BOP Reporting Regulation 1/2022 of the Oesterreichische Nationalbank on cross-border capital transactions

The following regulation has been issued in line with Article 6 para. 3 Exchange Control Act 2004 (Devisengesetz – DevG 2004), Federal Law Gazette I No. 123/2003, as last amended by Federal Law Gazette I No. 37/2018:

First main part General provisions

Obligation to compile statistics and purpose of reporting

Article 1 (1) Article 6 para. 1 Exchange Control Act 2004 (Devisen gesetz – DevG 2004), Federal Law Gazette I No. 37/2018, requires the Oesterreichische Nationalbank (OeNB) to produce and disseminate the following statistics:

- 1. Austria's balance of payments,
- 2. statistics on Austria's international investment position,
- 3. foreign direct investment statistics for Austria, and
- 4. all statistics covering Austria's external sector in the context of these statistics.

These statistics are published in a dequate ways, inter a lia on the OeNB's website.

- (2) To meet this legal obligation, the OeNB is authorized by Article 6 para. 2 Exchange Control Act 2004 to request information and reports from resident natural and legal persons as well as other resident institutions having legal personality.
- (3) The OeNB must establish, by way of regulation, the deadlines for data transmission, the reporting formats and the breakdown of the data to be submitted. Having regard to Article 6 paras. 2 and 3 Exchange Control Act 2004, this reporting regulation is issued to serve as a basis for identifying the reporting a gents and for defining their reporting obligations for the deadlines specified.
 - (4) OeNB guidelines and technical notes for reporting a gents may be accessed on the OeNB's website.
- (5) The OeNB uses the data reported a ccording to this regulation to produce statistics that reflect the international integration of the Austrian economy and support monetary and economic policymaking. These statistics are required, inter alia, by the European Central Bank (ECB); Eurostat, the statistical office of the European Union; as well as the International Monetary Fund (IMF). Moreover, these statistics serve to generate important indicators for the competitiveness of Austria as a business location.

Scope of reporting

Article 2 In line with the second main part and annexes to this regulation (templates), the reporting requirements cover statistical data, including master data, on cross-border direct investment, other cross-border investments, cross-border capital transfers and real estate-linked transactions, cross-border transactions with financial derivatives as well as portfolio investment activities.

General reporting provisions

- **Article 3** (1) The data, including master data, must be submitted electronically in line with the technical standards defined by the OeNB (see the OeNB's website).
 - (2) The reporting language is German.
- (3) Reporting agents are required to register and to comply with the login and user authentication procedure well in advance of the reporting deadlines. See the OeNB's website for guidance.
 - (4) Reporting a gents must provide the data breakdowns specified on the OeNB's website.
 - (5) All items to be reported per reporting period must be submitted in a single report.
- (6) For select items, master data must be submitted well in advance of the reporting deadlines. The master data must be updated or completed in a dvance of data transmissions.
 - (7) Euro equivalents must be converted using the exchange rates published on the OeNB's website.
- (8) Country and currency codes must be indicated in line with the prevailing ISO standards published on the OeNB's website.

- (9) When a reporting deadline falls on a Saturday, Sunday or public holiday, the deadline is extended to the next working day.
- (10) If data already sent need to be modified (e.g. changed, added or deleted), an adjusted report must be retransmitted without delay. The OeNB is entitled to request data adjustments when the original report was incomplete or contained technical errors or errors of substance.
- (11) Reporting agents may authorize a third party to submit the reports. Such parties must provide evidence of their authorization. Irrespective of the existence of such an authorization, the OeNB is entitled to address requests for further information or data corrections and other inquiries directly to the reporting agents.
- (12) If reportable transactions are carried out by a trustee on behalf of resident reporting agents, the reporting obligation lies with the trustor (resident). If reportable transactions are carried out by a domestic trustee on behalf of nonresidents, the reporting obligation lies with the trustee.
- (13) The reporting obligations of residents lacking a legal personality (e.g. branch offices) owned by nonresidents are equivalent to those of residents.

Exemptions from reporting obligations

Article 4 The obligation to report data under the terms of this reporting regulation does not apply to:

- 1. persons employed by an Austrian central, regional or local authority or an Austrian corporation under public law if they are Austrian nationals and if their place of work is located abroad, as well as their family members living in the same household;
- 2. international organizations and foreign nationals that, under international (bilateral) conventions, have been granted diplomatic or consular prerogatives and immunities or privileges in the field of exchange control legislation.

