Institutions have to obtain the information to be exchanged under Section I of the applicable agreement with respect to each Reportable Account for the period stated in the applicable agreement and report it to the Fiscal Authority in the form stated therein. Art. 20 para. (2) applies *mutatis mutandis*.³⁸

1a) In the case of Preexisting Individual Accounts for which, under the applicable agreement, an electronic search has found a “hold mail” instruction or a “in-care-of” address and no other address or indicia of the Account Holder and, even when searching the paper documents, no indicium has been found, and the attempt to obtain a self-certification or Documentary Evidence has been unsuccessful, Reporting Liechtenstein Financial Institutions have to report such accounts to the Fiscal Authority as undocumented accounts.³⁹

2) The information to be exchanged includes:

³⁶ Art. 7 para. (15) amended by LGBL 2020 No. 499.

³⁷ Art. 8 amended by LGBL 2020 No. 499.

³⁸ Art. 9 para. (1) amended by LGBL 2018 No. 215.

³⁹ Art. 9 para. (1a) inserted by LGBL 2018 No. 215.

- a) the name, address, jurisdiction(s) of residence, Taxpayer Identification Number(s) and date of birth (in the case of individuals) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder, the name, address, jurisdiction(s) of residence and Taxpayer Identification Number(s) of the Entity as well as the name, address, jurisdiction(s) of residence, Taxpayer Identification Number(s) and date of birth of each reportable Controlling Person;
 - b) the account number or functional equivalent in the absence of an account number;
 - c) the name and identifying number of the Reporting Financial Institution;
 - d) the account balance or value, including in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;
 - e) in the case of any Custodial Account:
 - 1. the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account, or with respect to the account, during the calendar year or other appropriate reporting period; and
 - 2. the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee or otherwise as an agent for the Account Holder;
 - f) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
 - g) in the case of any account not described in subpara. (e) or (f) the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.
- 3) Reporting Liechtenstein Financial Institutions are required to use reasonable efforts to obtain the Taxpayer Identification Number(s) with respect to Preexisting Accounts, and in the case of an individual, the date

of birth, by the end of the second calendar year following the year in which such accounts were identified as Reportable Accounts.

3a) In the event that no reasonable or valid self-certification pursuant to Art. 7 para. (13) or (14) is available within 90 days from the opening of the account, the Reporting Liechtenstein Financial Institution shall submit a report under the applicable agreement on the basis of the indicia established.⁴⁰

4) For the purposes of the exchange of information the amount and characterisation of payments made with respect to a Reportable Account may be determined in accordance with the principles of Liechtenstein tax laws.

5) Notwithstanding para. (1), the information described in para. (2) is to be reported for the calendar year in which this Act enters into force, except for gross proceeds described in para. 2 (e) (2).

6) If a Reportable Person dies, any Reporting Liechtenstein Financial Institution, other than an Investment Entity, shall continue to treat the account as having the same status that it had prior to the death of the Account Holder until it is notified of the estate with legal personality or the rightful heirs.

7) Reports to the Fiscal Authority must be made within six months from the end of the respective calendar year in accordance with the provisions of the Fiscal Authority. If this deadline is missed, the report must be made up immediately after the failure has been established.⁴¹

8) If information already transmitted to the Fiscal Authority has to be amended or deleted, the Reporting Liechtenstein Financial Institution has to transmit the amended information or the deletion report immediately to the Fiscal Authority.⁴²

9) Reporting Liechtenstein Financial Institutions are obliged to retain the information to be exchanged up to the expiry of the maximum periods of limitation pursuant to Art. 35. Subject to other legal provisions the information to be exchanged that has been transmitted to the Fiscal Authority is to be destroyed after expiry of the maximum limitation periods.

⁴⁰ Art. 9 para. (3a) inserted by LGBL 2018 No. 215.

⁴¹ Art. 9 para. (7) amended by LGBL 2020 No. 499.

⁴² Art. 9 para. (8) amended by LGBL 2020 No. 499.

