



HM Revenue  
& Customs

# Implementing Agreements under the Global Standard on Automatic Exchange of Information to Improve International Tax Compliance.

## **Discussion document**

Publication date: 31 July 2014

Closing date for comments: 22 October 2014

<b>Subject of this discussion:</b>	The implementation of agreements to be entered into between the UK and various overseas jurisdictions to adopt the Common Reporting Standard on Financial Account Information (the CRS).
<b>Scope of this discussion:</b>	Comments are sought on draft legislation to implement the CRS.
<b>Who should read this:</b>	Businesses, representative bodies and tax professionals.
<b>Duration:</b>	The discussion period will last for 12 weeks from 31/07/14 to 22/10/14.
<b>Lead official:</b>	Chris Orchard, HM Revenue & Customs (HMRC)
<b>How to respond or enquire about this discussion:</b>	Electronic responses to: <a href="mailto:crs.consultation@hmrc.gsi.gov.uk">crs.consultation@hmrc.gsi.gov.uk</a>  Written responses should be addressed to Chris Orchard, Room 3C/03, 100 Parliament Street, London SW1A 2BQ
<b>Additional ways to be involved:</b>	HMRC will engage directly with representative bodies and affected businesses through existing customer relationships but welcomes views from all interested parties. A “Town Hall” meeting will be held on 9 October 2014 at HM Treasury, 1 Horse Guards Road, London SW1A 2HQ  Please note that places for this event are limited and not all those who express an interest in attending may be able to do so. Expressions of interest should be emailed to: <a href="mailto:dany.gleig@hmrc.gsi.gov.uk">dany.gleig@hmrc.gsi.gov.uk</a>
<b>After the discussion:</b>	The draft regulations will be reviewed in light of the responses, amended as necessary and published by the end of the year with a view to bringing them into force on or before 31 March 2015. A summary of responses will be published after the close of the discussion.
<b>Getting to this stage:</b>	In April 2013 the G20 countries announced a commitment to develop a Global Standard for Automatic Exchange of Financial Account Information based on the implementation of the Foreign Account Tax Compliance Act (FATCA). The UK has been closely involved in the development of the standard which was published in February 2014. The UK has also committed as an early adopter of the standard.
<b>Previous engagement:</b>	Since February 2012 HMRC has undertaken extensive stakeholder engagement with representative bodies and businesses leading to the implementation of legislation that enables automatic exchange of information under FATCA and with the Crown Dependencies and Overseas Territories.

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**On request this document can be produced in Welsh and alternate formats including large print, audio and Braille formats**

# 1. Introduction

Ensuring everyone pays their fair share of tax is in sharper focus than ever. A key element of this agenda is tackling offshore evasion. This is critical not only to protect the public finances but also to reinforce the public's confidence in the tax system, as well as the international economic system as a whole. Central to tackling offshore evasion is the sharing of financial information between governments.

In September 2012 the UK became the first jurisdiction to sign an enhanced automatic tax information exchange agreement with the United States of America (US) to implement the reporting required under US FATCA legislation (automatic exchange of financial account information on US citizens and entities). In 2013 the UK signed automatic tax information agreements with its Crown Dependencies (Isle of Man, Jersey and Guernsey) and Overseas Territories (Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Gibraltar, Montserrat and the Turks and Caicos Islands). The US agreement and the agreements with the Crown Dependencies and Gibraltar impose obligations on UK financial institutions to report financial account information to HMRC for onward transmission to these territories, the agreements with the remaining Overseas Territories are non-reciprocal so while the UK will receive information there is no obligation to provide information to them.

In April 2013 the UK along with France, Germany, Italy and Spain (the G5) set up a pilot to explore the possibility of developing a common approach to automatic exchange of financial account information. This was adopted by the G20 leading to work being commissioned with the OECD to develop a new global standard. In February 2014 the OECD delivered the Model Competent Authority Agreements for a Common Reporting Standard (the CRS) which was approved by the G20 as the Global Standard for Automatic Exchange of Financial Account Information. The CRS is designed to provide maximum consistency with US FATCA. This is in order to minimise the additional costs and burdens to business from the increased reporting requirements. There are areas where the CRS does not exactly mirror the US model due to differences in context, for example the taxation systems of the participating jurisdictions. As at 14 July 2014, 45 jurisdictions, including the UK, have agreed to early adoption of the CRS. Under the proposed regulations that are the subject of this discussion financial institutions will be required to capture information in relation to accounts in existence as at 31 December 2015 and new accounts opened on or after 1 January 2016 with first reporting in 2017.

This discussion follows from the consultation document "Implementing the UK-US FATCA Agreement" published on 18 September 2012 and the discussion document "Implementing the United Kingdom's Agreements with the Crown Dependencies to Improve International Tax Compliance" published on 26 June 2013. Given the close alignment between the UK/US agreement, the Crown Dependencies and Gibraltar agreements and the proposed Competent Authority Agreements of the CRS this discussion will not cover issues that were the subject of consultation or discussion in those earlier documents.

## 2. The Agreements

We have published three Model Competent Authority Agreements alongside this discussion document. One is for use as a model multilateral agreement enabling a number of jurisdictions to jointly agree to exchange information automatically with the UK, one is a model bilateral agreement for use between the UK and a single other jurisdiction and the third is a model non-reciprocal agreement where the UK will receive information from another jurisdiction but will not be obliged to report information in return. It is only the multilateral and bilateral agreements that will impact on UK financial institutions by imposing reporting obligations through domestic regulations.

Whichever type of agreement is entered into, it must be read in conjunction with the Annex to the agreement – “Common Standard on Reporting and Due Diligence for Financial Account Information” – as this provides the detail of the reporting requirements and the due diligence procedures that must be followed. The annex is also published alongside this discussion document.

We have yet to enter into any agreements but the expectation is that in the autumn of 2014 the UK will sign Competent Authority Agreements (“The Agreements”) with the 44 other early adopters of the CRS. These are:

Anguilla, Argentina, Belgium, Bermuda, Bulgaria, the British Virgin Islands, the Cayman Islands, Colombia, Croatia, Cyprus, Czech Republic, Denmark, Estonia, the Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Guernsey, Hungary, Iceland, India, Ireland, the Isle of Man, Italy, Jersey, Latvia, Liechtenstein, Lithuania, Malta, Mexico, Montserrat, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Sweden and the Turks & Caicos Islands.

It is expected that a significant number of other jurisdictions will adopt the CRS at a later date increasing the level of reporting required over time.

This discussion document asks about the impact of these Agreements on UK Financial Institutions, and also asks how the final Agreements can best be implemented in the UK through regulations. The Agreements will impact institutions in jurisdictions which are party to the Agreements but this document concerns the UK implementation of those Agreements and so focuses on the impact on UK Financial Institutions. UK Financial Institutions will only have reporting obligations under the reciprocal agreements.

As part of the UK legislative process, we will publish a Tax Information and Impact Note (“TIIN”) alongside the UK Regulations. This will include an estimate of the impact on UK business from the expansion of reporting obligations under these Agreements (i.e. the TIIN will need to include an estimate of the costs of this additional reporting, over and above the costs incurred under the UK/US FATCA agreement and the reciprocal agreements with the Crown Dependencies and Overseas Territories). This discussion document therefore also asks for details of the expected increase in administrative burden on UK business as a result of the additional reporting requirements. For the purposes of making these estimates UK Financial Institutions should presume that they will be reporting on Reportable Accounts with respect to all of the jurisdictions above except those of the UK Overseas Territories where there is an existing non-reciprocal agreement that is expected to be replicated under the CRS

(Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Montserrat and the Turks & Caicos islands).

Once the agreements have been signed HM Treasury will introduce Regulations (“the Regulations”) through a power introduced in Finance Act 2013 to enact the reciprocal agreements in UK law. The Regulations will provide the legal basis for UK financial institutions to comply with their obligations under the Agreements. It is anticipated that these Regulations will be enacted on or before 31 March 2015. No UK Regulations will be required in respect of any non-reciprocal agreements as there will be no reporting in respect of these by UK financial institutions. A copy of the draft regulations is also attached to this document and is also the subject of this discussion.

This discussion document invites comments on issues for consideration in developing the enacting legislation. Core guidance on the application of the CRS will be published by the OECD as a commentary on the model (which can be accessed at [www.oecd.org](http://www.oecd.org) once published). We will develop additional guidance to deal with aspects of the CRS that are specific to UK implementation of the CRS as well as highlighting the differences between the regimes for automatic exchange of financial account information for the CRS, FATCA and the Crown Dependencies and Overseas Territories agreements. We expect that guidance will be published by the date the regulations take effect.

We invite specific input on:

- Any information and data with regard to the costs of implementation and compliance with the obligations being introduced, and
- The draft implementing Regulations.

The model CRS provides for competent authority agreements rather than intergovernmental agreements. This allows agreements to be made between tax administrations rather than at government level but has no other impact compared to the intergovernmental agreement approach. Relevant UK Financial Institutions will report the required information to HMRC under UK law. HMRC will then automatically exchange this information with the tax administrations of the other jurisdictions under existing exchange of information provisions.

The Agreement is comprised of two parts – the competent authority agreement and the annex. The competent authority agreement contains the sections that mirror the articles in the existing intergovernmental agreements that the UK has signed. The annex contains the due diligence obligations (the equivalent of Annex 1 of the intergovernmental agreements) and defines the non-reporting financial institutions and exempt products (the equivalent of Annex II).

The following Chapters describe the Model Competent Authority Agreement and the Annex and set out how they are intended to work.

This discussion document focuses on the implementation of the CRS in UK domestic legislation, the following chapters raise specific questions, but any other thoughts on how the CRS can be best incorporated in UK regulations and guidance are welcomed.

## 3. The Competent Authority Agreement

The competent authority agreement (the Agreement) requires each jurisdiction to implement laws that require financial institutions to identify and report information on accounts held by persons resident in the partner jurisdiction – designated Jurisdiction B in the model agreement attached to this discussion document. This includes accounts held in the person's own name as well as accounts held by one or more entities controlled by a Jurisdiction B person.

To minimise the additional burdens placed on Financial Institutions the terms used mirror, as closely as possible, those in FATCA agreements. Many of the concepts and definitions in the attached model have previously been the subject of discussion in respect of the UK/US agreement and the Crown Dependencies and Overseas Territories agreements. Therefore this document will focus on the areas of difference and how any new or amended concepts or definitions can best be implemented in the UK.

### Section 1 - Definitions

Section 1 of the Agreement defines the terms used in the Agreement and sets out what is meant by a Financial Institution and also a Financial Account: which includes a Depository Account, a Custodial Account, a Cash Value Insurance Contract or Annuity Contract, as well as Equity Interests in partnerships and trusts. The Article also includes definitions of a Jurisdiction B Reportable Account, and a Jurisdiction B Person which are used to identify the accounts that a UK Financial Institution needs to report to HMRC under the Agreement.

Given the reciprocal nature of the model Agreement, the definitions have been expanded to apply for both parties. UK Financial Institutions will be obliged to identify and report on Jurisdiction B Reportable Accounts held by Jurisdiction B Persons, and Jurisdiction B Financial Institutions will be obliged to identify and report on UK Reportable Accounts held by UK Persons.

Section 1 (d) sets out what is meant by a UK Financial Institution.

These are defined as Financial Institutions resident in the UK for tax purposes; excluding branches (and subsidiaries) that are located outside of the UK. Financial Institutions are Custodial Institutions, Depository Institutions, Investment Entities, or Specified Insurance Companies.

It is anticipated that the UK Financial Institutions falling within this definition will be broadly the same as those to whom the UK/US and Crown Dependencies and Overseas Territories agreements apply subject to any modifications to the exemptions included in the Annex at Section VIII B.

Section 1 (i) sets out what is meant by a Jurisdiction B Reportable Account.

This definition mirrors that for a CD or Gibraltar Reportable Account under the Crown Dependencies and Overseas Territories agreements.

Section 1 (k) sets out what is meant by a Jurisdiction B Person.

The Agreement departs from the format of the earlier agreements here as in the intergovernmental agreements the definition is extended to enable identification of the equivalent of a Jurisdiction B Reportable Person. This is defined for CRS purposes in the Annex at Section VIII D which deals with Reportable Accounts.

