Revised Regulations of Anguilla: T3-3

TAX INFORMATION EXCHANGE (INTERNATIONAL CO-OPERATION) ACT (R.S.A. c. T3)

INTERNATIONAL TAX COMPLIANCE (CRS) REGULATIONS

Note: These Regulations are enabled under section 28 of the Tax Information Exchange (International Co-operation) Act, R.S.A. c. T3.

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INTERNATIONAL TAX COMPLIANCE (CRS) REGULATIONS

Interpretation

1. (1) In these Regulations—

"Competent Authority" means the Comptroller of Inland Revenue;

"CRS agreement" means the Multilateral Competent Authority Agreement on the Automatic Exchange of Financial Account Information as set out in the Annex I of the Schedule of the Act, signed by the Government of Anguilla in relation to agreements with the participating jurisdictions listed in the table in Schedule 2 to improve international tax compliance based on the Standard;

"excluded account" means—

(a) an account as defined in subparagraphs C(17)(a) to (f) of Section VIII of the Standard; or

(b) an account listed as an excluded account in Schedule 1 of these Regulations;

"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. An investment entity that is regulated as a collective investment vehicle does not fail to qualify as an exempt collective investment vehicle, solely because the collective investment vehicle has issued physical shares in bearer form, provided that the collective investment—

(a) has in place policies and procedures to ensure that those shares are redeemed and immobilised as soon as possible, and in any event prior to 01 January 2018;

(b) has not issued, and does not issue, any physical shares in bearer form after 31 December 2015;

(c) performs the due diligence procedures set forth in Sections II to VII of the Standard and reports any information required to be reported with respect to any of those shares when the shares are presented for the redemption or other payment; and

(d) retires all those shares upon surrender;

"high value account" means a pre-existing individual account with an aggregate balance or value that exceeds US$ 1,000,000 as of 30 June 2016 or 31 December of any subsequent year;

"lower value account" means a pre-existing individual account, which is not a high value account, with an aggregate balance or value as of 30 June 2016 that does not exceed US$ 1,000,000;

"new account" means a financial account maintained by a Reporting Financial Institution opened on or after 1 July 2016, unless it is treated as a pre-existing account under paragraph (b) of the definition of "pre-existing account";

"NFE" means any Entity that is not a Financial Institution;

"non-Reporting Financial Institution" means a Financial Institution as defined in subparagraphs B(1)(a), (b), (d) and (e) of Section VIII of the Standard;

"participating jurisdiction" means a jurisdiction which is listed in Schedule 2 of these Regulations;

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"pre-existing account" means—

(a) a financial account maintained by a Reporting Financial Institution as of 30 June 2016; or

(b) any financial account of an account holder, regardless of the date the financial account was opened where—

(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 paragraph (a) of this definition,

(ii) 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 purposes of the Standard,

(iii) 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 this paragraph, as a single financial account for purposes of satisfying the standards of knowledge requirements set forth in paragraph A of Section VII of the Standard, and for the purposes of determining the balance or value of any of the financial accounts when applying any of the account thresholds, and

(iv) with respect to a financial account that is subject to AML/KYC procedures, the Reporting Financial Institution is permitted to satisfy the AML/KYC procedures for the financial account by relying upon the AML/KYC procedures performed for the pre-existing account described in paragraph (a) of this definition;

"reportable jurisdiction" means any jurisdiction other than the United States of America or Anguilla;

"reportable person" means a person as defined in subparagraph D(2) of Section VIII of the Standard;

"Standard" means the Common Reporting Standard, as set out in Schedule 3, including the Commentaries thereon, approved by the Council of the Organisation for Economic Co-operation and Development on 15 July 2014, which contains reporting and due diligence procedure for the exchange of information on an automatic basis, as amended from time to time;

"standardised industry coding system" means a coding system used to classify establishments by business type for purposes other than tax purposes;

"US$" means United States Dollars, the official currency of the United States of America.