Art. 10

Information obligation of the Reporting Liechtenstein Financial Institutions and transmission obligation of the Entities

1) Reporting Liechtenstein Financial Institutions are obliged to inform Reportable Persons and Entities, who are Account Holders, no later than 31 March of the year in which the relevant information concerning them will be transmitted to the Fiscal Authority for the first time, of:

- a) their capacity as a Reporting Liechtenstein Financial Institution;
- b) the relevant applicable agreements, their content and their purpose;
- c) the partner jurisdiction or partner jurisdictions to which information is reported;⁴³
- d) the information to be exchanged on the basis of the applicable agreements;
- e) the permissible use of the information to be exchanged in accordance with Art. 15 and 16;
- f) the rights of any Reportable Persons and any Entities who are Account Holders under data protection legislation, taking into consideration the special provisions of this Act, in particular the right to access information and the right to correct or delete incorrect data.⁴⁴

2) Reporting Liechtenstein Financial Institutions are obliged to inform Reportable Persons and Entities who are Account Holders of any change in the information provided under para. (1) no later than 31 March of the year in which the amended information concerning them will be transmitted to the Fiscal Authority for the first time.

2a) If a report is to be made up in accordance with Art. 9 para. (7), the Reportable Person and the Entity who is the Account Holder shall be informed before or at the same time as the report is made in accordance with para. (1) and (2).⁴⁵

3) In the case of any Entity that is an Account Holder and for which one or more Controlling Persons have been identified, information of the Reportable Persons is delivered to the Entity. Liechtenstein Entities have to immediately forward the information to the Reportable Persons.

⁴³ Art. 10 para. (1) subpara. (c) amended by LGBl. 2020 No. 499.

⁴⁴ Art. 10 para. (1) subpara. (f) amended by LGBl. 2018 No. 388.

⁴⁵ Art. 10 para. (2) subpara. (a) inserted by LGBl. 2020 No. 499.

4) For Reportable Accounts that have been closed the information is sent once only to the last known address. The information may be omitted for dormant accounts.

5) Information referred to in para. (1) to (2a) must be documented. The documentation must be kept in Liechtenstein for ten years. In the event of the removal of a Reporting Liechtenstein Financial Institution, Art. 3 para. (3) (b) applies *mutatis mutandis*.⁴⁶

Art. 11

Use of service providers

Reporting Liechtenstein Financial Institutions may use service providers in order to fulfil the obligations imposed upon them by the applicable agreement and this Act. The Reporting Liechtenstein Financial Institutions still remain responsible for the fulfilment of the obligations.

Art. 11a⁴⁷

Fulfilment of obligations in the case of removed Liechtenstein Entities

1) In the case of removed Liechtenstein Entities, the last executive bodies authorised for representation shall be jointly and severally responsible for the subsequent fulfilment of the obligations under the applicable agreements and this Act for the removed Liechtenstein Entity.

2) If there is more than one last executive body authorised for representation, the Fiscal Authority shall determine the executive body that must subsequently fulfil the obligations under para. (1) for the removed Liechtenstein Entity. The costs for any outlays shall be borne jointly and severally by the last executive bodies authorised for representation.

3) If the last executive bodies authorised for representation are unable to fulfil the obligations under para. (1) for valid reasons, the Fiscal Authority shall appoint a third party which must subsequently fulfil the obligations for the removed Liechtenstein Entity. The costs of the third party for the subsequent fulfilment of obligations shall be borne by the State.

⁴⁶ Art. 10 para. (5) inserted by LGBL 2020 No. 499.

⁴⁷ Art. 11a inserted by LGBL 2020 No. 499.

III. Rights and obligations of the Reportable Persons and the Entities who are Account Holders⁴⁸

Art. 12⁴⁹

Rights vis-à-vis Reporting Liechtenstein Financial Institutions and the Fiscal Authority

1) With reference to the information to be exchanged that is processed by Reporting Liechtenstein Financial Institutions or the Fiscal Authority, Reportable Persons and Entities who are Account Holders have the rights set out in data protection legislation and the special provisions of this Act.

2) Any Reportable Person and any Entity who is an Account Holder may ask the Reporting Liechtenstein Financial Institution and the Fiscal Authority in writing to correct or delete any information to be exchanged that is incorrect.

