CAYMAN ISLANDS

Tax Information Authority Act

(2021 Revision)

TAX INFORMATION AUTHORITY (INTERNATIONAL TAX COMPLIANCE) (COMMON REPORTING STANDARD) REGULATIONS

(2021 Revision)

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(2021 Revision)

PART 1 – PRELIMINARY PROVISIONS

Citation

1. These Regulations may be cited as the *Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations (2021 Revision)*.

Definitions

2. (1) In these Regulations —

"**appeal**" means an appeal under regulation 32 and any further appeals relating to the decision on such an appeal;

"**Authority**" means the Tax Information Authority designated under section 4 of the *Tax Information Authority Act (2021 Revision)*, or a person designated by the Authority to act on behalf of the Authority;

"**breach notice**" means the notice mentioned in regulation 28(1)(a);

"**Cayman Financial Institution**" means —

(a) a Financial Institution resident in the Islands other than any of the institution's branches outside the Islands; and

(b) a branch in the Islands of a Financial Institution not resident in the Islands;

"**Cayman Reporting Financial Institution**" means a Cayman Financial Institution other than a Non-Reporting Financial Institution;

"**commentary**" means the commentary mentioned in regulation 5(1);

"**Common Reporting Standard**" means the standard for automatic exchange of financial account information developed by the Organisation for Economic Co-Operation and Development as amended from time to time by the Organisation for Economic Co-operation and Development, set out in the Schedule;

"**company**" means a company as defined under section 2 of the *Companies Act* (*2021 Revision*), a foreign company registered under that Act or an LLC;

"**continuing penalty**" means the notice mentioned in regulation 24(2);

"**contravention**", for a provision pertaining to an offence or a penalty, means the contravention that constituted the offence or the act or omission to which the penalty relates;

"**designated person**" means a person designated mentioned in the definition of "**Authority**";

"**electronic address**" includes an email address and the address of a digital mailbox;

"**electronic portal**" means the Authority's electronic portal for the automatic exchange of information;

"**exempted limited partnership**" means an exempted limited partnership as defined under section 2 of the *Exempted Limited Partnership Act* (*2021 Revision*);

"**give**", for a notice or information, includes to deliver, provide, send, transmit or make the notice or information;

"**inaccurate**" means incomplete, incorrect or unreliable;

"**interest**", for a provision about a penalty, means interest accrued or accruing on the penalty under regulation 35;

"**limited partnership**" means a limited partnership registered under section 49 of the *Partnership Act* (*2013 Revision*);

"**LLC**" means a limited liability company as defined under section 2 of the *Limited Liability Companies Act* (*2021 Revision*);

"**notice**" means written information given, or to be given, electronically or by another mode of communication;

"**official website**" means —

(a) the website of the Department for International Tax Cooperation;

(b) any website of the Authority; or

(c) another Government website about international tax cooperation;

"**Organisation for Economic Co-Operation and Development**" means the Organisation for Economic Co-Operation and Development which was established by the Convention on the Organisation for Economic Co-operation and Development signed in Paris on 14th December, 1960;

"**party**", for a provision about a penalty or proposed penalty, means the person on whom the penalty has been imposed or is being considered to be imposed;

"**penalty**" means a penalty imposed under regulation 24, reconsidered under regulation 34(2)(b) or deemed under regulation 34(3);

"**penalty notice**" means the notice mentioned in regulation 28(1)(c);

"**primary penalty**" means the notice mentioned in regulation 24(1);

"**principal point of contact**", for a Cayman Financial Institution, means the person most recently notified under regulation 8 as its principal point of contact;

"**relevant scheduled Agreement**" means an agreement that permits the automatic exchange of information for tax purposes and is set out in a Schedule to the *Tax Information Authority Act (2021 Revision)*;

"**resident in the Islands**", for a Financial Institution, means —

(a) being incorporated or established in the Islands;

(b) having in the Islands a place of effective management as defined under paragraph 109 of the commentary; or

(c) being subject to financial supervision in the Islands;

"**return**" (other than in the Schedule) means a return required under regulation 9(1); and

"**stayed**", for a penalty or interest, means that they cannot be enforced because of the operation of regulation 30(1).

(2) Subject to regulation 6A, definitions under the Common Reporting Standard apply for these Regulations for terms not defined under regulation 2(1).

Repealed

3. **Repealed** by regulation 3 of the *Tax Information Authority (International Tax Compliance) (Common Reporting Standard) (Amendment) Regulations, 2016*.

Repealed

4. **Repealed** by regulation 3 of the *Tax Information Authority (International Tax Compliance) (Common Reporting Standard) (Amendment) Regulations, 2016*.

Common Reporting Standard commentary

5. (1) For the purposes of these Regulations the Common Reporting Standard commentary, which is any explanatory material made and published by the Organisation for Economic Co-Operation and Development for the purpose of assisting with the interpretation of the Common Reporting Standard, is an integral part of the Common Reporting Standard and accordingly applies for the purposes of the automatic exchange of financial account information under a relevant scheduled Agreement.

(2) **Repealed** by regulation 4 of the *Tax Information Authority (International Tax Compliance) (Common Reporting Standard) (Amendment) Regulations, 2016*.

(3) The Authority shall at least once every calendar year publish by Notice in the Gazette a list of Participating Jurisdictions for the purposes of the Common Reporting Standard.

Guidelines

5A. The Authority may issue guidelines for complying with Part 2, for using the electronic portal, or both.

PART 2 – APPLICATION OF THE COMMON REPORTING STANDARD

Common Reporting Standard in force

6. For the purposes of the automatic exchange of financial account information under a relevant scheduled Agreement the Common Reporting Standard comes into force in the Islands on 1st January, 2016.

Rules for applying the standard

6A. (1) This regulation states rules for how a Cayman Financial Institution shall, under this Part, apply the Common Reporting Standard.

(2) A reference in the standard to a term as follows is to be read as a reference to the following conversion —

Term	Conversion
A Financial Institution	A Cayman Financial Institution
A Reporting Financial Institution	A Cayman Reporting Financial Institution
A reporting period or a calendar year or other appropriate reporting period	A calendar year.

(3) Sections IID and 1X of the standard do not apply.

(4) For paragraph 17(g) of the definition "Excluded Account" in Section VIIIC of the standard, a Depository Account is defined as an Excluded Account if the account —

(a) is a dormant account under section 4(1) of the *Dormant Accounts Act* (*2011 Revision*); and

(b) has a balance of $1,000 or less.

(5) An account balance with a negative value shall be treated as having a nil value.

(6) If a balance or value of an account is denominated in a currency other than US dollars, a relevant US dollar threshold amount shall be translated into the other currency by reference to the spot rate of exchange on the date of the threshold amount.

Required policies and procedures for Cayman Reporting Financial Institutions

7. (1) Each Cayman Reporting Financial Institution shall —

(a) establish and maintain written policies and procedures to comply with this Part; and

(b) implement and comply with the policies and procedures.

(2) Without limiting regulation 7(1), the policies and procedures shall —

(a) identify each jurisdiction in which an Account Holder or a Controlling Person is resident for income tax or corporation tax purposes or for the purpose of any tax imposed by the law of the jurisdiction that is of a similar character to either of those taxes;

(b) apply the due diligence procedures set out in the Common Reporting Standard; and

(c) ensure that any information obtained in accordance with this Part or a record of the steps taken to comply with this Part in respect of a Financial Account is kept for six years from the end of the year to which the information relates or during which the steps were taken.

(3) A Cayman Reporting Financial Institution is deemed to have contravened the policies and procedures relating to a self-certification or documentary evidence (the "instrument") if the institution —

(a) knows, or has reason to believe, the instrument is inaccurate in a material way for the policies and procedures; and

(b) it makes a return that relies on the instrument's accuracy.

Obligation of Cayman Financial Institutions to notify certain information

8. (1) Each Cayman Financial Institution, other than an exempted body, shall give the Authority —

(a) a notice (an "information notice") stating the required information about the institution on or before —

(i) 30th April 2017; or

(ii) if an entity becomes a Cayman Financial Institution after that date, the next 30th April after the entity became a Cayman Financial Institution; and

(b) if any of the required information so notified changes, a notice stating details of the change (a "change notice").

(2) An information notice or change notice shall be given electronically in the way and in the form —

(a) posted on an official website, for the information of Cayman Financial Institutions generally; or

(b) stated in a notice given to any particular Cayman Financial Institution in question.

(3) Also, a change notice for a Cayman Financial Institution's principal point of contact can only be given by the person the institution has authorised for that purpose as most recently notified under an information notice or change notice.