***Q. – Are there any definitions in the Agreement that give rise to uncertainty or raise practical issues which have not been covered by the existing UK guidance on automatic exchange of information agreements?***

## **Section 2 – Exchange of Information with Respect to Reportable Accounts**

Section 2 sets out the information that will need to be obtained by UK Financial Institutions and provided to HMRC, who will then annually exchange that information with the relevant overseas jurisdictions. The current working assumption is that the normal date by which Financial Institutions will need to supply data to HMRC will be the 31<sup>st</sup> May each year in line with reporting for FATCA and the CD and Gibraltar regulations.

HMRC is aware that the requirements of the Agreement will result in increased reporting by Financial Institutions to HMRC although financial institutions are already required to capture and maintain details for all account holders under the existing regulations. In order to minimise the additional burdens and system costs that UK Financial Institutions will incur, the format in which data needs to be returned to HMRC and the method of transmission of that data will be the same as required for the existing agreements.

***Q. – To enable us to produce estimates of the administrative burdens on UK business for publication in the TIIN, can you tell us what additional burdens and costs are anticipated in respect of the reporting and transmission of data assuming that reporting applies to all the jurisdictions that have committed to early adoption of the CRS?***

It is proposed that the first date for reporting data on Jurisdiction B Reportable Accounts, to HMRC, will be 31 May 2017 based on Preexisting Accounts as at 31 December 2015 and New Accounts opened on or after 1 January 2016.

Section 2 (2) specifies the information that must be obtained in respect of each Reportable Account held by each Reporting Financial Institution, and then exchanged annually between the parties. UK Financial Institutions will need to report the information in box 3.1 in respect of Jurisdiction B Reportable Accounts.



### Box 3.1

a. the name, address, TIN 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 an Entity that is an Account Holder and that, after application of the due diligence procedures consistent with the Annex, is identified as having one or more Controlling Persons that is a Reportable Person in the other Party, the name, address, of such entity and the name, address, and TIN of the Entity and the name, address, TIN and date and place of date of birth of each Reportable Person;
b. the account number (or functional equivalent in the absence of an account number);
c. the name and identifying number (if any) of the reporting Financial Institution;
d. 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;
e. in the case of any Custodial Account: <ul style="list-style-type: none"><li>▪ 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</li><li>▪ the total gross proceeds from the sale or redemption of property 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;</li></ul>
f. 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
g. in the case of any account not described in subparagraph (e) or (f) of this paragraph, 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 UK 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.

While this is very similar to items to be reported under the existing automatic exchange of information agreements there are some additional requirements under the CRS in (a) above.

For individuals there is a requirement to capture the place of birth in addition to the date of birth and there is a requirement to capture and report the Tax Identification Number (TIN) of the Entity.

***Q – Will the differences in the information being requested lead to any increased burdens for your business? If so then what will the additional costs be, what will they relate to and how will they arise?***

***Q – Will Reporting Financial Institutions find it useful for HMRC to publish in guidance the format that TINs take for each of the jurisdictions with which exchange will take place under the CRS?***

As the Crown Dependencies and Overseas Territories have all committed to be early adopters of the CRS, Financial Institutions obliged to report under the existing CD and Gibraltar Regulations will remain in scope for CRS reporting. There may, however, be Financial Institutions that do not have any Reportable Accounts under those regulations but that may have to report under the CRS. We would like to understand how many such Financial Institutions there are and the impact on them of the imposition of reporting obligations.

***Q – Are there any Financial Institutions that do not have Reportable Accounts under the CD and Gibraltar agreements but are likely to have Reportable Accounts under any Agreement between the UK and another early adopter jurisdiction?***

***Q – Will the Financial Institutions identified above already be undertaking due diligence procedures for the purposes of the CD and Gibraltar agreements? For instance they may be undertaking due diligence in order to identify that there are no Reportable Accounts under these agreements.***

***Q – To enable us to produce estimates of the administrative burden on UK business, for publication in the TIIN, can you tell us what additional burdens and costs the requirement to report data under the CRS is likely to introduce for any of the Financial Institutions identified above?***

## Section 3 – Time and Manner of Exchange of Information

The differing categories of information that are required to be reported under Section 3 for the years 2016 and 2017 are set out in Box 3.2 below. 2017 is the first year of full reporting and later years will require the same data:

### Box 3.2

Information with respect to the years	Information that needs to be reported
2016	<ul style="list-style-type: none"><li>• For Custodial Accounts - the total gross interest, total gross dividends and the total gross amount of other income generated with respect to the assets held in the account.</li><li>• For Depository Accounts - the total gross amount of the interest paid or credited to the Account</li><li>• For any other account - the total gross proceeds paid or credited to the Account Holder</li></ul>
2017	<p>In addition to the above:</p> <ul style="list-style-type: none"><li>• The total gross proceeds from the sale or redemption of property paid or credited to the Account</li></ul>

## Section 4 – Collaboration on Compliance and Enforcement

This section sets out the basis on which the UK and Jurisdiction B Competent Authorities will operate in respect of compliance and enforcement of the obligations under the Competent Authority Agreement. Both parties will be expected to have domestic legislation in place that will provide appropriate measures to address errors and non-compliance notified under this section.

## Section 5 – Confidentiality and Data Safeguards

This section imposes the confidentiality rules and other safeguards provided for in the treaty, directive or convention under which the exchange of information takes place and places an obligation on the Competent Authority to notify the other of any breach of confidentiality or failure of safeguards and the steps taken to rectify the position. This mirrors the position in the earlier UK/US and Crown Dependencies and Gibraltar Agreements

## **Section 6 – Consultations and Amendments**

This section enables the Competent Authorities to consult with each other on any areas of difficulty in implementation or interpretation of the Agreement. Any amendments are made by written agreement between the Competent Authorities.

## **Section 7 – Term of Agreement**

This section sets out the date on which the agreement comes into effect and the processes for suspending or terminating the agreement should either Competent Authority see that as appropriate.

## 4. The Common Reporting Standard

The Common Reporting Standard contains nine sections organised as follows;

Section I – General Reporting Requirements

Sections II to VII – Due Diligence Requirements

Section VIII – Defined Terms

Section IX – Effective Implementation

### Section I – General Reporting Requirements

This section restates the information at Section 2 of the Competent Authority Agreement and provides that the information reported must identify the currency in which each amount is denominated.

Paragraphs C to F of the section then provide exceptions to the reporting requirements in certain circumstances.

Paragraph C removes reporting of the TIN and date of birth for Preexisting Accounts where the information is not held and is not otherwise required to be collected under UK domestic law. However, the Reporting Financial Institution must make reasonable efforts to obtain this information by the end of the second calendar year following the year in which the accounts are identified as reportable.

Paragraph D removes the need to report TINs where the Reportable Jurisdiction does not issue them or where the domestic law of the relevant Reportable Jurisdiction does not require the collection of the TIN. It is envisaged that such Jurisdictions will be identified in guidance.

***Q. - Will the identification of jurisdictions that do not issue or do not require collection of the TIN give Reporting Financial Institutions sufficient certainty that the need to report has been removed? If not, how should this be addressed to provide the required certainty?***

Paragraph E removes the requirement to report the place of birth unless the Reporting Financial Institution is obliged to obtain and report it under domestic law **and** it is available in the electronically searchable data maintained by the Reporting Financial Institution.

Paragraph F repeats the exemption in Section 3 in respect of the gross proceeds from the sale or redemption of property paid or credited to the Account with respect to 2016.

### Section II – General Due Diligence Requirements

Under the UK/US and the Crown Dependencies and Overseas Territories agreements, UK Financial Institutions may rely on the due diligence procedures set out in Annex 1 of the IGAs or, where provided for in the UK Regulations, they can use certain procedures set out in the US Treasury Regulations. That option will not be available when implementing the CRS although the CRS closely follows the procedures in those agreements.

The general due diligence requirements envisage that each jurisdiction may allow Reporting Financial Institutions to use third party service providers to meet their reporting and due diligence requirements – as with the earlier automatic exchange agreements - while retaining ultimate responsibility for those obligations and that each jurisdiction may allow New Account due diligence procedures to be applied to Preexisting Accounts and the High Value Account due diligence procedures to be applied to Lower Value Accounts.

***Q. – Is the option to use New Account due diligence procedures for Preexisting Accounts something that business would like to have available?***

***Q. – Is the option to use High Value Account due diligence procedures for Lower Value Accounts something that business would like to have available?***

### **Section III - Due Diligence for Preexisting Individual Accounts**

This section sets out the procedures for identifying Reportable Accounts among Preexisting Individual Accounts.

Preexisting Cash Value Insurance Contracts and Annuity Contracts that are effectively prevented by law from being sold to residents of Reportable Jurisdictions are excluded from the need to be reviewed, identified and reported on. This goes beyond a legal prohibition on selling such contracts to include situations where certain conditions have to be fulfilled before such sales can take place. This would apply, for example, where a license needed to be obtained or there was a requirement to register with a regulatory authority. We would like to provide in guidance examples of other circumstances where a Financial Institution is effectively prevented, for whatever reason, from selling such insurance or annuity contracts to residents of Reportable Jurisdictions.

***Q. – In what circumstances would Financial Institutions be effectively prevented from selling Cash Value Insurance Contracts or Annuity Contracts to residents of Reportable Jurisdictions?***

The due diligence procedures are different depending on whether the account is a Lower Value Account or a High Value Account. A Lower Value Account is an account with an aggregate balance or value that does not exceed \$1million as of 31 December 2015. Unlike FATCA and the CD and Gibraltar Agreements there is no option to apply a \$50,000 de minimis for such accounts. A High Value Account is one with an aggregate balance or value that exceeds \$1million as of 31 December 2015.

#### **Individual Lower Value Accounts**

Paragraph B(1) of Section III allows Financial Institutions to rely on a current residence address based on Documentary Evidence to determine whether or not an individual is a Reportable Person.

If the Financial Institution does not rely on the procedure in paragraph B(1) then it must carry out an electronic search of its records in a similar manner to that required for the CD and Gibraltar Agreements. There is one additional indicia that is subject to the electronic search compared to the earlier agreements – one or more telephone numbers in a Reportable Jurisdiction combined with no telephone number in the UK.

However, certain of the indicias can be ignored where the Financial Institution has obtained a self-certification from the Account Holder of the jurisdiction of residence that does not include

a Reportable Jurisdiction and there is Documentary Evidence establishing the Account Holder's non-reportable status.

Due diligence procedures for these accounts must be completed by 31 December 2017.

### **Individual High Value Accounts**

The procedures for Individual Accounts with an aggregate balance or value in excess of \$1million as of 31 December 2015, or where the aggregate balance or value exceeds \$1million at any subsequent 31 December, are substantially the same as for the CD and Gibraltar Agreements.

Due diligence procedures for these accounts must be completed by 31 December 2016.

### **Section IV - Due Diligence for New Individual Accounts**

Apart from the lack of the \$50,000 de minimis election the due diligence for New Individual Accounts is substantially the same as for the CD and Gibraltar Agreements.

### **Section V - Due Diligence for Preexisting Entity Accounts**

The de minimis for reporting Preexisting Entity Accounts with an aggregate account balance or value not exceeding \$250,000 applies for the CRS in a similar way to the earlier automatic exchange agreements. Under the previous agreements the UK effectively reversed the election for de minimis to apply in that all accounts are in scope unless the Financial Institution elects to apply it. We propose a similar approach here.

***Q. – Does a positive election to apply the de minimis meet the needs of business better than having an election to disapply the limit as envisaged in the CRS? If not, what are the factors that make disapplying the election the better option?***

One significant difference with the FATCA and the CD and Gibraltar Agreements compared to the CRS is that Preexisting Accounts that are not reported because they have an aggregate balance or value that does not exceed \$250,000 come into scope as soon as the balance exceeds \$250,000 as at 31 December in a subsequent year. This compares with an aggregate balance or value in excess of \$1million under the other agreements. Other than that the due diligence process for Preexisting Entity Accounts is substantially the same as for the CD and Gibraltar Agreements.

Due diligence procedures for these accounts must be completed by 31 December 2017

### **Section VI - Due Diligence for New Entity Accounts**

Although the exclusion from reviewing, identifying and reporting New Entity Accounts that involve a revolving credit facility that does not exceed \$50,000 is not explicit in this section of the CRS it is included in the definition of Excluded Accounts in Section VIII.

As a result, the due diligence process for New Entity Accounts is substantially the same as for the CD and Gibraltar Agreements.

