

# Guidelines in relation to the DAC 7 reporting obligations of Platform Operators

(SL 123.127)

(Issued in terms of Article 96(2) of the Income Tax Act.)



TAX & CUSTOMS  
ADMINISTRATION

M A L T A

The information provided shall be read and construed as one with the applicable legislation and shall have effect to the extent that such guidelines, explanations or instructions are not in conflict with Malta's international commitments.

While every effort has been made to ensure that the above information is consistent with existing policies and practice, should there be any changes, the Commissioner for Revenue reserves the right to vary its position accordingly.

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## Abbreviations

Reporting Malta Platform Operator	RMPO
Directive on Administrative Cooperation	DAC
Commissioner for Revenue	CfR
Permanent Establishment	PE
Effective Qualifying Competent Authority Agreement	EQCAA

## 1. Introduction

Council Directive (EU) 2021/514 of 22 March 2021 is the seventh amendment to Directive 2011/16/EU that introduces a new reporting framework for Platform Operators (hereinafter 'DAC 7').

The digital platform economy has evolved rapidly over recent years. This has led to various challenges with respect to tax detection and accountability. DAC 7 intends to assist Member States with the challenges faced by the growth of the digitalised economy by introducing reporting obligations for Platform Operators. This increases transparency on the income gained by Sellers from digital Platforms.

Reporting obligations being introduced cover both cross-border, as well as non-cross border activities and apply to all Sellers of the platform, irrespective of their legal nature. These obligations extend also to third country Platform Operators that despite not being resident for tax purposes, nor incorporated or managed or have a permanent establishment in a Member State, conduct certain relevant activities in the EU.

### 1.1 The role of the Commissioner for Revenue

The Competent Authority is appointed in terms of Regulation 8 of the Cooperation with other Jurisdictions on Tax Matters Regulations (S.L. 123. 127). All information exchanged pursuant to the instruments remains strictly subject to confidentiality and other safeguards as delineated in the relevant international instruments.

All information exchanged between the Commissioner for Revenue and the Reporting Malta Platform Operators remains subject to the General Data Protection Regulation as implemented by the Data Protection Act (Chapter 586 of the Laws of Malta) and as circumscribed by regulation 21 of the Cooperation with other Jurisdiction on Tax Matters Regulations.

To ensure the proper implementation of the above-mentioned instruments, clarifications may be sought from the Commissioner for Revenue on specific implementing guidelines. These requests for clarifications shall be addressed to the International & Corporate Tax Unit through the electronic mailing address: [dpi-eoi.cfr@gov.mt](mailto:dpi-eoi.cfr@gov.mt) and must include the following aspects to be considered:

1. The merits of the case,
2. The applicable legislative provisions, if any,
3. The applicable implementing guidelines, if any,
4. Why the legislative provisions or/and implementing guidelines as set out hereunder do not give certainty to the merits of the case.

## 2. Platforms in scope of DAC 7

### 2.1 Definition of a Platform

These regulations apply to operators of both EU and non-EU based digital platforms. A “Platform” refers to any software that is accessible by users and that allows a Seller to connect to other users for purposes of carrying out a “Relevant Activity<sup>1</sup>”, directly or indirectly, to such user. This may be;

- a website or a part of it;
- applications including mobile applications; or
- any arrangement that provides for the collection and payment of a consideration.

Indirect provision of Relevant Activities may occur in situations where the Platform first purchases such goods and/or services and then offers these in its own name to users.

For example, a Platform which offers food delivery services and first buys these services from third-party sellers and then delivers the food to its users in its own name, would be considered a Platform that is carrying out a Relevant Activity indirectly to the users.

For the purposes of DAC 7, a software that allows any of the below, **without any further intervention** in the carrying out of a Relevant Activity, is not considered to be a Platform. These include:

- a) processing of payments in relation to the Relevant Activity;
- b) users to list or advertise a Relevant Activity;
- c) redirecting or transferring of users to a Platform.

### 2.2 Platform Operator

For a Platform to fall into scope, the Platform must be an Entity that contracts with Sellers to make available all or part of a Platform to such Sellers.

An Entity includes legal persons, corporations and legal arrangements, such as partnerships, trusts and foundations.