3) A correction or deletion of incorrect information to be exchanged may be requested only if the necessary information according to the applicable agreement and this Act is presented to the Reporting Liechtenstein Financial Institution or the Fiscal Authority.

4) Requests for correction or deletion vis-à-vis the Reporting Liechtenstein Financial Institution that are received after 31 May of the calendar year in which the report is made to the Fiscal Authority may regularly be complied with by the Reporting Liechtenstein Financial Institution only by means of subsequent correction or deletion of the information transmitted to the Fiscal Authority due to the necessary verification and plausibility check of the requests.

5) In the event of a legal proceeding and interim measure (protective measure) relating to the rights in accordance with para. (1) and (2), the Reporting Liechtenstein Financial Institution will be obliged to transmit the applicable information to the Fiscal Authority only after the legally binding conclusion of the main proceeding in question. This applies mutatis mutandis to the transmission of information by the Fiscal Authority under Art. 14 para. (1).

⁴⁸ Heading before Art. 12 amended by LGBL 2020 No. 499.

⁴⁹ Art. 12 amended by LGBL 2020 No. 499.

Art. 13⁵⁰*Provision of a self-certification*

- 1) A self-certification must be provided completely and truthfully.
- 2) Anyone who has provided a self-certification must notify the Reporting Liechtenstein Financial Institutions of the newly applicable information within the scope of the self-certification in the event of a change in the circumstances.

IV. Transmission of the information by the Fiscal Authority⁵¹

Art. 14

Principle

- 1) The Fiscal Authority shall transmit the information stated in the applicable agreement and the information corrected in accordance with Art. 9 para. (8) to the Competent Authority of the relevant partner jurisdiction in the form stated in the applicable agreement, by means of an automated process within the time limits set out in the applicable agreement.
- 2) The Fiscal Authority is not required to transmit information if transmission is contrary to the public policy (*ordre public*) of the Principality of Liechtenstein.
- 3) The Fiscal Authority is not required to transmit information or parts thereof if the Foreign Authority is not in a position to provide comparable information concerning Liechtenstein Reportable Accounts to the Fiscal Authority.
- 4) The Fiscal Authority retains the exchanged information up to the expiry of the maximum periods of limitation pursuant to Art. 35. The exchanged information is to be destroyed after expiry of the maximum limitation periods.⁵²

⁵⁰ Art. 13 amended by LGBL 2020 No. 499.

⁵¹ Heading before Art. 14 amended by LGBL 2020 No. 499.

⁵² Art. 14 para. (4) amended by LGBL 2018 No. 388.

V. Confidentiality, data processing and data security⁵³

Art. 15

Confidentiality

1) All information to be exchanged which the Competent Authority of a partner jurisdiction receives shall be treated as confidential in the same manner as information obtained under the domestic legislation of this partner jurisdiction.

2) Such information shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to taxes of a partner jurisdiction, or the oversight of the above. These persons or authorities shall only use the exchanged information only for such purposes. They may disclose exchanged information in public court proceedings or in a judicial decision.

3) Notwithstanding para. (1) and (2), a partner jurisdiction may use the exchanged information for other purposes when such information may be used for such other purposes under the law of the partner jurisdiction and the Liechtenstein law and the Fiscal Authority authorises such use.

Art. 16

Ban on transmission of exchanged information to third countries

Exchanged information may not be transmitted to third countries. The Fiscal Authority instructs the Competent Authority of the partner jurisdiction accordingly.

Art. 17⁵⁴

Data processing

The Fiscal Authority may process personal data, including personal data relating to criminal convictions and offences, or have such data processed to the extent necessary to perform its duties under this Act. It may operate an information system for this purpose.

⁵³ Heading before Art. 15 amended by LGBL 2020 No. 499.

⁵⁴ Art. 17 amended by LGBL 2020 No. 499.

