

## The Mandatory Automatic Exchange of Fiscal Information

Dear Customers

We would like to inform you that, as of 01.01.2016, the new Fiscal Procedure Code will come into force, which is amended in order to facilitate the enforcement, at national level, of Directive 2014/107 /EU, which amends Directive 2011/16/UE, regarding the mandatory automatic exchange of information in the fiscal area. These legal provisions take into consideration a more transparent procedure of tax and fees collection and also the diminishing of fraud and cross-border tax evasion by appropriately removing situations in which unrecorded incomes might exist, which would lead to the objective impossibility of the state in right to enforce tax and fees withholding to carry on with the procedure in this sense.

Taking into consideration the aforementioned aspects, we would like to ensure you that both the collection, storage, processing and remittance of fiscal nature information to the competent Romanian authorities, as well as the potential remittance of said information to third party European Union Member States or to other states participant in the automatic reporting mechanism, in compliance with the bilateral and multilateral agreements concluded with Romania/the European Union, states which are identified and published in the official list of the European Commission, («Member State») by the authorised entities within the National Agency for Fiscal Administration (ANAF), are carried out as to fulfil the legal obligations established by the Fiscal Procedure Code, regarding the mandatory automatic exchange of information in the fiscal area in order to better enhance the efficiency of the tax and fees collection activity.

You may consult the complete list of states participant in the automatic reporting mechanism, constantly updated, by accessing the following links:

- <http://www.oecd.org/ctp/exchange-of-tax-information/MCAA-Signatories.pdf>
- <http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/crs-by-jurisdiction/#d.en.345489>

To continue, we would like to supply you with some useful information in order to facilitate the better understanding of the new requirements and of the manner in which they will impact your personal information and/or the nature of your banking secrecy right.

In case you would like to obtain additional information regarding the content of these provisions or of the actions carried out by Banca Comercială Română (« BCR ») in order to align itself to the new requirements, we kindly ask you to request additional information from any BCR branch.

**We would like to mention that all of the information found in this document represents an abbreviated version of the legal provisions related to automatic reporting and do not encompass all of the Fiscal Procedures Code provisions relevant for this subject.**

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### 1. Definitions :

**Financial Asset** includes a 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.

**Financial Account** is an account managed by a Financial Institution, and includes a depository account or a custodial Account. We also understand by this notion any cash value insurance contract and any annuity contract issued or maintained by a financial institution, other than a non-investment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an account that is not object to the reporting based on the mandatory exchange of financial data according to the Directive's provisions.

**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

**Custodial Account:** an account (other than an Insurance Contract or Annuity Contract) which holds one or more Financial Assets for the benefit of another person.

**Account making the object of reporting:** Financial Account that is held by one or more Reportable Account Holders, maintained by a Romanian financial institution.

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

**Cash Value** means the greater of (i) 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 (ii) 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.

**Person making the object of reporting:** the person presenting any of the reporting signs

**Person from another Member State:** a natural person having the residence in any other Member State based on the fiscal legislation in the jurisdiction of the respective member state or the inheritable patrimony of a deceased person having the residence in any other member state.

**Account holder:** the person identified as the holder of a Financial Account by the Financial Institution where the account was opened. 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. . In case no person has such rights, the holder will be deemed the person having the payment right according to the contractual terms.

## **2. Reporting signs which establish the « Person making the object of reporting » :**

In case any of the following situations is applicable to you, you will be considered a person making the object of reporting and your personal data found in the Statement will be submitted to the national competent authority, respectively to any Member State where you are a tax payer, unless the characteristics found are subject to a remedial procedure, as mentioned below:

**I. Residence Address :** in case your residence address (domicile or residence), in your capacity of holder of BCR products and services, is located in another Member State than Romania, which is a participant in the automatic reporting mechanism, according to the supporting documents presented to the Bank when your identification process took place, you will be considered a person subject to reporting.