Penal provisions

Article 5 Violations of the reporting obligation represent an administrative offense under Article 10 Exchange Control Act 2004 and may be punished by a fine. The reporting obligation must be met without prejudice to any financial penalties.

Confidentiality

Article 6 The data collected by the OeNB will be used for statistical purposes only and will be kept strictly confidential in accordance with Article 6 para. 4 Exchange Control Act 2004. The obligation of maintaining banking secrecy under Article 38 Banking Act (Bankwesengesetz – BWG) does not prejudice the OeNB's right to obtain these data (Article 6 para. 8 Exchange Control Act 2004).

Second main part Regular surveys

Section 1

Cross-border shareholders and participations - transactions

Scope

Article 7 (1) Data on cross-border transactions must be reported when related to:

- 1. outward or inward direct investment activities, or
- 2. other outward or inward investment activities (i.e. participations of less than 10%, excluding shares), as specified in the AWBET template (annex A).
- (2) Amounts must be reported in euro, or as euro equivalents based on the exchange rate applying on the date of the transaction. With profit distributions and withdrawals from income, euro equivalents must be derived by using the exchange rate of the day when the payment was made.
- (3) Transactions with indirect investment participations, such as contributions to second-tier subsidiaries, must be reported as direct investment transactions with the direct investment participation or participations.

Reporting agents

Article 8 Data must be reported by residents participating in outward or inward direct investment activities as well as by residents holding participations of less than 10% in foreign enterprises abroad (excluding shares) or residents in whose companies nonresidents hold participations of less than 10% (excluding shares).

Reporting threshold

Article 9 Individual transactions must be reported when totaling EUR 500,000 or more (or the euro equivalent). No reporting threshold applies to disinvestments bringing direct investment holdings reported earlier below the 10% threshold or leading to a complete disinvestment; such transactions must be reported at any rate.

Reporting period

Article 10 Direct investment transactions must be reported by the 15th day of the month following the reporting period. The reporting period is the month in which the direct investment transactions to be reported were made. With profit distributions and withdrawals from income, however, the reporting period is the month in which the payment was made.

Section 2

Cross-border shareholders and participations – stocks

Ad hoc surveys

- **Article 11** (1) Reporting a gents deemed statistically relevant are required to report data on outward and inward direct investment stocks and related income at an annual frequency.
 - (2) The residents selected for this purpose receive individual notifications to submit data.
- (3) Amounts must be reported in euro, with the exchange rate reflecting the cutoff date applied to the underlying balance sheet data.
- (4) In the absence of reportable shareholdings and participations, reporting agents must submit nil reports.

Section 3

Cross-border asset and liability stocks

Scope

- **Article 12** (1) Cross-border asset and liability stocks, including nontransaction-related changes and interest, related to other cross-border investment must be reported in line with the AWFUV template (annex B), broken down by region or by foreign affiliated entities or counterparties.
 - (2) Amounts must be given in the original currency.
 - (3) Asset and liability stocks must be reported as outstanding net amounts.
 - (4) Reports must be submitted even if levels have not changed since the previous period covered.

Reporting agents – general provisions

- **Article 13** (1) Reports must be submitted by all residents who make or receive cross-border other investments.
- (2) Any claims on residents arising from other investment activities that nonresidents seek to recover through collectors must be reported by the collectors commissioned. The reporting requirement covers all outstanding claims of nonresidents to be recovered, with the total to be shown in the report under "lia bilities."

Reporting agents – special provisions

Article 14 (1) Special rules as set out in section 17 for reporting other investment apply to monetary financial institutions (MFIs) as defined in Article 1 lit. a no. 2 sublit. a of Regulation (EU) No 1071/2013 of the European Central Bank of 24 September 2013 concerning the balance sheet of the monetary financial institutions sector (ECB/2013/33), OJ L 366, 20.12.2014.

