

Tax Information Authority



CAYMAN ISLANDS

THE COMMON REPORTING STANDARD FOR AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION IN TAX MATTERS

Version 3.0

Guidance Notes

These Guidance Notes are issued under regulation 5(2) of the *Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations, 2015* by the Tax Information Authority as the Competent Authority for the purposes of the legislation.

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Department for International Tax Cooperation

Website: www.ditc.gov.ky
Contact: Mr. Peter Stafford
Email: peter.stafford@gov.ky

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I. Overview

A. General

The Common Reporting Standard (“**CRS**”) was developed by the Organisation for Economic Co-operation and Development (“**OECD**”) on the mandate of the G20. It is the global standard for the automatic exchange of financial account information for tax purposes. The CRS builds on the intergovernmental approach adopted by many jurisdictions for the implementation of the United States Foreign Account Tax Compliance Act (“**FATCA**”) and is designed to maximise efficiency and minimise costs.

Under the CRS, jurisdictions obtain specified financial account information from their Financial Institutions and automatically exchange that information with partner jurisdictions on an annual basis.

B. Core documents

The standard consists of the following core elements that are relevant for Financial Institutions:

- The [Common Reporting Standard](#) that contains the due diligence and reporting rules for Financial Institutions.
- The Commentary on the CRS, which is an integral part of the CRS and is intended to illustrate or interpret its provisions.

The OECD has developed a comprehensive [Automatic Exchange Portal](#) that is the principal source for CRS materials and resources. In particular, Financial Institutions should consult the following resources which have been issued by the OECD to assist Competent Authorities in the consistent implementation of the Standard itself:

- [CRS Implementation Handbook](#)
- [CRS-related FAQs](#)

The legal basis for jurisdictions to exchange information under the CRS is contained in Multilateral or Bilateral Competent Authority Agreements (“**CAA**”). The most common instrument is the [Multilateral Competent Authority Agreement](#) (“**MCAA**”), to which the Cayman Islands is a party. The MCAA contains the rules on the modalities of the exchange between the Cayman Islands Competent Authority (the Tax Information Authority) and partner jurisdiction Competent Authorities. It also contains representations on confidentiality, safeguards and the existence of the necessary infrastructure for an effective exchange relationship.

C. Domestic law

The CRS is implemented in the Cayman Islands through *The Tax Information Authority Law* (“**TIA Law**”) which provides for all forms of exchange of information for tax purposes. The detailed provisions of the CRS itself are in regulations made under the TIA Law and, in particular Schedule 1 of the CRS Regulations which incorporates the “wider approach” and options under the CRS.

The CRS Regulations are [The Tax Information Authority \(International Tax Compliance\) \(Common Reporting Standard\) Regulations, 2015](#) as amended by [The Tax Information Authority \(International Tax Compliance\) \(Common Reporting Standard\) \(Amendment\) Regulations, 2016](#). The CRS Regulations came into force on 1 January 2016 save that the 2016 Amendment came into force on the 19 December 2016. A copy of the original 2015 CRS Regulations and its Schedules are available at Part 1 of Appendix 1 and a copy of the 2016 Amendment to the CRS Regulations is available at Part 2 of Appendix 1. Appendix 1 will be updated upon publication of the 2018 Revision of the CRS Regulations.

The CRS Regulations were amended to impose appropriate compliance and regulatory obligations on Cayman Financial Institutions and certain other persons and to set out the enforcement powers of the Tax Information Authority by means of an administrative penalty regime and also through the court system. These obligations are summarised in

section II below headed “Obligations of Cayman Financial Institutions under the CRS Regulations”.

D. Interpretation

The CRS Regulations now include several new definitions to assist with interpretation and also converts these terms used in the CRS (exhibited to the CRS Regulations):

Term in the CRS	Conversion by the CRS Regulations
1. A Financial Institution	1. A Cayman Financial Institution
2. A Reporting Financial Institution	2. A Cayman Reporting Financial Institution
3. A reporting period or a calendar year or other appropriate reporting period	3. A calendar year.

E. Purpose of these Guidance Notes

As the CRS is a global standard, the OECD has developed extensive and comprehensive materials for the consistent application and interpretation of the Standard by all jurisdictions. These Guidance Notes are therefore limited to providing guidance on aspects of the CRS that are particular to Cayman and to addressing certain aspects of the CRS Regulations. These Guidance Notes are not intended to replicate the information in the aforementioned OECD documents, which form the core of the Standard and its interpretation subject to the CRS Regulations.

A Financial Institution must apply the Cayman CRS Regulations in force at the time, with reference to the commentary on the Common Reporting Standard and these Guidance Notes.

Financial Institutions are encouraged to seek professional advice if they are unsure of

their obligations under the CRS framework.

F. The Cayman Islands Competent Authority

The Cayman Islands Competent Authority is the Tax Information Authority (“**TIA**”) who is designated by law as the Minister with responsibility for Financial Services, or his delegate. The delegated functions of the TIA are carried out by the Director and staff of the Department for International Tax Cooperation (“**DITC**”) which is the government department responsible for the operation of all mechanisms for the exchange of information for tax purposes.

Financial Institutions will report the information required under the CRS to the TIA via the Cayman AEOI Portal, accessible at www.ditc.gov.ky. The TIA will then exchange information with partner jurisdictions that have satisfied the requisite confidentiality and data safeguards standards, and have the appropriate legal instruments and legislative frameworks in place.

G. Entity classification

For the purposes of the CRS the term “Entity” means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation. The CRS Regulations broadly classify Entities as either Financial Institutions or Non-Financial Entities.

A Financial Institution that is not a Non-Reporting Financial Institution is a Reporting Financial Institution. Cayman Reporting Financial Institutions have reporting obligations to the TIA whereas, except as provided for Trustee Documented Trusts, Non-Reporting Financial Institutions do not.

An Entity that is not a Financial Institution is a Non-Financial Entity (“**NFE**”). A NFE that is not an Active NFE is a Passive NFE. Paragraphs 7, 8 and 9 of Section VIII.D. of

Schedule 1 to the CRS Regulations define the terms “NFE”, “Passive NFE”, and “Active NFE”, respectively. The CRS requires a Passive NFE to disclose its Controlling Persons to any Reporting Financial Institution with which it has an account whereas an Active NFE is not required to disclose its Controlling Persons.

Existing Cayman Entities should already have determined their own classifications for the purposes of FATCA, UK CDOT and the CRS if they have been required to complete an Entity Self-Certification form.

There are important differences in the entity classification rules under the CRS Regulations on the one hand and the Tax Information Authority (International Tax Compliance) (United States of America) Regulations, 2014 regarding FATCA on the other hand, although they are broadly similar.

In particular, certain entities classified as either Exempt Beneficial Owners or Non-Reporting Financial Institutions under Annex II of the US-Cayman IGA regarding FATCA are classified as Cayman Reporting Financial Institutions under the CRS and will therefore have reporting and other obligations under the CRS Regulations in addition to the notification obligation. This is because the CRS has a more limited definition of Non-Reporting Financial Institutions in paragraph B1 of Section VIII of Schedule 1 to the CRS Regulations.