(2) For the purposes of these Regulations, the Standard is to be read as if the definition—

(a) "Related Entity" in subparagraph E(4) of Section VIII of the Standard read as follows—

"4. An Entity is a "Related Entity" of another Entity if (a) either Entity controls the other Entity; (b) the two Entities are under common control; or (c) the two Entities are Investment Entities described in subparagraph A(6)(b), are under common management, and that management fulfils the due diligence obligations of the Investment Entities. For this purpose control includes direct or indirect ownership of more than 50% of the vote and value in an Entity."; and

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(b) "Reporting Financial Institution" in subparagraph A(1) of Section VIII of the Standard read as follows—

"1. A "Reporting Financial Institution" means any Anguilla Financial Institution that is not a non-reporting financial institution. The term "Anguilla Financial Institution" means—

(i) any branch of a Financial Institution that is not resident in Anguilla, if that branch is located in Anguilla, and

(ii) any Financial Institution that is resident in Anguilla, but excludes any branch of that Financial Institution that is located outside of Anguilla."

(3) For the purposes of these Regulations, the date specified in the definition "Qualified Credit Card Issuer" in subparagraph B(8)(b) of Section VIII of the Standard is 01 July 2016.

(4) Subject to subsections (1) to (3), any term which is defined in the Standard but not in the Act or in these Regulations has the same meaning in these Regulations as in the Standard.

Application of the Standard

2. With effect from the 7 July 2016, the Standard applies for the purposes of automatic exchange of financial account information under the CRS agreement and the Standard shall form part of the laws of Anguilla.

(R.A. 16/2017, s. 2)

Due diligence obligations

3. (1) Every Reporting Financial Institution shall establish, maintain and document the procedures described in sections 2 to 4 that are designed to identify reportable accounts maintained by the institution.

(2) Every Reporting Financial Institution shall—

(a) identify reportable accounts maintained by the institution by applying the due diligence procedures described in Sections II to VII of the Standard;

(b) apply the due diligence procedures as if the date specified in—

(i) subparagraph C(6) of Section III of the Standard were 30 June 2016,

(ii) paragraph A of Section V of the Standard were 30 June 2016,

(iii) paragraph B of Section V of the Standard were 30 June 2016 in both the first and second instances,

(iv) subparagraph E(1) of Section V of the Standard were 30 June 2016 in the first instance, and 31 December 2017 in the second instance,

(v) subparagraph E(2) of Section V of the Standard were 30 June 2016; and

(c) apply paragraph D of Section III of the Standard as if it read as follows—

"D. Review of pre-existing high individual accounts must be completed by 31 December 2016. Review of pre-existing lower value individual accounts must be completed by 31 December 2017."

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(3) An account is treated as a reportable account beginning as of the date it is identified to be a reportable account, pursuant to the due diligence procedures described in Sections II to VII of the Standard 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.

(4) For the purposes of these Regulations, an account with a balance or value that is negative is deemed to have a balance or value equal to nil.

(5) In determining the balance or value of an account denominated in a currency (other than US$) for the purposes of the Standard and these Regulations, the institution shall translate the relevant US$ threshold amount described in the Standard or in these Regulations into the other currency by reference to the spot rate of exchange on the date for which the institution is determining the threshold amounts.

(6) For the purposes of the Standard and these Regulations, a financial account held by an individual as a partner of a partnership is deemed to be an entity account.

Modifications to due diligence procedures

4. (1) A Reporting Financial Institution may apply, for a calendar year—

(a) the due diligence procedures for a high value account, described in paragraph C of Section III of the Standard, to a lower value account;

(b) the residence address procedure, as described in subparagraph B(1) of Section III of the Standard, to a lower value account; or

(c) paragraphs A to C of Section V of the Standard to determine whether a pre-existing entity account is subject to the due diligence procedures described in Section V of the Standard.

(2) Subject to subsections (3) and (4), a Reporting Financial Institution may apply, for a calendar year, the due diligence procedures for a new account, described in paragraph A of Section IV or VI of the Standard, to a pre-existing account.

(3) Where a Reporting Financial Institution applies the due diligence procedures for a new account to a pre-existing account, the procedures described in subparagraph B(1) of Section III and paragraphs C of Section I, A of Section III and A of Section V of the Standard shall apply to the new account.

(4) A Reporting Financial Institution may not apply the due diligence procedures for a new account to a pre-existing account unless the institution applies the procedures to all pre-existing accounts it maintains or a clearly identifiable group of pre-existing accounts.

(5) A Reporting Financial Institution may, with respect to a pre-existing entity account, use as documentary evidence any classification in the institution's records with respect to the account holder that—

(a) was determined based on a standardised industry coding system;

(b) was recorded by the institution consistent with its normal business practices for purposes of AML/KYC procedures or another regulatory purpose (other than for tax purposes); and

(c) was implemented by the institution prior to the date used to classify the financial account as a pre-existing account;

provided that the institution does not know or does not have reason to know that the classification is incorrect or unreliable.