## Section VII – Special Due Diligence Rules

The Special Due Diligence Rules are substantially the same as for the CD and Gibraltar Agreements. However, an alternative procedure similar to that in Paragraph B (Alternative Procedures for Cash Value Insurance and Annuity Contracts) may be necessary for certain employer sponsored group insurance contracts or annuity contracts. When a group insurance contract is issued to an employer and individual employees are the insured/beneficiaries, the insurance company does not have a direct relationship with the employee/certificate holder at inception of the contract. In such circumstances jurisdictions may include the following provision in Paragraph B:

*A Reporting Financial Institution may treat a Financial Account that is a member's interest in a Group Cash Value Insurance Contract or Group Annuity Contract as a Financial Account that is not a Reportable Account until the date on which an amount is payable to the employee/certificate holder or beneficiary, if the Financial Account that is a member's interest in a Group Cash Value Insurance Contract or Group Annuity Contract meets the following requirements:*

- a) the Group Cash Value Insurance Contract or Group Annuity Contract is issued to an employer and covers twenty-five or more employee/certificate holders;*
- 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 aggregate amount payable to any employee/certificate holder or beneficiary does not exceed \$1,000,000.*

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

**Q – Would UK insurance companies find the inclusion of this provision in Section VII beneficial?**

## General Due Diligence

**Q – To help us produce estimates of the increase in administrative burden on UK business for publication in the TIIN, can you tell us what additional burdens and costs you envisage arising from applying due diligence procedures in respect of Reportable Persons under the CRS in addition to burdens and costs already being incurred from applying due diligence procedures in respect of CD and Gibraltar Specified Persons and US indicia?**

## Section VIII – Defined Terms



The defined terms for the purposes of the CRS are generally similar to the defined terms that appear in various parts of the CD and Gibraltar Regulations. The defined terms are dealt with in the following paragraphs in this section:

- A. Reporting Financial Institution
- B. Non-Reporting Financial Institution
- C. Financial Account
- D. Reportable Account
- E. Miscellaneous

Contained in these definitions are the equivalent provisions to Annex II of the CD and Gibraltar Agreements. Non-Reporting Financial Institutions are covered in Paragraph B while Excluded Accounts are dealt with in Paragraph C (17).

### **Paragraph B - Non-Reporting UK Financial Institutions**

Paragraph B specifically deals with a number of types of organisation that are excluded under Annex 2 of the CD and Gibraltar Agreements. The following categories of Non-Reporting Financial Institution defined for the purposes of those agreements are also specifically defined as Non-Reporting Financial Institutions for CRS purposes:

1. UK Governmental Organisations, any political subdivision of the UK Government or any wholly owned agency or instrumentality of any one or more of the foregoing.
2. Central Bank
3. International Organisations
4. Retirement Funds
5. Certain Collective Investment Vehicles
6. Trustee-Documented Trusts
7. Qualified Credit Card Issuer

It is open to the UK Government to bring other financial institutions within the scope of being Non-Reporting UK Financial Institutions provided they are clearly defined in domestic law, have a low risk of being used to evade tax and comply with any other conditions of the CRS. In considering low risk factors a financial institution is expected to exhibit substantially similar characteristics to those included in 1 to 4 above. However, a substitute requirement can be used where it provides equivalent assurance that the Financial Institution presents a low risk of tax evasion. We are taking that to mean that the Financial Institution must be subject to regulation and must otherwise report to HMRC, usually by way of an annual return, persons that would include Reportable Persons under the CRS.

***Q. – Are there other types of financial institution that meet the above conditions that could be included as Non-Reporting Financial institutions? If so, what are the characteristics of these institutions that enable them to satisfy the requisite criteria?***

## Subparagraph C (9) – Pre-existing and New, Individual and Entity Accounts

When implementing the CRS, jurisdictions are free to modify subparagraph C(9) in order to also include certain new accounts of pre-existing customers by replacing subparagraph C(9) with the following:

9. The term “Pre-existing Account” means:

- a) a Financial Account maintained by a Reporting Financial Institution as of [xx/xx/xxxx].
- b) any Financial Account of an Account Holder, regardless of the date such Financial Account was opened, if:
  - i. the Account Holder also holds with the Reporting Financial Institution (or with a Related Entity within the same jurisdiction as the Reporting Financial Institution) a Financial Account that is a Pre-existing Account under subparagraph C(9)(a);
  - ii. the Reporting Financial Institution (and, as applicable, the Related Entity within the same jurisdiction as the Reporting Financial Institution) treats both of the aforementioned Financial Accounts, and any other Financial Accounts of the Account Holder that are treated as Pre-existing Accounts under this subparagraph C(9)(b), as a single Financial Account for purposes of satisfying the standards of knowledge requirements set forth in paragraph A of Section VII, and for purposes of determining the balance or value of any of the Financial Accounts when applying any of the account thresholds;
  - iii. with respect to a Financial Account that is subject to AML/KYC Procedures, the Reporting Financial Institution is permitted to satisfy such AML/KYC Procedures for the Financial Account by relying upon the AML/KYC Procedures performed for the Pre-existing Account described in subparagraph C(9)(a); and
  - iv. the opening of the Financial Account does not require the provision of new, additional or amended customer information by the Account Holder other than for purposes of the Common Reporting Standard.

A fund will probably not qualify as a Related Entity of another fund under subparagraph E(4) and, as a consequence, the alternative definition of the term “Pre-existing Account” would not be applicable to new equity or debt interests held by end investors that are directly registered in the fund’s interest register. If this needs to be addressed for UK business then the following will be needed to replace subparagraph E(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 such management fulfils the due diligence obligations of such Investment Entities. For this purpose control includes direct or indirect ownership of more than 50% of the vote or value in an Entity.*

**Q – Would UK Financial Institutions find the inclusion of this provision and the associated amendment of subparagraph E(4) in Section VII beneficial?**

## Subparagraph C (17) - Excluded Accounts

Paragraph C (17) contains various categories of Excluded Accounts, that is, accounts that do not need to be reported because they carry a low risk of tax evasion. A number of these accounts in the CRS are similarly covered by Annex II of the CD and Gibraltar Agreements under the following headings:

- Certain Retirement Accounts or Products.
- Account Held by an Estate.
- Escrow Accounts.
- Certain Other Tax-Favoured Accounts or Products

The CRS also treats as Excluded Accounts term life insurance contracts (see Paragraph C 17(c) of Section VIII) and Depository Accounts due to non-returned overpayments (see Paragraph 17(f) of Section VIII).

As for low-risk Non-Reporting Financial Institutions the CRS gives tax administrations the scope to identify low-risk excluded accounts and define these in domestic legislation. To that end we intend to include UK-registered pension arrangements (including authorised payments) as set out in the Finance Act 2004 that are excluded from the definition of Financial Account by virtue of Paragraph C 17(a)(v.) of Section VIII. In addition Excluded Accounts will include the Annex II category of Certain Other Tax-Favoured Accounts and Products, that is:

- **Individual Savings Accounts (ISAs)** - as defined in the Individual Savings Account Regulations 1998 (SI 1998 No.1870) and subsequent Amendment Regulations
- **Junior ISAs** - as defined in the Individual Savings Account Regulations 1998 No.1870, and subsequent Amendment Regulations
- **Child Trust Funds** - as defined in the Child Trust Funds Act 2004 and subsequent Amendment Regulations
- **Premium Bonds** - where issued by NS&I (UK National Savings and Investments)
- **Children's Bonus Bonds** - where issued by NS&I (UK National Savings and Investments)
- **Fixed Interest Savings Certificates** - where issued by NS&I (UK National Savings and Investments)
- **Index Linked Savings Certificates** - where issued by NS&I (UK National Savings and Investments)
- **Tax Exempt Savings Plans** - where issued by a friendly society within the meaning of the Friendly Societies Act 1992 (c. 40)
- **Save As You Earn Share Option Schemes** - approved by HMRC under Schedule 3 Income Tax (Earnings and Pensions) Act 2003
- **Share Incentive Plans** - approved by HMRC under Schedule 2 Income Tax (Earnings and Pensions) Act 2003
- **Company Share Option Plans** - approved by HMRC under Schedule 4 Income Tax (Earnings and Pensions) Act 2003
- **Venture Capital Trusts** – approved by HMRC under Part 6 Chapter 3 of the Income tax Act 2007

The commentary on the CRS provides an example of where a 'dormant account', that is, an account where the Account Holder has not initiated a transaction in the past three years, and has not communicated with the Financial Institution in the past six years, could be defined as an Excluded Account where the annual balance does not exceed \$1,000.

***Q. - Are there other types of account that meet the conditions for being low risk as defined by the CRS that could be included as Excluded Accounts? If so, what are the characteristics of these accounts that enable them to satisfy the requisite criteria?***

***Q. – Would the inclusion of 'dormant accounts' with a value not exceeding \$1,000 as Excluded Accounts be beneficial to UK Financial Institutions?***

## **Section IX – Effective Implementation**

This section imposes obligations on the UK to introduce regulations and administrative procedures to ensure effective implementation of, and compliance with, the reporting and due diligence procedures set out in the preceding Sections of the CRS.

Draft Regulations are attached to this discussion that seek to achieve this. These regulations will bring the Competent Authority Agreement and the CRS into force in a similar manner to the CD and Gibraltar Regulations and include penalties for non-compliance and an anti-avoidance rule to ensure that the purpose of the CRS cannot be frustrated.

The draft regulations need to be read alongside the Competent Authority Agreement and the CRS as where it is clear from the CAA and CRS what is required the regulations have not replicated the wording but simply bring the CAA and CRS into force for UK Financial Institutions.

***Q. – Do the draft regulations ensure effective implementation of the reporting and due diligence procedures set out in the Competent Authority Agreement and the CRS? If not, please identify the areas where you believe the draft regulations are deficient, say why they are deficient and let us have your suggestions for alternative language that would rectify the deficiencies.***

## 5. Interaction of the CRS with the European Union Savings Directive

The European Union has recently reached agreement between all the Member States to update the European Union Savings Directive (EUSD). Under the updated EUSD Member States will automatically exchange information on payments of interest and interest like returns by paying agents (a group which largely matches the definition of Financial Institution for the purposes of the CRS), where sums are paid or credited by a paying agent in one Member State to an individual resident in another Member State.

The income to be reported under the EUSD is also reportable under the terms of the CRS and given that 26 of the 28 Member States are members of the early adopters group, and that it is expected that the EU Directive on Administrative Cooperation will be updated in the future to include CRS reporting across the EU, there is a real possibility that reporting of the same information under CRS and EUSD will be required unless and until the EU amends the directives such that reporting of this information is required only once.

We are concerned to reduce the burdens that this might impose on the financial sector if the point is reached where dual reporting is required in 2017 and beyond. Reporting of the information to the other Member States is a matter for HMRC. The matter to be addressed is, therefore, the most appropriate way for the information to be reported to HMRC. Options would include the following:

- Maintain two reporting systems so that EUSD and CRS information is reported separately even though this would result in dual reporting.
- Maintain two reports but provide a means of notifying on the EUSD return, for example a tick box, that the EUSD information has been included in the CRS return.
- Maintain two reports but provide a means of notifying on the CRS return, for example a tick box, that information also reportable under the EUSD has been included in the EUSD return.
- Require a single CRS return that provides a means of notifying, for example a tick box, that information reportable under EUSD has been included in the return.

***Q. – Which of the above options provides the least burden for business? Please explain why the option that you have chosen provides the lowest burden on business.***

***Q. – Are there any other options for reporting that would provide a better solution for business? If so, please explain how the burden on business would be reduced beyond the options above.***

## 6. Summary of Consultation Questions

### 3. The Competent Authority Agreement

#### Section 1 - Definitions

- Q 1 Are there any definitions in the Agreement that give rise to uncertainty or raise practical issues which have not been covered by the existing UK guidance on automatic exchange of information agreements?

#### Section 2 – Exchange of Information with Respect to Reportable Accounts

- Q 2 To enable us to produce estimates of the administrative burdens on UK business for publication in the TIIN, can you tell us what additional burdens and costs are anticipated in respect of the reporting and transmission of data assuming that reporting applies to all the jurisdictions that have committed to early adoption of the CRS?
- Q3 Will the differences in the information being requested lead to any increased burdens for your business? If so then what will the additional costs be, what will they relate to and how will they arise?
- Q4 Will Reporting Financial Institutions find it useful for HMRC to publish in guidance the format that TINs take for each of the jurisdictions with which exchange will take place under the CRS?
- Q5 Are there any Financial Institutions that do not have Reportable Accounts under the CD and Gibraltar agreements but are likely to have Reportable Accounts under any Agreement between the UK and another early adopter jurisdiction?
- Q6 Will the Financial Institutions identified above already be undertaking due diligence procedures for the purposes of the CD and Gibraltar agreements? For instance they may be undertaking due diligence in order to identify that there are no Reportable Accounts under these agreements.
- Q7 To enable us to produce estimates of the administrative burden on UK business, for publication in the TIIN, can you tell us what additional burdens and costs the requirement to report data under the CRS is likely to introduce for any of the Financial Institutions identified above

### 4. The Common Reporting Standard

#### Section I – General Reporting Requirements

- Q8 Will the identification of jurisdictions that do not issue or do not require collection of the TIN give Reporting Financial Institutions sufficient certainty that the need to report has been removed? If not, how should this be addressed to provide the required certainty?