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<sup>1</sup> Section 4

	Description	Reporting Obligations
Example 1	A Platform Operator lists a Relevant Activity/ies on its website and the contact details of the respective Seller. A prospective buyer reaches out to the Seller directly and the contract and payment of Consideration are not made through the Platform.	This type of Platform Operator is excluded from DAC 7 registration and reporting obligations since the Platform only facilitates the listing of a Relevant Activity.
Example 2	A Platform Operator lists a Relevant Activity/ies on its website, including the contact details of the Seller and the price. The Platform Operator facilitates the conclusion of contract between the buyer and the Seller through the Platform, whilst the Consideration for the activity is not collected through the Platform. The final Consideration paid to the Seller may differ from the amount stated in the contract.	This type of Platform Operator is in scope of the DAC 7 registration and reporting obligations. The Platform Operator is expected to report the Consideration as per the contract agreement and is not expected to investigate further the price actually charged by the Seller.
Example 3	A Platform Operator lists a Relevant Activity/ies on its website, including the contact details of the Seller and the price. The Platform Operator facilitates the conclusion of the contract, including the collection of the Consideration for such activities through the Platform.	This type of Platform Operator is in scope of DAC 7 registration and reporting obligations. The Platform Operator is required to report the Consideration which was facilitated through the Platform. In this case, the Consideration to be reported is the same amount that was transferred by the Platform Operator to the Seller's bank account.



## 2.3 Reporting Platform Operator

A 'Reporting Platform Operator' is a Platform Operator, other than an Excluded Platform Operator<sup>2</sup> which satisfies any of the following;

- a) Is resident for tax purposes in a Member State or, where such Platform does not have a residence for tax purposes in a Member State, it fulfils any of the following conditions:
  - i. It is incorporated under the laws of a Member State;
  - ii. It has a place of management, including effective management, in a Member State; or
  - iii. It has a permanent establishment in a Member State and is not a Qualified Non-Union Platform Operator.<sup>3</sup>
- b) It does not satisfy any of the conditions laid down in (a) above but,
  - i. Facilitates the carrying out of a Relevant Activity by Reportable Sellers in a Member State, or
  - ii. Facilitates the carrying out of a Relevant Activity which involves the rental of immovable property located in a Member State, and is not a Qualified Non-Union Platform Operator.

## 2.4 Platforms operating in the EU

### 2.4.1 Reporting Malta Platform Operator

A Reporting Platform Operator would be required to register as a Reporting Malta Platform Operator (RMPO) with the Commissioner for Revenue (CfR) if it has a nexus with Malta. For this purpose, for a Reporting Platform Operator to qualify as a RMPO, it must satisfy one or more of the following conditions:

- a) It is resident for tax purposes in Malta;
- b) It is incorporated under the laws of Malta;
- c) It has a permanent establishment in Malta;
- d) It has its place of management, including effective management in Malta.

Where on the basis of the above-listed criteria the Reporting Platform Operator has a nexus with both Malta and any one or more EU Member State, the Reporting Platform Operator must elect any one of the Member States that it has a nexus with to fulfil its registration and reporting obligations.

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<sup>2</sup> Section 2.6

<sup>3</sup> Section 2.5.1

Where a Platform Operator does not satisfy any of the conditions laid down in (a) of Section 2.3 but satisfies the conditions laid down in (b) of Section 2.3, it may elect Malta to fulfil its registration and reporting obligations.

## 2.5 Platforms Operating Outside the EU

A Platform Operator falling under point (b) of Section 2.3 must elect a Member State to fulfil its registration and reporting requirements unless the Platform Operator is not a Qualified Non-Union Platform Operator.

### 2.5.1 Qualified Non-Union Platform Operator

A ‘Qualified Non-Union Platform Operator’ is a Platform Operator for which all Relevant Activities that it facilitates are also Qualified Relevant Activities. These are Relevant Activities which are covered by the automatic exchange pursuant to an agreement between the competent authority of a Member State and a non-Union jurisdiction that requires the automatic exchange of information, as set out in Section 7 of these guidelines. (This agreement is referred to as an ‘Effective Qualifying Competent Authority Agreement’, hereinafter EQCAA.)

For a Platform Operator to be a ‘Qualified Non-Union Platform Operator’ it must also;

- a) Be resident for tax purposes in a Qualified Non-Union Jurisdiction; or
- b) Where the Platform Operator does not have a residence for tax purposes in a Qualified Non-Union Jurisdiction, it fulfils any of the following conditions;
  - a. It is incorporated under the laws of a Qualified Non-Union Jurisdiction; or
  - b. It has its place of management, including effective management in a Qualified Non-Union Jurisdiction.