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(6) With respect to new entity accounts, for the purposes of determining whether a controlling person of a passive NFE is a reportable person, a Reporting Financial Institution may only rely on a self-certification from either the account holder or the controlling person.

(7) For the purposes of section 2, the Standard is to be read as if paragraph B of Section VII of the Standard read as follows—

"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 that 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 where 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, where the Financial Account that is a member's interest in a Group Cash Value Insurance Contract or Group Annuity Contract meets the following requirements—

(a) the aggregate amount payable to any employee/certificate holder or beneficiary does not exceed an amount denominated in the domestic currency of each Member State that corresponds to USD 1,000,000;

(b) 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

(c) the Group Cash Value Insurance Contract or Group Annuity Contract is issued to an employer and covers 25 or more employees/certificate holders.

The term "Group Cash Value Insurance Contract" means a Cash Value Insurance Contract that (a) provides coverage on individuals who are affiliated through an employer, trade association, labour union, or other association or group; and (b) 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."

Reporting obligation

5. (1) A Reporting Financial Institution shall, in the calendar year 2017 and every following calendar year, file with the Competent Authority an information return setting out the information required to be reported described in paragraphs A and B of Section I of the Standard, subject to paragraphs C to F in Section I of the

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Standard, in relation to every financial account identified as a reportable account that is maintained by the institution at any time during the previous calendar year.

(2) The reporting procedures shall be applied as if the date specified in paragraph F in Section I of the Standard were 2016.

(3) Where a Reporting Financial Institution applies the due diligence procedures described in section 2 for a calendar year and no account is identified as a reportable account, the institution is not required to file an information return in respect of that year but may, at the Reporting Financial Institutions' own option, do so in accordance with these Regulations.

(R.A. 16/2017, s. 3(a))

(4) An information return, required to be filed by this section, shall be submitted electronically in accordance with section 6—

(a) in relation to the calendar year 2017, on or before the 31st of August; and

(b) for every following calendar year, on or before the 31st of May of the year following the calendar year to which the return relates.

(R.A. 16/2017, s. 3(b))

Electronic return system

6. (1) An information return must be made electronically using an electronic return system.

(2) The form and manner of an electronic return system shall be specified in specific or general directions given by the Competent Authority.

(3) An information return which is made otherwise than in accordance with subsections (1) and (2) shall be treated as not having been made.

(4) An electronic return system must incorporate an electronic validation process.

(5) Unless the contrary is proved—

(a) the person delivering the return is presumed to be the person identified by any feature of the electronic return system;

(b) the time of making the return is presumed to be the time recorded by the electronic validation process; and

(c) the use of an electronic return system is presumed to have resulted in the making of the return only if this has been successfully recorded by the electronic validation process.

(6) An information return made on behalf of a Reporting Financial Institution is taken to have been made by that institution, unless the institution proves that the return was made without the institution's authority.

Records

7. (1) Every Reporting Financial Institution shall keep records that the institution obtains, creates or relies on for the purpose of complying with these Regulations, including self-certifications and records of documentary evidence or other evidence.

(2) Every Reporting Financial Institution shall keep a record of the steps taken to comply with these Regulations.

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(3) Every Reporting Financial Institution required to keep records that does so electronically shall retain them in an electronically readable format.

(4) Every Reporting Financial Institution that obtains or creates records in a language other than English shall, upon request, provide an English translation to the Competent Authority.

(5) Every Reporting Financial Institution that is required to keep, obtain or create records under this section shall retain those records for a period of at least six years after the date on which the Reporting Financial Institution has filed an information return under section 5.

(R.A. 16/2017, s. 4)

Inspection of books, etc., and provision of information and assistance

8. (1) The Competent Authority may, by notice in writing, require a Financial Institution to give the Competent Authority within 14 days, any information as the Competent Authority may reasonably require for any purpose relating to the administration or enforcement of these Regulations.

(2) The Competent Authority may require a Financial Institution to—

(a) produce books, records or other documentation;

(b) provide information, explanations and particulars; and

(c) give any assistance which the Competent Authority may reasonably require relating to the administration or enforcement of these Regulations.

(3) The Competent Authority may—

(a) make extracts from or copies of all or any part of the books, records or other documents or other material made available to the Competent Authority; or

(b) require that copies of books, records or other documents be made available to the Competent Authority for any purpose relating to the administration or enforcement of these Regulations.