II. Obligations of Cayman Financial Institutions under the CRS Regulations

Every Cayman Financial Institution must determine its own “entity classification” for the purposes of the CRS Regulations. Cayman Financial Institutions have the obligations prescribed by Part 2 of the CRS Regulations.

Part 2 of the CRS Regulations includes separate regulations regarding each of the following:

- Common Reporting Standard in force (i.e. imposes due diligence and reporting obligations on Cayman Reporting Financial Institutions)
- Required policies and procedures for Cayman Reporting Financial Institutions
- Obligation of Cayman Financial Institutions to notify certain information
- Obligation of Cayman Reporting Financial Institutions to make a return
- Requirements for making returns
- Appointment of third parties
- Authority’s monitoring function
- Anti-avoidance

A “Cayman Financial Institution” means

- (a) a Financial Institution resident in the Islands other than any of the institution’s branches outside the Islands; and
- (b) a branch in the Islands of a Financial Institution not resident in the Islands.

Any reference in these Guidance Notes to “the Islands” means the Cayman Islands.

Where a Financial Institution (other than a trust) is resident in the Cayman Islands and one or more other Participating Jurisdictions, such Financial Institution will be subject to the reporting and due diligence obligations of the Participating Jurisdiction in which it maintains the Financial Account(s). The following table shows which Financial Institution is considered to maintain each type of Financial Account:

Accounts	Which Financial Institution is considered to maintain them
Depository Accounts	The Financial Institution that is obligated to make payments with respect to the account (excluding an agent of a Financial Institution).
Custodial Accounts	The Financial Institution that holds custody over the assets in the account.
Equity and debt interest in certain Investment Entities	The equity or debt interest in a Financial Institution is maintained by that Financial Institution. An Investment Entity shall always perform its reporting obligations in the Cayman Islands
Cash Value Insurance Contracts	The Financial Institution that is obligated to make payments with respect to the contract.
Annuity Contracts	The Financial Institution that is obligated to make payments with respect to the contract.

A Cayman Financial Institution always has the obligation to register on the Cayman AEOI Portal. A Cayman Financial Institution must advise the TIA if it determines that it will perform its CRS reporting obligations in another Participating Jurisdiction because, based on the applicable rule in the above table, that is where it maintains its Financial Accounts.

A “branch” is a unit, business, or office of a Financial Institution that is treated as a branch under the regulatory regime of a jurisdiction or that is otherwise regulated under the laws of a jurisdiction as separate from other offices, units, or branches of the Financial Institution. A branch includes a unit, business, or office of a Financial Institution located in a jurisdiction in which the Financial Institution is resident, and a unit, business, or office of a Financial Institution located in the jurisdiction in which the Financial Institution is created or organised. All units, businesses, or offices of a Reporting Financial Institution in a single jurisdiction shall be treated as a single branch.

For a Financial Institution, “resident in the Islands”, means -

- (a) being incorporated or established in the Islands;
- (b) having in the Islands a place of effective management as defined under paragraph 109 of the commentary to the CRS; or
- (c) being subject to financial supervision in the Islands.

Most Cayman Financial Institutions will be resident in the Islands because they are incorporated or established here as described in (a) above. The TIA will regard a legal arrangement as being established in the Islands if: (1) it is a general partnership that carries on business in the Islands; (2) it is a limited partnership or exempted limited partnership registered in the Islands; or (3) it is a trust that has a trustee which is resident in the Islands.

For the purposes of (c) above, the TIA will regard all Financial Institutions not falling into (a) or (b) that are subject to the regulatory laws defined by the Monetary Authority Law (2016 Revision), and therefore supervised or regulated by the Cayman Islands Monetary Authority, as being Cayman Financial Institutions on the basis that they are subject to financial supervision in the Islands.

Financial Institutions will also be Cayman Financial Institutions for the purposes of (b) above if the Islands are the place where key management and commercial decisions that are necessary for the conduct of the Entity’s business as a whole are in substance made.

All relevant facts and circumstances must be examined to determine the place of effective management. An Entity may have more than one place of management, but it can have only one place of effective management at any one time.

For the purpose of the CRS Regulations:

A. Cayman Financial Institutions include:

1. Custodial Institutions
2. Depository Institutions
3. Investment Entities
4. Specified Insurance Companies

Any Cayman Financial Institutions that are not Non-Reporting Financial Institutions are Cayman Reporting Financial Institutions. Cayman Reporting Financial Institutions have much broader obligations than Non-Reporting Financial Institutions under Part 2 of the CRS Regulations.

B. Cayman Non-Reporting Financial Institutions include:

1. International Organisation
2. Broad Participation Retirement Fund
3. Narrow Participation Retirement Fund
4. Pension Fund of an International Organisation
5. Qualified Credit Card Issuer
6. Exempt Collective Investment Vehicle
7. Trustee Documented Trust
8. Exempted bodies

C. Exempted bodies include:

1. The Cayman Islands Monetary Authority
2. Governmental Entity
3. Pension Fund of the Cayman Islands Monetary Authority

4. Pension Fund of a Governmental Entity

A. CRS due diligence and reporting obligations

Each Cayman Reporting Financial Institution has the due diligence and reporting obligations detailed in the CRS included in Schedule 1 to the CRS Regulations.

B. Accuracy of information

Each Cayman Financial Institution will give information to the TIA in the course of complying with its obligations under Part 2 of the CRS Regulations. In order for the TIA to perform its functions it is important that all information given to the TIA is accurate, i.e. complete, correct and reliable.

Certain offences regarding inaccurate information are described in Section VII below headed “Enforcement”.

The DITC may contact FIs with regards to the accuracy of information submitted to the AEOI Portal. These emails will be sent from a dedicated email address DITCcompliance@gov.ky. AEOI Portal Users must ensure that their contact email accounts are able to receive emails from this email address e.g. by adding the email address to a ‘safe list’. Other general email communications may be sent by the AEOI Portal Team from the address CaymanAEOIportal@gov.ky and users should also ensure that email communications can be received from this address.

C. Required written policies and procedures for Cayman Reporting Financial Institutions

Each Cayman Reporting Financial Institution shall -

- (a) establish and maintain written policies and procedures to comply with Part 2 of the CRS Regulations; and

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

The Cayman Reporting Financial Institution's policies and procedures shall -

- (a) identify each jurisdiction in which an Account Holder or a Controlling Person is resident for income tax or corporation tax purposes or for the purpose of any tax imposed by the law of the jurisdiction that is of a similar character to either of those taxes;
- (b) apply the due diligence procedures set out in the CRS; and
- (c) ensure that any information obtained in accordance with the CRS Regulations or a record of the steps taken to comply with the CRS Regulations in respect of a Financial Account is kept for six years from the end of the year to which the information relates or during which the steps were taken.

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

- (a) knows, or has reason to believe, the instrument is inaccurate in a material way for the policies and procedures; and
- (b) it makes a return that relies on the instrument's accuracy.

Written policies and procedures should be appropriate for the type of institution and its Account Holders and should reflect any delegation to third parties. Given the variety of Cayman Reporting Financial Institutions, there will not be one style or approach which fits all institutions.