## **Section II – General Due Diligence Requirements**

- Q9 Is the option to use New Account due diligence procedures for Pre-existing Accounts something that business would like to have available?
- Q10 Is the option to use High Value Account due diligence procedures for Lower Value Accounts something that business would like to have available?

## **Section III – Due Diligence for Pre-existing Individual Accounts**

- Q11 In what circumstances would Financial Institutions be effectively prevented from selling Cash Value Insurance Contracts or Annuity Contracts to residents of Reportable Jurisdictions?

## **Section V – Due Diligence for Entity Individual Accounts**

- Q12 Does a positive election to apply the de minimis meet the needs of business better than having an election to disapply the limit as envisaged in the CRS? If not, what are the factors that make disapplying the election the better option?

## **Section VII – Special Due Diligence Requirements**

- Q13 Would UK insurance companies find the inclusion of this provision in Section VII beneficial?

## **General Due Diligence**

- Q14 To help us produce estimates of the increase in administrative burden on UK business for publication in the TIIN, can you tell us what additional burdens and costs you envisage arising from applying due diligence procedures in respect of Reportable Persons under the CRS in addition to burdens and costs already being incurred from applying due diligence procedures in respect of CD and Gibraltar Specified Persons and US indicia?

## **Section VIII – Defined Terms**

### **Non-Reporting UK Financial Institutions**

- Q15 Are there other types of financial institution that meet the above conditions that could be included as Non-Reporting Financial institutions? If so, what are the characteristics of these institutions that enable them to satisfy the requisite criteria?

### **Subparagraph C (9) – Pre-existing and New, Individual and Entity Accounts**

- Q16 Would UK Financial Institutions find the inclusion of this provision in Section VII beneficial?

## **Excluded Accounts**

- Q17 Are there other types of account that meet the conditions for being low risk as defined by the CRS that could be included as Excluded Accounts? If so, what are the characteristics of these accounts that enable them to satisfy the requisite criteria?
- Q18 Would the inclusion of 'dormant accounts' with a value not exceeding \$1,000 as Excluded Accounts be beneficial to UK Financial Institutions?

## **Section IX – Effective Implementation**

- Q19 Do the draft regulations ensure effective implementation of the reporting and due diligence procedures set out in the Competent Authority Agreement and the CRS? If not, please identify the areas where you believe the draft regulations are deficient, say why they are deficient and let us have your suggestions for alternative language that would rectify the deficiencies.

## **5. Interaction of the CRS with the European Union Savings Directive**

- Q20 Which of the above options provides the least burden for business? Please explain why the option that you have chosen provides the lowest burden on business.
- Q21 Are there any other options for reporting that would provide a better solution for business? If so, please explain how the burden on business would be reduced beyond the options above.



# 7. The Discussion Process

## How to respond

A summary of the questions in this discussion document is included at chapter 6.

Responses should be sent by 22 October 2014,

by e-mail to [crs.consultation@hmrc.gsi.gov.uk](mailto:crs.consultation@hmrc.gsi.gov.uk)

or by post to:

Chris Orchard  
HM Revenue & Customs,  
Room 3C/03,  
100 Parliament Street  
London  
SW1A 2BQ.

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

## Confidentiality

Information provided in response to this discussion document, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

# Annex A: Model Multilateral Competent Authority Agreement

## **MODEL AGREEMENT ON THE AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION TO IMPROVE INTERNATIONAL TAX COMPLIANCE**

Whereas, the Jurisdictions are Parties of, or territories covered by, the Convention on Mutual Administrative Assistance in Tax Matters (the “Convention”) and have a longstanding and close relationship with respect to mutual assistance in tax matters and desire to improve international tax compliance by further building on that relationship;

Whereas, the laws of their respective Jurisdictions [are expected to require]/[require]/require or are expected to require] financial institutions to report information regarding certain accounts and follow related due diligence procedures, consistent with the scope of exchange contemplated by Section 2 of this Agreement and the reporting and due diligence procedures set out in the Common Reporting Standard;

Whereas, it is expected that the laws of the Jurisdictions would be amended from time to time to reflect updates to the Common Reporting Standard and once such changes are enacted by a Jurisdiction the definition of “Common Reporting Standard” would be deemed to refer to the updated version in respect of that Jurisdiction;

Whereas, Chapter III of the Convention authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and allows the competent authorities of the Jurisdictions (the “Competent Authorities”) to agree the scope and modalities of such automatic exchanges;

Whereas Article 6 of the Convention provides that two or more Parties can mutually agree to exchange information automatically, the actual exchange of the information will be on a bilateral basis;

Whereas the Competent Authorities of Jurisdictions or territories listed in Annex A to this Agreement will send information under Section 2, the Competent Authorities will not receive such information;

Whereas, the Jurisdictions have in place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used solely for the purposes set out in the Convention, and (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement);

Whereas, the Competent Authorities of the Jurisdictions desire to conclude an agreement to improve international tax compliance based on automatic exchange pursuant to the Convention, and subject to the confidentiality and other protections provided for therein, including the provisions limiting the use of the information exchanged under the Convention;

Now, therefore, the Competent Authorities have agreed as follows:

## **SECTION 1**

### ***Definitions***

1. For the purposes of this agreement (“Agreement”), the following terms have the following meanings:
  - a) the term “**Jurisdiction**” means a jurisdiction that is a Party to, or a territory covered by, the Convention and the Competent Authority of which is a signatory to this Agreement.
  - b) the term “**Competent Authority**” means, for each respective Jurisdiction, the persons and authorities listed in Annex B of the Convention.
  - c) the term “**Jurisdiction Financial Institution**” means, for each respective Jurisdiction, (i) any Financial Institution that is resident in the Jurisdiction, but excludes any branch of that Financial Institution that is located outside the Jurisdiction, and (ii) any branch of a Financial Institution that is not resident in the Jurisdiction, if that branch is located in the Jurisdiction.
  - d) the term “**Reporting Financial Institution**” means any Jurisdiction Financial Institution that is not a Non-Reporting Financial Institution.
  - e) the term “**Reportable Account**” means a Financial Account that is maintained by a Reporting Financial Institution and that, pursuant to due diligence procedures consistent with the Common Reporting Standard, has been identified as an account that is held by one or more persons that are Reportable Persons with respect to another Jurisdiction or by a Passive NFE with one or more Controlling Persons that are Reportable Persons with respect to another Jurisdiction.
  - f) the term “**Common Reporting Standard**” means the standard for automatic exchange of financial account information developed by the OECD, with G20 countries, presented to the G20 in 2014 and published on the OECD website.
  - g) the term “**CB Secretariat**” means the OECD Secretariat that, pursuant to paragraph 3 of Article 24 of the Convention, provides support to the co-ordinating body that is composed of representatives of the competent authorities of the Parties to the Convention.
2. Any capitalised term not otherwise defined in this Agreement will have the meaning that it has at that time under the law of the Jurisdiction applying the Agreement, such meaning being consistent with the meaning set forth in the Common Reporting Standard. Any term not otherwise defined in this Agreement or in the Common Reporting Standard will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the Jurisdiction applying this Agreement, any meaning under the applicable tax laws of that Jurisdiction prevailing over a meaning given to the term under other laws of that Jurisdiction.

## **SECTION 2**

### ***Exchange of Information with Respect to Reportable Accounts***

1. Pursuant to the provisions of Article 6 and 22 of the Convention and subject to the applicable reporting and due diligence rules consistent with the Common Reporting Standard, each Competent Authority will annually exchange with the other Competent Authorities on an automatic basis the information obtained pursuant to such rules and specified in paragraph 2. Notwithstanding the foregoing sentence the Competent Authorities of the Jurisdictions listed in Annex A will exchange, but not receive, the information specified in paragraph 2. Jurisdictions not listed in Annex A will always receive the information specified in paragraph 2 but will not exchange such information with the Jurisdictions listed in Annex A.
2. The information to be exchanged is, with respect to each Reportable Account of another Jurisdiction:
  - a) the name, address, 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 due diligence procedures consistent with the Common Reporting Standard, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, and TIN(s) of the Entity and the name, address, TIN(s) and date and place of birth of each Reportable Person;
  - b) the account number (or functional equivalent in the absence of an account number);
  - c) the name and identifying number (if any) of the Reporting Financial Institution;
  - d) 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;
  - e) in the case of any Custodial Account:
    - (1) 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
    - (2) 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;
  - f) 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
  - g) in the case of any account not described in subparagraph 2(e) or (f), 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.

## **SECTION 3**

### ***Time and Manner of Exchange of Information***

1. For the purposes of the exchange of information in Section 2, the amount and characterization of payments made with respect to a Reportable Account may be determined in accordance with the principles of the tax laws of the jurisdiction exchanging the information.
2. For the purposes of the exchange of information in Section 2, the information exchanged will identify the currency in which each relevant amount is denominated.
3. With respect to paragraph 2 of Section 2, information is to be exchanged with respect to [xxxx] and all subsequent years and will be exchanged within nine months after the end of the calendar year to which the information relates. Notwithstanding the foregoing sentence information is only required to be exchanged with respect to a calendar year if both jurisdictions have in effect legislation that requires reporting with respect to such calendar year that is consistent with the scope of exchange provided for in Section 2 and the reporting and due diligence procedures contained in the Annex.
4. Notwithstanding paragraph 3, the information to be exchanged with respect to [xxxx] is the information described in paragraph 2 of Section 2, except for gross proceeds described in subparagraph 2(e)(2) of Section 2.
5. The Competent Authorities will automatically exchange the information described in Section 2 in a common reporting standard schema in Extensible Markup Language.
6. The Competent Authorities will agree on one or more methods for data transmission including encryption standards.

## **SECTION 4**

### ***Collaboration on Compliance and Enforcement***

A Competent Authority will notify the other Competent Authority when the first-mentioned Competent Authority has reason to believe that an error may have led to incorrect or incomplete information reporting or there is non-compliance by a Reporting Financial Institution with the applicable reporting requirements and due diligence procedures consistent with the Annex. The notified Competent Authority will take all appropriate measures available under its domestic law to address the errors or non-compliance described in the notice.

## **SECTION 5**

### ***Confidentiality and Data Safeguards***

1. All information exchanged is subject to the confidentiality rules and other safeguards provided for in the Convention, including the provisions limiting the use of the information exchanged and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Competent Authority as required under its domestic law.

2. A Competent Authority will notify CB Secretariat immediately regarding any breach of confidentiality or failure of safeguards and any sanctions and remedial actions consequently imposed.

## **SECTION 6**

### ***Consultations and Amendments***

1. If any difficulties in the implementation or interpretation of this Agreement arise, a Competent Authority may request consultations with one or more of the Competent Authorities to develop appropriate measures to ensure that this Agreement is fulfilled. The Competent Authority that requested the consultations shall ensure that the CB Secretariat is notified of any appropriate measures that were developed and the CB Secretariat will notify all Competent Authorities, even those that did not participate in the consultations, of any measures that were developed.
2. This Agreement may be amended by consensus by written agreement of the Competent Authorities. Unless otherwise agreed upon, such an amendment is effective on the first day of the month following the expiration of a period of one month after the date of the last signature of such written agreement.

## **SECTION 7**

### ***Term of Agreement***

1. This Agreement will come into effect on the date two or more Competent Authorities have provided notice to, and it has been received by, the CB Secretariat that its Jurisdiction has the necessary laws in place to implement the Agreement. After the effective date a Competent Authority may make a request to sign the Agreement. Notwithstanding the foregoing sentence, a Competent Authority that wants to sign the Agreement before it has come into effect, but after it has been signed by a group of Competent Authorities that are the first signatories to the Agreement, the first-mentioned Competent Authority must make a request to sign the Agreement.
2. The decision to invite a Competent Authority, and whether the Competent Authority will be listed in Annex A, will be taken by consensus of the Competent Authorities that have signed the Agreement. Following signature the Competent Authority must notify the CB Secretariat that its Jurisdiction has the necessary laws in place to implement the Agreement. The Agreement will become effective with respect to the notifying Competent Authority on the date its notification is received by the CB Secretariat.
3. A Competent Authority may suspend the exchange of information under this Agreement by giving notice in writing to another Competent Authority that it has determined that there is or has been significant non-compliance by the second-mentioned Competent Authority with this Agreement. Such suspension will have immediate effect. For the purposes of this paragraph, significant non-compliance includes, but is not limited to, non-compliance with the confidentiality and data safeguard provisions of this Agreement and the Convention, a failure by the Competent Authority to provide timely or adequate information as required under this Agreement or defining the status of Entities or accounts as Non-Reporting Financial Institutions and Excluded Accounts in a manner that frustrates the purposes of the Common Reporting Standard.