Art. 18

Security breaches

1) The Fiscal Authority shall inform Reporting Liechtenstein Financial Institutions of any security breach concerning information being processed by the Fiscal Authority, if this security breach is likely to result in a high risk to the personal rights and freedoms of natural persons or the rights of Entities.⁵⁵

2) Para. (1) shall apply mutatis mutandis to a security breach concerning information being processed by the Competent Authority of the partner jurisdiction, provided the Fiscal Authority is informed of it.⁵⁶

3) Reporting Liechtenstein Financial Institutions are required to inform Reportable Persons or Entities who are Account Holders immediately of a security breach as referred to in para. (1) and (2) if this security breach is likely to result in a high risk to the personal rights and freedoms of natural persons or the rights of Entities.⁵⁷

4) Art. 10 para. (3) shall apply mutatis mutandis.

5) The Fiscal Authority shall inform the Data Protection Authority of a security breach as referred to in para. (1) and (2) if this security breach is likely to result in a high risk to the personal rights and freedoms of natural persons.⁵⁸

VI. Procedural provisions⁵⁹

Art. 19

Organisation and procedures

1) The Fiscal Authority issues all decrees and makes all decisions that are necessary for the application of the applicable agreement and this Act.

2) It may prescribe the use of specific forms in an electronic format.

⁵⁵ Art. 18 para. (1) amended by LGBl. 2020 No. 499.

⁵⁶ Art. 18 para. (2) amended by LGBl. 2018 No. 388.

⁵⁷ Art. 18 para. (3) amended by LGBl. 2020 No. 499.

⁵⁸ Art. 18 para. (5) amended by LGBl. 2020 No. 499.

⁵⁹ Heading before Art. 19 amended by LGBl. 2020 No. 499.

Art. 20

Obligation of disclosure

1) Liechtenstein Entities shall disclose all facts that are necessary for the implementation of the applicable agreement and this Act to the Fiscal Authority and to independent third parties (Art. 21).

1a) In the case of removed Liechtenstein Entities, the former executive bodies authorised for representation must provide the information referred to in para. (1). The obligation of disclosure also applies vis-à-vis third parties designated by the Fiscal Authority (Art. 11a para. (3)). The repositories (Art. 3 para. (3) (b)) must grant access to the stored documentation accordingly.⁶⁰

2) Statutory provisions concerning data, professional or commercial secrets do not preclude the disclosure of information in accordance with para. (1) and (1a), unless it is information covered by protection of confidentiality pursuant to § 108 para. (1) (2) StPO (Liechtenstein Code of Criminal Procedure) and its disclosure would represent an inadmissible circumvention of confidentiality as defined in § 108 para. (3) StPO. Liechtenstein Entities are released from their obligations of confidentiality to the equivalent extent.⁶¹

Art. 21⁶²*Audits*

1) Risk-based audits will be conducted in order to verify that the obligations of the Liechtenstein Entities are fulfilled. The audits shall be conducted by the Fiscal Authority or by third parties mandated by the Fiscal Authority.

2) Only auditors, audit firms, and audit offices under special legislation as defined in Art. 26 para. (1) of the Due Diligence Act may qualify as independent third parties.

3) Independent third parties must carry out their audits in accordance with the instructions of the Fiscal Authority. They are obliged to:

- a) submit an audit report to the Fiscal Authority. Material facts may not be concealed. The information in the audit report must correspond to the truth;

⁶⁰ Art. 20 para. (1a) inserted by LGBL 2020 No. 499.

⁶¹ Art. 20 para. (2) amended by LGBL 2020 No. 499.

⁶² Art. 21 amended by LGBL 2020 No. 499.

- b) comply with the principles determined by the Fiscal Authority concerning the audit activities and the performance of the audits and make available to the Fiscal Authority, upon request, all working papers prepared as part of the audit;
- c) process documents and data of the audits exclusively in Liechtenstein and keep them in Liechtenstein for ten years after the completion of the audit; and
- d) provide the Fiscal Authority, upon request, with all information, documents and copies that the Fiscal Authority requires to fulfil its activities under the applicable agreements and this Act.

4) Independent third parties are subject to the obligation of confidentiality referred to in Art. 25, subject to the reporting and information requirements referred to in para. (3).