Examples of written policies and procedures:

a) No delegation of CRS obligations

The written policies and procedures of a Cayman Reporting Financial Institution which has not delegated performance of its CRS obligations to third parties should describe the performance of those CRS obligations in a way that is reasonable for the nature of its business.

b) Delegation of CRS obligations

Any Cayman Reporting Financial Institution may delegate performance of its CRS obligations and the DITC recognises that Investment Entities will typically do so. An Investment Entity which has decided to delegate its CRS obligations to a fund administrator, the Investment Entity should have written policies and procedures which describe (i) what functions have been delegated, (ii) the management/oversight of the delegation, and (iii) the performance of any CRS obligations that have not been delegated (e.g. management of the required information under regulation 8(4) of the CRS Regulations). Therefore, in circumstances where the TIA requires such an Investment Entity to produce its written policies and procedures for CRS compliance, the TIA may also require production of any agreement regarding delegation of the Investment Entity's CRS obligations together with the written policies and procedures for CRS compliance which the delegate uses for client Investment Entities.

c) Segregated Portfolio Companies, Umbrella Funds and Multi-issuance Entities

The written policies and procedures of an SPC/ equivalent should include policies and procedures which apply to all of its segregated portfolios/ equivalent in respect of which it assumes notification and reporting obligations via the SPC's/ equivalent's own registration account on the Cayman AEOI Portal. Those segregated portfolios/ equivalent will not require their own written policies and procedures.

d) Trustee of Trustee Documented Trusts

The written policies and procedures of the Reporting Financial Institution that is a trustee of Trustee Documented Trusts should include policies and procedures which apply to all of its Trustee Documented Trusts since the trustee is responsible for all due diligence and reporting obligations of its Trustee Documented Trusts. Those Trustee Documented Trusts would not be expected to have their own written policies and procedures.

D. Registration on the Cayman AEOI Portal by notification to the Tax Information Authority

Every Cayman Financial Institution – other than an “exempted body” described above – has an obligation to give the TIA an information notice online via the Cayman AEOI Portal available at www.ditc.gov.ky. A Cayman Financial Institution will be considered to be registered with the TIA for CRS purposes once it has successfully completed the process described in the Cayman AEOI Portal User Guide.

Under regulation 8 of the CRS Regulations, the deadline for initial registration is 30 April 2017 or, if an entity becomes a Cayman Financial Institution after that date, the next 30 April after the entity became a Cayman Financial Institution. Registration is a one-off process and does not need to be repeated annually. For 2017 only, the TIA will accept registrations up to 30 June 2017 without considering compliance measures or penalties.

1. Required information for every Cayman Financial Institution

Every Cayman Financial Institution must provide the “required information” specified by regulation 8(4) of the CRS Regulations, namely:

- (a) the institution’s name and the ‘FI number’ given to it by the TIA as a Financial Institution (i.e. upon completion of initial registration);
- (b) whether the institution is a Cayman Reporting Financial Institution or a Non-Reporting Financial Institution; and
- (c) if the institution is a Cayman Reporting Financial Institution, its classification under paragraph A of Section VIII of the standard;
- (d) if the institution is a Non-Reporting Financial Institution, its classification under paragraph B of Section VIII of the standard; and
- (e) the full name, address, business entity, position and contact details (including an electronic address) of -
 - (i) an individual the Cayman Financial Institution has authorised to be its principal point of contact for compliance with this Part; and
 - (ii) an individual the Cayman Financial Institution has authorised to give change notices for its principal point of contact.

For the avoidance of doubt, the Cayman Financial Institution must authorise different individuals for the purposes of (e)(i) and (ii) above. The Cayman AEOI Portal User Guide will specify the documents the TIA requires as evidence in support of the Cayman Financial Institution’s appointment of the individuals named in (e)(i) and (ii) above. Only the individual named in (e)(ii) above may give a change notice to the TIA regarding the principal point of contact named in (e)(i) above. Only the principal point of contact may give a change notice to the TIA in respect of any other matter.

In order to prevent unauthorised access to and/or tampering with confidential information, a Cayman Financial Institution must promptly notify the TIA in respect of any change to the appointment or contact details of either or both of those two individuals and, in any event, within 10 business days. The TIA will generally regard change notices on other matters as sufficiently prompt if given within 28 days of the relevant change occurring.

The TIA regards confidentiality of Cayman Financial Institution's data as critical. In order to ensure that no unauthorised access takes place in relation to such data, additional verification may be required regarding any changes to the principal point of contact. The TIA may deny a Cayman Financial Institution access to its registration account on the Cayman AEOI Portal if the Cayman Financial Institution is unable to provide the TIA with the required verification.

The FI number referred to in (a) above is the unique identifying number for the Cayman Financial Institution used by the TIA and other Competent Authorities for AEOI purposes. The FI number is not a tax identification number (TIN) in the strict sense. The Cayman Islands does not issue TINs or equivalent identifiers for domestic tax collection purposes.

Trustee Documented Trusts

Trustee Documented Trusts (TDTs) are treated differently than other types of Non-Reporting Financial Institutions. Subparagraph B1(e) of Section VIII of Schedule 1 to the CRS Regulations and paragraphs 55 and 56 of the commentary provide that:

- (i) the reporting and due diligence obligations of a TDT will be transferred to the trustee;
- (ii) the time and manner of the reporting and due diligence obligations remain the same as if they still were the responsibility of the TDT; and
- (iii) the trustee must report such information as the TDT would have reported and identify the TDT with respect to which it fulfils the reporting and due diligence obligations.

A TDT's information notice that it is a Non-Reporting Financial Institution must include the name and FI number of its trustee in addition to the name and FI number of the TDT itself.

The trustee will be required to make all CRS reports on behalf of the TDT via the TDT's registration account on the Cayman AEOI Portal using the FI number issued by the DITC

to the TDT. The TDT's CRS reports must name the TDT as the "Reporting Financial Institution". This is in contrast to the position under FATCA where the trustee of a TDT may use its own registration account and report as a sponsoring entity on behalf of its TDTs.

E. Reporting to the Tax Information Authority

Reporting for the CRS will be conducted through the Cayman AEOI Portal, available at www.ditc.gov.ky.

1. Timing of reporting on Reportable Accounts and mandatory nil returns

All Cayman Reporting Financial Institutions and Trustee Documented Trusts are required to report for CRS purposes via the Cayman AEOI Portal in respect of any Reportable Accounts and to file a nil return in respect of those Reportable Jurisdictions for which it has no Reportable Accounts. The reporting deadline for each calendar year is 31 May following the end of such calendar year. For the 2016 reporting year only, the TIA will not consider compliance measures or penalties in respect of reports that have been submitted and show the status "Accepted" within the Submission History page of the Cayman AEOI Portal by 13 September 2017.

2. Reporting procedures

The DITC will issue periodic updates on the availability of the Portal for CRS notifications and reporting. A Cayman Reporting Financial Institution or Trustee Documented Trust will be required to submit a separate return with respect to each Reportable Jurisdiction for which it has Reportable Accounts under the CRS.

Third party service providers should take note that it will not be possible to include reports for multiple Cayman Reporting Financial Institutions in a single XML file.