(4) In this regulation —

"**exempted body**" means —

(a) the Cayman Islands Monetary Authority under section 5(1) of the *Monetary Authority Act* (*2020 Revision*) ("CIMA");

(b) a Governmental Entity; or

(c) a Pension Fund of CIMA or a Governmental Entity; and

"**required information**", for a Cayman Financial Institution, means —

(a) the institution's name and any number given to it by the Authority as a Financial Institution;

(b) whether the institution is a Cayman Reporting Financial Institution or a Non-Reporting Financial Institution; and

(c) if the institution is a Cayman Reporting Financial Institution, its type or types under paragraph B of Section VIII of the standard;

(d) if the institution is a Non-Reporting Financial Institution, its classification under paragraph A of Section VIII of the standard; and

(e) the full name, address, business entity, position and contact details (including an electronic address) of —

(i) a person the institution has authorised to be its principal point of contact for compliance with this Part; and

(ii) except in circumstances specified by the Authority, another person the institution has authorised to give change notices for its principal point of contact.

Obligation to make a return

9. (1) Each Cayman Reporting Financial Institution shall, for each calendar year —

(a) make a return to the Authority for each Reportable Account the institution maintained during the year setting out the information required to be reported under the Common Reporting Standard; or

(b) if the institution did not maintain any Reportable Account in any Reportable Jurisdiction during the year, make a nil return,

and provide to the Authority information reasonably required by the Authority to ensure effective implementation of, and compliance with, the reporting and due diligence procedures in accordance with the Common Reporting Standard.

(2) **Repealed** by regulation 9 of the *Tax Information Authority (International Tax Compliance) (Common Reporting Standard) (Amendment) Regulations, 2016*.

(3) **Repealed** by regulation 9 of the *Tax Information Authority (International Tax Compliance) (Common Reporting Standard) (Amendment) Regulations, 2016*.

(4) A Cayman Reporting Financial Institution shall make a return on or before 31st July of the year following the calendar year to which the return relates.

(5) For the purposes of the information required to be reported under a relevant scheduled Agreement —

(a) a reference to the balance or value of an account includes a nil balance or value; and

(b) a reference to paying an amount includes crediting an amount.

Requirements for making returns

10. (1) Returns can only be made in the form and manner specified through use of the electronic portal.

(2) The Authority shall notify Cayman Reporting Financial Institutions of the electronic portal and its usage by —

(a) a post on an official website, for their information generally; or

(b) a notice given to any particular Cayman Reporting Financial Institution in question.

(3) Unless the contrary is proved, the Authority shall assume a return accepted by using the electronic portal —

(a) has been made as required under regulation 10(1); or

(b) was made —

(i) when the return was accepted by the portal;

(ii) by whoever made the return by using the portal; and

(iii) with the authority of the Cayman Reporting Financial Institution on whose behalf the return purports to have been made.

Appointment of Third Parties

11. (1) A Cayman Financial Institution may appoint a person as the Cayman Financial Institution's agent to carry out the duties and obligations imposed on the Cayman Financial Institution by this Part.

(2) If a Cayman Financial Institution makes an appointment under regulation 11(1), the Cayman Financial Institution shall ensure that the Cayman Financial Institution continues to have access to and is able to produce to the Authority records and documentary evidence used to identify and report on Reportable Accounts.

(3) The Cayman Financial Institution is responsible for any failure of the person appointed under regulation 11(1) to satisfy the Cayman Financial Institution's obligations under this Part.

Authority's monitoring function

12. (1) The Authority may by notice given to a Cayman Reporting Financial Institution, require the institution —

(a) within a time specified by the Authority, to provide to the Authority information, including a copy of a relevant book, document or other record, or of electronically stored information; or

(b) at a time specified by the Authority, to make available to the Authority for inspection, a book, document or other record, or any electronically stored information,

that is in the institution's possession or under its control that the Authority reasonably requires to decide whether or not information the institution gave the Authority was accurate.

(2) If information the Authority wants or wants to inspect, is outside the Islands and the Authority requires the institution to bring the information to the Islands, the Authority shall specify a time that will enable the institution to bring the information to the Islands and the institution shall comply with the requirement of the Authority.

(3) A Cayman Reporting Financial Institution shall retain for six years a book, document or other record, including any information stored by electronic means, that relates to the information required to be reported to the Authority under this Part.

Anti-avoidance

13. If a person enters into any arrangement, the main purpose or one of the main purposes of which is to avoid any obligation under this Part, the arrangement is deemed not to have been entered into by the person and this Part is to have effect as if the arrangement had never been in existence.

PART 3 - OFFENCES

General offences and defence

Offence pertaining to false self certification

14. (1) A person commits an offence if —

(a) the person makes a self-certification that is false in a material particular for the Common Reporting Standard; and

(b) a Cayman Financial Institution is given the self-certification for any purpose for which the self-certification was made or purports to have been made.

(2) For regulation 14(1), it does not matter that —

(a) the self-certification was made outside the Islands;

(b) the person did not know, or had no reason to know, that the self-certification was false; or

(c) the self-certification was given to the institution by someone else.

(3) In this regulation —

"**makes**" means to sign or otherwise positively affirm; and

"**self-certification**" means information, whatever called, that performs or purports to perform a purpose of a self-certification under the Common Reporting Standard.

Offence to contravene Part 2

15. A Cayman Financial Institution commits an offence if it contravenes any regulation in Part 2.

Inaccurate information offence

16. A Cayman Financial Institution commits an offence if —

(a) in purported compliance with Part 2, the institution gives the Authority information that is materially inaccurate (the "act"); and

(b) the institution —

(i) knew of the inaccuracy when the act was done;

(ii) in doing the act, behaved fraudulently, intentionally, negligently or recklessly;

(iii) in doing the act, contravened its policies or procedures under regulation 7; or

(iv) discovered the inaccuracy after doing the act, but did not tell the Authority about the inaccuracy as soon as practicable after making the discovery.

Offence pertaining to access to confidential information

17. A person commits an offence if —

(a) in purported compliance with Part 2, the person gives the Authority information that is materially inaccurate ("the act"); and

(b) the act was done intentionally to cause, or the person knew the act was likely to cause, a contravention of section 20A of the Law.

Tampering offence

18. A person commits an offence if the person —

(a) alters, destroys, mutilates, defaces, hides or removes information in a way that causes the person or anyone else to contravene Part 2 in relation to the information; or

(b) authorises, advises or counsels someone else to contravene regulation 18(a).

Hindering offence

19. A person commits an offence if the person hinders the Authority in performing a function under these Regulations or under section 5 of the Act concerning the Common Reporting Standard.

Reasonable excuse defence

20. (1) It is a defence to a proceeding for an offence against this Part (other than against regulation 21) for the defendant to prove the defendant had a reasonable excuse.

(2) However, neither insufficiency of funds nor reliance on an agent appointed under regulation 11 (or anyone else) is a reasonable excuse.

(3) If a defendant had a reasonable excuse for a contravention but the excuse has ceased, the defendant is to be treated as having continued to have the excuse if the contravention is remedied without unreasonable delay after the excuse ceased.

Criminal liability of directors etc. of Cayman Financial Institutions

Imputed offence

21. (1) If a Cayman Financial Institution commits an offence against this Part all of the following of or relating to the institution are also guilty of that offence —

(a) if the institution is a body corporate, its directors, managers, secretaries and other similar officers to any such office, whatever called, and —

(i) if the institution is an LLC, its members; and

(ii) if the institution is another type of company being managed by its members, its members; and

(b) if the institution is a limited partnership or exempted limited partnership, its general partners and any of its limited partners who are participating in its management;

(c) if the institution is any other type of partnership, its partners;

(d) if the institution is a trust, its trustees; and

(e) anyone else who, when the offence was committed was —

(i) purporting to act in a capacity or position mentioned in regulations 21(1)(a) to (d); or

(ii) otherwise a *de facto* decision maker for the institution.

(2) However, it is a defence for the defendant to prove that the defendant exercised reasonable diligence to prevent the contravention.

Punishment

Punishment and criteria

22. (1) A person who commits an offence against this Part is liable to a fine of —

(a) for the following, $50,000 —

(i) for an offence by a body corporate; or

(ii) for an offence by an individual who forms, or forms part of, an unincorporated Cayman Financial Institution; or

(b) otherwise, $20,000.

(2) In deciding the amount of the fine —

(a) regulation 25 applies as if a reference to a penalty were to the fine and a reference to the Authority were to the court; and

(b) the court shall have regard to any penalty imposed for the contravention.

Provisions pertaining to the Criminal Procedure Code

23. (1) Regulation 22 applies despite sections 6(2) and 8 of the *Criminal Procedure Code* (*2021 Revision*).

(2) Despite section 78 of that Code, regulation 26 applies for prosecutions for offences against this Part as if a reference in that paragraph to imposing a penalty were a reference to a prosecution.

PART 4 - COMPLIANCE

Administrative penalties and safeguards for them

Power to penalise

24. (1) Subject to complying with regulations 28 to 31, the Authority may impose a penalty of the following amount (a "primary penalty") for offences against Part 3 —

(a) for the following, $50,000 —

(i) for an offence by a body corporate; or

(ii) for an offence by an individual who forms, or forms part of, an unincorporated Cayman Financial Institution; or

(b) otherwise, $20,000.