A ‘Qualified Non-Union Jurisdiction’ means a non-Union jurisdiction that has in effect an EQCAA with the competent authorities of all Member States which are identified as reportable jurisdictions in a list published by the non-Union jurisdiction.

#### 2.5.1.1 Full Switch-Off Mechanism

Non-Union Platform Operators falling under Section 2.5.1 of these guidelines, that are resident in a Non-Union Jurisdiction, may benefit from the Full Switch-Off Mechanism if:

- a) The Non-Union Jurisdiction where the non-Union Platform Operator is resident has an EQCAA covering **all the Relevant Activities** carried out by the Reportable Sellers of the Non-Union Platform; **and**

- b) The Non-Union Jurisdiction where the non-Union Platform Operator is resident has an EQCAA with **all the Member States** where:
  - i. the Reportable Sellers are resident, and
  - ii. the Reportable Sellers carry out the rental of immovable property.

These Non-Union Platform Operators are not required to register and report in a Single Member State of the Union. All necessary information which is to be reported as per Section 7 of these Guidelines is reported and exchanged by the Qualified non-Union Jurisdiction with all Member States of the Union, via the EQCAA.

#### Example 1: Full Switch-Off Mechanism

‘Platform A’, which is a non-Union Platform Operator, is tax resident in a Non-Union jurisdiction and facilitates the carrying out of Relevant Activities by Reportable Sellers<sup>4</sup> who are resident in Member States of the Union.

The non-Union Platform Operator is a ‘Qualified non-Union Platform Operator’ if it satisfies the following conditions;

- a) The non-Union jurisdiction where Platform A is resident is a ‘Qualified non-Union Jurisdiction’. That is, it has an EQCAA with all Member States of the Union where the Reportable Sellers are resident and, where the Reportable Sellers carry out the rental of immovable property and;
- b) all Relevant Activities carried out are ‘Qualified Relevant Activities’.

In this scenario, Platform A benefits from a full-switch off and thus, to eliminate double reporting, Platform A is not required to register and report in a Single Member State of the Union as per Section 2.5. All necessary information is exchanged by the Qualified non-Union Jurisdiction with all the concerned Member States via the EQCAA.

#### Example 2: Full-Switch Off Mechanism

‘Platform B’, which is a Non-Union Platform Operator, is resident in a Non-Union Jurisdiction and facilitates the carrying out of all Relevant Activities by Reportable Sellers who are resident and/or carry out the rental of immovable property in 10 Member States of the Union. The non-Union Jurisdiction where Platform B is resident has an EQCAA with respect to all Relevant Activities with the 10 Member States of the Union. Platform B is a Qualified non-Union Platform Operator as it satisfies the two conditions set out in Example 1 above.

In this scenario, Platform B benefits from a full-switch off since the Platform has an EQCAA with the 10 Member States of the Union where the Reportable Sellers are resident and where the Reportable Sellers carry out the Rental of Immovable

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<sup>4</sup> Section 3.3

Property, and this agreement covers all the Relevant Activities which are carried out by the Reportable Sellers.

### 2.5.2 Partial Switch-Off

A Non-Union Platform Operator falling under Section 2.5 of these Guidelines, resident in a Non-Union Jurisdiction, may benefit from a Partial Switch-Off if:

- a) The Non-Union Jurisdiction where the non-Union Platform Operator is resident has an EQCAA that does not cover all the Relevant Activities carried out by the Reportable Sellers of the Non-Union Platform; and / or
- b) The Non-Union Jurisdiction where the non-Union Platform Operator is resident does not have an EQCAA with all the Member States where the Reportable Sellers are resident and the Member States where the Reportable Sellers carry out the rental of immovable property.

Non-Union Platform Operators benefitting from the Partial Switch-Off Mechanism are required to register and report in a single Member State of the Union. The information to be reported as per Section 7 of these Guidelines is information not covered by the EQCAA. That is:

- any information about Reportable Sellers who are resident in Member States not covered by the EQCAA,
- information about Relevant Activities which are not covered by the EQCAA,
- information about Reportable Sellers who carry out the rental of immovable property in Member States not covered by the EQCAA.