Each Cayman Reporting Financial Institution and Trustee Documented Trust must use the single check box within the Cayman AEOI Portal to make a nil return in respect to all Reportable Jurisdictions for which it has no Reportable Accounts under the CRS. Cayman Reporting Financial Institutions and Trustee Documented Trusts should not submit nil returns by XML files or manual entry returns.

F. Cayman AEOI Portal User Guide

The DITC will issue further updates in due course when the Portal will be available for notifications and reporting for the CRS.

The Cayman reporting schema for the CRS will be the published [CRS XML Schema](#) that is available on the OECD Automatic Exchange Portal.

G. Appointment of third parties

A Cayman Reporting Financial Institution may appoint a person as the institution's agent to carry out the duties and obligations imposed on the institution by Part 2 of the CRS Regulations. If an institution makes such an appointment, the institution shall ensure that it continues to have access to and is able to produce to the TIA records and documentary evidence used to identify and report on Reportable Accounts. The institution is responsible for any failure of such an agent to satisfy the institution's obligations under Part 2.

H. Compliance with the TIA's information requirements

The TIA may, by notice given to a Cayman Reporting Financial Institution, require the institution -

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

(b) at a time specified by the TIA, to make available to the TIA for inspection, a book, document or other record, or any electronically stored information, that is in the institution's possession or under its control that the TIA reasonably requires to decide whether or not information the institution gave the TIA was accurate.

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

I. Record-keeping

A Cayman Reporting Financial Institution shall retain for six years any book, document or other record, including any information stored by electronic means, which relates to the information required to be reported to the TIA under the CRS Regulations.

J. Anti-avoidance

The CRS Regulations provide that if a person enters into any arrangement, the main purpose or one of the main purposes of which is to avoid any obligation under Part 2, the arrangement is deemed not to have been entered into by the person and the CRS Regulations are to have effect as if the arrangement had never been in existence. The situations in which the anti-avoidance rule may apply are wide and varied. The commentary on Section IX provides a few examples.

K. Information requests under the TIA Law

Financial Institutions should note that the Competent Authority of a Reportable Jurisdiction may make formal requests to the TIA to provide any information that is foreseeably relevant for the administration or enforcement of its tax laws under the normal principles of exchange of information upon request,

Such a request may be made pursuant to the Convention on Mutual Administrative Assistance in Tax Matters or to another scheduled Agreement to the TIA Law. The TIA Law requires the TIA to execute any request it determines is in compliance with the TIA Law and the relevant scheduled Agreement.

Under the TIA Law, information means any fact, statement, document or record in any form. The information may relate, for example, to legal and beneficial ownership and accounting information of Cayman Entities which must generally be kept or available at the Entity's registered or principal office in the Islands.

Cayman Entities should be mindful of this requirement in determining whether to rely on simplified customer due diligence that may be available under AML/KYC Procedures.

III. Key dates under the CRS

The following are the effective dates for the implementation of the CRS in the Cayman Islands:

- Pre-existing Accounts to be subjected to due diligence procedures are those in existence as at 31 December 2015
- New Accounts requiring self-certification by the customer are those opened on or after 1 January 2016
- Cayman Financial Institutions were required to complete their review of Pre-existing High Value Individual Accounts at 31 December 2015 by 31 December 2016
- The first CRS reporting period ended on 31 December 2016
- Cayman Financial Institutions were required to complete their initial registration by 30 June 2017 or, if an entity becomes a Cayman Financial Institution after 30 April 2017, the next 30 April after the entity became a Cayman Financial Institution
- Cayman Reporting Financial Institutions were required to complete their CRS reporting to the TIA by 13 September 2017 for the 2016 reporting year and must complete their CRS reporting by 31 May in 2018 and each year thereafter
- Cayman Financial Institutions were required to complete their review of Pre-existing Lower Value Individual Accounts and Pre-Existing Entity Accounts (i.e. existing on 31 December 2015) by 31 December 2017
- From 1 April 2018 onwards, Cayman Financial Institutions must use the self-certification template as revised in March 2018. CFIs have until 31 December 2018 to obtain the new template self-certifications from any Entity in respect of which they were required to identify the Controlling Persons as stated in the section “CRS self-certifications”, “Template forms” in paragraph VI.A.7.a) below.
- After transmission of CRS data to the relevant Reportable Jurisdiction, the TIA will receive a CRS Status Message from that Reportable Jurisdiction (in the OECD’s prescribed XML format for CRS Status Messages) which will clarify whether the TIA’s CRS transmission was accepted or rejected and whether there are any file or record errors

- A Cayman Reporting Financial Institution will be permitted 90 days from the date the TIA sends an email notification to the Cayman Reporting Financial Institution's Principal Point of Contact that it must correct any error(s) in its CRS return
- The TIA will transmit corrected CRS returns to relevant Receiving Countries at least annually via the CTS

IV. CRS jurisdictions

A. Participating Jurisdictions

“Participating Jurisdiction” is defined in the CRS. For the purposes of identifying Participating Jurisdictions, the OECD has provided guidance in the CRS Handbook. In line with the approach adopted by the Handbook at paragraph 31, the Cayman Islands will specify all committed jurisdictions as Participating Jurisdictions.

The Cayman Islands published an updated CRS Participating Jurisdiction List on 5 January 2018 which is available at Appendix 2.

In the event of changes to jurisdictions committed to implementation of the CRS, the list of Participating Jurisdictions will be amended accordingly by the TIA. The Authority will update the CRS Participating Jurisdiction List via a publication in the Gazette from time to time, and at least once every calendar year as required by regulation 5(3) of the CRS Regulations.

The OECD’s AEOI: Status of Commitments, which also identifies jurisdictions that have committed to participate in the CRS at a later date, is available here:

<http://www.oecd.org/tax/automatic-exchange/commitment-and-monitoring-process/AEOI-commitments.pdf>.

B. Reportable Jurisdictions

With the exception of those Participating Jurisdictions that have chosen to be non-reciprocal, i.e. do not wish to receive information, the Cayman Islands intends to exchange information with all Participating Jurisdictions that have committed to the exchange subject to satisfaction of conditions in the relevant Competent Authority Agreement. Therefore, all Participating Jurisdictions other than those which are non-reciprocal should be regarded as Reportable Jurisdictions.

The Cayman Islands published an updated list of 2017 and 2018 Reportable Jurisdictions on 5 January 2018 which is available at Appendix 3.

1. Rules governing tax residence

The OECD Automatic Exchange Portal provides an overview of the tax residency rules applicable in jurisdictions that are committed to automatically exchanging information under the CRS, as provided to the OECD Secretariat by those jurisdictions, here:

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/>

Government bodies in certain jurisdictions may issue certificates of residence within the meaning of Section VIII.E.6.a) of Schedule 1 to the CRS Regulations.

For the purposes of the Common Reporting Standard (CRS), all matters in connection with residence are determined in accordance with the CRS and its Commentaries. There are no direct taxation laws in the Cayman Islands and therefore there are no domestic provisions which define tax residence generally or which provide criteria for determining tax residence. The Cayman Islands does not issue certificates of residence for such purposes. A Person who is resident in the Cayman Islands may be resident for tax purposes in one or more other jurisdictions according to the domestic law of such other jurisdiction. Tax residence certificates formerly issued by the TIA for the purposes of reporting of savings income information to EU member states are only intended to be used for such purposes.