(2) Also, if —

(a) a primary penalty has been imposed, which penalty has not been stayed;

(b) the contravention has not been remedied; and

(c) the party is capable of remedying the contravention,

the Authority may impose further penalties on the party of $100 for each day the contravention continues (each a "continuing penalty").

(3) For regulation 24(2)(c), insufficiency of funds or reliance on an agent appointed under regulation 11 (or anyone else) does not, of itself, make the party incapable of remedying the contravention.

(4) A penalty becomes a debt owing by the party to the Crown thirty days after the penalty is imposed.

Criteria for deciding penalty

25. (1) In deciding whether to impose a penalty or its amount, the Authority shall consider the following criteria in the following order of importance —

(a) the need to ensure strict compliance with, and to penalise and deter contravention of, these Regulations;

(b) the nature, seriousness and consequences of the contravention;

(c) the apparent degree of the party's inadvertence, intent or negligence in committing the contravention;

(d) the party's conduct after becoming aware of the contravention, including, for example —

(i) whether and how quickly the party brought the contravention to the Authority's attention; and

(ii) the party's efforts to remedy the contravention or prevent its recurrence; and

(e) the party's history of compliance with the Common Reporting Standard, in the Islands or elsewhere, of which the Authority is aware.

(2) The Authority may also consider other matters it reasonably considers are relevant.

(3) The criteria and matters prevail over any issue concerning the party's resources or ability to pay.

Limitation period

26. (1) The Authority cannot impose a primary penalty for an offence against regulation 15 more than one year after becoming aware of the contravention.

(2) The Authority cannot impose a primary penalty for another offence against this Part after the earlier of the following —

(a) one year after becoming aware of the contravention; or

(b) six years after the contravention happened.

(3) There is no limitation period for imposing a continuing penalty while all the conditions under regulation 24(2)(a), (b) and (c) continue to apply.

Protection against double jeopardy

27. A prosecution against a person for an offence (whether or not a conviction resulted) precludes the imposition of a penalty against that person for the same offence, but not *vice versa*.

Procedure for imposing penalty

Steps required to impose penalty

28. (1) The Authority can only impose a primary penalty by —

(a) giving the party a notice that complies with regulation 29 (a "breach notice");

(b) if regulation 30 applies, complying with that regulation; and

(c) giving the party a notice that complies with regulation 31 (a "penalty notice").

(2) The Authority can only impose a continuing penalty by giving the party a penalty notice.

(3) The same penalty notice may be given for two or more continuing penalties for the same primary penalty

Breach notice for primary penalty

29. (1) A breach notice shall be dated and state —

(a) the party's name;

(b) that the Authority proposes to impose a penalty on the party (the "proposed action") for the offence it believes the party committed;

(c) the facts and circumstances that the Authority believes constituted the offence;

(d) the amount of the penalty the Authority proposes (the "proposed amount"); and

(e) that the party may, within a period stated in the notice after receiving the notice, make written representations to the Authority about the proposed action, the proposed amount, or both.

(2) The stated period cannot end less than sixty days after the giving of the notice.

Considering representations and deciding primary penalty

30. (1) This regulation applies only if a breach notice has been given for a penalty, the period stated in the notice has ended and the party has made representations as stated in the notice.

(2) The Authority shall consider all matters raised in the representations concerning the proposed action and the proposed amount mentioned in regulation 29(1) and reconsider the proposed action and, if relevant, the proposed amount.

(3) The reconsideration need only be on the balance of probabilities.

(4) The amount of a penalty imposed may be any amount not exceeding the proposed amount.

Penalty notice for all penalties

31. (1) A penalty notice shall be dated and state —

(a) the party's name;

(b) that the Authority has imposed a penalty of a stated amount on the party;

(c) if the penalty is a primary penalty, reasons for the decision to impose the penalty and for its amount;

(d) if the penalty is a continuing penalty, the date of the penalty notice for each relevant primary penalty;

(e) that the penalty will become a debt owing by the party to the Crown thirty days after the notice has been given; and

(f) the substance of the party's appeal right.

(2) The Authority may share information about a penalty (other than any reasons for the decision stated in the relevant penalty notice) with other Government authorities and regulators, both domestically and overseas.

Appeals

Appeal right

32. (1) A party who has been given a penalty notice may appeal to a court against the decision to impose the penalty, its amount, or both.

(2) However, the appeal may be made only within sixty days after the party received the notice, or any later period the court allows.

Automatic stay on appeal

33. (1) The Authority cannot, without the court's leave, enforce the penalty the subject of an appeal or interest until the outcome of the appeal.

(2) To avoid doubt, regulation 33(1) does not limit or otherwise affect any obligation of the party under Part 2.

Appeal hearing and outcome

34. (1) An appeal is by way of a rehearing *de novo*.

(2) After hearing an appeal, the court may —

(a) affirm, set aside or vary the decision appealed against (the "original decision"); or

(b) set aside the original decision and remit the matter to the Authority for it to reconsider with directions the court considers fit.

(3) The following applies if the court's decision is to affirm the original decision or to vary it in a way that a penalty is still imposed —

(a) the court's decision is (other than for regulations 28 and 32) deemed to have always been the original decision;

(b) the court may, at the Authority's request, issue a judgment against the party for all or any part of the penalty that continues to be unpaid and for interest; and

(c) the request may be made during the appeal; when the court's decision is handed down or at any later time on production of a certificate under regulation 38(3)(j).

(4) If the court's decision is to set aside and not to remit, both the penalty and interest are deemed to have never been owing.

Interest

Interest

35. (1) Interest accrues on a penalty while all or any part of the penalty continues to be unpaid, starting on the day immediately after the penalty became owing under regulation 24(4) and ending on the day the penalty is paid in full, both days inclusive.

(2) The interest accrues at daily rests and as compound interest.

(3) The rate of the interest is the higher of the following —

(a) five percent; or

(b) the average percentage of the annual consumer price index and inflation rates for the most recent three calendar years published by —

(i) the Islands' Economics and Statistics Office (or any other similar body) under the *Statistics Act* (*2016 Revision*); or

(ii) if those rates cease to be published, the index that most closely performs the functions of publishing the rates.

(4) Payments relating to the penalty are to be applied to the interest first.

(5) The interest is also a debt owing to the Crown.

(6) The accruing of interest applies even if the penalty has been stayed, but is subject to regulation 34(3) and (4).

PART 5 - MISCELLANEOUS

Conduct and *mens rea* of representatives

36. (1) This regulation applies for a decision by a body as follows if it is relevant to consider whether or not a person (the "principal") engaged in conduct or had a state of mind about conduct, or both —

(a) the Authority deciding whether or not to impose a penalty or the amount of a penalty; and

(b) a court hearing a civil or criminal proceeding (including an appeal) relating to Part 3 or 4.

(2) The principal is deemed to have engaged in the conduct if the Authority is satisfied the conduct was vicarious, unless the principal proves —

(a) the principal was not in a position to prevent the conduct; or

(b) if the principal was in such a position, the principal took reasonable steps to prevent the conduct.

(3) The principal is deemed to have had the state of mind if the Authority is satisfied the conduct was vicarious and the representative had the state of mind.

(4) Satisfaction under regulation 36(2) or (3) need only be on the balance of probabilities.

(5) In this regulation —

"**engaging**", in conduct, includes failing to engage in conduct;

"**representative**", of the principal, means any of the following of or relating to the principal —

(a) a director, manager or other officer, whatever called, or an employee or other agent;

(b) if the principal is an LLC, its members;

(c) if the principal is another type of company being managed by its members, its members;

(d) if the principal is a limited partnership or exempted limited partnership, its general partners and any of its limited partners who, when the conduct took place, were participating in its management;

(e) if the principal is any other type of partnership, its partners;

(f) if the principal is a trust, its trustees; or

(g) anyone else who, when the conduct took place, was —

(i) purporting to act in a capacity or position mentioned in regulations 36(5)(a) to (f); or

(ii) otherwise a *de facto* decision maker for the principal; and

"**state of mind**", of the principal or a representative, includes their —

(a) belief, intention, knowledge, opinion or purpose; and

(b) reasons for the belief, intention, opinion or purpose; and

"**vicarious**", for conduct, means that it was engaged in by a representative of the principal within the scope of the representative's actual or apparent authority from the principal.

Giving of notices by Authority

37. (1) The Authority may give a person (the "person concerned") a notice for any purpose of these Regulations to a particular electronic address if anyone as follows has, from that address, electronically communicated with the Authority for an official purpose —

(a) the person concerned;

(b) another person who had, or had apparently, been, authorised by the person concerned to communicate with the Authority for an official purpose;

(c) the electronic agent, as defined under section 2 of the *Electronic Transactions Act* (*2003 Revision*), of the person concerned; and

(d) if the person concerned is a Cayman Financial Institution, its principal point of contact.