The requirement to report "other cross-border investment" pursuant to the second main part, section 3, AWFUV template (annex B) does not apply to investment fund management companies (Article 3 para. 2 no. 1 Investment Fund Act 2011 – Investment fondsgesetz 2011 – Federal Law Gazette no. 77/2011 as amended) and real estate investment management companies (Article 2 Real Estate Investment Fund Act – Immobilien-Investmentfondsgesetz – Federal Law Gazette I no. 80/2003 as amended; investment fund management companies report under Regulation (EU) No 1073/2013 of the European Central Bank of 18 October 2013 concerning statistics on the assets and liabilities of investment funds (ECB/2013/38),

In case of doubt, the German version will apply.

OJ L 319, 29.11.2013). However, other investment made for own account and in the investor's own name must be reported.

Reporting threshold

- **Article 15** (1) Asset and liability stocks arising from other cross-border investment activities (excluding trade credits) must be reported if they add up to EUR 10,000,000 or more (or the euro equivalent).
- (2) Asset and liability stocks relating to trade credits (excluding other investment) must be reported if they add up to EUR 10,000,000 or more (or the euro equivalent).
- (3) Asset and liability stocks must not be netted against each other. If asset and liability stocks rise beyond the reporting threshold in a given reporting year, the reporting requirement remains in place for the following years. For the reporting requirement to be lifted again, the threshold must have been undershot in six successive reporting periods. For those years in which asset and liability stocks arising from other investment fall short of the reporting limit, the shortfall must be reported. If the holdings of a financial instrument reported earlier drop to zero in a reporting period, no nil reports are required beyond this reporting period.

Reporting period

Article 16 The data must be reported by the 15th day of the month following the reporting month. The reporting cutoff date is the last day of the month.

Special rules on the reporting of other investment by MFIs

Article 17 (1) MFIs, as defined in Article 1 lit. a no. 2 sublit. a ECB monetary statistics regulation, must submit data when they are domiciled in Austria or operate through a branch office in Austria.

- (2) This reporting requirement includes direct investment loans and deposits by MFIs:
- 1. Specifically, the reporting requirement includes all loan- or deposit-related claims and liabilities against nonresident creditors and debtors (other than nonresident MFIs and nonresident banks) with FDI links in line with the second main part and section 2.
- 2. Claims and liabilities of MFIs to nonresident affiliates arising from "other investment" must be broken down into loans and deposits as shown in annex B.1.
- 3. Foreign participations and shares must be reported in line with the definitions used for the assets statement (Regulation of the Financial Market Authority (FMA) on Asset, Income and Risk Statements (VERA-V; Vermögens-, Erfolgs- und Risikoausweis-Verordnung), Federal Law Gazette II No. 471/2006 as amended). In this case, data must be provided on those nonresident creditors and debtors that are reported under cross-border participations and shares in the assets statement.
- 4. Reports of direct investment loans and deposits by MFIs are not subject to any reporting limits.
- 5. The data must be reported by the 10th banking day of the month following the reporting month. The reporting cutoff date is the last day of the month.
- (3) Report of data supplementing the money and banking statistics reported to the ECB for the purposes of external sector statistics:
 - 1. Data as listed in annex B.2 must be reported.
 - 2. Reports of these data are not subject to any reporting limits.
 - 3. The data must be reported by the 10^{th} banking day of the month following the reporting month. The reporting cutoff date is the last day of the month.

Section 4

Cross-border capital transfers and real estate transactions

Scope

Article 18 (1) Data must be provided for cross-border capital transfers and real estate transactions, with a regional breakdown of data on:

- 1. cross-border capital transfers,
- 2. cross-border purchases and sales of real estate,
- 3. cross-border rental and leasing payments as well as
- 4. cross-border payments related to rights for exploiting natural resources in line with the AWVLM template (annex C).

- (2) Amounts must be reported in euro, or as euro equivalents based on the exchange rate applying on the date of the transaction.
- (3) Gratuitous assignments (e.g. gifts or heritage) by nonresidents to residents or vice versa must be reported by indicating the market value of the real estate.

Reporting agents

- **Article 19** (1) Capital transfers must be reported by the residents that transfer funds a broad or receive funds from abroad. Cross-border capital transfers to nonresident heirs handled by a resident notary public must be reported by the resident notary public.
- (2) Cross-border real estate transactions between a resident and a nonresident must be reported by the resident buyer or seller of the real estate. Cross-border real estate transactions between two nonresidents handled by a resident notary public must be reported by the resident notary public.
- (3) The cross-border letting or leasing of land and (parts of) buildings must be reported by the resident lessor or the resident lessee.
- (4) Cross-border payments related to rights to exploit natural resources must be reported by the resident granting such rights to a nonresident or being granted such rights by a nonresident.