4. A Competent Authority may terminate its participation in this Agreement by giving notice of termination in writing to the CB Secretariat. Such termination will become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination. In the event of termination, all information previously received under this Agreement will remain confidential and subject to the terms of the Convention.

## **SECTION 8**

### ***Notices Received by the CB Secretariat***

Unless otherwise provided for in the Agreement, the CB Secretariat will notify all Competent Authorities of any notice that it has received under this Agreement.

Signed in [...] on [...].

Signed in [...] on [...].

Competent Authority for [Jurisdiction]:

Competent Authority for [Jurisdiction]:

## **ANNEX A: LIST OF JURISDICTIONS**

[Jurisdiction]

[Jurisdiction]

# Annex B: The 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;
  5. In the case of any Custodial Account:
    - a) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
    - b) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;
  6. In the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and



7. In the case of any account not described in subparagraph A(5) or (6), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.
- B. The information reported must identify the currency in which each amount is denominated.
  - C. Notwithstanding subparagraph A(1), with respect to each Reportable Account that is a Pre-existing Account, the TIN(s) or date of birth is not required to be reported if such TIN(s) or date of birth is not in the records of the Reporting Financial Institution and is not otherwise required to be collected by such Reporting Financial Institution under domestic law. However, a Reporting Financial Institution is required to use reasonable efforts to obtain the TIN(s) and date of birth with respect to Pre-existing Accounts by the end of the second calendar year following the year in which such Accounts were identified as Reportable Accounts.
  - D. Notwithstanding subparagraph A(1), the TIN is not required to be reported if (i) a TIN is not issued by the relevant Reportable Jurisdiction or (ii) the domestic law of the relevant Reportable Jurisdiction does not require the collection of the TIN issued by such Reportable Jurisdiction.
  - E. Notwithstanding subparagraph A(1), the place of birth is not required to be reported unless the Reporting Financial Institution is otherwise required to obtain and report it under domestic law and it is available in the electronically searchable data maintained by the Reporting Financial Institution.
  - 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 Pre-existing 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 Pre-existing Accounts, the rules otherwise applicable to Pre-existing Accounts continue to apply.

### Section III: Due Diligence for Pre-existing Individual Accounts

The following procedures apply for purposes of identifying Reportable Accounts among Pre-existing Individual Accounts.

- A. **Accounts Not Required to be Reviewed, Identified, or Reported.** A Pre-existing Individual Account that is a Cash Value Insurance Contract or an Annuity Contract is not required to be reviewed, identified or reported, provided the Reporting Financial Institution is effectively prevented by law from selling such Contract to residents of a Reportable Jurisdiction.
- B. **Lower Value Accounts.** The following procedures apply with respect to Lower Value Accounts.
1. **Residence Address.** If the Reporting Financial Institution has in its records a current residence address for the individual Account Holder based on Documentary Evidence, the Reporting Financial Institution may treat the individual Account Holder as being a resident for tax purposes of the jurisdiction in which the address is located for purposes of determining whether such individual Account Holder is a Reportable Person.
  2. **Electronic Record Search.** If the Reporting Financial Institution does not rely on a current residence address for the individual Account Holder based on Documentary Evidence as set forth in subparagraph B(1), the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the following indicia and apply subparagraphs B(3) through (6):
    - a) identification of the Account Holder as a resident of a 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 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.
  - 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.
  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 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 Pre-existing 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 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 Pre-existing Individual Accounts must be completed by [xx/xx/xxxx].
- E. Any Pre-existing Individual Account that has been identified as a Reportable Account under this Section must be treated as a Reportable Account in all subsequent years, unless the Account Holder ceases to be a Reportable Person.

#### **Section IV: Due Diligence for New Individual Accounts**

The following procedures apply 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 that establishes the residence(s) for tax purposes of the Account Holder.

#### **Section V: Due Diligence for Pre-existing Entity Accounts**

The following procedures apply for purposes of identifying Reportable Accounts among Pre-existing Entity Accounts.

- A. **Entity Accounts Not Required to Be Reviewed, Identified or Reported.** Unless the Reporting Financial Institution elects otherwise, either with respect to all Pre-existing Entity Accounts or, separately, with respect to any clearly identified group of such accounts, a Pre-existing Entity Account with an aggregate account balance or value that does not exceed \$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 \$250,000 as of the last day of any subsequent calendar year.
- B. **Entity Accounts Subject to Review.** A Pre-existing Entity Account that has an aggregate account balance or value that exceeds \$250,000 as of 31 December [xxxx], and a Pre-existing Entity Account that does not exceed \$250,000 as of 31 December [xxxx] but the aggregate account balance or value of which exceeds \$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 Pre-existing 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 Pre-existing 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 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 Pre-existing Entity Account (including an Entity that is a Reportable Person), the Reporting Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons 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 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 Pre-existing Entity Account held by one or more NFEs with an aggregate account balance or value that does not exceed \$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 Pre-existing Entity Accounts.**

1. Review of Pre-existing Entity Accounts with an aggregate account balance or value that exceeds \$250,000 as of 31 December [xxxx] must be completed by 31 December [xxxx].
2. Review of Pre-existing Entity Accounts with an aggregate account balance or value that does not exceed \$250,000 as of 31 December [xxxx], but exceeds \$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 \$250,000.
3. If there is a change of circumstances with respect to a Pre-existing Entity Account that causes the Reporting Financial Institution to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the Reporting Financial Institution must re-determine the status of the account in accordance with the procedures set forth in paragraph 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:
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 Are Reportable** 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.
    - 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 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 computerized 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 computerized 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 U.S. 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.
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 per cent of the Entity’s gross income during the shorter of: (i) the three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or (ii) the period during which the Entity has been in existence.
5. The term “**Depository Institution**” means any Entity that accepts deposits in the ordinary course of a banking or similar business.
6. The term “**Investment Entity**” means any Entity:
  - a) that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
    - i. trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
    - ii. individual and collective portfolio management; or
    - iii. otherwise investing, administering, or managing Financial Assets or money on behalf of other persons; or
  - b) the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in subparagraph A(6)(a).

An Entity is treated as primarily conducting as a business one or more of the activities described in subparagraph A(6)(a), or an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of subparagraph A(6)(b), if the Entity's gross income attributable to the relevant activities equals or exceeds 50 per cent 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 Organization or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution;
  - b) a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organization 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, organization, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of jurisdiction. The net earnings of the governing authority must be credited to its own account or to other accounts of the jurisdiction, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity.
  - b) A controlled entity means an Entity that is separate in form from the jurisdiction or that otherwise constitutes a separate juridical entity, provided that:
    - i. the Entity is wholly owned and controlled by one or more Governmental Entities directly or through one or more controlled entities;
    - ii. the Entity’s net earnings are credited to its own account or to the accounts of one or more Governmental Entities, with no portion of its income inuring to the benefit of any private person; and
    - iii. the Entity’s assets vest in one or more Governmental Entities upon dissolution.
  - c) Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental program, and the program 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 Organization**” means any international organization or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organization (including a supranational organization) (1) that is comprised primarily of governments; (2) that has in effect a headquarters or substantially similar agreement with the jurisdiction; and (3) the income of which does not inure to the benefit of private persons.
4. The term “**Central Bank**” means an institution that is by law or government sanction the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the jurisdiction, whether or not owned in whole or in part by the jurisdiction.

5. The term “**Broad Participation Retirement Fund**” means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that the fund:
- a) does not have a single beneficiary with a right to more than five per cent of the fund’s assets;
  - b) is subject to government regulation and provides information reporting to the tax authorities; and
  - c) satisfies at least one of the following requirements:
    - i. the fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;
    - ii. the fund receives at least 50 per cent 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 \$50,000 annually, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.
6. The term “**Narrow Participation Retirement Fund**” means a fund established to provide retirement, disability, or death benefits to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that:
- a) the fund has fewer than 50 participants;
  - b) the fund is sponsored by one or more employers that are not Investment Entities or Passive NFEs;
  - c) the employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described in subparagraph C(17)(a)) are limited by reference to earned income and compensation of the employee, respectively;
  - d) participants that are not residents of the jurisdiction in which the fund is established are not entitled to more than 20 per cent 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 Organization or Central Bank**” means a fund established by a Governmental Entity, International Organization 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 Organization 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 \$50,000, or to ensure that any customer overpayment in excess of \$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 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 immobilized 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 monetizes a pension or disability benefit provided under an account that is an Excluded Account.

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

2. The term “**Depository Account**” includes any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a Financial Institution in the ordinary course of a banking or similar business. A Depository Account also includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon.
3. The term “**Custodial Account**” means an account (other than an Insurance Contract or Annuity Contract) that holds one or more Financial Assets for the benefit of another person.
4. The term “**Equity Interest**” means, in the case of a partnership that is a Financial Institution, either a capital or profits interest in the partnership. In the case of a trust that is a Financial Institution, an Equity Interest is considered to be held by any person treated as a settlor or beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust. A Reportable Person will be treated as being a beneficiary of a trust if such Reportable Person has the right to receive directly or indirectly (for example, through a nominee) a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust.
5. The term “**Insurance Contract**” means a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.



6. The term “**Annuity Contract**” means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.
7. The term “**Cash Value Insurance Contract**” means an Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value.
8. The term “**Cash Value**” means the greater of (i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan), and (ii) the amount the policyholder can borrow under or with regard to the contract. Notwithstanding the foregoing, the term “Cash Value” does not include an amount payable under an Insurance Contract:
  - a) solely by reason of the death of an individual insured under a life insurance contract;
  - b) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;
  - c) as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an Insurance Contract (other than an investment-linked life insurance or annuity contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;
  - d) as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an Insurance Contract under which the only benefits payable are described in subparagraph C(8)(b); or
  - e) as a return of an advance premium or premium deposit for an Insurance Contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract
9. The term “**Pre-existing Account**” means a 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 “**Pre-existing Individual Account**” means a Pre-existing Account held by one or more individuals.
12. The term “**New Individual Account**” means a New Account held by one or more individuals.
13. The term “**Pre-existing Entity Account**” means a Pre-existing Account held by one or more Entities.

14. The term “**Lower Value Account**” means a Pre-existing Individual Account with an aggregate balance or value as of 31 December [xxxx] that does not exceed \$1,000,000.
15. The term “**High Value Account**” means a Pre-existing Individual Account with an aggregate balance or value that exceeds \$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 \$50,000 or less, or (ii) there is a maximum lifetime contribution limit to the account of \$1,000,000 or less, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

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

- b) an account that satisfies the following requirements:
  - i. the account is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market, or the account is subject to regulation as a savings vehicle for purposes other than for retirement;

- ii. the account is tax-favoured (i.e., contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
- iii. withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (for example, the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met; and
- iv. annual contributions are limited to \$50,000 or less, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

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

- c) a life insurance contract with a coverage period that will end before the insured individual attains age 90, provided that the contract satisfies the following requirements:
  - i. periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age 90, whichever is shorter;
  - ii. the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;
  - iii. the amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and
  - iv. the contract is not held by a transferee for value.
- d) an account that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate.
- e) an account established in connection with any of the following:
  - i. a court order or judgment.

- ii. a sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:
    - (i) the account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a Financial Asset that is deposited in the account in connection with the sale, exchange, or lease of the property;
    - (ii) the account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease;
    - (iii) the assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates;
    - (iv) the account is not a margin or similar account established in connection with a sale or exchange of a Financial Asset; and
    - (v) the account is not associated with an account described in subparagraph C(17)(f).
  - iii. an obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time.
  - iv. an obligation of a Financial Institution solely to facilitate the payment of taxes at a later time.
- f) a Depository Account that satisfies the following requirements:
- i. the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and
  - ii. beginning on or before [xx/xx/xxxx], the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of \$50,000, or to ensure that any customer overpayment in excess of \$50,000 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.