(4) Where any information which is required to be provided to, or inspected by the Competent Authority is located outside of Anguilla in any manner whatsoever, the Financial Institution shall take the necessary steps to bring the information to Anguilla within the time specified in writing by the Competent Authority to enable the institution to comply with the requirements of the Competent Authority under this section.

Service providers

9. (1) A Reporting Financial Institution may appoint a third party as its agent to carry out the duties and obligations imposed on it by these Regulations.

(2) Where a third party is appointed by a Reporting Financial Institution under subsection (1), the institution—

(a) is responsible for any failure of that third party to carry out the obligations of the institution and sections 8, 11(1)(b) and 12(2)(a) apply to the institution notwithstanding that—

(i) the actions were those of that third party, or

(ii) the failure to act was the failure by that third party to act; and

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(b) shall, at all times, have access to and be able to produce, when requested by the Competent Authority, the records and documentary evidence used to identify and report on reportable accounts.

Notification to individual reportable persons

10. (1) A Reporting Financial Institution shall notify each individual reportable person that information relating to that person which is required to be reported under section 4 will be reported to the Competent Authority and may be transferred to the government of another territory in accordance with the CRS agreement.

(2) The notification must be made by 31st January in the calendar year following the first year in which the account held by the individual is a reportable account maintained by the Reporting Financial Institution.

Offences

11. (1) A Reporting Financial Institution that—

(a) fails to implement arrangements or procedures in order to comply with these Regulations;

(b) fails to keep and maintain books and records as required under section 7;

(c) fails to take appropriate measures to obtain a valid self-certification from an account holder, or a person opening a new account, in accordance with the due diligence procedures described in Sections II to VI of the Standard;

(d) fraudulently or negligently makes a false report, whether in its entirety or in any particular part;

(e) with intent to avoid the provisions of these Regulations, alters, destroys, mutilates, defaces, hides or removes any document or information, including documents or information electronically held;

(f) without reasonable cause, fails to file an information return when required and in the manner specified under these Regulations; or

(g) fails in any other way to comply with these Regulations;

commits an offence and is liable on summary conviction to a fine of $10,000.

(2) A Reporting Financial Institution that wilfully obstructs an inspection by the Competent Authority under section 8, commits an offence and is liable on summary conviction to a fine of $5,000.

(3) A person who makes a false statement or omission in respect of any information required to be included on an information return, or for the purposes of self-certification or for any other reason under these Regulations is liable on summary conviction to a fine of $5,000.

Defences

12. (1) A person or Reporting Financial Institution does not commit an offence under section 11 where the court is satisfied that there is a reasonable excuse for the breach.

(2) For the purposes of these Regulations neither of the following is a reasonable excuse—

(a) that the person or Reporting Financial Institution relies upon another person to do something in relation to these Regulations; or

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(b) that there is an insufficiency of funds to comply with the Regulations.

Anti-avoidance

13. (1) No person shall enter into any arrangements for the purpose of avoiding any obligations under these Regulations.

(2) Where a person enters into any arrangements for the purpose of avoiding any obligation under these Regulations, these Regulations are to have effect as if the arrangements had not been entered into.

Issue of Guidance

14. The Competent Authority shall issue guidance notes from time to time for the purposes of aiding compliance with these Regulations.

Citation

15. These Regulations may be cited as the International Tax Compliance (CRS) Regulations, Revised Regulations of Anguilla, T3-3.

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SCHEDULE 1

(Section 1)

EXCLUDED ACCOUNTS

For the purposes of the Standard the following are excluded accounts:

(1) A dormant account (other than an annuity contract) with a balance that does not exceed US$1,000 is an Excluded account.

(2) An account is a dormant account if—

(a) the account holder has not initiated a transaction with regard to the account or any other account held by the account holder with the reporting financial institution in the previous three years;

(b) the account holder has not communicated with the reporting financial institution regarding the account or any other account held by the account holder with the reporting financial institution in the previous six years;

(c) the account is treated as a dormant account under the reporting financial institutions normal operating procedures; and

(d) in the case of a cash value insurance contract, the reporting financial institution has not communicated with the account holder regarding the account or any other account held by the account holder with the reporting financial institution in the previous six years.