(2) However, if there has been more than one such electronic address for a person mentioned in regulation 37(1)(a) to (d), the notice from the Authority can only be given to the address that the person most recently used to communicate with the Authority for an official purpose.

(3) Without limiting regulation 37(1), if the person concerned is an individual, the Authority may give the person a notice for any purpose of these Regulations in any way that, under section 18(4) of the *Criminal Procedure Code* (*2021 Revision*), a summons may be served.

(4) In this regulation —

"**official purpose**" means a purpose related to the Authority's functions under the Act, these Regulations or other Regulations under the Act.

Evidentiary provisions

38. (1) This regulation applies for a civil or criminal proceeding (including an appeal) relating to these Regulations or to enforce a penalty or interest.

(2) A signature purporting to be the signature of a designated person is evidence of the signature it purports to be.

(3) A certificate signed, or purporting to be signed, by a designated person stating any of the following is evidence of that matter —

(a) that a stated document is a copy of a post on an official website under regulation 8 or 10 that appeared on the website on a stated day or during a stated period;

(b) that a stated Cayman Financial Institution has not given a notice required under regulation 8;

(c) that a stated person was a stated Cayman Financial Institution's principal point of contact at a stated time or during a stated period;

(d) when a stated Cayman Reporting Financial Institution made a return that was accepted by use of the electronic portal (an "accepted return");

(e) that a stated document is a copy of an accepted return;

(f) that a stated Cayman Reporting Financial Institution has not made an accepted return for a stated calendar year;

(g) that a stated document is a copy of a notice given under these Regulations to a stated person (the "party");

(h) that an electronic address stated in a copy mentioned in regulation 38(3)(g) was, when the party was given the notice, an electronic address for the giving of notices to the party under regulation 37;

(i) that on a stated day the party was given the notice in a stated way; or

(j) that a penalty or interest of a stated amount is owing to the Crown by a stated person.

(4) A certificate under regulation 38(3) is evidence of the matters it states.

(5) For section 17 of the *Electronic Transactions Act* (*2003 Revision*), a certificate under regulation 38(3)(i) is evidence that the notice was electronically given to the recipient at the stated time.

SCHEDULE

(Regulation 2)

COMMON STANDARD ON REPORTING AND DUE DILIGENCE FOR FINANCIAL ACCOUNT INFORMATION

Section I: General Reporting Requirements

A. Subject to paragraphs C through E, each Reporting Financial Institution must report the following information with respect to each Reportable Account of such Reporting Financial Institution:

1. the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of the due diligence procedures consistent with Sections V, VI and VII, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, jurisdiction(s) of residence and TIN(s) of the Entity and the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth of each Reportable Person;
2. the account number (or functional equivalent in the absence of an account number);
3. the name and identifying number (if any) of the Reporting Financial Institution;
4. the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;
5. in the case of any Custodial Account:
   a) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
   b) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;
6. in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
7. in the case of any account not described in subparagraph A(5) or (6), the total gross amount paid or credited to the Account Holder with respect to the account

during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

B. The information reported must identify the currency in which each amount is denominated.

C. Notwithstanding subparagraph A(1), with respect to each Reportable Account that is a Pre-existing Account or with respect to each Financial Account that is opened prior to becoming a Reportable Account, the TIN(s) or date of birth is not required to be reported if such TIN(s) or date of birth is not in the records of the Reporting Financial Institution and is not otherwise required to be collected by such Reporting Financial Institution under domestic law. However, a Reporting Financial Institution is required to use reasonable efforts to obtain the TIN(s) and date of birth with respect to Pre-existing Accounts by the end of the second calendar year following the year in which such Accounts were identified as Reportable Accounts.

D. Notwithstanding subparagraph A(1), the TIN is not required to be reported if (i) a TIN is not issued by the relevant Reportable Jurisdiction or (ii) the domestic law of the relevant Reportable Jurisdiction does not require the collection of the TIN issued by such Reportable Jurisdiction.

E. Notwithstanding subparagraph A(1), the place of birth is not required to be reported unless the Reporting Financial Institution is otherwise required to obtain and report it under domestic law and it is available in the electronically searchable data maintained by the Reporting Financial Institution.

Section II: General Due Diligence Requirements

A. An account is treated as a Reportable Account beginning as of the date it is identified as such pursuant to the due diligence procedures in Sections II through VII and, unless otherwise provided, information with respect to a Reportable Account must be reported annually in the calendar year following the year to which the information relates.

B. A Reporting Financial Institution, which pursuant to the procedures described in Sections II through VII, identifies any account as a Foreign Account that is not a Reportable Account at the time the due diligence is performed, may rely on the outcome of such procedures to comply with future reporting obligations.

C. The balance or value of an account is determined as of the last day of the calendar year or other appropriate reporting period.

D. Where a balance or value threshold is to be determined as of the last day of a calendar year, the relevant balance or value must be determined as of the last day of the reporting period that ends with or within that calendar year.

E. Reporting Financial Institutions may apply the due diligence procedures for New Accounts to Pre-existing Accounts, and the due diligence procedures for High Value Accounts to Lower Value Accounts. Where New Account due diligence procedures are used for Pre-existing Accounts, the rules otherwise applicable to Pre-existing

Accounts continue to apply.

Section III: Due Diligence for Pre-existing Individual Accounts

The following procedures apply with respect to Pre-existing Individual Accounts.

A. **Accounts Not Required to be Reviewed, Identified, or Reported.**

A Pre-existing Individual Account that is a Cash Value Insurance Contract or an Annuity Contract is not required to be reviewed, identified or reported, provided the Reporting Financial Institution is effectively prevented by law from selling such Contract to residents of a Reportable Jurisdiction.

B. **Lower Value Accounts.** The following procedures apply with respect to Lower Value Accounts.

1. **Residence Address.** If the Reporting Financial Institution has in its records a current residence address for the individual Account Holder based on Documentary Evidence, the Reporting Financial Institution may treat the individual Account Holder as being a resident for tax purposes of the jurisdiction in which the address is located for purposes of determining whether such individual Account Holder is a Reportable Person.
2. **Electronic Record Search.** If the Reporting Financial Institution does not rely on a current residence address for the individual Account Holder based on Documentary Evidence as set forth in subparagraph B(1), the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the following indicia and apply subparagraphs B(3) through (6):
   a) identification of the Account Holder as a resident of a Foreign Jurisdiction;
   b) current mailing or residence address (including a post office box) in a Foreign Jurisdiction;
   c) one or more telephone numbers in a Foreign Jurisdiction and no telephone number in the jurisdiction of the Reporting Financial Institution;
   d) standing instructions (other than with respect to a Depository Account) to transfer funds to an account maintained in a Foreign Jurisdiction;
   e) currently effective power of attorney or signatory authority granted to a person with an address in a Foreign Jurisdiction; or
   f) a "hold mail" instruction or "in-care-of " address in a Foreign Jurisdiction if the Reporting Financial Institution does not have any other address on file for the Account Holder.
3. If none of the indicia listed in subparagraph B(2) are discovered in the electronic search, then no further action is required until there is a change in circumstances that results in one or more indicia being associated with the account, or the account becomes a High Value Account.
4. If any of the indicia listed in subparagraph B(2)(a) through (e) are discovered in the electronic search, or if there is a change in circumstances that results in one or

more indicia being associated with the account, then the Reporting Financial Institution must treat the Account Holder as a resident for tax purposes of each Foreign Jurisdiction for which an indicium is identified, unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.

5. If a "hold mail" instruction or "in-care-of" address is discovered in the electronic search and no other address and none of the other indicia listed in subparagraph B(2)(a) through (e) are identified for the Account Holder, the Reporting Financial Institution must, in the order most appropriate to the circumstances, apply the paper record search described in subparagraph C(2), or seek to obtain from the Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of such Account Holder. If the paper search fails to establish an indicium and the attempt to obtain the self-certification or Documentary Evidence is not successful, the Reporting Financial Institution must report the account as an undocumented account.

6. Notwithstanding a finding of indicia under subparagraph B(2), a Reporting Financial Institution is not required to treat an Account Holder as a resident of a Foreign Jurisdiction if:

   a) the Account Holder information contains a current mailing or residence address in the Foreign Jurisdiction, one or more telephone numbers in the Foreign Jurisdiction (and no telephone number in the jurisdiction of the Reporting Financial Institution) or standing instructions (with respect to Financial Accounts other than Depository Accounts) to transfer funds to an account maintained in a Foreign Jurisdiction, the Reporting Financial Institution obtains, or has previously reviewed and maintains a record of:

      i) A self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Foreign Jurisdiction; and

      II) Documentary evidence establishing the Account Holder's residence for tax purposes other than such Foreign Jurisdiction.

   b) the Account Holder information contains a currently effective power of attorney or signatory authority granted to a person with an address in a Foreign Jurisdiction, the Reporting Financial Institution obtains, or has previously reviewed and maintains a record of:

      i) A self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Foreign Jurisdiction; or

      ii) Documentary evidence establishing the Account Holder's residence for tax purposes other than such Foreign Jurisdiction.