### **II. Other Information:**

- a) your correspondence or residence address, including a PO Box, are located in another member state
- b) you are resident in another member state
- c) you have one or more phone numbers registered in another member state and no phone number in Romania
- d) you provided the bank with permanent instructions Account (Direct Debit or Standing Orders), other than the ones regarding a Deposit Account, to transfer funds to an account managed by another member state;
- e) You have authorised a person from another member state to operate your accounts;
- f) If you made any reference to a "hold mail" or "in-the-attention-of" instruction in another Member State, if you, as account holder, did not provide any other address upon opening the Financial Account;

If any of the characteristics mentioned under point II are applicable to you, your personal information, thus falling in the scope of the automatic exchange of fiscal information mechanism, the following remedial procedures will be applicable:

- a) You will be asked by BCR to give a Self Certification, in the form of a Statement, for the verification and confirmation respectively (as the case may be) of the data and information that BCR possesses
- b) You will be asked by BCR to present some supporting documents to support the information provided within the abovementioned Self Certification document

In case the newly supplied information reveals the fact that you are not a reportable person, BCR will not proceed to remit the personal data or data related to banking secrecy to the National Agency for Fiscal Administration (ANAF), in compliance with the aforementioned observations.

We would like to also mention that you will be notified, in all of the cases, before the remittance of any information to the National Agency for Fiscal Administration (ANAF), by means of a message sent via Mailbox, included in the Internet Banking Service, if you have this service or, if not, by mail. The aforementioned notification will also contain a deadline for the issue, giving you the possibility to provide the Bank with supporting documents (such as a residence certificate issued by a Romanian government entity) adequate in order to establish the fact that your status is, in fact, that of an un-reportable individual.

### **3. Information submitted to ANAF**

Below you may find elements which are subject to reporting, related to the taxable periods which begin as of January 1<sup>st</sup>, 2016, regarding a Financial Account which is subject to reporting as well:

- a) Name, Address, Member State of residence, fiscal identification number (numbers) (NIF), date and place of birth of each individual subject to the reporting activity and who is a holder of the account
- b) Account Number
- c) Balance or value of the account (including the redemption value in the case of an Insurance Agreement with a redemption value or of a Life-income Agreement) at the end of the calendar year or of another adequate reporting period or, in case the account was closed during the year or during said reporting period, the closing of the account;

In addition to these elements for a (i) Custody Account subject to the reporting activity, namely for a (ii) Deposit Account subject to the reporting activity, the following information is also subject to reporting activities:

i.1 the total gross quantum of the interest, the gross quantum of the dividends and the total gross quantum of all the other revenues generated in relation to the assets held in the account, paid or credited in the respective account or related to it during the calendar year or during a different reporting period, according to the legal provisions;

i.2 total gross cash-in from the sale or redemption of Financial Assets paid or credited in the account during the calendar year or during a different reporting period, in compliance with the legal provisions, related to which the Financial Institution acted as custodian, broker, representative or any other type of agent of the Account Holder;

ii.1 the total gross quantum of the interests paid or credited in the account during the calendar year or during a different reporting period, according to legal provisions.

In all cases:

- the aforementioned information will express the currency in which each of the amounts is expressed;
- the balance/ value of an account is established the last day of a reporting period ;
- the reporting of the personal data information or which relates to the banking secrecy system will be reported annually to ANAF, during the calendar year following the year related to which the reporting is carried out.

### **4. BCR Work Flow as of January 1<sup>st</sup>, 2016, according to the aforementioned :**

- BCR, in its capacity of Reporting Financial Banking Institution, will proceed to the analysis of the internal data base as to assess the clients with CRS characteristics such as domicile and/or residence address, correspondence address, fiscal residence country, place of birth or phone number, etc. The existence of the characteristics (according to point 2 above) is a pre-existing condition that these clients will become « Reportable ».
- Before reporting of the personal or banking secrecy related data towards the Fiscal Administration Agency (ANAF) the reportable individuals will be notified about this matter, giving them 30 days to present to any BCR branch a Self Certification and to update their information, as the case may be
- If, following the update of information already in BCR's possession, the identified characteristics become not applicable, the client will not be a reportable person anymore and his personal data will not be further reported to ANAF
- Filling in of the Self Certification is mandatory starting with 01.01.2016, when contracting new BCR products/services