

CERTAIN REQUIREMENTS FOR PAYMENT SERVICE PROVIDERS

Amendment to the VAT Act implementing Council Directive (EU) 2020/284 of 18 February 2020 amending Directive 2006/112/EC as regards the introduction of certain requirements for payment service providers ("CESOP") introduces an obligation for payment service providers to keep records of cross-border payments and their recipients and to report the data from these records to the tax authorities.

The Industrial and Commercial Bank of China, Prague Branch ("the Branch") is obliged to comply with the CESOP requirements given by the Czech legislation.

A **payment service provider** is a person authorized under the law regulating payment transactions to provide a registered payment service with the exception of the Czech National Bank.

A **registered payment service** is any of the business activities listed in points 3 to 6 of Annex I to Directive (EU) 2015/2366, which read as follows:

- the execution of payment transactions, including the transfer of funds, on a payment account held with the payment service provider of the user or with another payment service provider:
 - making direct debits, including one-off direct debits,
 - making payment transactions by means of a payment card or similar means,
 - making payments, including standing orders,
- the execution of payment transactions where funds are drawn from a credit to the payment service user:
 - making direct debits, including one-off direct debits,
 - the execution of payment transactions by means of a payment card or similar device,
 - making payments, including standing orders,
- issuing means of payment or accepting payment transactions,
- money remittance.

A **cross-border payment** is such a payment transaction under the law governing payment transactions that takes place from a payer (the payer is the payer under the Payment Transactions Act) in one Member State of the European Union to a payee in another Member State of the European Union, or from a payer in one Member State of the European Union to a payee in a third country. A payment initiated by a payer in a third country to a payee in a Member State of the European Union shall not be subject to registration or reporting requirements.

For these purposes, the country of establishment of the payer or payee shall be deemed to be the country corresponding to the IBAN identifier of the payer's or payee's payment account or other identifier that uniquely identifies the payer or payee and their country of establishment and, in the absence of such an identifier, the country corresponding to the BIC code or other similar identifier that uniquely identifies the payment service provider or similar provider under the law of another country acting on behalf of the payer or payee.

A registered payment service provider is obliged to keep **records of cross-border payments and their payees** if it provides registered payment services corresponding to more than 25 cross-border payments to one payee during one calendar quarter. Following data are kept and reported:

- BIC/ID of the payment service provider,
- name of the payee,
- VAT/ID number of the payee,
- IBAN/other beneficiary account identification number,
- BIC/ID of the payee's payment service provider if the payee does not have a payment account,
- address of the payee,
- information on the returned payment,
- date/time,
- amount,
- currency,
- Member State of origin of the payment/Member State of destination of the reimbursed payment and information on the place of the principal,
- transaction identification code.

The report is sent on a quarterly basis to the Financial authority (Specializovaný finanční úřad) via the official portal.