2. Tax Identification Number (or functional equivalent)

Cayman Reporting Financial Institutions must also collect the Tax Identification Number (TIN) or functional equivalent in respect of each Account Holder or Controlling Person who is a Reportable Person. The CRS defines the term “Reportable Person” by reference to the term Reportable Jurisdiction and the list of Reportable Jurisdictions will change over time.

The OECD has published an overview of domestic rules in certain Participating Jurisdictions governing the issuance, structure, use and validity of TINs or their functional equivalents here:

<https://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/>

The rules regarding collection of the TIN (or functional equivalent) and date of birth are subject to the exceptions set out in Section I Paragraphs C through E of Schedule 1 to the CRS Regulations and in paragraphs 25 through 34 of the commentary on the CRS.

C. Confidentiality

The Cayman Islands will not exchange information under the CRS until it is satisfied that a partner jurisdiction has in place adequate measures to ensure the required confidentiality and data safeguards are met. These confidentiality obligations are evaluated by the Global Forum on Transparency and Exchange of Information for Tax Purposes through its implementation monitoring programme. Confidentiality and data safeguard questionnaires and reports for all CRS jurisdictions (Annex 4 of the CRS) are filed with the Global Forum and are available to the relevant tax officials of all Participating Jurisdictions and the US.

V. Other AEOI regimes

A. US FATCA

US FATCA was implemented in the Cayman Islands in accordance with the Cayman/USA [intergovernmental agreement](#) signed in November 2013, and the [Tax Information Authority \(International Tax Compliance\) \(United States of America\) Regulations](#) published in July 2014, as subsequently amended.

The United States is a non-participating jurisdiction for CRS purposes. The United States has indicated that it will continue to undertake automatic information exchanges pursuant to its FATCA intergovernmental agreements. The US FATCA legislative framework in Cayman will therefore continue to operate as normal, in parallel with the CRS regime.

B. UK CDOT – Transition to the CRS

“UK CDOT” was implemented in the Cayman Islands in accordance with the Cayman/UK [intergovernmental agreement](#) (IGA) signed in November 2013, and the [Tax Information Authority \(International Tax Compliance\) \(United Kingdom\) Regulations](#) published in July 2014, as subsequently amended.

2017 was a transition year for the UK IGA for reporting in respect of 2016 information. All such reports must be made using the CRS XML schema or CRS manual entry reporting form. In 2017, Cayman Reporting Financial Institutions / Trustee Documented Trusts were required to report for the year 2016 in respect of all Account Holders and Controlling Persons identified as:

- (a) Specified UK Persons pursuant to the UK IGA; and/or
- (b) as Reportable Persons resident in the UK pursuant to the CRS.

If both regimes required a report to be made in 2017 in respect of the same Account Holder or Controlling Person, then the report should only have been made once.

For 2018 onwards, there will be no further reporting obligations under the UK IGA and all reporting must be made pursuant to the CRS in respect of all Account Holders and Controlling Persons identified as Reportable Persons resident in the UK.

Strictly speaking, due diligence needs to be carried out using both the UK IGA definitions of Specified Persons and the CRS definition of Reportable Person during the transition period, which in some circumstances may give different results. However, for new accounts opened on or after 1 January 2016 instead of complying with the UK IGA due diligence rules the TIA will allow Cayman Reporting Financial Institutions to rely on CRS due diligence procedures to identify such Specified Persons with UK tax residency.

Financial Institutions which become Cayman Reporting Financial Institutions on or after 1 January 2016 will be treated as compliant with the notification requirements of the UK

Regulations provided they comply with the notification requirements of the CRS Regulations. The CRS does not recognise the Alternative Reporting Regime which was available under the UK IGA in respect of UK non-domiciled account holders.

As a result of the transition of the CDOT regime to the CRS, it is anticipated that the UK IGA, UK Regulations and references to the same in the Guidance Notes on the IGAs with the US and the UK will be phased out in Cayman by the end of 2017.

VI. Guidance on technical issues

A. General issues

1. Options under the CRS

There are areas where the CRS provides optional approaches for jurisdictions to adopt the ones most suited to their circumstances. For further detail on these CRS implementation options, please refer to the paragraphs under “Optional provisions” in PART I: AN OVERVIEW OF THE STEPS TO IMPLEMENT THE STANDARD of the CRS Implementation Handbook.

The table below outlines these 16 implementation options and how they have been incorporated into the Cayman Islands CRS legislative framework. Some of these implementation options are also further elaborated upon in these Guidance Notes below.

Options under the CRS	Legislative Reference
1. Alternative approach to calculating account balances	Not applicable
2. Use of reporting period other than calendar year	Not applicable
3. Phasing in the requirements to report gross proceeds	Not applicable
4. Filing of nil returns	Regulation 9(1)(b) of the CRS Regulations
5. Allowing third party service providers to fulfil obligations for FIs	Regulation 11 of the CRS Regulations
6. Allowing due diligence procedures for	Schedule 1 (Section II paragraph E) of the

Options under the CRS	Legislative Reference
New Accounts to be used for Pre-existing Accounts	CRS Regulations
7. Allowing the due diligence procedures for High-Value Accounts to be used for Low-Value Accounts	Schedule 1 (Section II paragraph E) of the CRS Regulations
8. Residence address test for Lower Value Accounts	Schedule 1 [Section II paragraph B(1)] of the CRS Regulations
9. Threshold of US\$250,000 for Pre-existing Entity Accounts	Schedule 1 (Section V paragraph A) of the CRS Regulations
10. Simplified due diligence rules for Group Cash Value Insurance Contracts and Group Annuity Contracts	Schedule 1 (Section VII paragraph B) of the CRS Regulations
11. Allowing greater use of existing standardised industry coding systems for the due diligence process	Schedule 1 [Section VIII paragraph E(6)] of the CRS Regulations
12. Permitting a single currency translation rule	Regulation 6A(6) and Schedule 1 (Section VII paragraph C) of the CRS Regulations
13. Expanding definition of Pre-existing Account when pre-existing customers open a new account	Schedule 1 [Section VIII paragraph C(9)] of the CRS Regulations
14. Expanded Related Entity definition	Schedule 1 [Section VIII paragraph E(4)] of the CRS Regulations
15. Grandfathering rule for bearer shares issued by Exempt Collective Investment	Not applicable

Options under the CRS	Legislative Reference
Vehicle	
16. Controlling Persons of a trust	CRS Commentary on Section VIII, paragraph 134

2. Threshold exemption

The CRS Regulations allow Financial Institutions to apply a threshold exemption for the review, identification and reporting of Pre-existing Entity Accounts. This can be found in Schedule 1 (Section V paragraph A) of the CRS Regulations.

For Financial Institutions applying the threshold exemption, Pre-existing Entity Accounts with a balance or value not exceeding US\$250,000 at 31 December 2015 do not need to be reviewed, identified or reported until the account balance exceeds US\$250,000 at 31 December of a subsequent calendar year. Financial Institutions applying the threshold exemption must keep an internal record of the application of the exemption as part of the policies and procedures which they are required to have in place in accordance with the CRS Regulations.