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SCHEDULE 2

(Section 1)

PARTICIPATING JURISDICTIONS

For the purposes of the Standard, the following are participating jurisdictions—

Anguilla
Andorra
Antigua and Barbuda
Argentina
Aruba
Austria
Australia
The Bahamas
Bahrain
Barbados
Belgium
Belize
Bermuda
Brazil
British Virgin Islands
Brunei Darussalam
Bulgaria
Canada
Cayman Islands
Chile
China
Colombia
Cook Islands
Costa Rica
Croatia
Curacao
Cyprus
Czech Republic
Denmark
Dominica
Estonia
Faroe Islands
Finland
France
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Macao (China)
Malaysia
Mauritius
Mexico
Monaco
Montserrat
Nauru
Netherlands
New Zealand
Niue
Norway
Panama
Poland
Portugal
Qatar
Romania
Russia
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Samoa
San Marino
Saudi Arabia
Seychelles
Singapore
Sint Maarten
Slovak Republic
Slovenia
South Africa
Spain
Sweden
Switzerland
Turkey
Turks and Caicos Islands
Trinidad and Tobago
United Arab Emirates
United Kingdom
Uruguay
Vanuatu.

(R.A. 16/2017, s. 5)

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SCHEDULE 3

(Section 1)

COMMON REPORTING STANDARD

B. Common Reporting Standard

COMMON STANDARD ON REPORTING AND DUE DILIGENCE FOR FINANCIAL ACCOUNT INFORMATION

Section I: General Reporting Requirements

A. Subject to paragraphs C through F, 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;

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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 Preexisting 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 Preexisting 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.

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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.

F. Notwithstanding paragraph A, the information to be reported with respect to [xxxx] is the information described in such paragraph, except for gross proceeds described in subparagraph A(5)(b).

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

C. 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.

D. Each Jurisdiction may allow Reporting Financial Institutions to use service providers to fulfil the reporting and due diligence obligations imposed on such Reporting Financial Institutions, as contemplated in domestic law, but these obligations shall remain the responsibility of the Reporting Financial Institutions.

E. Each Jurisdiction may allow Reporting Financial Institutions to apply the due diligence procedures for New Accounts to Preexisting Accounts, and the due diligence procedures for High Value Accounts to Lower Value Accounts. Where a Jurisdiction allows New Account due diligence procedures to be used for Preexisting Accounts, the rules otherwise applicable to Preexisting Accounts continue to apply.

Section III: Due Diligence for Preexisting Individual Accounts

The following procedures apply for purposes of identifying Reportable Accounts among Preexisting Individual Accounts.

A. **Accounts Not Required to be Reviewed, Identified, or Reported.** A Preexisting Individual Account that is a Cash Value Insurance

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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 Reportable Jurisdiction;

b) current mailing or residence address (including a post office box) in a Reportable Jurisdiction;

c) one or more telephone numbers in a Reportable 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 Reportable Jurisdiction;

e) currently effective power of attorney or signatory authority granted to a person with an address in a Reportable Jurisdiction; or

f) a "hold mail" instruction or "in-care-of" address in a Reportable 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

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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 Reportable 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 Reportable Jurisdiction if:

   a) the Account Holder information contains a current mailing or residence address in the Reportable Jurisdiction, one or more telephone numbers in the Reportable 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 Reportable 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 Reportable Jurisdiction; and

      ii) Documentary Evidence establishing the Account Holder's non-reportable status.

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b) the Account Holder information contains a currently effective power of attorney or signatory authority granted to a person with an address in the Reportable 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 Reportable Jurisdiction; or

ii) Documentary Evidence establishing the Account Holder's non-reportable status.

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.

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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 Reportable Person 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

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being associated with the account, then the Reporting Financial Institution must treat the account as a Reportable Account with respect to each Reportable 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 Preexisting Individual Account is not a High Value Account as of 31 December [xxxx], 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 Reportable Jurisdiction for which an indicium is identified unless it elects

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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 Reportable 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 Preexisting Individual Accounts must be completed by [xx/xx/xxxx].

E. Any Preexisting 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 for purposes of identifying Reportable Accounts among 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

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that establishes the residence(s) for tax purposes of the Account Holder.