Information which is covered by the EQCAA is to be reported and exchanged by the Qualified non-Union Jurisdiction, with all concerned Member States of the Union.

#### Example 1: Partial Switch-Off

'Platform C' is resident in a Non-Union Jurisdiction and facilitates the carrying out of Relevant Activities by Reportable Sellers, who are resident in all Member States of the Union. The non-Union Jurisdiction where Platform C is resident, has an EQCAA with respect to all Relevant Activities, with only 12 Member States of the Union.

In this scenario, Platform C will report information on the Qualified Relevant Activities, which are covered by the EQCAA, for Reportable Sellers resident and those who rented out immovable property in one or more of the 12 Member States of the Union. This information is reported where the Platform is resident and will then be exchanged with the Competent Authorities of these 12 Member States.

In addition, Platform C must register and report information in a single Member State of the Union with respect to Reportable Sellers who are resident and those who

rented out immovable property in Member States of the Union for which the Platform does not have an EQCAA with.

#### Example 2: Partial Switch-Off

‘Platform D’ is resident in a Non-Union Jurisdiction and facilitates the carrying out Relevant Activities by Reportable Sellers who are resident in all Member States of the Union. The non-Union Jurisdiction where Platform D is resident has an EQCAA with respect to the sale of goods with 10 Member States of the Union.

In this scenario, Platform D will report information on the Qualified Relevant Activities, which are covered by the EQCAA i.e. sale of goods, for Reportable Sellers resident in the 10 Member States of the Union. This information is reported where the Platform is resident and will then be exchanged with the competent authorities of the 10 Member States.

Furthermore, Platform D must register and report the following information in a single Member State of the Union;

- a) Information on Reportable Sellers with respect to the Relevant Activity of the sale of goods to the 17 Member States where no EQCAA is effective, and
- b) Information on Reportable Sellers with respect to the Relevant Activities which are not covered by the EQCAA, being those of a personal service, the rental of immovable property and the rental of any mode of transport to the 27 Member States.

In this example, Platform D benefits from the partial switch-off mechanism and the reporting obligation is partially relieved for Platform D.

### 2.6 Excluded Platform Operator

An ‘Excluded Platform Operator’ means a Platform Operator which has demonstrated upfront and on an annual basis to the satisfaction of the competent authority in Malta that its entire business model is such that it does not have Reportable Sellers.

The registration requirements and process of registration for an Excluded Platform Operator are outlined in Section 6 of these guidelines.

## 3. Sellers

### 3.1 Definition of a Seller

A Seller is defined as a Platform user, that is registered on the Platform at any moment during the Reportable Period. Reportable Period refers to the calendar year, in respect of which reporting is being completed pursuant to the reporting requirements outlined in Section 7 of these guidelines.

The Seller can be an individual or an Entity and needs to be carrying out a Relevant Activity<sup>5</sup>.

### 3.2 Active Seller

An 'Active Seller' is any Seller that either;

- Provides a Relevant Activity during the Reportable Period or;
- Is paid or credited Consideration in connection with a Relevant Activity during the Reportable Period.

Consideration refers to compensation in any form and net of any fees, commissions or taxes which is withheld or charged by the RMPO and then paid or credited to the Seller, in connection with the Relevant Activity. The amount of Consideration needs to be known or reasonably knowable by the RMPO.

Situations where Consideration<sup>6</sup> would be considered as reasonably knowable may arise where the RPO assumes contractual obligations in respect to provision of Relevant Activities, which give rise to Consideration. Examples include situations where the RPO commits to providing refunds or other forms of buyer protection, in relation to a Relevant Activity. Situations where Consideration would be considered as reasonably knowable may arise where the Reporting Platform Operator withholds or receives a fee or some form of commission with respect to payments made by users in relation to the Relevant Activities.

The business model of the Platform must be such that it provides visibility over the Consideration to the RPO. It must be noted that it is not expected that the RPO implements additional procedures to gain access to information on consideration where this is not otherwise known or reasonably knowable.

### 3.3 Reportable Seller

A Seller is considered to be reportable for DAC7 purposes if it is an Active Seller, other than an Excluded Seller, that;

- a) Is resident in a Member State; or
- b) rented out immovable property located in a Member State.