Reporting threshold

Article 20 Individual transactions must be reported when totaling EUR 100,000 or more (or the euro equivalent). For the letting or leasing of land and (parts of) buildings, the reporting threshold relates to the total rent received or paid in the reporting period.

Reporting period

Article 21 Data must be provided, whenever such cross-border transactions have occurred, by the 15th day of the month following the reporting month. The reporting month is the month in which the capital transfers and real estate transactions occurred. Rental and leasing payments must be reported on a monthly basis for the entire duration of the underlying contract. Payments related to rights to exploit natural resources must be reported at the time such rights take effect.

Section 5

Cross-border financial derivatives

Scope

- Article 22 (1) Data must be provided for payment transactions sent and received as well as a sset and liability stocks related to cross-border financial derivatives transactions broken down by country/region as shown in the AWFDE template (annex $\,$ D).
- (2) Amounts must be reported in euro, using the exchange rate applying on the date of the transaction or, in the case of asset and liability stocks, the latest a vailable exchange rate for the reporting month.
- (3) Payment transactions sent and received for financial derivatives must be netted per period and reported broken down by country/region. Positive totals must be reported with a positive sign; negative totals with a negative sign.
- (4) The fair value of asset and liability stocks must be reported broken down by country/region as well as by positive fair values and negative fair values, using absolute figures.

Reporting agents

Article 23 Data must be provided by all residents conducting cross-border financial derivatives transactions with nonresidents.

Reporting threshold

Article 24 (1) Payment transactions sent and received:

- 1. Payment transactions sent or received with regard to cross-border transactions in financial derivatives must be reported if the resulting totals (or the euro equivalents) add up to EUR 1,000,000 or more in the reporting period.
- 2. If payment transactions sent and received do not add up to EUR 1,000,000 or more, but the reporting threshold for asset and liability stocks is reached or exceeded, both values the payment transactions sent and received and the resulting totals must be reported.
- 3. If payment transactions sent and received as well as for the resulting asset and liability stocks drop below the reporting threshold in the reference period following the submission of data, a final nil

In case of doubt, the German version will apply.

report is required for that period. The reporting requirement would be reactivated only by a renewed rise of transactions or stocks.

- (2) Asset and liability stocks:
- 1. Asset and liability stocks resulting from cross-border financial derivatives transactions must be reported if the end-of-month total reaches EUR 1,000,000 or more (or the euro equivalent).
- 2. If the payment transactions sent and received exceed the reporting threshold but do not add up to an end-of-month total of EUR 1,000,000, reporting is nonetheless required for both payment transactions sent and received and asset and liability stocks.
- 3. If payment transactions sent and received as well as the resulting asset and liability stocks drop below the reporting threshold in the reference period following the monthly submission of data, a final nil report is required for that period. The reporting requirement would be reactivated only by a renewed rise of transactions or stocks.

Reporting period

Article 25 (1) Data on payment transactions sent and received must be reported by the 15^{th} day of the month following the reporting month. The reporting cutoff date is the last day of the month in which the payment transactions sent and received were recorded.

(2) Data on asset and liability stocks must be reported by the 15th day of the month following the reporting month. The reporting cutoff date is the last day of the month.

Section 6

Domestic custody accounts

Scope

Article 26 (1) Irrespective of the place where the securities are kept, resident custodians must report:

- 1. Own-account holdings of securities (excluding securities held in branch offices abroad), regardless of whether the securities are held in custody by themselves or by third parties.
- 2. Securities transactions and securities portfolios held or managed on behalf of investors (excluding own-account holdings of other reporting custodians) in line with the AWWPI template (annex E).
- (2) Reporting a gents are required to provide security-by-security data with ISIN codes (international securities identification numbers). In the absence of an ISIN for a given security, the respective master data must be submitted.
- (3) Amounts must be reported in euro and, if applicable, the nominal currency of the security. For stocks, the latest available exchange rate for the reporting month must be used; for transactions the exchange rate of the day when the transaction took place.
- (4) For all datasets for which stocks other than zero were reported in the previous reporting period, a stock (even zero) must be reported in the current reporting period.