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

#### D. Reportable Account

1. The term “**Reportable Account**” means an account held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person, provided it has been identified as such pursuant to the due diligence procedures described in Sections II through VII.
2. The term “**Reportable Person**” means a Reportable Jurisdiction Person other than: (i) a corporation the stock of which is regularly traded on one or more established securities markets; (ii) any corporation that is a Related Entity of a corporation described in clause (i); (iii) a Governmental Entity; (iv) an International Organization; (v) a Central Bank; or (vi) a Financial Institution.
3. The term “**Reportable Jurisdiction Person**” means an individual or Entity that is resident in a Reportable Jurisdiction under the tax laws of such jurisdiction, or an estate of a decedent that was a resident of a Reportable Jurisdiction. For this purpose, an Entity such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated.
4. The term “**Reportable Jurisdiction**” means a jurisdiction (i) with which an agreement is in place pursuant to which there is an obligation in place to provide the information specified in Section I, and (ii) which is identified in a published list.
5. The term “**Participating Jurisdiction**” means a jurisdiction (i) with which an agreement is in place pursuant to which it will provide the information specified in Section I, and (ii) which is identified in a published list.
6. The term “**Controlling Persons**” means the natural persons who exercise control over an Entity. In the case of a trust, such term means the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term “Controlling Persons” must be interpreted in a manner consistent with the Financial Action Task Force Recommendations.
7. The term “**NFE**” means any Entity that is not a Financial Institution.
8. The term “**Passive NFE**” means any: (i) NFE that is not an Active NFE; or (ii) an Investment Entity described in subparagraph A(6)(b) that is not a Participating Jurisdiction Financial Institution.
9. The term “**Active NFE**” means any NFE that meets any of the following criteria:
  - a) less than 50 per cent of the NFE’s gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50 per cent 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 Organization, 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 organization 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 reorganizing with the intent to continue or recommence operations in a business other than that of a Financial Institution;
- g) the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or
- h) the NFE meets all of the following requirements:
  - i. it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organization, business league, chamber of commerce, labour organization, agricultural or horticultural organization, civic league or an organization 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 organization, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision thereof.

## E. Miscellaneous

1. The term “**Account Holder**” means the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of the Common Reporting Standard, and such other person is treated as holding the account. In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder.
2. The term “**AML/KYC Procedures**” means the customer due diligence procedures of a Reporting Financial Institution pursuant to the anti-money laundering or similar requirements to which such Reporting Financial Institution is subject.
3. The term “**Entity**” means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation.
4. An Entity is a “**Related Entity**” of another Entity if 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 per cent 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 authorized 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 authorized government body (for example, a government or agency thereof, or a municipality), that includes the individual's name and is typically used for identification purposes.
  - c) with respect to an Entity, any official documentation issued by an authorized 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 organized.

- 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.



# Annex C: Model Bilateral Competent Authority Agreement

## **MODEL AGREEMENT BETWEEN THE COMPETENT AUTHORITIES OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND [JURISDICTION B] ON THE AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION TO IMPROVE INTERNATIONAL TAX COMPLIANCE**

Whereas, the Government of the United Kingdom of Great Britain and Northern Ireland (the UK) and the Government of [Jurisdiction B] have a longstanding and close relationship with respect to mutual assistance in tax matters and desire to improve international tax compliance by further building on that relationship;

Whereas, the laws of their respective jurisdictions [are expected to require]/[require]/[require or are expected to require] financial institutions to report information regarding certain accounts and follow related due diligence procedures, consistent with the scope of exchange contemplated by Section 2 of this Agreement and the reporting and due diligence procedures contained in the Common Reporting Standard;

Whereas, [Article [...] of the Income Tax Convention between the UK and [Jurisdiction B]/[Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters] (the “Convention”)]/[other applicable legal instrument (the “Instrument”)], authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and allows the competent authorities of the UK and [Jurisdiction B] (the “Competent Authorities”) to agree the scope and modalities of such automatic exchanges;

Whereas, the UK and [Jurisdiction B] have in place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used solely for the purposes set out in the [Convention]/[Instrument], and (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement);

Whereas, the Competent Authorities desire to conclude an agreement to improve international tax compliance based on reciprocal automatic exchange pursuant to the [Convention]/[Instrument], and subject to the confidentiality and other protections provided for therein, including the provisions limiting the use of the information exchanged under the [Convention]/[Instrument];

Now, therefore, the Competent Authorities have agreed as follows:

### **SECTION 1**

#### ***Definitions***

1. For the purposes of this agreement (“Agreement”), the following terms have the following meanings:

- a) The term “**the UK**” means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised..
- b) The term “**[Jurisdiction B]**” means [...].
- c) The term “**Competent Authority**” means:
- (1) in the case of the UK, [...]; and
  - (2) in the case of [Jurisdiction B], [...].
- d) The term “**UK Financial Institution**” means (i) any Financial Institution that is resident in the UK, but excludes any branch of that Financial Institution that is located outside the UK, and (ii) any branch of a Financial Institution that is not resident in the UK, if that branch is located in the UK.
- e) The term “**[Jurisdiction B] Financial Institution**” means (i) any Financial Institution that is resident in [Jurisdiction B], but excludes any branch of that Financial Institution that is located outside [Jurisdiction B], and (ii) any branch of a Financial Institution that is not resident in [Jurisdiction B], if that branch is located in [Jurisdiction B].
- f) The term “**Reporting Financial Institution**” means any the UK Financial Institution or [Jurisdiction B] Financial Institution, as the context requires, that is not a Non-Reporting Financial Institution
- g) The term “**Reportable Account**” means a UK Reportable Account or a [Jurisdiction B] Reportable Account, as the context requires, provided it has been identified as such pursuant to due diligence procedures, consistent with the Common Reporting Standard, in place in the UK or [Jurisdiction B].
- h) The term “**the UK Reportable Account**” means a Financial Account that is maintained by a [Jurisdiction B] Reporting Financial Institution and held by one or more UK persons that are Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a UK Reportable Person.

- i) The term “**[Jurisdiction B] Reportable Account**” means a Financial Account that is maintained by a the UK Reporting Financial Institution and held by one or more [Jurisdiction B] persons that are Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a [Jurisdiction B] Reportable Person.
  - j) The term “**UK Person**” means an individual or Entity that is identified by a [Jurisdiction B] Reporting Financial Institution as resident in the UK pursuant to due diligence procedures consistent with the Annex, or an estate of a decedent that was a resident of the UK.
  - k) The term “**[Jurisdiction B] Person**” means an individual or Entity that is identified by a UK Reporting Financial Institution as resident in [Jurisdiction B] pursuant to due diligence procedures consistent with the Common Reporting Standard, or an estate of a decedent that was a resident of [Jurisdiction B].
  - l) The term “**TIN**” means a UK TIN or a [Jurisdiction B] TIN, as the context requires.
  - m) The term “**UK TIN**” means a [...].
  - n) The term “**[Jurisdiction B] TIN**” means a [...].
2. Any capitalised term not otherwise defined in this Agreement will have the meaning that it has at that time under the law of the jurisdiction applying the Agreement, such meaning being consistent with the meaning set forth in the Common Reporting Standard. Any term not otherwise defined in this Agreement or in the Common Reporting Standard will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the jurisdiction applying this Agreement, any meaning under the applicable tax laws of that jurisdiction prevailing over a meaning given to the term under other laws of that jurisdiction.

## **SECTION 2**

### ***Exchange of Information with Respect to Reportable Accounts***

1. Pursuant to the provisions of Article [...] of the [Convention]/[Instrument] and subject to the applicable reporting and due diligence rules consistent with the Common Reporting Standard, each Competent Authority will annually exchange with the other Competent Authority on an automatic basis the information obtained pursuant to such rules and specified in paragraph 2.

2. The information to be exchanged is, in the case of the UK with respect to each [Jurisdiction B] Reportable Account, and in the case of [Jurisdiction B] with respect to each UK Reportable Account:
  - a. the name, address, TIN 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 due diligence procedures consistent with the Common Reporting Standard, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, and TIN of the Entity and the name, address, TIN and date and place of birth of each Reportable Person;
  - b. the account number (or functional equivalent in the absence of an account number);
  - c. the name and identifying number (if any) of the Reporting Financial Institution;
  - d. 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;
  - e. in the case of any Custodial Account:
    - (1) 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
    - (2) the total gross proceeds from the sale or redemption of property 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.
  - f. 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

- g. in the case of any account not described in subparagraph 2(e) or (f), 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.

## **SECTION 3**

### ***Time and Manner of Exchange of Information***

7. For the purposes of the exchange of information in Section 2, the amount and characterization of payments made with respect to a Reportable Account may be determined in accordance with the principles of the tax laws of the jurisdiction exchanging the information.
8. For the purposes of the exchange of information in Section 2, the information exchanged will identify the currency in which each relevant amount is denominated.
9. With respect to paragraph 2 of Section 2, information is to be exchanged with respect to [xxxx] and all subsequent years and will be exchanged within nine months after the end of the calendar year to which the information relates. Notwithstanding the foregoing sentence information is only required to be exchanged with respect to a calendar year if both jurisdictions have in effect legislation that requires reporting with respect to such calendar year that is consistent with the scope of exchange provided for in Section 2 and the reporting and due diligence procedures contained in the Common Reporting Standard.
10. Notwithstanding paragraph 3, the information to be exchanged with respect to [xxxx] is the information described in paragraph 2 of Section 2, except for gross proceeds described in subparagraph 2(e)(2) of Section 2.
11. The Competent Authorities will automatically exchange the information described in Section 2 in a common reporting standard schema in Extensible Markup Language.
12. The Competent Authorities will agree on one or more methods for data transmission including encryption standards.

## **SECTION 4**

### ***Collaboration on Compliance and Enforcement***

A Competent Authority will notify the other Competent Authority when the first-mentioned Competent Authority has reason to believe that an error may have led to incorrect or incomplete information reporting or there is non-compliance by a Reporting Financial Institution with the applicable reporting requirements and due diligence procedures consistent with the Common Reporting Standard. The notified Competent Authority will take all appropriate measures available under its domestic law to address the errors or non-compliance described in the notice.

## **SECTION 5**

### ***Confidentiality and Data Safeguards***

3. All information exchanged is subject to the confidentiality rules and other safeguards provided for in the [Convention]/[Instrument], including the provisions limiting the use of the information exchanged and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Competent Authority as required under its domestic law.
4. Each Competent Authority will notify the other Competent Authority immediately regarding any breach of confidentiality or failure of safeguards and any sanctions and remedial actions consequently imposed.

## **SECTION 6**

### ***Consultations and Amendments***

3. If any difficulties in the implementation or interpretation of this Agreement arise, either Competent Authority may request consultations to develop appropriate measures to ensure that this Agreement is fulfilled.
4. This Agreement may be amended by written agreement of the Competent Authorities. Unless otherwise agreed upon, such an amendment is effective on the first day of the month following the expiration of a period of one month after the date of the later of the signatures of such written agreement or the date of the later of the notifications exchanged for purposes of such written agreement.

## **SECTION 7**

### ***Term of Agreement***

1. This Agreement will come into effect [...]/[on the date of the later of the notifications provided by each Competent Authority that its jurisdiction has the necessary laws in place to implement the Agreement].

2. A Competent Authority may suspend the exchange of information under this Agreement by giving notice in writing to the other Competent Authority that it has determined that there is or has been significant non-compliance by the other Competent Authority with this Agreement. Such suspension will have immediate effect. For the purposes of this paragraph, significant non-compliance includes, but is not limited to, non-compliance with the confidentiality and data safeguard provisions of this Agreement and the [Convention]/[Instrument], a failure by the Competent Authority to provide timely or adequate information as required under this Agreement or defining the status of Entities or accounts as Non-Reporting Financial Institutions and Excluded Accounts in a manner that frustrates the purposes of the Common Reporting Standard.
  
3. Either Competent Authority may terminate this Agreement by giving notice of termination in writing to the other Competent Authority. Such termination will become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination. In the event of termination, all information previously received under this Agreement will remain confidential and subject to the terms of the [Convention/Instrument].

Signed in duplicate in [...] on [...].