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<sup>5</sup> Section 4

<sup>6</sup> Reference from OECD Model Reporting Rules for Digital Platforms: Frequently Asked Questions. Available on: <https://www.oecd.org/tax/exchange-of-tax-information/model-reporting-rules-for-digital-platforms-faqs.pdf>.

### 3.4 Excluded Seller

An 'Excluded Seller' is any Seller;

- a) that is a Government Entity;
- b) that is an Entity the stock of which is regularly traded on an established securities market or a related Entity of an Entity the stock of which is regularly traded on an established securities market<sup>7</sup>;
- c) that is an Entity for which the Platform Operator facilitated more than 2 000 Relevant Activities<sup>8</sup> by means of the rental of immovable property in respect of a Property Listing<sup>9</sup> during the Reporting Period; or
- d) for which the Platform Operator facilitated less than 30 Relevant Activities by means of the sale of Goods and for which the total amount of Consideration paid or credited did not exceed EUR 2 000 during the Reporting Period.

## 4. Relevant Activities

A Relevant Activity refers to any of the below activities which is carried out for Consideration:

a) **The rental of immovable property.**

This includes both residential and commercial property, as well as any other immovable property and parking spaces. Rentals of immovable property can be both short- and long-term rentals, irrespective of whether these are freehold, usufruct or otherwise.

b) **A Personal service.**

A Personal Service is defined as a service including time-or-task based work performed by one or more individuals, acting either independently or on behalf of an Entity, and which is carried out at the request of a user, either online or physically offline after having been facilitated via a Platform.

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<sup>7</sup> 'Established Securities Market'- the Commissioner for Revenue recognises those stock exchanges that are members of the European Securities and Markets Authority and the World Federation of Stock Exchanges. In addition to these, the New York Stock Exchange is also recognised.

<sup>8</sup> Section 4

<sup>9</sup> 'Property Listing' includes all immovable property units which are located at the same street address, owned by the same owner and offered for rent on a Platform by the same Seller.

A number of services are included, such as transportation and delivery services, manual labour, copywriting, tutoring and legal and accounting tasks.

Public-accessible transportation services which operate in accordance with a pre-determined timetable, such as airplane services, are not considered to fall under this definition.

Services provided simultaneously to more than one user, such as online language classes, also qualify as a Personal Service if these are provided subsequent to a request and adapted to the specific requirements of one or more users. Moreover, gaming or betting services which are provided by a Platform, but not customised according to the request of a user, are not considered to be a Personal Service.

**c) The sale of Goods.**

Goods refer to any tangible property. Consequently, the sale of intangible assets or goods, such as vouchers, would not be captured by the term Goods.

**d) The rental of any mode of transport.**

#### 4.1 Activities not considered to be 'Relevant Activities'

Any activity carried out by a Seller who is acting as an employee of the Platform Operator or a **related Entity** of that Platform Operator, is not considered to be a 'Relevant Activity'.

An Entity is considered to be a **related Entity** if either Entity controls the other Entity, or the two Entities are under common control. Control includes direct or indirect ownership of more than 50% of the vote and value in an Entity. In cases of indirect participation, the fulfilment of the requirement for the holding of more than 50% of the right of ownership in the capital of the other Entity is determined by multiplying the rates of holding through the successive tiers. A person holding more than 50% of the voting rights is considered to hold 100%.

## 5. Due Diligence Procedures

Once a Platform determines that it is a RMPO, it needs to apply due diligence procedures to enable it to identify and report to the CfR, information on Reportable Sellers, within the deadlines outlined in section 8 of these Guidelines.

### 5.1 Sellers not subject to review

For the purpose of determining whether a Seller, that is an Entity, qualifies as an Excluded Seller, the RMPO may;



- i) in the case of Excluded Sellers described in points (a) and (b) of Section 3.4, rely on publicly available information or a confirmation from the Seller that is an Entity, and
- ii) in the case of Excluded Sellers described in points (c) and (d) of Section 3.4, rely on its available records.

## 5.2 Collection of Information

The information laid down in this section needs to be collected by each RMPO on each Reportable Seller.