Reporting agents

Article 27 The data must be provided by MFIs (excluding money market funds) and residents holding securities in custody or managing securities for third parties (custody business).

Reporting threshold

Article 28 There is no reporting threshold for these data.

Reporting period

Article 29 The data must be reported by the 15^{th} day of the month following the reporting month. MFIs must submit monthly reports by the 10^{th} banking day at the latest. The reporting cutoff date is the last day of the month.

Section 7

Custody accounts abroad, own holdings of securities and crypto assets

Scope

Article 30 (1) Own holdings of securities that are not held or managed in domestic custody accounts must be reported in line with the AWWPA template (annex F), namely securities held

1. in a custody account abroad,

- 2. for one's own account (e.g. held physically or in the shareholders' register),
- 3. via crypto assets (e.g. blockchain),
- 4. or administered via another type of custody.
- (2) Reporting agents are required to provide security-by-security with ISIN codes (international securities identification numbers). In the absence of an ISIN for a given security, the respective master data must be submitted.
- (3) Amounts must be reported in euro and, if applicable, the nominal currency of the security by using the last exchange rate available for the reporting month.
- (4) For all datasets for which stocks other than zero were reported in the previous reporting period, a stock (even zero) must be reported in the current reporting period.

Reporting agents

Article 31 The data must be provided by residents (excluding those subject to reporting obligations under the second main part, section 6) who own securities that are not held or managed in a domestic custody account.

Reporting threshold

Article 32 Own holdings of securities other than those that are not held or managed in a domestic custody account must be reported if they add up to EUR 5,000,000 or more (or the euro equivalent).

Reporting period

Article 33 The data must be provided by the 15th day of the month following the reporting quarter. The reporting cutoff date is the last day of the quarter.

Third main part Transitional and final provisions

Use of gender-specific terms

Article 34 Person-related terms used in the German version of the reporting regulation do not have a gender-specific meaning. When applied to specific persons, they shall be used in the correct gender-specific form.

Entry into force

Article 35 This reporting regulation enters into force on January 1, 2022. Its applicability begins for reports with the reporting cutoff date of December 31, 2021.

Repeal

Article 36 The BOP Reporting Regulation 1/2013 of the Oesterreichische Nationalbank on crossborder capital transactions, published in the Amtsblatt zur Wiener Zeitung (Official Gazette) No. 078 of April 19, 2013, as a mended by BOP Reporting Regulation 1/2016 of the Oesterreichische Nationalbank, FederalLaw Gazette II no. 10/2016, shall be repealed as of the end of December 31, 2021. BOP Reporting Regulation 1/2013 as amended will continue to apply for monthly reports until the reporting period ending November 30, 2021; for quarterly reports until the reporting period ending September 30, 2021; and for annual reports until the reporting period ending December 31, 2020.

Governing Board of the Oesterreichische Nationalbank

Annex A

			Alliex A
Cross-border shareholde:	rs and participations – tran	sactions (AWBET templat	e)
Reportingitem			
Reporting date/Cutoff da	te		
Transactions related to participations and capital excluding profit distributions (without ISIN code or equivalent)	Transactions related to participations and capital excluding profit distributions (with ISIN code or equivalent)	Profit distributions (without ISIN code or equivalent)	Profit distributions (with ISIN code or equivalent)
OeNB ID number	OeNB ID number	OeNB ID number	OeNB ID number
Type(s) of transaction	Type(s) of transaction	Type(s) of transaction	Type(s) of transaction
Inward or outward transaction	Inward or outward transaction	Inward or outward transaction	Inward or outward transaction
Complete disinvestment	Complete disinvestment		
		Resolution date	Resolution date
	ISIN code or equivalent		ISIN code or equivalent
Type of asset	Type of asset	Type of asset	Type of asset
Value	Value	Value	Value

Annex B

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Cross-border claims and liabilities (AWFUV template)		
Reportingitem		
Reporting date/Cutoff date		
Asset and liability stocks		
Original currency		
Original maturity		
Type of investment		
Country of residence	OeNB ID number	
Type of stock		
Type of a sset		
Value		