COMPETENT AUTHORITY FOR  
THE UK:

COMPETENT AUTHORITY FOR  
[Jurisdiction B]:

# Annex D: Model Non-Reciprocal Competent Authority Agreement

## **MODEL AGREEMENT BETWEEN THE COMPETENT AUTHORITIES OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND [JURISDICTION B] ON THE AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION TO IMPROVE INTERNATIONAL TAX COMPLIANCE**

Whereas, the Government of the United Kingdom of Great Britain and Northern Ireland (the UK) and the Government of [Jurisdiction B] have a longstanding and close relationship with respect to mutual assistance in tax matters and desire to improve international tax compliance by further building on that relationship;

Whereas, the laws of the UK [are expected to require]/[require]/[require or are expected to require] financial institutions to report information regarding certain accounts and follow related due diligence procedures, consistent with the scope of exchange contemplated by Section 2 of this Agreement and the reporting and due diligence procedures contained in the Common Reporting Standard;

Whereas, [Article [...] of the Income Tax Convention between the UK and [Jurisdiction B]/[Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters] (the “Convention”)/[other applicable legal instrument (the “Instrument”)], authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and allows the competent authorities of the UK and [Jurisdiction B] (the “Competent Authorities”) to agree the scope and modalities of such automatic exchanges;

Whereas, [Jurisdiction B] has in place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used solely for the purposes set out in the [Convention]/[Instrument], and (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement);

Whereas, the Competent Authorities desire to conclude an agreement to improve international tax compliance based on reciprocal automatic exchange pursuant to the [Convention]/[Instrument], and subject to the confidentiality and other protections provided for therein, including the provisions limiting the use of the information exchanged under the [Convention]/[Instrument];

Now, therefore, the Competent Authorities have agreed as follows:



## SECTION 1

### *Definitions*

3. For the purposes of this agreement (“Agreement”), the following terms have the following meanings:
- o) The term “**the UK**” means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised..
  - p) The term “**[Jurisdiction B]**” means [...].
  - q) The term “**Competent Authority**” means:
    - (3) in the case of the UK, [...]; and
    - (4) in the case of [Jurisdiction B], [...].
  - r) The term “**[Jurisdiction B] Financial Institution**” means (i) any Financial Institution that is resident in [Jurisdiction B], but excludes any branch of that Financial Institution that is located outside [Jurisdiction B], and (ii) any branch of a Financial Institution that is not resident in [Jurisdiction B], if that branch is located in [Jurisdiction B].
  - s) The term “**Reporting Financial Institution**” means any [Jurisdiction B] Financial Institution that is not a Non-Reporting Financial Institution
  - t) The term “**Reportable Account**” means a UK Reportable Account provided it has been identified as such pursuant to due diligence procedures, consistent with the Common Reporting Standard, in place in [Jurisdiction B].
  - u) The term “**UK Reportable Account**” means a Financial Account that is maintained by a [Jurisdiction B] Reporting Financial Institution and held by one or more UK persons that are Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a UK Reportable Person.

- v) The term “**UK Person**” means an individual or Entity that is identified by a [Jurisdiction B] Reporting Financial Institution as resident in the UK pursuant to due diligence procedures consistent with the Annex, or an estate of a decedent that was a resident of the UK.
  - w) The term “**TIN**” means a UK TIN.
  - x) The term “**UK TIN**” means a [...].
  - y) The term “**Common Reporting Standard**” means the standard for automatic exchange of financial account information developed by the OECD, with G20 countries, presented to the G20 in 2014 and published on the OECD website.
4. Any capitalised term not otherwise defined in this Agreement will have the meaning that it has at that time under the law of the jurisdiction applying the Agreement, such meaning being consistent with the meaning set forth in the Common Reporting Standard. Any term not otherwise defined in this Agreement or in the Common Reporting Standard will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the jurisdiction applying this Agreement, any meaning under the applicable tax laws of that jurisdiction prevailing over a meaning given to the term under other laws of that jurisdiction.

## **SECTION 2**

### ***Exchange of Information with Respect to Reportable Accounts***

- 3. Pursuant to the provisions of Article [...] of the [Convention]/[Instrument] and subject to the applicable reporting and due diligence rules consistent with the Common Reporting Standard, [Jurisdiction B] Competent Authority will annually exchange with the UK Competent Authority on an automatic basis the information obtained pursuant to such rules and specified in paragraph 2.
- 4. The information to be exchanged is with respect to each UK Reportable Account:
  - h. the name, address, TIN 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 due diligence procedures consistent with the Annex, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, and TIN of the Entity and the name, address, TIN and date and place of birth of each Reportable Person;
  - i. the account number (or functional equivalent in the absence of an account number);

- j. the name and identifying number (if any) of the Reporting Financial Institution;
- k. 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;
- l. in the case of any Custodial Account:
  - (3) 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
  - (4) the total gross proceeds from the sale or redemption of property 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.
- m. 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
- n. in the case of any account not described in subparagraph 2(e) or (f), 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.

### **SECTION 3**

#### ***Time and Manner of Exchange of Information***

- 13. For the purposes of the exchange of information in Section 2, the amount and characterization of payments made with respect to a Reportable Account may be determined in accordance with the principles of the tax laws of the jurisdiction exchanging the information.
- 14. For the purposes of the exchange of information in Section 2, the information exchanged will identify the currency in which each relevant amount is denominated.
- 15. With respect to paragraph 2 of Section 2, information is to be exchanged with respect to [xxxx] and all subsequent years and will be exchanged within nine months after the end of the calendar year to which the information relates.
- 16. Notwithstanding paragraph 3, the information to be exchanged with respect to [xxxx] is the information described in paragraph 2 of Section 2, except for gross proceeds described in subparagraph 2(e)(2) of Section 2.

17. The [Jurisdiction B] Competent Authority will automatically exchange the information described in Section 2 in a common reporting standard schema in Extensible Markup Language.

18. The Competent Authorities will agree on one or more methods for data transmission including encryption standards.

## **SECTION 4**

### ***Collaboration on Compliance and Enforcement***

The UK Competent Authority will notify the [Jurisdiction B] Competent Authority when the first-mentioned Competent Authority has reason to believe that an error may have led to incorrect or incomplete information reporting or there is non-compliance by a Reporting Financial Institution with the applicable reporting requirements and due diligence procedures consistent with the Common reporting Standard. The [Jurisdiction B] Competent Authority will take all appropriate measures available under its domestic law to address the errors or non-compliance described in the notice.

## **SECTION 5**

### ***Confidentiality and Data Safeguards***

5. All information exchanged is subject to the confidentiality rules and other safeguards provided for in the [Convention]/[Instrument], including the provisions limiting the use of the information exchanged and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the [Jurisdiction B] Competent Authority as required under its domestic law.

6. The UK Competent Authority will notify the [Jurisdiction B] Competent Authority immediately regarding any breach of confidentiality or failure of safeguards and any sanctions and remedial actions consequently imposed.

## **SECTION 6**

### ***Consultations and Amendments***

5. If any difficulties in the implementation or interpretation of this Agreement arise, either Competent Authority may request consultations to develop appropriate measures to ensure that this Agreement is fulfilled.

6. This Agreement may be amended by written agreement of the Competent Authorities. Unless otherwise agreed upon, such an amendment is effective on the first day of the month following the expiration of a period of one month after the date of the later of the signatures of such written agreement or the date of the later of the notifications exchanged for purposes of such written agreement.

## SECTION 7

### *Term of Agreement*

4. This Agreement will come into effect [...]/[on the date of the later of the notifications provided by [Jurisdiction B] Competent Authority that its jurisdiction has the necessary laws in place to implement the Agreement].
5. A Competent Authority may suspend the exchange of information under this Agreement by giving notice in writing to the other Competent Authority that it has determined that there is or has been significant non-compliance by the other Competent Authority with this Agreement. Such suspension will have immediate effect. For the purposes of this paragraph, significant non-compliance includes, but is not limited to, non-compliance with the confidentiality and data safeguard provisions of this Agreement and the [Convention]/[Instrument], a failure by the Competent Authority to provide timely or adequate information as required under this Agreement or defining the status of Entities or accounts as Non-Reporting Financial Institutions and Excluded Accounts in a manner that frustrates the purposes of the Common Reporting Standard.
6. Either Competent Authority may terminate this Agreement by giving notice of termination in writing to the other Competent Authority. Such termination will become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination. In the event of termination, all information previously received under this Agreement will remain confidential and subject to the terms of the [Convention/Instrument].

Signed in duplicate in [...] on [...].

COMPETENT AUTHORITY FOR  
THE UK:

COMPETENT AUTHORITY FOR  
[Jurisdiction B]:

# Annex E: Draft International Tax Compliance (Common Reporting Standard) Regulations.

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## STATUTORY INSTRUMENTS

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**2014 No. 0000**

### **TAXES**

#### **The International Tax Compliance (Common Reporting Standards) Regulations 2014**

<i>Made</i> - - - -	***2014
<i>Laid before the House of Commons</i>	*** 2014
<i>Coming into force</i> - -	*** 2014

The Treasury make these Regulations in exercise of the powers conferred by section 222(1), (2) and (3) of the Finance Act 2013(1):

#### *Introductory*

#### **Citation and commencement**

—(1) These Regulations may be cited as the International Tax Compliance (Common Reporting Standards) Regulations 2014.

These Regulations come into force on \*\*\*\*.

#### **Implementation of the agreement**

—(2) These Regulations have effect for and in connection with the implementation of obligations arising under the [Multilateral Competent Authority Agreement on the Automatic Exchange of Financial Account Information to Improve International Tax Compliance between the Government of the United Kingdom and the reporting jurisdictions and participating jurisdictions listed in Schedule 1, signed on [date](2).

In these Regulations, a reference to “the agreement” means the agreement referred to in paragraph (1), as that agreement has effect from time to time.

Any expression which is defined in the agreement but not in section 222 or 235 of FA 2013 or in these Regulations has the same meaning in these Regulations as in the agreement.

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(1) 2013 c. 29.  
(2)

## *Application of the agreement*

### **Meaning of “reporting financial institution”**

—(3) In these Regulations, “reporting financial institution” means a person who carries on business in the United Kingdom as a financial institution and is not a non-reporting financial institution.

A non-reporting financial institution includes a financial institution listed in Schedule 2.

### **Meaning of “reportable account”**

—(4) In these Regulations, a “reportable account” means—

an account which is a reportable account within the meaning of the agreement, or

subject to paragraph (2), an account that is a pre-existing entity account with an account balance or value that does not exceed US\$250,000 as of 31 December 20\*\*.

But—

an account listed as an excluded account in Schedule 3 is not a reportable account, and

an account within paragraph (1)(b) is not a reportable account for a calendar year if there is an election by the reporting financial institution holding the account in force for that year to treat all such accounts, or a clearly identified group of such accounts, as not being reportable accounts.

An election under paragraph (2)(b) must be made for each calendar year in which the election is to have effect in the return required by regulation 6 for that year.

The institution must apply the account balance aggregation and currency rules in Section VII (C) of the Annex for the purposes of determining whether an account maintained by the institution is within paragraph (1)(b).

In applying the account balance aggregation and currency rules in Section VII (C) of the Annex for the purposes of the agreement and these Regulations, an account balance that has a negative value is treated as having a nil value.

In determining the balance or value of an account denominated in a currency other than US dollars for the purposes of agreement and for the purposes of paragraph (1)(b), the institution must translate the relevant dollar threshold amounts into the other currency by reference to the spot rate of exchange on the date for which the institution is determining the threshold amounts.

For the purposes of the agreement and these Regulations, an account held by an individual as a partner of a partnership is treated as an entity account and is not treated as an individual account.

## *Obligations in relation to financial accounts*

### **Identification obligation**

—(5) A reporting financial institution must establish and maintain arrangements that are designed to identify reportable accounts.

Such arrangements must—

identify the territory in which an account holder or a controlling person, as the case may be, is resident for income tax or corporation tax purposes or for the purposes of any tax imposed by the law of that territory that is of a similar character to either of those taxes,

apply the due diligence procedures set out in the Annex,

secure that the evidence obtained in accordance with this regulation, or a record of the steps taken to comply with this regulation, in relation to any financial account is kept for a period of six years beginning with the end of the year in which the arrangements applied to the financial accounts.

In applying the due diligence procedures, accounts within regulation 4(1)(b) in respect of which no election has been made are treated as pre-existing entity accounts.

A reporting financial institution may—

apply the due diligence procedures for new accounts to pre-existing accounts (but in such cases the rules that apply to pre-existing accounts continue to apply), and  
apply the due diligence procedures for high value accounts to low value accounts.

### **Reporting obligation**

—(6) A reporting financial institution must, in respect of [201\*] and every following calendar year, prepare a return setting out—

the information required under Section I of the Annex in relation to every reportable account that is maintained by the institution at any time during the calendar year in question (“the reporting requirements”), or

a statement that the institution maintained no reportable accounts during the calendar year in question.