### 5.2.1 Information to be collected for a Reportable Seller that is an individual

All the below information needs to be collected for each Reportable Seller who is an individual:

1. The first and last name;
2. The primary residential address;
3. Any taxpayer identification number (TIN) or a functional equivalent<sup>10</sup> in the absence of a TIN issued to the Seller by the jurisdiction of residence of the Seller, including each jurisdiction of issuance;
  - In the absence of a TIN, the place of birth of the Seller;  
Note – the RMPO is not obliged to collect the TIN of the Seller where the jurisdiction of residence of the Seller does not issue a TIN or does not require the collection of the TIN.
4. Where available, VAT identification number<sup>11</sup> of the Seller;
5. Date of birth.

### 5.2.2 Information to be collected for a Reportable Seller that is an Entity

All the below information needs to be collected for each Reportable Seller which is an Entity i.e. legal person or legal arrangement:

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<sup>10</sup> In the case of individuals, such functional equivalent may include the Identity Card Number of the Individual. More information can be found by following this link- <https://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/>

<sup>11</sup> The unique number that identifies a taxable person or non-taxable entity that is registered for VAT purposes.

1. The legal name;
2. The registered office;
3. Any taxpayer identification number (TIN) or a functional equivalent in the absence of a TIN issued to the Seller by the jurisdiction of residence of the Seller, including each jurisdiction of issuance;  
 Note – the RMPO is not obliged to collect the TIN of the Seller where the jurisdiction of residence of the Seller does not issue a TIN or does not require the collection of the TIN.
4. Where available, VAT identification number
5. The business registration number;  
 Note – the RMPO is not obliged to collect the business registration number of the Seller where the jurisdiction of residence of the seller does not issue a business registration number.
6. The existence of any permanent establishment (PE) through which Relevant Activities are carried out in the EU, and where available indicating each respective Member State where such PE is located.

### 5.3 Verification of Information

The RMPO is obliged to verify that the information collected as required in 5.2 above, is reliable. For this verification process, the RMPO may use;

- All information and documents available to it in its records, including electronically searchable records;
- Any electronic interface made available by a Reportable Jurisdiction or the Union free of charge to ascertain the validity of the TIN and / or VAT identification number.

Where the RMPO has reason to know that any of the information collected in section 5.2 above is inaccurate, by virtue of information provided by the Competent Authority of a Member State in a request concerning a specific Seller, the RMPO is obliged to request the Seller to correct the information that was found to be inaccurate. This correction must be supported by reliable documents, data or information, from an independent source. This can take the form of:

- a) A valid government-issued identification document or,
- b) A recent tax residency certificate.

### 5.4 Determination of jurisdiction of residence of a Seller

The Seller is to be considered resident in the Member State of that Seller's Primary Address. The Primary Address is the primary residence of a Seller who is an individual, or the registered office of a Seller that is an Entity. Where the Seller's TIN(s) is issued

by a Member State(s), other than the Member State of the Seller's Primary Address, the RMPO has to also consider these Member States as jurisdictions of residence.

Where the Seller has provided to the RMPO information relating to the existence of a PE, pursuant to point (6) to section 5.2.2 above, the RMPO is to consider the Seller resident also in the Member States where it has a PE.

Other than the above indicated jurisdictions of residence, a RMPO is to consider a Seller resident in each Reportable Jurisdiction confirmed through an electronic identification service made available by a Reportable jurisdiction or the Union.

Where the RMPO collects 'home', 'billing' or 'residential' address information with the intention of using this information as the Seller's Primary Address, the RMPO must ensure that the Seller is made aware that the address provided is where the Seller lives and considers as his/her primary residence.

Where the Seller's home address is different than the Seller's billing address, the home address shall be treated as the Seller's Primary Address. The billing address shall be treated as the Seller's Primary Address, only in the case where the RMPO only collects billing address information.

## 5.5 Collection of Information on Rental of Immovable Property

Where a Seller is engaged in the rental of immovable property, the RMPO needs to collect the following information;

- a) The address of each Property Listing<sup>12</sup>; and
- b) Respective land registration number, where issued, or its equivalent under the national law of the Member State where the immovable property is located.

In cases where a RMPO facilitated more than 2000 Relevant Activities by means of the rental of a Property Listing for the same Seller, that is an Entity, the RMPO will need to collect supporting documents, data or information that the Property Listing is owned by the same owner.

## 5.6 Timing and validity of due diligence procedures

A RMPO must complete the due diligence procedures set out above by 31<sup>st</sup> December of the Reportable Period. Reportable Period means the calendar year in respect of which reporting is being completed.