3. Due diligence modifications

Under the CRS Regulations, Financial Institutions may choose to apply modified due diligence rules. This includes:

- Applying the due diligence procedures for New Accounts to Pre-existing Accounts; and
- Applying the due diligence procedures for High Value Accounts to Lower Value Accounts.

These options have been included in Schedule 1 (Section II paragraph E) of the CRS Regulations.

4. “Residence address” test for Lower Value Accounts

In respect of Lower Value Accounts only, the CRS Regulations permit Financial Institutions to determine an Account Holder’s residence based on the residence address provided by the account holder so long as the address is current and based on Documentary Evidence. This can be found at Schedule 1 [Section III paragraph B(1)] of the CRS Regulations. The residence address test may apply to Pre-existing Lower Value Accounts held by Individual Account Holders.

This test is an alternative to the electronic indicia search for establishing residence. If the residence address test cannot be applied, because, for example, the only address on file is an “in care of” address, the Financial Institution must perform the electronic indicia search.

5. Currency translation

All amounts in the CRS are stated in US dollars. The CRS Regulations permit Financial Institutions to convert the threshold limits into the currency in which accounts are denominated before applying a threshold amount under the CRS. This allows a multinational Financial Institution to apply the amounts in the same currency in all jurisdictions in which they operate. For example, a Pre-Existing Individual Lower Value Account is an account with an aggregate account balance or value of less than US\$1 million, and this threshold amount may be converted to the relevant currency for the Financial Institution by reference to the spot rate of exchange on the date for which the Cayman Reporting Financial Institution is determining that threshold amount.

Please refer to regulation 6A(6) and Schedule 1 (Section VII paragraph C) of the CRS Regulations for further details on the currency translation and account balance aggregation rules.

6. Expanded definitions

The CRS Regulations have incorporated the expanded definitions that are available under the CRS. This includes expanded definitions for:

- *Pre-existing Accounts* (please refer to Section VIII paragraph C(9) in Schedule 1 of the CRS Regulations for the full definition); and
- *Expanded Related Entities* (please refer to Section VIII paragraph E(4) in Schedule 1 of the CRS Regulations for the full definition).

7. CRS self-certifications

a) *Template forms*

The Joint Ministry for Financial Services/Industry Working Group assisting with FATCA and CRS implementation has developed template self-certification forms for CRS purposes. The Authority is satisfied that these forms may be used for the purposes of the Common Reporting Standard and US FATCA compliance. Cayman Islands Financial Institutions may use these forms as a basis for self-certification and adapt or modify them as necessary to suit their own usage.

The template entity and individual self-certification forms are available at Appendix 4, and can also be downloaded from the DITC [CRS Legislation and Resources](#) webpage.

The Business and Industry Advisory Committee to the OECD have also drafted template self-certification forms, and these can be accessed via the OECD Automatic Exchange Portal.

The template entity self-certification was revised in March 2018. In the Cayman Islands, a Controlling Person for CRS purposes would include (without limitation) any individual who would be regarded a “beneficial owner” under the Anti-Money Laundering Regulations, 2017. This means that there is a 10% threshold for a controlling ownership

interest of an Entity that is a legal person (i.e. not 25%). This change is in line with the OECD CRS FAQ #26 for Sections VII-VII: Due Diligence Requirements:

<http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/CRS-related-FAQs.pdf>

Accordingly, a Cayman Financial Institution must obtain an entity self-certification based on the new template from any Entity that is a Passive Non-Financial Entity or a Financial Institution in non-Participating Jurisdiction:

- (a) upon opening any Financial Account for that Entity if the Financial Account is opened on or after 1 February 2018; and
- (b) by 31 December 2018 for any Financial Account existing on 31 January 2018 if that Entity is a legal person and was previously required to disclose its Controlling Persons to the Cayman Financial Institution pursuant to the CRS.

For the avoidance of doubt, there is no change to the ownership threshold for Controlling Persons of legal persons that are Passive Non-Financial Foreign Entities under FATCA.

Subject to the foregoing, self-certifications should be obtained and validated as part of a Financial Institution's account opening procedures. Where it is not possible to obtain a self-certification on 'day one' of the account opening process, one should be obtained and validated as soon as practicable, and in any event, no later than 90 days after the account has been opened. If the self-certification is not obtained within 90 days then the account should be closed.

b) Confirming the validity of self-certifications

A Cayman Financial Institution is required to confirm the reasonableness of self-certifications obtained from Account Holders on the basis of other documentation, including any documentation collected pursuant to AML/KYC Procedures that is at its disposal. For instance, the fact that the self-certification indicates that the Account Holder has no residence for tax purposes but the other documentation on file contains an address constitutes a reason to doubt the validity of the self-certification. In such cases, the Cayman Financial Institution must ensure that it obtains a reasonable explanation and

documentation, as appropriate, that supports the reasonableness of the self-certification. If the Cayman Financial Institution does not obtain a reasonable explanation as to the reasonableness of the self-certification, the Cayman Financial Institution may not rely on the self-certification and must obtain a new, valid self-certification from the Account Holder or Controlling Person. Cayman Financial Institutions may want to inform their Account Holders, as part of such procedures, jurisdictions may monitor and review Account Holders that have not indicated a tax residence as part of their self-certification.

c) False self-certifications

CRS compliance depends heavily upon the accuracy of self-certifications that are made by Account Holders and Controlling Persons and given to Cayman Financial Institutions. CRS reporting cannot be accurate if the due diligence upon which it is based is not accurate. The CRS commentary states that to increase the reliability of self-certifications, jurisdictions are expected to include a specific provision in their domestic legislation imposing sanctions for signing (or otherwise positively affirming) a false self-certification.

Accordingly, the CRS Regulations provide that a person may be criminally liable if he makes a self-certification that is false in a material particular for the CRS and a Cayman Financial Institution is given the self-certification for any purpose for which it was made or purports to have been made. It is no defence that -

- a. the self-certification was made outside the Islands;
- b. the person did not know, or had no reason to know, that the self-certification was false;
- or
- c. the self-certification was given to the institution by someone else.

8. AML/KYC Procedures and due diligence for CRS purposes

In the CRS, references to “AML/KYC Procedures” mean the customer due diligence procedures of a Cayman Reporting Financial Institution pursuant to the anti-money laundering or similar requirements to which such a Cayman Reporting Financial Institution

is subject. Consequently, for carrying out the due diligence procedures of Sections III-VII of Schedule 1 to the CRS Regulations, the applicable AML/KYC Procedures are those to which a Cayman Financial Institution is subject at a given moment in time, as long as, for New Accounts, such procedures are consistent with the 2012 FATF Recommendations. Domestically, these are prescribed by the Anti-Money Laundering Regulations, 2017.

Where there is an amendment to the applicable AML/KYC Procedures (e.g. upon the Cayman Islands implementing new aspects of the FATF Recommendations), Cayman Financial Institutions may be required to collect and maintain additional information for AML/KYC purposes in that jurisdiction. For the purposes of the due diligence procedures set out in Sections III-VII of Schedule 1 to the CRS Regulations, the additional information obtained under such amended AML/KYC Procedures must be used to determine whether there has been a change of circumstances in relation to the identity and/or reportable status of Account Holders and/or Controlling Persons. If the additional information obtained is inconsistent with the claims made by a person in a self-certification, there has been a change in circumstances, and a Financial Institution will have a reason to know that a self-certification is unreliable or incorrect.