The institution must send the return to an officer of Revenue and Customs on or before 31 May of the year following the calendar year to which the return relates.

For the purposes of the reporting requirements—

interest includes any amount that is chargeable as interest under Part 4 of ITTOIA 2005(3),

references to the balance or value of an account include a nil balance or value, and

references to paying an amount include crediting an amount.

### **Non-resident reporting financial institution’s UK representative**

—(7) If a reporting financial institution is not resident in the United Kingdom, the obligations of the institution under these Regulations are to be treated as if they were also the obligations of any UK representative of the institution.

“UK representative” has the same meaning as it has in—

Chapter 6 of Part 22 of CTA 2010, in relation to a reporting financial institution that is within the charge to corporation tax, and

Chapter 2C of Part 14 of ITA 2007, in relation to any other reporting financial institution.

For the purposes of this regulation—

a reporting financial institution which is a partnership is resident in the United Kingdom if the control and management of the business of the partnership as a reporting financial institution takes place there, and

a reporting financial institution which is not a partnership is resident in the United Kingdom if it is resident in the United Kingdom for corporation tax or income tax purposes.

### **Use of service providers**

A reporting financial institution may use a service provider to undertake the identification obligation under regulation 6 and the reporting obligation under regulation 7, but in such cases those obligations continue to be the obligations of the institution.

### *Penalties for breach of obligations*

### **Penalties for failure to comply with Regulations**

A person is liable to a penalty of £300 if the person fails to comply with any obligation under these Regulations.

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(3) 2005 c. 5.



### **Daily default penalty**

If—

a penalty under regulation 9 is assessed, and  
the failure in question continues after the person has been notified of the assessment,

the person is liable to a further penalty, for each subsequent day on which the failure continues, of an amount not exceeding £60 for each such day.

### **Penalties for inaccurate information**

—(8) A person is liable to a penalty not exceeding £3,000 if—  
in complying with an obligation under regulation 6 the person provides inaccurate information, and  
condition A, B or C is met.

Condition A is that the inaccuracy is—

due to a failure to comply with regulation 5, or  
deliberate on the part of the person.

Condition B is that the person knows of the inaccuracy at the time the information is provided but does not inform HMRC at that time.

Condition C is that the person—

discovers the inaccuracy some time later, and  
fails to take reasonable steps to inform HMRC.

### **Matters to be disregarded in relation to liability to penalties**

—(9) Liability to a penalty under regulation 9 or 11 does not arise if the person satisfies HMRC or (on an appeal notified to the tribunal) the tribunal that there is a reasonable excuse for the failure.

For the purposes of this regulation neither of the following is a reasonable excuse—

that there is an insufficiency of funds to do something, or  
that a person relies upon another person to do something.

If a person had a reasonable excuse for a failure but the excuse has ceased, the person is to be treated as having continued to have the excuse if the failure is remedied without unreasonable delay after the excuse ceased.

### **Assessment of penalties**

—(10) If a person becomes liable to a penalty under any of regulations 9, 10 or 11, an officer of Revenue and Customs may assess the penalty.

If an officer does so, the officer must notify the person.

An assessment of a penalty under regulation 9 or 10 must be made within the period of 12 months beginning with the date on which the person became liable to the penalty.

An assessment of a penalty under regulation 11 must be made—

within the period of 12 months beginning with the date on which the inaccuracy first came to the attention of an officer of Revenue and Customs, and

within the period of 6 years beginning with the date on which the person became liable to the penalty.

### **Right to appeal against penalty**

A person may appeal against a penalty assessment—

on the grounds that liability to a penalty under any of regulations 9, 10 or 11 does not arise, or  
as to the amount of such a penalty.

### **Procedure on appeal against penalty**

—(11) Notice of an appeal under regulation 14 must be given—

in writing,

before the end of the period of 30 days beginning with the date on which notification under regulation 16 was given, and

to HMRC.

It must state the grounds of appeal.

On an appeal under regulation 14(a) that is notified to the tribunal, the tribunal may confirm or cancel the assessment.

On an appeal under regulation 14(b) that is notified to the tribunal, the tribunal may—

confirm the assessment, or

substitute another assessment that the officer of Revenue and Customs had power to make.

Subject to this regulation and regulation 17, the provisions of Part 5 of TMA 1970<sup>(4)</sup> relating to appeals have effect in relation to appeals under regulation 14 as they have effect in relation to an appeal against an assessment to income tax.

### **Increased daily default penalty**

—(12) This paragraph applies if—

a penalty under regulation 10 is assessed under regulation 13,

the failure in respect of which that assessment is made continues for more than 30 days beginning with the date on which notification of that assessment is given, and

the person has been told that an application may be made under this paragraph for an increased daily penalty to be imposed.

If this regulation applies, an officer of Revenue and Customs may make an application to the tribunal for an increased daily penalty to be imposed on the person.

If the tribunal decides that an increased daily penalty should be imposed then for each applicable day on which the failure continues—

the person is not liable to a penalty under regulation 10 in respect of the failure, and

the person is liable instead to a penalty under this regulation of an amount determined by the tribunal.

The tribunal may not determine an amount exceeding £1000 for each applicable day.

If a person becomes liable to a penalty under this regulation, HMRC must notify the person.

The notification must specify the day from which the increased penalty is to apply.

That day and any subsequent day is an “applicable day” for the purposes of this regulation.

### **Enforcement of penalties**

—(13) A penalty under these Regulations must be paid before the end of the period of 30 days beginning with the date mentioned in paragraph (2).

That date is—

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(4) 1970 c. 9. The Taxes Management Act 1970 was relevantly amended by sections 45(1) and 67(2) of the Finance (No. 2) Act 1975 (c. 45); section 68 of the Finance Act 1982 (c. 39); section 156(2) and (4) of the Finance Act 1989 (c. 26); section 199 of and paragraphs 18(1) and (2) of Schedule 19 to the Finance Act 1994 (c. 9); paragraph 28 of Schedule 19 to the Finance Act 1998 (c. 36); section 88 of and paragraph 31 of Schedule 29 to the Finance Act 2001 (c. 9); paragraph 21 of Schedule 1 to the Constitutional Reform Act 2005 (c. 4); paragraph 257(a) and (b) of Schedule 1 to and Part 1 of Schedule 3 to the Income Tax Act 2007 (c. 3); section 119(12)(a) of the Finance Act 2008 (c. 9); paragraph 31 of Schedule 7 to the Taxation (International and Other Provisions) Act 2010 (c. 8); S.I. 1994/1813 and 2009/56.

the date on which the assessment under regulations 13 or notification under 16(5) is given in respect of the penalty, or

if a notice of appeal under regulation 14 is given, the date on which the appeal is finally determined or withdrawn.

A penalty under these Regulations may be enforced as if it were income tax charged in an assessment and due and payable.

### *Supplementary*

#### **Anti-avoidance**

If—

a person enters into any arrangements, and

the main purpose, or one of the main purposes, of the person in entering into the arrangements is to avoid any obligation under these Regulations,

these Regulations are to have effect as if the arrangements had not been entered into.

#### **Definitions**

—(14) In these Regulations—

“the Annex” means the Annex to the agreement

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs,

“the tribunal” means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.

The following table lists the places where expressions that apply for the purposes of these Regulations are defined or otherwise explained—

<i>Expression</i>	<i>Reference</i>
account holder	regulation 2(3) with Section VIII(E)(1) of the Annex
the Commissioners	regulation 19(1)
controlling person	regulation 2(3) with Section VIII(D)(6) of the Annex
excluded accounts	regulation 2(3) and Schedule 3 with Section VIII(C)(17) of the Annex.
financial account	regulation 2(3) with Section VIII(C) of the Annex
financial institution	regulation 2(3) with Section VIII(A)(3) of the Annex
HMRC	section 222(4) FA 2013
new account	regulation 2(3) with Section VIII(C)(10) of the Annex
non-reporting financial institution	regulation 2(3) and Schedule 2 with Section VIII(B)(1) of the Annex
participating jurisdiction	regulation 2(3) and Schedule 1 with Section VIII(D)(5) of the Annex
pre-existing account	regulation 2(3) with Section VIII(C)(9) of the Annex
pre-existing entity account	regulation 2(3) with Section VIII(C)(13) of the Annex
reportable account	regulation 4 with Section 1(7) of the agreement and Section VIII(D) of the Annex

reporting financial institution  
participating jurisdiction  
the tribunal

regulation 3  
regulation 2(3) and Schedule 1 with Section  
VIII(D)(4) of the Annex  
regulation 19(1)

Date  
Two of the Lords Commissioners of Her Majesty's Treasury

Name  
Name

## SCHEDULE 1

### Reporting and participating jurisdictions

1. The reporting jurisdictions are—

The participating jurisdictions are—

## SCHEDULE 2

### Non-reporting financial institutions

1. For the purposes of these Regulations and the agreement the following are non-reporting financial institutions.

*[Insert name or description of any institution which does not meet the description in Section VIII paragraph B of the Annex to the CRS]*

## SCHEDULE 3

### Excluded accounts

1. For the purposes of these Regulations and the agreement the following are excluded accounts.

#### **Certain Retirement Accounts or Products**

2. Pension schemes registered with HMRC under Part 4 of the Finance Act 2004.

3. Non-registered pension arrangements where the annual contributions are limited to £50,000 and funds contributed cannot be accessed before the age of 55 except in circumstances of serious ill health.

4. UK-registered pension arrangements (including authorised payments) as set out in the Finance Act 2004 that are excluded from the definition of Financial Account pursuant to Section VIII C(1)(c) of the agreement.

5. Immediate needs annuities within section 725 Income Tax (Trading and Other Income) Act 2005.

#### **Certain Tax-favoured Accounts and Products**

6. An account within the meaning of the Individual Savings Account Regulations 1998( ).

7. A child trust fund within the meaning of the Child Trust Funds Act 2004

8. Premium Bonds issued by the UK National Savings and Investments.

9. A Children's Bonds issued by the UK National Savings and Investments.

10. Fixed Interest Savings Certificates issued by UK National Savings and Investments.

11. Index Linked Savings Certificates issued by UK National Savings and Investments.

12. Tax Exempt Savings Plans issued by a friendly society within the meaning of the Friendly Societies Act 1992( ).
13. A share incentive plan approved by HMRC under Schedule 2 to ITEPA 2003( ).
14. A SAYE option schemes approved by HMRC under Schedule 3 to ITEPA 2003.
15. A CSOP scheme approved by HMRC under Schedule 4 to ITEPA 2003.
16. A venture capital trust approved for the purposes of Part 6 of ITA 2007( ) by the Commissioners.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made to give effect to the agreement reached between the Government of the United Kingdom and \*\*\*\*\* to improve international tax compliance and to implement the Common Reporting Standard (the provisions introduced by the OECD \*\*\*\*\*), signed on [date] (“the agreement”).

Regulation 1 provides for citation and commencement.

Regulation 2 explains the purpose of the Regulations and the meaning of the term “the agreement”. Paragraph (2) explains that references to “the agreement” are references to how the agreement takes effect from time to time. Paragraph (3) provides that any expression defined in the relevant agreement but not in the Regulations or relevant sections of the Finance Act 2013 is to have its relevant agreement meaning.

Regulation 3 contains the basic definition of a “reporting financial institution” as a person carrying on business in the United Kingdom as a financial institution, other than the institutions listed as non-reporting financial institutions in Schedule 2.

Regulation 4 defines “reportable account” and makes provision for a reporting financial institution to elect for a calendar year to treat certain accounts as if they were not reportable accounts.

Regulation 5 requires reporting financial institutions to establish and maintain arrangements to identify reportable accounts and the tax residence of holders of accounts maintained on or after [date] and to apply the appropriate due diligence requirements.

Regulation 6 requires reporting financial institutions to make a return to an officer of Revenue and Customs in respect of every calendar year from 20\*\* onwards of information specified in the agreement and requires a reporting financial institution that maintains no reportable accounts to report that fact in its return.

Regulation 7 is concerned with the position of reporting financial institutions that are not resident in the United Kingdom, in such a case the obligations of an institution are to be treated as if they were also the obligations of its UK representative.

Regulation 8 permits the use of service providers to undertake the identification and reporting obligations in regulations 6 and 7.

Regulations 9 to 17 make provision for penalties for breach of obligations under these Regulations.

Regulation 18 is an anti-avoidance provision.

Regulation 19 contains definitions.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.