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<sup>12</sup> 'Property Listing' includes all immovable property units which are located at the same street address, owned by the same owner and offered for rent on a Platform by the same Seller.

For Sellers already registered on the Platform as of 1<sup>st</sup> January 2023 or as of the date on which an Entity becomes a RMPO, the due diligence procedures set out above are to be completed by 31<sup>st</sup> December of the second Reportable Period for the RMPO.

A RMPO may rely on the due diligence procedures conducted in relation to previous Reportable Periods, provided that;

- a) Seller information required to be collected, as outlined in Section 5.2 has either been collected and verified, or else confirmed within the last thirty-six (36) months; and
- b) The RMPO does not have any reason to know that the information collected is or has become unreliable or incorrect.

A RMPO has the option to complete its due diligence procedures with respect to Active Sellers only.

A RMPO may rely on third-party service providers to fulfil their due diligence obligations. However, the responsibility of such obligations remains on the RMPO. In the case where a Platform Operator fulfils the due diligence obligations for a RMPO with respect to the same Platform, such Platform shall carry out the due diligence procedures in line with the rules explained in this section. However, the due diligence obligations remain the responsibility of the RMPO.

### 5.7 RMPO's obligation to inform Reportable Sellers

Each RMPO is obliged to inform each individual Reportable Seller concerned that the information relating to him will be collected and transferred in accordance with these instruments. This may be checked by the Commissioner, who is required to ensure that the RMPO provides to that individual all information that he/she is entitled to under the General Data Protection Regulation and the Data Protection Act in sufficient time for the individual to exercise his data protection rights and, in any case, before the RMPO concerned reports the information to the Office of the Commissioner for Revenue. It is important to note that the method chosen to inform Reportable Sellers is at the discretion of the RMPO, as long as the former is informed and a systematic process is in place.

### 5.8 Failure to provide the necessary information

In the case where a Seller does not provide the information required to be collected as outlined in this section, the RMPO must send two reminders, within sixty (60) days, following its initial request. If the Seller does not provide the necessary information, following the two reminders, the RMPO must close the account of the Seller and prevent the Seller from re-registering on the Platform.

The RMPO must not affect any payments of Consideration to the Seller until such Seller provides the information requested.

## 6. Registration Requirements

Once the Entity determines that it is classified as a RMPO, it must register with the CfR within two (2) weeks of the commencement of its activities as a Platform Operator. This applies to both RMPOs that have a nexus only with Malta, and also those Reporting Platform Operators that have a nexus with Malta and any other Member State, and have chosen Malta to fulfil their registration and reporting obligations.

If a Reporting Platform Operator has a nexus with Malta and any other Member State and it decides to fulfil its registration and reporting obligations in another Member State and not in Malta, it must notify Malta of its election. The notification must be submitted within two (2) weeks of its registration with the other Member State.

A Reporting Platform Operator falling within Section 2.5 of these guidelines that chooses Malta as the Member State of its single registration to fulfil its reporting obligations, must register with the CfR within two (2) weeks of the commencement of its activities as a Platform Operator. An individual identification number will be allocated by the CfR to those Reporting Platform Operators who choose Malta as their single Member State of registration.

A Reporting Platform Operator having successfully registered with the CfR as its Member State of its single registration, must notify the CfR of any changes in the information provided in its registration. Any changes in registration must be completed by the 31<sup>st</sup> of December of the Reportable Period.

An Excluded Platform Operator, as defined in Section 2.6, must register with the CfR and provide valid reasons as to its determination that the Platform Operator is excluded for that Reporting Period. This request is subject to the approval of the competent authority in Malta and a confirmation or rejection of the request will be sent within four (4) weeks of a valid application.

Valid reasons as to the determination of a Platform Operator to be registered as an Excluded one must be submitted on an annual basis, by the 31<sup>st</sup> of August of the Reportable Period. If a Platform Operator commences its activities after this date, the Platform must provide proof that it classifies as an Excluded Platform Operator within two (2) weeks of the commencement of its activities, till the 31<sup>st</sup> of December.

If the Competent Authority in Malta does not approve the proposal for the Platform Operator to be classified as an Excluded Platform Operator, it will automatically be classified as a RMPO. The Platform Operator will then be subject to the registration and reporting requirements of a RMPO.

Each Reporting Platform Operator having successfully registered with the competent authority in Malta must communicate the information to be reported as outlined in Section 7 of these guidelines.