C. **Enhanced Review Procedures for High Value Accounts.** The following enhanced review procedures apply with respect to High Value Accounts.

1. **Electronic Record Search.** With respect to High Value Accounts, the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the indicia described in subparagraph B(2).
2. **Paper Record Search**. If the Reporting Financial Institution's electronically searchable databases include fields for, and capture all of the information described in, subparagraph C(3), then a further paper record search is not required. If the electronic databases do not capture all of this information, then with respect to a High Value Account, the Reporting Financial Institution must also review the current customer master file and, to the extent not contained in the current customer master file, the following documents associated with the account and obtained by the Reporting Financial Institution within the last five years for any of the indicia described in subparagraph B(2):
   a) the most recent Documentary Evidence collected with respect to the account;
   b) the most recent account opening contract or documentation;
   c) the most recent documentation obtained by the Reporting Financial Institution pursuant to AML/KYC Procedures or for other regulatory purposes;
   d) any power of attorney or signature authority forms currently in effect; and
   e) any standing instructions (other than with respect to a Depository Account) to transfer funds currently in effect.
3. **Exception To The Extent Databases Contain Sufficient Information.** A Reporting Financial Institution is not required to perform the paper record search described in subparagraph C(2) to the extent the Reporting Financial Institution's electronically searchable information includes the following:
   a) the Account Holder's residence status;
   b) the Account Holder's residence address and mailing address currently on file with the Reporting Financial Institution;
   c) the Account Holder's telephone number(s) currently on file, if any, with the Reporting Financial Institution;
   d) in the case of Financial Accounts other than Depository Accounts, whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the Reporting Financial Institution or another Financial Institution);
   e) whether there is a current "in-care-of " address or "hold mail" instruction for the Account Holder; and
   f) whether there is any power of attorney or signatory authority for the account.

4. **Relationship Manager Inquiry for Actual Knowledge.** In addition to the electronic and paper record searches described above, the Reporting Financial Institution must treat as a Reportable Account any High Value Account assigned to a relationship manager (including any Financial Accounts aggregated with that High Value Account) if the relationship manager has actual knowledge that the Account Holder is a Reportable Person.
5. **Effect of Finding Indicia.**
   a) If none of the indicia listed in subparagraph B(2) are discovered in the enhanced review of High Value Accounts described above, and the account is not identified as held by a resident for tax purposes in a Foreign Jurisdiction in subparagraph C(4), then further action is not required until there is a change in circumstances that results in one or more indicia being associated with the account.
   b) If any of the indicia listed in subparagraph B(2)(a) through (e) are discovered in the enhanced review of High Value Accounts described above, or if there is a subsequent change in circumstances that results in one or more indicia being associated with the account, then the Reporting Financial Institution must treat the Account Holder as a resident for tax purposes of each Foreign Jurisdiction for which an indicium is identified unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.
   c) If a "hold mail" instruction or "in-care-of" address is discovered in the enhanced review of High Value Accounts described above, and no other address and none of the other indicia listed in subparagraph B(2)(a) through (e) are identified for the Account Holder, the Reporting Financial Institution must obtain from such Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of the Account Holder. If the Reporting Financial Institution cannot obtain such self-certification or Documentary Evidence, it must report the account as an undocumented account.

6. If a Pre-existing Individual Account is not a High Value Account as of 31 December 2015, but becomes a High Value Account as of the last day of a subsequent calendar year, the Reporting Financial Institution must complete the enhanced review procedures described in paragraph C with respect to such account within the calendar year following the year in which the account becomes a High Value Account. If based on this review such account is identified as a Reportable Account, the Reporting Financial Institution must report the required information about such account with respect to the year in which it is identified as a Reportable Account and subsequent years on an annual basis, unless the Account Holder ceases to be a Reportable Person.
7. Once a Reporting Financial Institution applies the enhanced review procedures described in paragraph C to a High Value Account, the Reporting Financial Institution is not required to re-apply such procedures, other than the relationship manager inquiry

described in subparagraph C(4), to the same High Value Account in any subsequent year unless the account is undocumented where the Reporting Financial Institution should re-apply them annually until such account ceases to be undocumented.

8. If there is a change of circumstances with respect to a High Value Account that results in one or more indicia described in subparagraph B(2) being associated with the account, then the Reporting Financial Institution must treat the account as a Reportable Account with respect to each Foreign Jurisdiction for which an indicium is identified unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.
9. A Reporting Financial Institution must implement procedures to ensure that a relationship manager identifies any change in circumstances of an account. For example, if a relationship manager is notified that the Account Holder has a new mailing address in a Foreign Jurisdiction, the Reporting Financial Institution is required to treat the new address as a change in circumstances and, if it elects to apply subparagraph B(6), is required to obtain the appropriate documentation from the Account Holder.

D. Review of Pre-existing High Value Individual Accounts must be completed by 31 December 2016. Review of Pre-existing Lower Value Individual Accounts must be completed by 31 December 2017.

E. Any Pre-existing Individual Account that has been identified as a Reportable Account under this Section must be treated as a Reportable Account in all subsequent years, unless the Account Holder ceases to be a Reportable Person.

Section IV: Due Diligence for New Individual Accounts

The following procedures apply with respect to New Individual Accounts.

A. With respect to New Individual Accounts, upon account opening, the Reporting Financial Institution must obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Financial Institution to determine the Account Holder's residence(s) for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures.
B. If the self-certification establishes that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account and the self-certification must also include the Account Holder's TIN with respect to such Reportable Jurisdiction (subject to paragraph D of Section I) and date of birth.
C. If there is a change of circumstances with respect to a New Individual Account that causes the Reporting Financial Institution to know, or have reason to know, that the original self-certification is incorrect or unreliable, the Reporting Financial Institution cannot rely on the original self-certification and must obtain a valid self-certification that establishes the residence(s) for tax purposes of the Account Holder.

Section V: Due Diligence for Pre-existing Entity Accounts

The following procedures apply with respect to Pre-existing Entity Accounts.

A. **Entity Accounts Not Required to Be Reviewed, Identified or Reported.** Unless the Reporting Financial Institution elects otherwise, either with respect to all Pre-existing Entity Accounts or, separately, with respect to any clearly identified group of such accounts, a Pre-existing Entity Account with an aggregate account balance or value that does not exceed USD 250 000 as of 31 December 2015, is not required to be reviewed, identified, or reported as a Reportable Account until the aggregate account balance or value exceeds USD 250 000 as of the last day of any subsequent calendar year.

B. **Entity Accounts Subject to Review.** A Pre-existing Entity Account that has an aggregate account balance or value that exceeds USD 250 000 as of 31 December 2015, and a Pre-existing Entity Account that does not exceed USD 250 000 as of 31 December 2015 but the aggregate account balance or value of which exceeds USD 250 000 as of the last day of any subsequent calendar year, must be reviewed in accordance with the procedures set forth in paragraph D.

C. **Review Procedures for Identifying Entity Accounts With Respect to Which Reporting may be Required.** For Pre-existing Entity Accounts described in paragraph B, a Reporting Financial Institution must apply the following review procedures:

1. **Determine the Residence of the Entity.**

    a) Review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine the Account Holder's residence. For this purpose, information indicating that the Account Holder's residence includes a place of incorporation or organisation, or an address in a Foreign Jurisdiction.

    b) If the information indicates that the Account Holder is a Reportable Person, the Reporting Financial Institution must treat the account as a Reportable Account unless it obtains a self-certification from the Account Holder, or reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person.

2. **Determine the Residence of the Controlling Persons of a Passive NFE.** With respect to an Account Holder of a Pre-existing Entity Account (including an Entity that is a Reportable Person), the Reporting Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons and determine the residence of such Controlling Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account is treated as a Reportable Account. In making these determinations the Reporting Financial Institution must follow the guidance in subparagraphs C(2)(a) through (c) in the order most appropriate under the circumstances.

    a) **Determining whether the Account Holder is a Passive NFE.** For purposes of determining whether the Account Holder is a Passive NFE,

the Reporting Financial Institution must obtain a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.

b) **Determining the Controlling Persons of an Account Holder.** For the purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.

c) **Determining the residence of a Controlling Person of a Passive NFE.** For the purposes of determining the residence of a Controlling Person of a Passive NFE, a Reporting Financial Institution may rely on:

i) information collected and maintained pursuant to AML/KYC Procedures in the case of a Pre-existing Entity Account held by one or more NFEs with an aggregate account balance or value that does not exceed USD 1,000,000; or

ii) a self-certification from the Account Holder or such Controlling Person of the jurisdiction(s) in which the Controlling Person is resident for tax purposes. If a self-certification is not provided, the Reporting Financial Institution will establish such residence(s) by applying the procedures described in paragraph C of Section III.

