

## Securitisation Regulation: Notification of investment

### Part 38-03-30

This document should be read in conjunction with [Regulation \(EU\) 2021/557 of the European Parliament and of the Council of 31 March 2021](#).

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## Introduction

This TDM relates to a reporting obligation introduced by Regulation (EU) 2021/557 of the European Parliament and of the Council of 31 March 2021 entered into force on 9 April 2021 (Regulation (EU) 2021/557), which amended [Regulation \(EU\) 2017/2402 of the European Parliament and of the Council of 12 December 2017](#) (Regulation (EU) 2017/2402).

The purpose of Regulation (EU) 2021/557 is to lay down a general framework for securitisation and to create a specific framework for simple, transparent and standardised securitisation to help the recovery from the COVID-19 crisis.

Recital 7 of Regulation (EU) 2021/557 explains that an investor in a Securitisation Special Purpose Entity (“SSPE”)<sup>1</sup>, established after 9 April 2021, in a jurisdiction listed in Annex II of the Council of the European Union’s list of non-cooperative jurisdictions, for the reason of operating a harmful tax regime, should notify the competent tax authority of the Member State in which it is resident for tax purposes. This information may be used to assess whether the investor derives a tax benefit from such an investment.

### 1 Notification of investment (‘NOI’)

Under Article 4(c) of Regulation (EU) 2017/2402 as amended by Regulation (EU) 2021/557, an NOI must be made to Revenue when a person invests in an SSPE, established after 9 April 2021, in a jurisdiction listed in Annex II for the reason of operating a harmful tax regime.

The NOI provides for the submission of details of both the investor and investment and all relevant panels should be completed in full.

The [NOI](#) is available on the Revenue website.

#### 1.1 Annex II list

Since 2020 the Member States have agreed to review and update, if appropriate, the Council of the European Union’s list of non-cooperative jurisdictions twice annually.

The current list of Annex II jurisdictions for the reason of operating a harmful tax regime and to which this reporting requirement applies (referred to in this TDM as the ‘relevant Annex II jurisdictions’), as of 21 February 2023, is as follows –

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<sup>1</sup> Article 2 of Regulation (EU) 2017/2402 provides that an SSPE ‘means a corporation, trust or other entity, other than an originator or sponsor, established for the purpose of carrying out one or more securitisations, the activities of which are limited to those appropriate to accomplishing that objective, the structure of which is intended to isolate the obligations of the SSPE from those of the originator’.

- Albania
- Armenia
- Eswatini
- Hong Kong
- Jordan
- Malaysia
- Qatar

Previous lists of relevant Annex II jurisdictions from the introduction of this obligation can be found in [Appendix 1](#).

## 1.2 Filing Deadlines

Otherwise than as provided in [1.2.1](#), [1.2.2](#), or [1.2.3](#), the NOI should be submitted to Revenue, via MyEnquiries, on or before the applicable return filing date for the investor in respect of the period in which the investment is made (e.g. for a company, this will be the date on which the Form CT1 for the accounting period in which the investment is made is due for filing, for an investment undertaking this will be the date on which the IUT return for the period in which the investment is made is due for filing etc.)

### 1.2.1 A jurisdiction is no longer a relevant Annex II jurisdiction

Where a jurisdiction is a relevant Annex II jurisdiction at the time of the making of an investment in that jurisdiction, but that jurisdiction is subsequently removed from Annex II after the investment was made, but prior to the submission of the required NOI, the NOI should still be submitted to Revenue.

The NOI became available on the Revenue website on 4 July 2022. Where the NOI was due for submission prior to the NOI becoming available (i.e. prior to 4 July 2022), the NOI was required to be submitted to Revenue by 30 September 2022.

Otherwise, where the NOI is due for submission after 4 July 2022, the NOI is required to be submitted to Revenue on or before the applicable return filing date for that investor.

#### Example 1 – NOI not available at submission due date

Smith Ltd., an Irish resident company with a year-end of 30 June, invested in an SSPE established on 30 April 2021 in Australia. Smith Ltd. made the investment on 1 June 2021. At the time the investment was made, Australia was a relevant Annex II jurisdiction. Even though Australia was removed from the Annex II list on 12 October 2021, Smith Ltd. is still required to submit an NOI to Revenue.

Smith Ltd.'s CT return for the year-ended 30 June 2021 was due for filing on 23 March 2022 – as the NOI was not available on that date, Smith Ltd. had until 30 September 2022 to submit an NOI for this investment.