### 6.1 First Year of Registration

A Platform Operator satisfying any of the conditions laid down in Section 2.4.1 must register with the Competent Authority in Malta as a RMPO by 31<sup>st</sup> August 2023. Any changes in registration must be completed by 31<sup>st</sup> December 2023.

An Excluded Platform Operator must register with the Competent Authority in Malta and provide proof of such classification by 31<sup>st</sup> August 2023.

Platform Operators which commence their activities after 31<sup>st</sup> August 2023 must register with the Competent Authority in Malta by the 31<sup>st</sup> December 2023. These Platform Operators are obliged to register within two (2) weeks of the commencement of their activities. This also applies to Excluded Platform Operators.

## 7. Information to be Reported

A RMPO having successfully registered with the Competent Authority in Malta must report the information set out in this section to the Competent Authority in Malta within the deadlines stipulated in Section 8 of these guidelines.

### 7.1 Information to be Reported with respect to Reportable Sellers

For Reportable Sellers that carried out Relevant Activity, the following information needs to be reported:

- a) The information items required to be collected as laid out in Section 5.2 of these guidelines.
- b) The Financial Account Identifier, insofar as it is available to the RMPO and insofar as the Competent Authority of the Member State where the Reportable Seller is resident, has not published that it does not intend to use the Financial Account Identifier for this purpose.
- c) Where the account holder of the financial account to which the Consideration is paid or credited is different from the Reportable Seller, the name and any other financial identification information which is available to the RMPO, with respect to that account holder, needs to be reported.
- d) Each Member State in which the Reportable Seller is resident.
- e) The total Consideration paid or credited during each quarter of the Reportable Period and the number of Relevant Activities in respect of which it was paid or credited.
- f) Any fees, commissions or taxes withheld or charged by the RMPO during each quarter of the Reportable Period.

The following additional information needs to be reported with respect to Reportable Sellers that engage in the rental of immovable property:

- a) The address of each Property Listing, determined as per the procedures laid down in Section 5.4 of these Guidelines.
- b) The land registration number, where available, or equivalent, of each Property Listing, as laid down under the national law of the Member State where it is located.
- c) Where available, the number of days that each Property Listing was rented during the Reportable Period and the type of each Property Listing.

Information reported with respect to the Consideration paid or credited in a fiat currency must be reported in the currency in which it was paid or credited. Where the Consideration was paid or credited in a form other than fiat currency, it must be reported in the local currency, converted or valued in a manner that is consistently determined by the RMPO.

The information about Consideration and other amounts must be reported in respect of the quarter of the Reportable Period in which the Consideration was paid or credited.

## 8. Reporting Deadlines

A RMPO must report the information set out in Section 7 to the Competent Authority in Malta with respect to the Reportable Period, no later than 31<sup>st</sup> January of the year following the calendar year in which the Seller is identified as a Reportable Seller.

Where there is more than one Reporting Platform Operator, a RMPO is exempt from reporting the information if it has the necessary proof that the same information has already been reported by another Reporting Platform Operator.

This proof must be in the form determined by the Commissioner, which proof is to be submitted through the CfR portal and must consist of:

- a) A dated declaration on the letterhead of the RMPO and signed by the Director, including all of the following:
  - i. Details of the RPO which has submitted the report. (Name of the Entity, Name of the Platform, TIN and registered office address), and
  - ii. Member State where the report was submitted.
- b) Official proof of successful submission by the RPO in the other Member State, including date of submission and reporting period to which such information relates.

Furthermore, the Unique Record Identifier for each Reportable Seller must be collected and kept by the RPO. This does not need to be included with the proof

mentioned above, however would need to be provided to the Commissioner for Revenue upon request.

Where a Reporting Platform Operator, having registered with the competent authority in Malta as its Member State of its single registration, fails to report the information required to be reported, following two reminders by the competent authority in Malta, will have its registration revoked. The registration will be revoked, not later than after the expiration of ninety (90) days, but not prior to the expiration of thirty (30) days after the second reminder.

## 9. Retention of Information

A RMPO must maintain and retain all the documentation and information it collects for the purposes of DAC 7, for a minimum period of five (5) years, starting from the end of year in which the information relates. The RMPO must also keep records of the steps it undertook in relation to any evidence relied upon for the performance of the due diligence procedures and reporting requirements.