D. Timing of Review and Additional Procedures Applicable to Pre-existing Entity Accounts.

1. Review of Pre-existing Entity Accounts with an aggregate account balance or value that exceeds USD 250,000 as of 31 December 2015 must be completed by 31 December 2017.
2. Review of Pre-existing Entity Accounts with an aggregate account balance or value that does not exceed USD 250,000 as of 31 December 2015, but exceeds USD 250,000 as of 31 December of a subsequent year, must be completed within the calendar year following the year in which the aggregate account balance or value exceeds USD 250,000.
3. If there is a change of circumstances with respect to a Pre-existing Entity Account that causes the Reporting Financial Institution to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the Reporting Financial Institution must re-determine the status of the account in accordance with the procedures set forth in paragraph C.

Section VI: Due Diligence for New Entity Accounts

The following procedures apply with respect to New Entity Accounts.

A. Review Procedures for Identifying Entity Accounts With Respect to Which

Reporting may be Required. For New Entity Accounts, a Reporting Financial Institution must apply the following review procedures:

1. **Determine the residence of the Entity.**

   a) Obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Financial Institution to determine the Account Holder's residence(s) for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures. If the Entity certifies that it has no residence for tax purposes, the Reporting Financial Institution may rely on the address of the principal office of the Entity to determine the residence of the Account Holder.

   b) If the self-certification indicates that the Account Holder is resident in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account unless it reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person with respect to such Reportable Jurisdiction.

2. **Determine the Residence of the Controlling Persons of a Passive NFE.** With respect to an Account Holder of a New Entity Account (including an Entity that is a Reportable Person), the Reporting Financial Institution must identify whether the Account Holder is a Passive NFE with one or more Controlling Persons and determine the residence of such Reportable Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. In making these determinations the Reporting Financial Institution must follow the guidance in subparagraphs A(2)(a) through (c) in the order most appropriate under the circumstances.

   a) **Determining whether the Account Holder is a Passive NFE.** For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Financial Institution must rely on a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFE or a Reporting Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.

   b) **Determining the Controlling Persons of an Account Holder.** For purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.

c) **Determining the residence of a Controlling Person of a Passive NFE.** For purposes of determining the residence of a Controlling Person of a Passive NFE, a Reporting Financial Institution may rely on a self-certification from the Account Holder or such Controlling Person.

Section VII: Special Due Diligence Rules

The following additional rules apply in implementing the due diligence procedures described above:

A. Reliance on Self-Certifications and Documentary Evidence. A Reporting Financial Institution may not rely on a self-certification or Documentary Evidence if the Reporting Financial Institution knows or has reason to know that the self-certification or Documentary Evidence is incorrect or unreliable.

B. Alternative Procedures for Financial Accounts Held by Individual Beneficiaries of a Cash Value Insurance Contract or an Annuity Contract and for a Group Cash Value Insurance Contract or Group Annuity Contract. A Reporting Financial Institution may presume that an individual beneficiary (other than the owner) of a Cash Value Insurance Contract or an Annuity Contract receiving a death benefit is not a Reportable Person and may treat such Financial Account as other than a Reportable Account unless the Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person. A Reporting Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract or an Annuity Contract is a Reportable Person if the information collected by the Reporting Financial Institution and associated with the beneficiary contains indicia as described in paragraph B of Section III. If a Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person, the Reporting Financial Institution must follow the procedures in paragraph B of Section III.

A Reporting Financial Institution may treat a Financial Account that is a member's interest in a Group Cash Value Insurance Contract or Group Annuity Contract as a Financial Account that is not a Reportable Account until the date on which an amount is payable to the employee/certificate holder or beneficiary, if the Financial Account that is a member's interest in a Group Cash Value Insurance Contract or Group Annuity Contract meets the following requirements: (i) the Group Cash Value Insurance Contract or Group Annuity Contract is issued to an employer and covers 25 or more employees/certificate holders; (ii) the employee/certificate holders are entitled to receive any contract value related to their interests and to name beneficiaries for the benefit payable upon the employee's death; and (iii) the aggregate amount payable to any employee/certificate holder or beneficiary does not exceed USD 1,000,000.

The term "Group Cash Value Insurance Contract" means a Cash Value Insurance Contract that (i) provides coverage on individuals who are affiliated through an employer, trade association, labour union, or other association or group; and (ii) charges a premium for each member of the group (or member of a class within the group) that is determined without regard to the individual health characteristics other

than age, gender, and smoking habits of the member (or class of members) of the group.

The term "Group Annuity Contract" means an Annuity Contract under which the obligees are individuals who are affiliated through an employer, trade association, labour union, or other association or group.

C. Account Balance Aggregation and Currency Rules.

1. **Aggregation of Individual Accounts.** For purposes of determining the aggregate balance or value of Financial Accounts held by an individual, a Reporting Financial Institution is required to aggregate all Financial Accounts maintained by the Reporting Financial Institution, or by a Related Entity, but only to the extent that the Reporting Financial Institution's computerised systems link the Financial Accounts by reference to a data element such as client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this subparagraph.
2. **Aggregation of Entity Accounts.** For purposes of determining the aggregate balance or value of Financial Accounts held by an Entity, a Reporting Financial Institution is required to take into account all Financial Accounts that are maintained by the Reporting Financial Institution, or by a Related Entity, but only to the extent that the Reporting Financial Institution's computerised systems link the Financial Accounts by reference to a data element such as client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this subparagraph.
3. **Special Aggregation Rule Applicable to Relationship Managers.** For purposes of determining the aggregate balance or value of Financial Accounts held by a person to determine whether a Financial Account is a High Value Account, a Reporting Financial Institution is also required, in the case of any Financial Accounts that a relationship manager knows, or has reason to know, are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person, to aggregate all such accounts.
4. **Amounts Read to Include Equivalent in Other Currencies.** All dollar amounts are in US dollars and shall be read to include equivalent amounts in other currencies, as determined by domestic law.

Section VIII: Defined Terms

The following terms have the meanings set forth below:

A. Reporting Financial Institution

1. The term "**Reporting Financial Institution**" means any Participating Jurisdiction Financial Reporting Financial Institution that is not a Non- Reporting Financial Institution.

2. The term "**Participating Jurisdiction Financial Institution**" means (i) any Financial Institution that is resident in a Participating Jurisdiction, but excludes any branch of that Financial Institution that is located outside such Participating Jurisdiction, and (ii) any branch of a Financial Institution that is not resident in a Participating Jurisdiction, if that branch is located in such Participating Jurisdiction.
3. The term "**Financial Institution**" means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.
4. The term "**Custodial Institution**" means any Entity that holds, as a substantial portion of its business, Financial Assets for the account of others. An Entity holds Financial Assets for the account of others as a substantial portion of its business if the Entity's gross income attributable to the holding of Financial Assets and related financial services equals or exceeds 20% of the Entity's gross income during the shorter of: (i) the three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or (ii) the period during which the Entity has been in existence.
5. The term "**Depository Institution**" means any Entity that accepts deposits in the ordinary course of a banking or similar business.
6. The term "**Investment Entity**" means any Entity:
   a) that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
      i) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
      ii) individual and collective portfolio management; or
      iii) otherwise investing, administering, or managing Financial Assets or money on behalf of other persons; or
   b) the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in subparagraph A(6)(a).

   An Entity is treated as primarily conducting as a business one or more of the activities described in subparagraph A(6)(a), or an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of subparagraph A(6)(b), if the Entity's gross income attributable to the relevant activities equals or exceeds 50% of the Entity's gross income during the shorter of: (i) the three-year period ending on 31 December of the year preceding the year in which the determination is made; or (ii) the period during which the Entity has been in existence. The term "Investment Entity"

does not include an Entity that is an Active NFE because it meets any of the criteria in subparagraphs D(9)(d) through (g).

This paragraph shall be interpreted in a manner consistent with similar language set forth in the definition of "financial institution" in the Financial Action Task Force Recommendations.

7. The term "**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.
8. The term "**Specified Insurance Company**" means any Entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.