5) The expenses of the independent third parties shall be met by the Liechtenstein Entities being audited; to the extent that the expenses are not paid by them, the executive bodies authorised for representation shall be jointly liable. If an Entity has already been removed, the last executive bodies authorised for representation shall be jointly liable. Upon request, independent third parties must draw up a cost estimate prior to commencement of the audit. The costs must be based on the applicable industrial fee schedules and must be proportionate in relation to the object of the audit activity.

6) Liechtenstein Entities shall grant the Fiscal Authority and independent third parties unrestricted access to all information relevant for the fulfilment of their obligations under the applicable agreement and this Act and which they consider necessary to carry out the audits.

7) In the case of removed Liechtenstein Entities, the repositories (Art. 3 para. (3) (b)) must grant access to the stored documentation accordingly.

Art. 22

Restoration of the lawful conditions

1) The Fiscal Authority will informally request the concerned Liechtenstein Entity to restore the lawful conditions within an appropriate time limit, if:

- a) there is reason to believe that administrative or other minor errors might have led to an incorrect or incomplete transmission of data or other instances of non-compliance with the applicable agreement or this Act; or

b) the Fiscal Authority notices that a Liechtenstein Entity is failing to meet the obligations under the applicable agreement and this Act to a significant degree.

2) The time limit referred to in para. (1) may be extended in justified circumstances. If the failings are not rectified within the specified time the Fiscal Authority will issue an appropriate decree.

3) This Article is subject to the imposition of fines under Art. 28 to 30.⁶³

Art. 23

Applicable procedural law

Unless this Act specifies otherwise the Liechtenstein National Administration Act (LVG) shall apply.

Art. 24

Legal remedy

1) A written objection may be made against decrees of the Fiscal Authority under this section within 30 days from the day of service.

2) The objection must contain the petitions and state the facts on which they are based.

3) If an objection has been validly raised the Fiscal Authority shall examine the decree without being bound by the petitions presented and shall issue a reasoned ruling on the objection.

4) The provisions of Art. 117 and 118 SteG shall apply to the legal remedies and the proceedings *mutatis mutandis*.

Art. 25

Obligations of confidentiality

1) Any person charged with the execution of the applicable agreement and this Act or engaged in the execution thereof is subject to official secrecy and shall maintain confidentiality with regard to other official bodies and private individuals concerning observations made in the conduct of this activity and deny access to official documents.

⁶³ Art. 22 para. (3) amended by LGBL 2020 No. 499.

- 2) The obligation of confidentiality does not apply:
- a) for the Fiscal Authority in respect of reportings and the provision of information to the Competent Authority of the partner jurisdiction in accordance with the applicable agreement and this Act;
 - b) with respect to Liechtenstein bodies engaged in the administration of justice that are charged with the execution of the applicable agreement and this Act;
 - c) with respect to Liechtenstein bodies engaged in the administration of justice, the Public Prosecution Service and the National Police Force in the investigation of criminal offenses punishable by courts;
 - d) with respect to Liechtenstein supervisory authorities and agencies responsible for the imposition of supervisory and disciplinary measures;⁶⁴
 - e) with respect to the Financial Intelligence Unit for the purpose of combating money laundering, organised crime and terrorist financing;⁶⁵
 - f) insofar as there is a legal basis for it.⁶⁶

3) The confidentiality obligations of persons named in § 108 subpara. (1) (2) StPO, including the anti-circumvention provision set out in § 108 subpara. (3) StPO, are not affected by para. (2).

VII. Anti-abuse provisions⁶⁷

Art. 26

Abuse of arrangement opportunities

1) Legal or de facto arrangements primarily aimed at circumvention of the obligations under an applicable agreement or this Act constitute abuse.

2) Liechtenstein Entities may not themselves manage structures in connection with abusive arrangements as referred to in para. (1), nor support their use.

⁶⁴ Art. 25 para. (2) subpara. (d) amended by LGBL 2020 No. 499.

⁶⁵ Art. 25 para. (2) subpara. (e) amended by LGBL 2020 No. 499.

⁶⁶ Art. 25 para. (2) subpara. (f) amended by LGBL 2020 No. 499.