9. Application of New Account procedures to Preexisting Accounts – relationship manager inquiry

A relationship manager inquiry as provided in Section III of Schedule 1 of the CRS Regulations is not applicable where a Cayman Reporting Financial Institution applies the due diligence procedures for New Accounts also to Preexisting Accounts. If a relationship manager is assigned to the account, the relationship manager and thus the Cayman Reporting Financial Institution may have reason to know that a self-certification is unreliable or incorrect. A Cayman Reporting Financial Institution may not rely on a self-certification if the Cayman Reporting Financial Institution has reason to know that the self-certification is incorrect or unreliable. A Cayman Reporting Financial Institution has reason to know that a self-certification is unreliable or incorrect if its knowledge, including the knowledge of any relevant relationship manager, of relevant facts or statements

contained in the self-certification is such that a reasonable prudent person in the position of the Cayman Reporting Financial Institution would question the claim being made.

B. Entity-specific issues

1. Investment Entities

a) Financial Accounts of investment managers and advisers

Cayman Islands investment managers and advisers are classified as Investment Entities and as Cayman Reporting Financial Institutions for CRS purposes. They will have all obligations under Part 2 of the CRS Regulations. This is in contrast to the position under similar regulations regarding FATCA which classify most investment managers and advisers as Non-Reporting Financial Institutions which do not impose a notification obligation on Non-Reporting Financial Institutions.

In contrast to the position on other Investment Entities, the CRS provides that the Equity and Debt Interests of investment managers or advisers will only be treated as a “Financial Account” if the class of interests was established with a purpose of avoiding the reporting obligation. Investment managers and advisers that confirm in their notification form on the AEOI Portal that they have no Financial Accounts by virtue of Section VIII.C.1.a) of Schedule 1 to the CRS Regulations will not have a reporting obligation pursuant to the CRS unless and until such confirmation is no longer correct.

b) Cayman Financial Institutions that are in liquidation or being wound up

For the avoidance of doubt, a Cayman Financial Institution will, so long as it exists, continue to have the obligations which the CRS Regulations impose on it as a Cayman Reporting Financial Institution or a Non-Reporting Financial Institution, as the case may be.

Liquidators (or equivalent) must ensure that the Cayman Financial Institution continues to satisfy all its obligations under Part 2 of the CRS Regulations. In particular, but without limitation, this includes the obligation to give the TIA a change notice regarding any changes to the required information described in section II.D above headed “Registration on the Cayman AEOI Portal by notification to the Tax Information Authority”.

In addition, the liquidators (or equivalent) must ensure that the Cayman Financial Institution notifies the TIA of such final dissolution or winding up on or after such final return. In the case of a Cayman Reporting Financial Institution, the liquidators (or equivalent) must ensure that it has complied with its reporting obligations in respect of (i) the previous calendar year and (ii) the current calendar year. A return in respect of any Reportable Account for the current calendar year when such final dissolution or winding up occurs should report all information specified in Section I.A. 1 to 7 of Schedule 1 to the CRS Regulations. For the avoidance of doubt this would confirm the closure of that Reportable Account (rather than the account balance or value) pursuant to Section 1.A.4 and also confirm the total gross amount of the relevant payments or proceeds of sale under the applicable paragraph Section 1.A 5, 6 or 7.

For example, where a Cayman Reporting Financial Institution will be finally dissolved in 2017, the returns must have been made in respect of 2016 and also, up to the date of closure of the relevant accounts, in respect of 2017. The returns in respect of 2016 must have been made in respect of Reportable Jurisdictions the TIA has listed for 2017 and the returns in respect of 2017 must have been made in respect of Reportable Jurisdictions the TIA listed for both 2017 and 2018.

The TIA did not expect a Cayman Reporting Financial Institution which was finally dissolved or wound up before it was possible to comply with the notification obligation on the Cayman AEOI Portal (i.e. on 17 May 2017) to register there or before it was possible to report for CRS purposes (i.e. on 22 June 2017) to submit CRS returns and a CRS filing declaration.

- A Cayman Financial Institution which is being liquidated or wound up should arrange for a third party to perform any obligations under the CRS which will arise prior to final dissolution and which cannot be completed prior to such final dissolution, whether that is due to the AEOI Portal being offline or for any other reason. This is in line with in line with the OECD CRS FAQ #11 for Section I: General Reporting Requirements:
<http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/CRS-related-FAQs.pdf>

A Cayman Financial Institution should obtain professional advice if it is uncertain when an account is closed.

Any liquidators (or equivalent) or other representatives of a Cayman Financial Institution who were responsible for the final liquidation or dissolution of a Cayman Financial Institution have duties to maintain the Cayman Financial Institution's records and to respond to the TIA's information requirements under regulation 12 of the CRS Regulations for six years after filing such CRS return, as outlined above. These records may be held by a delegate.

For the purpose of these Guidance Notes, final dissolution or winding up refers to the date on which that takes effect as evidenced by a Certificate of Dissolution in the case of a company or equivalent, where available, for other types of Entities.

Dormant or liquidating Investment Entities

Unlike the position regarding FATCA, an Investment Entity does not cease to be classified as such for the purposes of the CRS Regulations if it is either:

- closed (i.e. there are no remaining participating investors, or equivalent, in the Investment Entity, and the Investment Entity is not open to further investors), or
- is in liquidation (i.e. a Liquidator has been formally appointed, but there remain residual assets and debtors, and realisation or recovery actions are being pursued).

c) Migration (e.g. transfer by continuation) of Cayman Financial Institutions

A Cayman Financial Institution which is migrating to another jurisdiction will be required to terminate its registration on the AEOI Portal by following the procedure prescribed in the AEOI Portal User Guide. In particular, the Cayman Financial Institution will be required to submit CRS Returns and a CRS Filing Declaration for the “stub” part of the year up to the date of migration unless it is migrating to another Participating Jurisdiction which will require the Financial Institution to make CRS Returns there by the end of the year of migration.

d) Limited Life Debt Investment Entities

Limited Life Debt Investment Entities (LLDIEs) are Cayman Reporting Financial Institutions for the purposes of the CRS. The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes has determined that LLDIEs cannot be considered as a jurisdiction specific low-risk Non-Reporting Financial Institution for the purposes of subparagraph B.1.c of Section VIII of Schedule 1 to the CRS Regulations. This changes the position stated by the TIA on 7 December 2015 in the [Gazette Notice](#) for CRS Non-Reporting Financial Institutions, which is now withdrawn.

e) Reliance on Model 1 FATCA IGA definition of Investment Entity for purposes of CRS

Cayman Financial Institutions cannot rely on the definition of "Investment Entity" in Article 1(1)(j) of the US-Cayman Model 1 IGA for the purpose of implementing the CRS. That definition is less prescriptive than the definition of Investment Entity in Section VIII(A)(6) of Schedule 1 to the CRS Regulations. However, the definitions of the Model 1 FATCA IGA and the CRS can be read consistently. For example, the CRS definition includes a gross income test to determine whether 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), and could be used to interpret the less prescriptive aspects of the Model 1 FATCA IGA definition. The CRS definition is in fact based on the definition of Investment Entity in the US FATCA regulations, which may be used to interpret the Model 1 FATCA IGA definition.

f) Determination of Equity Interest in the case of a widely-held CIV that is a Reporting Financial Institution

Certain Collective Investment Vehicles (CIVs) that are Cayman Reporting Financial Institutions and that are organised in the form of a trust may have the characteristics of publicly offered CIVs: the trustee and the beneficiaries are unrelated parties; the interests in the CIV are unitised; the CIV is required to keep an up-to-date register of the registered unit holders; certain registered unit holders are Custodial Institutions who maintain the units in the CIV on behalf of the investors in a Custodial Account; and the units are freely transferable financial instruments.