B. Non-Reporting Financial Institution

1. The term "**Non-Reporting Financial Institution**" means any Financial Institution that is:
   a) a Governmental Entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution;
   b) a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organisation or Central Bank; or a Qualified Credit Card Issuer;
   c) any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in subparagraphs B(1)(a) and (b), and is defined in domestic law as a Non-Reporting Financial Institution, provided that the status of such Entity as a Non-Reporting Financial Institution does not frustrate the purposes of the Common Reporting Standard;
   d) an Exempt Collective Investment Vehicle; or
   e) a trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to Section I with respect to all Reportable Accounts of the trust.
2. The term "**Governmental Entity**" means the government of a jurisdiction, any political subdivision of a jurisdiction (which, for the avoidance of doubt, includes

a state, province, county, or municipality), or any wholly owned agency or instrumentality of a jurisdiction or of any one or more of the foregoing (each, a "Governmental Entity"). This category is comprised of the integral parts, controlled entities, and political subdivisions of a jurisdiction.

a) An "integral part" of a jurisdiction means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of a jurisdiction. The net earnings of the governing authority must be credited to its own account or to other accounts of the jurisdiction, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity.

b) A controlled entity means an Entity that is separate in form from the jurisdiction or that otherwise constitutes a separate juridical entity, provided that:

i) the Entity is wholly owned and controlled by one or more Governmental Entities directly or through one or more controlled entities;

ii) the Entity's net earnings are credited to its own account or to the accounts of one or more Governmental Entities, with no portion of its income inuring to the benefit of any private person; and

iii) the Entity's assets vest in one or more Governmental Entities upon dissolution.

c) Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of government. Notwithstanding the foregoing, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a governmental entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons.

3. The term "**International Organisation**" means any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation (including a supranational organisation) (1) that is comprised primarily of governments; (2) that has in effect a headquarters or substantially similar agreement with the jurisdiction; and (3) the income of which does not inure to the benefit of private persons.

4. The term "**Central Bank**" means an institution that is by law or government sanction the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the

jurisdiction, whether or not owned in whole or in part by the jurisdiction.

5. The term "**Broad Participation Retirement Fund**" means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that the fund:
   a) does not have a single beneficiary with a right to more than five per cent of the fund's assets;
   b) is subject to government regulation and provides information reporting to the tax authorities; and
   c) satisfies at least one of the following requirements:
      i) the fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;
      ii) the fund receives at least 50% of its total contributions (other than transfers of assets from other plans described in subparagraphs B(5) through (7) or from retirement and pension accounts described in subparagraph C(17)(a)) from the sponsoring employers;
      iii) distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death (except rollover distributions to other retirement funds described in subparagraphs B(5) through (7) or retirement and pension accounts described in subparagraph C(17)(a)), or penalties apply to distributions or withdrawals made before such specified events; or
      iv) contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed USD 50,000 annually, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

6. The term "**Narrow Participation Retirement Fund**" means a fund established to provide retirement, disability, or death benefits to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that:
   a) the fund has fewer than 50 participants;
   b) the fund is sponsored by one or more employers that are not Investment Entities or Passive NFEs;
   c) the employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described in subparagraph

C(17)(a)) are limited by reference to earned income and compensation of the employee, respectively;

d) participants that are not residents of the jurisdiction in which the fund is established are not entitled to more than 20% of the fund's assets; and

e) the fund is subject to government regulation and provides information reporting to the tax authorities.

7. The term "**Pension Fund of a Governmental Entity, International Organisation or Central Bank**" means a fund established by a Governmental Entity, International Organisation or Central Bank to provide retirement, disability, or death benefits to beneficiaries or participants that are current or former employees (or persons designated by such employees), or that are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services performed for the Governmental Entity, International Organisation or Central Bank.

8. The term "**Qualified Credit Card Issuer**" means a Financial Institution satisfying the following requirements:

a) the Financial Institution is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and

b) beginning on or before 1 January 2016, the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of USD 50,000, or to ensure that any customer overpayment in excess of USD 50,000 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.

9. The term "**Exempt Collective Investment Vehicle**" means an Investment Entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through individuals or Entities that are not Reportable Persons, except a Passive NFE with Controlling Persons who are Reportable Persons.

C. Financial Account

1. The term "**Financial Account**" means an account maintained by a Financial Institution, and includes a Depository Account, a Custodial Account and:

a) in the case of an Investment Entity, any equity or debt interest in the Financial Institution. Notwithstanding the foregoing, the term "Financial Account" does not include any equity or debt interest in an Entity that is an Investment Entity solely because it (i) renders investment advice to, and acts on behalf of, or (ii) manages portfolios for, and acts on behalf of, a

customer for the purpose of investing, managing, or administering Financial Assets deposited in the name of the customer with a Financial Institution other than such Entity;

b) in the case of a Financial Institution not described in subparagraph C(1)(a), any equity or debt interest in the Financial Institution, if the class of interests was established with a purpose of avoiding reporting in accordance with Section I; and

c) any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a noninvestment-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 Excluded Account.

The term "Financial Account" does not include any account that is an Excluded Account.

2. The term "**Depository Account**" includes 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 or similar business. A Depository Account also includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon.

3. The term "**Custodial Account**" means an account (other than an Insurance Contract or Annuity Contract) that holds one or more Financial Assets for the benefit of another person.

4. The term "**Equity Interest**" means, in the case of a partnership that is a Financial Institution, either a capital or profits interest in the partnership. In the case of a trust that is a Financial Institution, an Equity Interest is considered to be held by any person treated as a settlor or beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust. A Reportable Person will be treated as being a beneficiary of a trust if such Reportable Person has the right to receive directly or indirectly (for example, through a nominee) a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust.

5. The term "**Insurance Contract**" means a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.

6. The term "**Annuity Contract**" means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.

7. The term "**Cash Value Insurance Contract**" means an Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value.
8. The term "**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:
   a) solely by reason of the death of an individual insured under a life insurance contract;
   b) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;
   c) as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an Insurance Contract (other than an investment-linked life insurance or annuity contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;
   d) as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an Insurance Contract under which the only benefits payable are described in subparagraph C(8)(b); or
   e) as a return of an advance premium or premium deposit for an Insurance Contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract.
9. The term "**Pre-existing Account**" means:
   a) a Financial Account maintained by a Reporting Financial Institution as of 31 December 2015;
   b) any Financial Account of an Account Holder, regardless of the date such Financial Account was opened, if:
      i) the Account Holder also holds with the Reporting Financial Institution (or with a Related Entity within the same jurisdiction as the Reporting Financial Institution) a Financial Account that is a Pre-existing Account under subparagraph C(9)(a);
      ii) the Reporting Financial Institution (and, as applicable, the Related Entity within the same jurisdiction as the Reporting Financial Institution) treats both of the aforementioned Financial Accounts, and any other Financial Accounts of the Account Holder that are treated as Pre-existing Accounts under point (b), as a single Financial

Account for purposes of satisfying the standards of knowledge requirements set forth in paragraph A of Section VII, and for purposes of determining the balance or value of any of the Financial Accounts when applying any of the account thresholds;

iii) with respect to a Financial Account that is subject to AML/KYC Procedures, the Reporting Financial Institution is permitted to satisfy such AML/KYC Procedures for the Financial Account by relying upon the AML/KYC Procedures performed for the Pre-existing Account described in subparagraph C(9)(a); and

iv) the opening of the Financial Account does not require the provision of new, additional or amended customer information by the Account Holder other than for the purposes of the CRS.

10. The term "**New Account**" means a Financial Account maintained by a Reporting Financial Institution opened on or after 1 January 2016.
11. The term "**Pre-existing Individual Account**" means a Pre-existing Account held by one or more individuals.
12. The term "**New Individual Account**" means a New Account held by one or more individuals.
13. The term "**Pre-existing Entity Account**" means a Pre-existing Account held by one or more Entities.
14. The term "**Lower Value Account**" means a Pre-existing Individual Account with an aggregate balance or value as of 31 December 2015 that does not exceed USD 1,000,000.
15. The term "**High Value Account**" means a Pre-existing Individual Account with an aggregate balance or value that exceeds USD 1,000,000 as of 31 December 2015 or 31 December of any subsequent year.
16. The term "**New Entity Account**" means a New Account held by one or more Entities.
17. The term "**Excluded Account**" means any of the following accounts:

a) a retirement or pension account that satisfies the following requirements:

i) the account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits (including disability or death benefits);

ii) the account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);

iii) information reporting is required to the tax authorities with respect to the account;

iv) withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and

v) either (i) annual contributions are limited to USD 50,000 or less, or (ii) there is a maximum lifetime contribution limit to the account of USD 1,000,000 or less, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

A Financial Account that otherwise satisfies the requirement of subparagraph C(17)(a)(v) will not fail to satisfy such requirement solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of subparagraph C(17)(a) or (b) or from one or more retirement or pension funds that meet the requirements of any of subparagraphs B(5) through (7).

b) an account that satisfies the following requirements:

i) the account is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market, or the account is subject to regulation as a savings vehicle for purposes other than for retirement;

ii) the account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);

iii) withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (for example, the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met; and

iv) annual contributions are limited to USD 50,000 or less, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

A Financial Account that otherwise satisfies the requirement of subparagraph C(17)(b)(iv) will not fail to satisfy such requirement solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of subparagraph C(17)(a) or (b) or from one or more retirement or pension funds that meet the requirements of any of subparagraphs B(5) through (7).

c) a life insurance contract with a coverage period that will end before the insured individual attains age 90, provided that the contract satisfies the following requirements:

i) periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age 90, whichever is shorter;

ii) the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;

iii) the amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and

iv) the contract is not held by a transferee for value.

d) an account that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate.

e) an account established in connection with any of the following:

i) a court order or judgment.

ii) a sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:

(i) the account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a Financial Asset that is deposited in the account in connection with the sale, exchange, or lease of the property;

(ii) the account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease;

(iii) the assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee(including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates;

(iv) the account is not a margin or similar account established in connection with a sale or exchange of a Financial Asset; and

(v) the account is not associated with an account described in subparagraph C(17)(f).

iii) an obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time.

iv) an obligation of a Financial Institution solely to facilitate the payment of taxes at a later time.

f) a Depository Account that satisfies the following requirements:

i) the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and

ii) beginning on or before 1 January 2016, the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of USD 50,000, or to ensure that any customer overpayment in excess of USD 50,000 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.

g) any other account that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the accounts described in subparagraphs C(17)(a) through (f), and is defined in domestic law as an Excluded Account, provided that the status of such account as an Excluded Account does not frustrate the purposes of the Common Reporting Standard.