⁶⁷ Heading before Art. 26 amended by LGBL 2020 No. 499.

3) If there is evidence of abuse, Liechtenstein Entities must meet their obligations under the applicable agreements and this Act as they would without the benefit of this abusive arrangement.

VIII. Penal provisions⁶⁸

Art. 27⁶⁹

Repealed

Art. 28⁷⁰

Administrative contraventions

1) The Fiscal Authority shall punish with a fine of up to 250 000 francs anyone who wilfully:

- a) violates the classification obligation pursuant to Art. 3 para. (1) or the notification obligation under Art. 3 para. (2);
- b) violates the notification obligations for Passive NFEs pursuant to Art. 5;
- c) violates the AEOI due diligence obligations pursuant to Art. 7;
- d) violates the reporting obligation pursuant to Art. 9;
- e) as a mandated third party, makes untrue statements or conceals material facts in the audit report as referred to in Art. 21 para. (3) (a);
- f) violates the anti-abuse provisions under Art. 26.

2) The Fiscal Authority shall punish with a fine of up to 20 000 francs anyone who wilfully:

- a) violates the documentation obligation pursuant to Art. 3 para. (3) or Art. 7 para. (15);
- b) violates the reporting obligations pursuant to Art. 5 para. (5) vis-à-vis the Fiscal Authority;
- c) violates the obligation to close and block accounts pursuant to Art. 7 para. (13) or (14);

⁶⁸ Heading before Art. 27 amended by LGBL 2020 No. 499.

⁶⁹ Art. 27 repealed by LGBL 2020 No. 499.

⁷⁰ Art. 28 amended by LGBL 2020 No. 499.

- d) violates the registration obligation pursuant to Art. 8;
- e) violates the obligation of disclosure under Art. 20 vis-à-vis the Fiscal Authority or a third party appointed by the Fiscal Authority pursuant to Art. 11a para. (3) or mandated under Art. 21 by refusing to provide information, making untrue statements, or concealing material facts or not granting access to documents in safekeeping;
- f) impedes or prevents the proper conduct of an audit pursuant to Art. 21 or makes it impossible;
- g) as a mandated third party, does not, does not properly or does not in a timely manner submit the audit report as referred to in Art. 21 para. (3) (a) or does not comply with the audit principles determined by the Fiscal Authority as referred to in Art. 21 para. (3) (b);
- h) as a mandated third party, does not process documents and data of the audits in Liechtenstein or does not keep them in Liechtenstein for ten years after the completion of the audit, in violation of Art. 21 para. (3) (c);
- i) as a mandated third party, violates the obligation to provide information, documents and copies as set out in Art. 21 para. (3) (d).

3) The Fiscal Authority shall punish with a fine of up to 10 000 francs anyone who wilfully:

- a) fails to confirm the reasonableness, in a timely manner, of a self-certification obtained in the context of the opening of a New Account pursuant to Art. 7 para. (13);
- b) violates the information, documentation or transmission obligation pursuant to Art. 10 and Art. 18 para. (3) and (4);
- c) provides an incomplete or untruthful self-certification to a Reporting Liechtenstein Financial Institution pursuant to Art. 13 or fails to notify changes in the circumstances;
- d) violates an applicable final decree or decision of the Fiscal Authority pursuant to Art. 19.

4) If the violation is committed negligently, the fine shall be:

- a) in the case of contraventions under para. (1) (a) to (d): up to 100 000 francs;
- b) in the case of contraventions under para. (2) (a) to (d) and (g) to (i): up to 10 000 francs;
- c) in the case of contraventions under para. (3) (a) to (c): up to 5 000 francs.

Art. 29⁷¹*Serious, repeated or systematic violations*

The Fiscal Authority shall punish with a fine of up to 500 000 francs anyone who commits violations pursuant to Art. 28 para. (1) in a serious, repeated or systematic way.

Art. 30⁷²*Participants*

The Fiscal Authority shall punish with a fine of up to 500 000 francs anyone who, in a serious, repeated or systematic way, directs another to commit a violation pursuant to Art. 28 para. (1) or otherwise contributes to the commission thereof.