Annex B.1

Report on direct investment loans and deposits of MFIs		
Information on the resident/respondent:		
OeNB ID number resident/respondent		
Information on the nonresident:		
OeNB ID number resident/respondent		
Information on the report:		
Reporting period		
Original currency		
Error report qualifier		
Reporting item (type of loan or nontransaction -related change)	Stocks at the end of the reporting period or nontransaction-related change	
Loans to non-MFIs with terms of up to one year		

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Loans to non-MFIs with terms of up to one year, of which overnight	
Loans to non-MFIs with terms of one to five years	
Loans to non-MFIs with terms of more than five years	
Loans to non-MFIs, of which reverse repos	
Loans to non-MFIs, of which past-due loans	
Nontransaction-related changes in loans over the previous month due to write-offs/write-downs of all claims on MFIs	
Nontransaction-related changes in loans over the previous month due to write-offs/write-downs of all claims on non-MFIs	
Reporting item (type of deposit or nontransaction-related change)	Stocks at the end of the reporting period or nontransaction-related change
Deposits of non-MFIs, overnight deposits	
Deposits of non-MFIs with an agreed maturity of up to one year	
Deposits of non-MFIs with an agreed maturity of over one year to two years	
Deposits of non-MFIs with an agreed maturity of over two years	
Deposits of non-MFIs with a period of notice of up to three months	
Deposits of non-MFIs with a period of notice of over three months to one year	
Deposits of non-MFIs with an agreed maturity of over one	
year to two years	
Deposits of non-MFIs with an agreed maturity of over two years	
Deposits of non-MFIs, repurchase transactions	

Annex B.2

Additional items to be reported together with money and banking data for the purposes of external sector statistics

In addition to the loans and deposits items required for money and banking statistics, the following items have to be reported in the table of money and banking data:

- Loans to international organizations
- o with terms of up to one year,

of which overnight,

over one year to five years,

over five years,

o and with the other subitems

reverse repos,

past-due loans.

• Reverse repos (claims a rising from genuine sale and repurchase transactions)

In the category "Other subitems" under the headings "Loans to MFIs in EU member states," "Loans to non-MFIs in EU member states," "Loans to banks in non-EU countries," and "Loans to nonbanks in non-EU countries."

• Past-due loans

In the category "Other subitems" under the headings "Loans to MFIs in EU member states," "Loans to non-MFIs in EU member states," "Loans to banks in non-EU countries," and "Loans to nonbanks in non-EU countries."

- Deposits from international organizations broken down by type of deposit
- o overnight deposits
- o deposits with an agreed maturity, up to one year, over one year to two years,
 - over two years,
- deposits with a period of notice up to three months, over three months to one year, over one year to two years, over two years,

o repos.

For all items, the breakdowns by currency, country and international organizations have to be submitted as required for the reporting of money and banking data.

Annex C

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Cross-border capital transfers	and real estate transactions (AWV)	LM template)
Reportingitem		
Reporting date/Cutoff date		
Capital transfers	Real estate transactions	Rental and leasing payments and fees for exploiting natural resources
Country of counterparty	Country of counterparty	Country of counterparty
Transaction		Transaction
	Type(s) of transaction	
	Type of real estate	
Type of asset	Type of asset	Type of asset
Value	Value	Value

Annex D

Cross-border financial derivatives (AWFDE template)		
Reporting item		
Reporting date/Cutoff date		
Financial derivatives – stocks	Financial derivatives – transactions	
Country of residence	Country of residence	
Type of derivative	Type of derivative	
Asset class	Asset class	
Type of stock	Transaction mapping[¹]	
Type of a sset	Type of asset	
Value	Value	

Annex E

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Domestic custody accounts (AWWPI template)	
Reportingitem	
Reporting date/Cutoff date	
Securities stocks	Securities transactions

[¹update follows]

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ISIN code or equivalent		ISIN code or equivalent	
Nominal currency		Nominal currency	
Custodian – ESA sector		Custodian – ESA sector	
Country of residence	Custodian – OeNB ID number	Country of residence	Custodian – OeNB ID number
Custodian Dominance code		Custodian Dominance code	
		Type(s) of transaction	
Type of asset		Type of asset	
Value		Value	

	Annex F
Custody accounts abroad, own holdings of securities and crypto assets (AWWPA template)	
Reporting item	
Reporting date/Cutoff date	
Securities stocks	
ISIN code or equivalent	
Nominal currency	
Type of custody/safekeeping	
Country of custody	
Type of a sset	
Value	