#### Example 2 – NOI available at submission due date

Mary Jones, an Irish resident individual, invested in an SSPE which was established on 30 April 2021 in Anguilla. Mary made the investment on 1 February 2022. At the time Mary made her investment, Anguilla was a relevant Annex II jurisdiction. Even though Anguilla was removed from the Annex II list on 12 October 2022, Mary is still required to submit an NOI to Revenue.

Mary's Income Tax return for 2022 is due for filing on 31 October 2023, and as such Mary must submit her NOI for her investment by this date also.

#### 1.2.2 A jurisdiction becomes a relevant Annex II jurisdiction after an investment is made in that jurisdiction

Where an investment is made in an SSPE established after 9 April 2021 and at the time of making the investment, the jurisdiction is not a relevant Annex II jurisdiction, but subsequently becomes a relevant Annex II jurisdiction, an NOI is required to be submitted to Revenue.

In instances where an obligation to submit an NOI only applies from the time the jurisdiction becomes a relevant Annex II jurisdiction, and the applicable filing date (in relation to the date the investment was actually made) has passed, the NOI should be submitted to Revenue by the next relevant filing date for that particular investor.

#### Example

Irish Maximum Growth Fund, an investment undertaking, invested in an SSPE established on 1 November 2021 in Armenia. Irish Maximum Growth Fund made the investment on 1 December 2021. Armenia subsequently became a relevant Annex II jurisdiction on 12 October 2022, and therefore a requirement to submit an NOI applies from this date. The relevant filing date based on the date the investment was actually made was 30 January 2022, however, Armenia was not a relevant Annex II jurisdiction at that time. Therefore, Irish Maximum Growth Fund must submit an NOI to Revenue by the next relevant filing date occurring after Armenia became a relevant Annex II jurisdiction, which occurs on 30 January 2023.

#### 1.2.3 An investment in a jurisdiction is disposed of prior to that jurisdiction becoming a relevant Annex II jurisdiction.

There is no requirement to submit an NOI to Revenue where the investment has been disposed of prior to the jurisdiction becoming a relevant Annex II jurisdiction.

### Example

John Murphy, an Irish resident individual, invested in an SSPE which was established on 30 April 2021 in Uruguay. John made the investment on 1 June 2021 and disposed of the investment on 31 August 2021. Uruguay subsequently became a relevant Annex II jurisdiction on 12 October 2021. As John had disposed of his investment prior to Uruguay becoming a relevant Annex II jurisdiction, John is not required to submit an NOI to Revenue in relation to this investment.

## 2 Submission of the NOI

The NOI should be completed and attached to a new enquiry and submitted to Revenue via MyEnquiries.

For users accessing MyEnquiries through the Revenue Online Service (ROS), please categorise your enquiry by selecting the following options from the dropdown menus:

- Under the 'My Enquiry relates to' field select 'Other Than The Above'.
- Under the 'More Specifically' field select 'Notification of investment'.

For users accessing MyEnquiries through myAccount, categorisation dropdown menus may not be available. Where this is the case, users should include "Notification of Investment" in the Enquiry Details text box.

For further guidance on using MyEnquiries, please see [Tax and Duty Manual \(TDM\) 37-00-36](#).

## Appendix 1

### List of previous relevant Annex II Jurisdictions

As of 26 February, 2021<sup>2</sup>, the relevant Annex II jurisdictions are:

- Australia
- Jordan
- Jamaica.

As of 12 October 2021, the relevant Annex II jurisdictions are:

- Costa Rica
- Jamaica
- Jordan
- Hong Kong
- Malaysia
- North Macedonia
- Qatar
- Uruguay.

As of 3 March 2022, the relevant Annex II jurisdictions are:

- Anguilla
- Bahamas
- Barbados
- Bermuda
- Costa Rica
- Hong Kong
- Jamaica
- Jordan
- Malaysia
- North Macedonia
- Qatar
- Russia
- Uruguay
- Turks and Caicos Islands.

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<sup>2</sup> Noting that the requirement to report an investment in an SSPE established in these jurisdictions, only became a requirement from the date Regulation (EU) 2021/557 entered into force on **9 April 2021**.

As of 12 October 2022, the relevant Annex II jurisdictions are:

- Armenia
- Barbados
- Costa Rica
- Eswatini
- Hong Kong
- Jamaica
- Jordan
- Malaysia
- North Macedonia
- Qatar
- Russia
- Uruguay

The current list of relevant Annex II jurisdictions, which came into effect on 21 February 2023, can be found at [1.1](#) above.