Art. 31⁷³*Procedural provisions under administrative criminal law*

1) In proceedings for a violation under Art. 28, the Fiscal Authority may proceed by means of an administrative penalty order if the factual and legal situation is clear. To the extent there are no provisions to the contrary in this Act, Art. 147 to 149 of the National Administration Act apply *mutatis mutandis*.

2) In all other proceedings for violations under Art. 28 and in proceedings for violations under Art. 29 and 30, to the extent there are no provisions to the contrary in this Act, Art. 152 to 159 of the National Administration Act apply *mutatis mutandis*.

Art. 32⁷⁴*Legal remedies in administrative criminal proceedings*

1) Administrative criminal decisions of the Fiscal Authority under Art. 28 to 30 may be appealed by way of a complaint to the National Tax Commission within 14 days of service.

⁷¹ Art. 29 amended by LGBL 2020 No. 499.

⁷² Art. 30 amended by LGBL 2020 No. 499.

⁷³ Art. 31 amended by LGBL 2020 No. 499.

⁷⁴ Art. 32 amended by LGBL 2020 No. 499.

2) Decisions of the National Tax Commission may be appealed by way of a complaint to the Administrative Court within 14 days of service.

3) Administrative penalty orders of the Fiscal Authority under Art. 31 para. (1) may be objected to (Art. 149 LVG) at the Fiscal Authority within 14 days of service. If a fine of up to 5 000 francs is imposed under an administrative penalty order, only a complaint under para. (1) in lieu of an objection shall be permissible.

Art. 33⁷⁵

Repealed

Art. 34⁷⁶

Responsibility of Entities

1) If infringements are committed with effect for an Entity, the Entity shall be subject to a fine.

2) The executive bodies authorised for representation at the time of the offence shall be jointly liable for the fines imposed if the fines are not paid by the Entity.

3) If infringements were committed with effect for an Entity that has meanwhile been removed, the executive bodies authorised for representation at the time of the offence shall be fined. They shall be jointly liable for the fine.

Art. 35

Statute of limitations

1) For contraventions referred to in Art. 28 to 30, prosecution and enforcement shall become statute-barred in five years.⁷⁷

2) The period of limitation for criminal prosecutions shall commence at the end of the year in which the violation of the law was last committed or upon termination of the function as an executive body authorised for representation. The period of limitation is suspended while the suspect is abroad.

⁷⁵ Art. 33 repealed by LGBL 2020 No. 499.

⁷⁶ Art. 34 amended by LGBL 2020 No. 499.

⁷⁷ Art. 35 para. (1) amended by LGBL 2020 No. 499.

The period of limitation is interrupted by any investigation measures conducted against the suspect. The period of limitation starts afresh after each interruption. The period of limitation may not be more than double the original period.⁷⁸

3) The period of limitation for enforcement commences with the legally binding conclusion of the criminal proceedings. It shall be suspended as long as the penalty remains unenforceable in Liechtenstein. The period of limitation of sentence enforcement will be interrupted by every enforcement measure conducted against the convicted person. The period of limitation starts afresh after each interruption. The period of limitation may not be more than double the original period.

IX. Cooperation among authorities⁷⁹

Art. 35a⁸⁰

Cooperation among domestic authorities

Domestic authorities, in particular the courts, the Office of the Public Prosecutor, the Financial Intelligence Unit, the Office of Justice, the Financial Market Authority, the Liechtenstein Chamber of Lawyers and the Fiscal Authority, shall provide each other with all information and disclosures required for implementation of the applicable agreements and this Act, including personal data.

Art. 36⁸¹

Notifications by the Fiscal Authority to the competent supervisory authorities and agencies

1) If administrative criminal proceedings are initiated in accordance with Art. 29 and 30, the Fiscal Authority shall notify the supervisory authorities and agencies responsible for imposing supervisory and disciplinary measures.

⁷⁸ Art. 35 para. (2) amended by LGBL 2020 No. 499.

⁷⁹ Heading before Art. 35a inserted by LGBL 2020 No. 499.

⁸⁰ Art. 35a inserted by LGBL 2020 No. 499.