D. Reportable Account

1. The term **"Reportable Account"** means an account held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person, provided it has been identified as such pursuant to the due diligence procedures described in Sections II through VII.
2. The term **"Reportable Person"** means a Reportable Jurisdiction Person other than: *(i)* a corporation the stock of which is regularly traded on one or more established securities markets; *(ii)* any corporation that is a Related Entity of a corporation described in clause *(i); (iii)* a Governmental Entity; *(iv)* an International Organisation; *(v)* a Central Bank; or *(vi)* a Financial Institution.
3. The term **"Reportable Jurisdiction Person"** means an individual or Entity that is resident in a Reportable Jurisdiction under the tax laws of such jurisdiction, or an estate of a decedent that was a resident of a Reportable Jurisdiction. For this purpose, an Entity such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is

situated.

4. The term **"Reportable Jurisdiction"** means a jurisdiction *(i)* with which an agreement is in place pursuant to which there is an obligation in place to provide the information specified in Section I, and *(ii)* which is identified in a published list.
5. The term **"Participating Jurisdiction"** means a jurisdiction *(i)* with which an agreement is in place pursuant to which it will provide the information specified in Section I, and *(ii)* which is identified in a published list.
6. The term **"Controlling Persons"** means the natural persons who exercise control over an Entity. In the case of a trust, such term means the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term "Controlling Persons" must be interpreted in a manner consistent with the Financial Action Task Force Recommendations.
7. The term **"NFE"** means any Entity that is not a Financial Institution.
8. The term **"Passive NFE"** means any: *(i)* NFE that is not an Active NFE; or *(ii)* an Investment Entity described in subparagraph A(6)(b) that is not a Participating Jurisdiction Financial Institution.
9. The term **"Active NFE"** means any NFE that meets any of the following criteria:

    a) less than 50% of the NFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;

    b) the stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;

    c) the NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;

    d) substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;

e) the NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE;

f) the NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution;

g) the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or

h) the NFE meets all of the following requirements:

i) it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;

ii) it is exempt from income tax in its jurisdiction of residence;

iii) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;

iv) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non- charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and

v) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision thereof.

E. Miscellaneous

1. The term **"Account Holder"** means the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account.

A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of the Common Reporting Standard, and such other person is treated as holding the account. 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. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder.

2. The term **"AML/KYC Procedures"** means the customer due diligence procedures of a Reporting Financial Institution pursuant to the anti-money laundering or similar requirements to which such Reporting Financial Institution is subject.
3. The term **"Entity"** means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation.
4. An Entity is a **"Related Entity"** of another Entity if (i) either Entity controls the other Entity; (ii) the two Entities are under common control; or (iii) the two Entities are Investment Entities described in subparagraph A(6)(b), are under common management, and such management fulfils the due diligence obligations of such Investment Entities. For this purpose control includes direct or indirect ownership of more than 50 % of the vote and value in an Entity.
5. The term **"TIN"** means Taxpayer Identification Number (or functional equivalent in the absence of a Taxpayer Identification Number).
6. The term **"Documentary Evidence"** includes any of the following:

   a) a certificate of residence issued by an authorised government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the payee claims to be a resident.

   b) with respect to an individual, any valid identification issued by an authorised government body (for example, a government or agency thereof, or a municipality), that includes the individual's name and is typically used for identification purposes.

   c) with respect to an Entity, any official documentation issued by an authorised government body (for example, a government or agency thereof, or a municipality) that includes the name of the Entity and either the address of its principal office in the jurisdiction in which it claims to be a resident or the jurisdiction in which the Entity was incorporated or organised.

   e) any audited financial statement, third-party credit report, bankruptcy filing, or securities regulator's report.

With respect to a Pre-existing Entity Account, Reporting Financial Institutions may use as Documentary Evidence any classification in the Reporting Financial Institution's records with respect to the Account Holder that was determined based on a standardised industry coding system, that was recorded by the Reporting Financial Institution consistent with its normal business practices for purposes of AML/KYC Procedures or another regulatory purposes (other than for tax purposes) and that was implemented by the Reporting Financial Institution prior to the date used to classify the Financial Account as a Pre-existing Account, provided that the Reporting Financial Institution does not know or does not have reason to know that such classification is incorrect or unreliable. The term "standardised industry coding system" means a coding system used to classify establishments by business type for purposes other than tax purposes.

7. The term "**Foreign Jurisdiction"** means any jurisdiction other than the jurisdiction of the Reporting Financial Institution.

Section IX: Effective Implementation

A. A jurisdiction must have rules and administrative procedures in place to ensure effective implementation of, and compliance with, the reporting and due diligence procedures set out above including:
   1. rules to prevent any Financial Institutions, persons or intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures;
   2. rules requiring Reporting Financial Institutions to keep records of the steps undertaken and any evidence relied upon for the performance of the above procedures and adequate measures to obtain those records;
   3. administrative procedures to verify Reporting Financial Institutions' compliance with the reporting and due diligence procedures; administrative procedures to follow up with a Reporting Financial Institution when undocumented accounts are reported;
   4. administrative procedures to ensure that the Entities and accounts defined in domestic law as Non-Reporting Financial Institutions and Excluded Accounts continue to have a low risk of being used to evade tax; and
   5. effective enforcement provisions to address non-compliance.

Jurisdictions that are to be treated as Reportable Jurisdictions for the purposes of the Common Reporting Standard

FOR REPORTS DUE IN 2017 ONWARDS

Argentina
Belgium
Bulgaria
Colombia
Croatia
Cyprus
Czech Republic
Denmark
Estonia
Faroe Islands
Finland
France
Germany
Gibraltar
Greece
Greenland
Guernsey
Hungary
Iceland
India
Ireland
Isle of Man
Italy
Jersey
Korea
Latvia
Liechtenstein
Lithuania
Luxembourg
Malta
Mexico
Montserrat
Netherlands
Norway
Poland
Portugal
Romania
San Marino
Seychelles
Slovak Republic
Slovenia
South Africa
Spain
Sweden
United Kingdom

FOR REPORTS DUE IN 2018 ONWARDS (IN ADDITION TO THE ABOVE)

Andorra
Antigua and Barbuda
Aruba
Australia
Austria
Azerbaijan
Barbados
Belize
Brazil
Brunei Darussalam
Canada
Chile
China
Cook Islands
Costa Rica
Curaçao
Dominica
Grenada
Hong Kong (China)
Indonesia
Israel
Japan
Lebanon
Macau (China)
Malaysia
Mauritius
Monaco
New Zealand
Niue
Pakistan
Panama
Russian Federation
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Samoa
Saudi Arabia
Singapore
Sint Maarten
Switzerland
Trinidad and Tobago
Turkey
Uruguay
Vanuatu

FOR REPORTS DUE IN 2019 ONWARDS (IN ADDITION TO THE ABOVE)

Ghana
Kuwait

FOR REPORTS DUE IN 2020 ONWARDS (IN ADDITION TO THE ABOVE)

Ecuador
Kazakhstan
Maldives
Nigeria
Oman
Peru

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Kim Bullings
Clerk of the Cabinet

ENDNOTES

Table of Legislation history:

SL #	Law #	Legislation	Commencement	Gazette
	56/2020	Citation of Acts of Parliament Act, 2020	3-Dec-2020	LG89/2020/s1
9/2020		Tax Information Authority (International Tax Compliance) (Common Reporting Standard) (Amendment) Regulations, 2020	20-Feb-2020	LG12/2020/s1
6a/2020		Notice: Common Reporting Standard List of Reportable Jurisdictions	25-Feb-2020	GE14/2020/p1
		Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations (2018 Revision)	27-Mar-2018	GE25/2018/s9
79/2016		Tax Information Authority (International Tax Compliance) (Common Reporting Standard) (Amendment) Regulations, 2016	19-Dec-2016	G26/2016/s10
61/2015		Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations, 2015	16-Oct-2015	GE80/2015/s1

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