Section V: Due Diligence for Preexisting Entity Accounts

The following procedures apply for purposes of identifying Reportable Accounts among Preexisting 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 Preexisting Entity Accounts or, separately, with respect to any clearly identified group of such accounts, a Preexisting Entity Account with an aggregate account balance or value that does not exceed USD 250 000 as of 31 December [xxxx], 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 Preexisting Entity Account that has an aggregate account balance or value that exceeds USD 250 000 as of 31 December [xxxx], and a Preexisting Entity Account that does not exceed USD 250 000 as of 31 December [xxxx] 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. **Entity Accounts With Respect to Which Reporting Is Required.** With respect to Preexisting Entity Accounts described in paragraph B, only accounts that are held by one or more Entities that are Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons, shall be treated as Reportable Accounts.

D. **Review Procedures for Identifying Entity Accounts With Respect to Which Reporting Is Required.** For Preexisting Entity Accounts described in paragraph B, a Reporting Financial Institution must apply the following review procedures to determine whether the account is held by one or more Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons:

1. **Determine Whether the Entity Is a Reportable Person.**

a) Review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine whether the information indicates that the Account Holder is resident

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in a Reportable Jurisdiction. For this purpose, information indicating that the Account Holder is resident in a Reportable Jurisdiction includes a place of incorporation or organisation, or an address in a Reportable Jurisdiction.

b) If the information 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 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 Whether the Entity is a Passive NFE with One or More Controlling Persons Who Are Reportable Persons.** With respect to an Account Holder of a Preexisting 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 who are 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 D(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 whether a Controlling Person of a Passive NFE is a Reportable Person.** For the purposes of determining

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whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Financial Institution may rely on:

i) information collected and maintained pursuant to AML/KYC Procedures in the case of a Preexisting 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.

E. **Timing of Review and Additional Procedures Applicable to Preexisting Entity Accounts.**

1. Review of Preexisting Entity Accounts with an aggregate account balance or value that exceeds USD 250 000 as of 31 December [xxxx] must be completed by 31 December [xxxx].

2. Review of Preexisting Entity Accounts with an aggregate account balance or value that does not exceed USD 250 000 as of 31 December [xxxx], 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 Preexisting 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 D.

Section VI: Due Diligence for New Entity Accounts

The following procedures apply for purposes of identifying Reportable Accounts among New Entity Accounts.

A. **Review Procedures for Identifying Entity Accounts With Respect to Which Reporting Is Required.** For New Entity Accounts, a Reporting Financial Institution must apply the following review procedures to determine whether the account is held by one or more Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons:

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1. **Determine Whether the Entity Is a Reportable Person.**

   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 Whether the Entity is a Passive NFE with One or More Controlling Persons Who Are Reportable Persons.** With respect to an Account Holder of a New 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 who are 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 Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.

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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 whether a Controlling Person of a Passive NFE is a Reportable Person.** For purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, 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.** 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.

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

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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 Institution that is not a Non-Reporting Financial Institution.

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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).

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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;

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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;

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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

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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;

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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 [xx/xx/xxxx], 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.

An Investment Entity that is regulated as a collective investment vehicle does not fail to qualify under subparagraph B(9) as

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an Exempt Collective Investment Vehicle, solely because the collective investment vehicle has issued physical shares in bearer form, provided that:

a) the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after [xx/xx/xxxx];

b) the collective investment vehicle retires all such shares upon surrender;

c) the collective investment vehicle performs the due diligence procedures set forth in Sections II through VII and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and

d) the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilised as soon as possible, and in any event prior to [xx/xx/xxxx].

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.

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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.

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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 **"Preexisting Account"** means a Financial Account maintained by a Reporting Financial Institution as of [xx/xx/xxxx].

10. The term **"New Account"** means a Financial Account maintained by a Reporting Financial Institution opened on or after [xx/xx/xxxx].

11. The term **"Preexisting Individual Account"** means a Preexisting Account held by one or more individuals.

12. The term **"New Individual Account"** means a New Account held by one or more individuals.

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13. The term **"Preexisting Entity Account"** means a Preexisting Account held by one or more Entities.

14. The term **"Lower Value Account"** means a Preexisting Individual Account with an aggregate balance or value as of 31 December [xxxx] that does not exceed USD 1 000 000.

15. The term **"High Value Account"** means a Preexisting Individual Account with an aggregate balance or value that exceeds USD 1 000 000 as of 31 December [xxxx] 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

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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

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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

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(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 [xx/xx/xxxx], 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.

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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.

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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

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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.

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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 either Entity controls the other Entity, or the two Entities are under common control. 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.

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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.

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

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.

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