⁸¹ Art. 36 amended by LGBL 2020 No. 499.

2) The Fiscal Authority shall notify the supervisory authorities and agencies competent in accordance with para. (1) of the number of undocumented accounts reported for each Reporting Liechtenstein Financial Institution every year.

X. Final provisions

Art. 37

Implementing regulations

The Government shall enact the regulations required for the implementation of this Act.

Art. 38

Entry into force

Provided that the referendum deadline expires unutilised this Act shall enter into force on 1 January 2016, otherwise on the day after the announcement.

By proxy for the Prince of Liechtenstein:
signed *Alois*
Hereditary Prince

signed *Adrian Hasler*
Head of the Princely Government

Transitional provisions

354 **Law on International Automatic Exchange of
Information in Tax Matters
(AEOI-Act, AIA-Gesetz)**

Liechtenstein Law Gazette

2017

No. 293

issued on 25 October 2017

Law
of 7 September 2017
amending the AEOI-Act

...

II.

Transitional provision

If, due to the provisions of Art. 2 para. (1) subpara. (18) letter b), subpara. (20) letter b), subpara. (21) letter b), subpara. (22) letter b) and Art. 7 para. (5) letter b), AEOI due diligence procedures pursuant to Art. 7 must be renewed, this shall be done by 31 December 2018.

...

Liechtenstein Law Gazette

2018

No. 215

issued on 2 November 2018

Law of 6 September 2018 amending the AEOI-Act

...

II.

Transitional provision

Liechtenstein Entities whose classification changes pursuant to Art. 2 para. (1) subpara. (2) letter h) must make these changes by 31 December 2019.

...

Liechtenstein Law Gazette

2020

No. 499

issued on 23 December 2020

Law
of 6 November 2020
amending the AEOI-Act

...

II.

Transitional provisions

1) Liechtenstein Passive NFEs that have voluntarily classified themselves as Investment Entity (Financial Institutions) in accordance with Art. 4 para. (2) of the law hitherto in force must reclassify themselves by 31 December 2021 in accordance with Art. 3 para. (1) of the new law. In the event of a change in classification, the respective Reporting Liechtenstein Financial Institutions must be notified immediately in accordance with Art. 3 para. (2) of the new law, but no later than 31 December 2021.

2) Liechtenstein Entities that have not complied with the notification obligation pursuant to the second sentence of Art. 4 para. (6) of the law hitherto in force and are thus deemed to be Reporting Liechtenstein Financial Institutions must make up the notification of the classification pursuant to Art. 3 para. (2) of the new law by 31 December 2021. Reporting Liechtenstein Financial Institutions must treat Liechtenstein Entities that have not notified their classification by that date as Passive NFEs as of 31 December 2021, unless they can reasonably determine on the basis of information in their possession or publicly available information that the Account Holder is an Active NFE or a Financial Institution, with the exception of an Investment Entity under Art. 2 para. (1) (3) (b) that is not a Financial Institution of a Participating Jurisdiction.

3) If the documentation required under Art. 3 para. (3) or Art. 7 para. (15) of the new law is not available as of 1 January 2021, Liechtenstein Entities are obliged to prepare it by 31 December 2021.

4) Reporting Liechtenstein Financial Institutions that are not registered with the Fiscal Authority as of 31 December 2020 must register in accordance with Art. 8 of the new law by 31 December 2021.

5) The documentation obligation under Art. 10 para. (5) of the new law shall apply to information to be provided from 1 January 2021.

6) Infringements of the provisions of Art. 4 para. (3) (a) and Art. 5 para. (3) (a) of the law hitherto in force shall be punished in accordance with Art. 28 para. (1) (a) and (b) of the new law.

7) The Court of Justice shall remain competent for proceedings that are pending when this Act enters into force.⁸² The penal provisions amended by this Act shall not apply in criminal cases in which the judgment of the first instance was handed down before their entry into force. However, after such a judgment has been set aside as a result of an ordinary appeal or other legal remedy, §§ 1 and 61 of the Criminal Code shall apply.

...

⁸² Entry into force: 1. January 2021.