These CIVs can treat their registered unit holders as the Account Holders of the Equity Interests (unless they are persons other than a Financial Institutions, holding the Equity Interest for the benefit or account of another person as described in Section VIII(E)(1)) of Schedule 1 to the CRS Regulations. The Custodial Institutions that are the registered unit holders will be responsible for reporting the Equity Interests in the CIV which they maintain for reportable Account Holders in a Custodial Account.

2. Segregated Portfolio Companies, Umbrella Funds and Multi-issuance Entities

Segregated Portfolio Companies (SPCs), umbrella funds and multi-issuance entities may be considered as a whole and categorised accordingly. It is not necessary to treat each segregated portfolio, fund or series (“sub-entity”) as a separate Cayman Reporting Financial Institution (or other applicable classification for CRS purposes) unless the entity wishes to do so. If one or more of such sub-entity elects to avail itself of an exemption, such election shall not prevent the entity (as a whole) from electing to register on the Cayman AEOI Portal and report in its own right with respect to its general assets and/or one or more other sub-entities. However, where an SPC, umbrella fund or multi-issuance entity is categorised as the Cayman Reporting Financial Institution for CRS purposes, it must ensure that the account number (or functional equivalent) in respect of any Reportable Account is sufficient to identify both the particular sub-entity and Account Holder to which that Reportable Account relates.

3. Passive Non-Financial Entities (“NFEs”)

A Cayman Reporting Financial Institution is required to determine the residence of every Controlling Person of a Passive NFE that is an Account Holder. Subparagraph D(6) of Schedule 1 to the CRS Regulations defines the term “Controlling Persons” and paragraphs 132 to 137 of the commentary on the CRS elaborate on the Controlling Persons of different types of Entities. “Controlling Person” corresponds to the term “beneficial owner” as described in Recommendation 10 and the Interpretative Note on Recommendation 10 of the Financial Action Task Force Recommendations (as adopted in February 2012), which are available here:

http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf

In applying the FATF Recommendation to Controlling Persons of Passive NFEs that are legal persons, the following should be noted:

- (a) In applying the first test of the FATF Recommendation, controlling ownership

interest depends on the ownership structure of the company. In the Cayman Islands, a Controlling Person for CRS purposes would include (without limitation) any individual who would be regarded as a “beneficial owner” under the Anti-Money Laundering Regulations, 2017. With effect from December 2017, there the threshold is at least 10% for a controlling ownership interest of an Entity that is a legal person (i.e. not 25%)

(b) In applying the second test of the FATF Recommendation, control through other means may be achieved through shareholder or nominee agreements.

(c) In applying the third test of the FATF Recommendations, this may be a managing director or it could be all directors if there is no managing director or other person with a senior management position.

Limited partnerships that are legal persons under their governing law and which are Passive NFEs are subject to the Controlling Persons test referred to above in respect of legal persons.

Entities that are regarded as Passive NFEs that have another entity that holds a controlling ownership interest are subject to the same cascading tests, i.e. each of the FATF tests must be considered in turn against that next entity.

To illustrate – a Delaware limited partnership (which is a legal person under Delaware law) is an investor in a Cayman Islands investment fund. The Delaware limited partnership has twenty limited partners who are natural persons with interests of 5% each, a corporate general partner and an external manager. Under the first control test, no limited partner has a controlling ownership interest of at least 10%. Under the second control test, no natural person has control through other means the general partner would be regarded as having control. As the general partner is an entity that controls the Delaware limited partnership, consider if any of the shareholders of the general partner entity have at least 10% ownership interests. If none, consider if any natural person has control of the GP through other means. If none, identify the natural person who holds the

position of senior managing official of the general partner entity.

Identification of Controlling Persons of Passive NFEs with Financial Institutions in the chain of legal ownership

The CRS status of intermediate Entities in the ownership chain is irrelevant for purposes of determining the Controlling Persons of a Passive NFE. That is, the CRS requires a Cayman Reporting Financial Institution / Trustee Documented Trust to determine/report on such Controlling Person even if there is a Reporting Financial Institution in the ownership chain between the Passive NFE and the Controlling Person.

There is only one exception to the first sentence of the above paragraph and this is based on the Interpretative Note on Recommendation 10 to the FATF Recommendations. Where an intermediate Entity owning a controlling interest in a Passive NFE is a company listed on a stock exchange and subject to disclosure requirements (either by stock exchange rules or through law or enforceable means) which impose requirements to ensure adequate transparency of beneficial ownership, or is a majority-owned subsidiary of such a company, it is not necessary to identify and verify the identity of the Controlling Person of such intermediate Entity.

4. Controlling Persons of a trust that is a Passive NFE

The CRS defines the Controlling Persons of a Passive NFE that is a trust to include –

- the settlor(s)
- the trustee(s);
- the protector(s) (if any);
- the beneficiary(ies) or classes of beneficiary(ies); and
- any other natural person(s) exercising ultimate effective control over the trust.

It is necessary to “look through” any Entity with a controlling interest in such a trust for the natural person(s) exercising ultimate effective control over the trust even if that Entity is

a Financial Institution or an Active NFE. This is subject to the exception in the above section headed “Identification of Controlling Persons of Passive NFEs with Financial Institutions in the chain of legal ownership”.

In accordance with the option available under the CRS with respect to trusts that are Passive NFEs (Non-Financial Entities), Cayman Reporting Financial Institutions may align the scope of beneficiaries of a trust treated as Controlling Persons with the scope of beneficiaries treated as Reportable Persons where the trust itself is a Financial Institution. Therefore, Cayman Reporting Financial Institutions would only need to report discretionary beneficiaries of Passive NFE trusts for the reporting period in which they receive a distribution from the trust.

For a Cayman Reporting Financial Institution to apply this option, it must ensure that it has appropriate procedures in place to identify whether a distribution is made by the trust to a discretionary beneficiary in the reporting period. Cayman Reporting Financial Institutions may, for example, receive certifications from the trustees of the trust as to whether distributions have been made and, if so, to whom.

Where no such procedures are in place to identify distributions to discretionary beneficiaries, the Cayman Reporting Financial Institution must continue to treat the discretionary beneficiary as a Controlling Person and report accordingly if that person is a Reportable Person.

5. Equity Interests of natural persons exercising ultimate effective control of a trust that is a Cayman Financial Institution

In the case of a trust that is a Cayman 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.

In order to determine whether there is any other natural person exercising ultimate

effective control, it will be necessary to look through any entity exercising such control (such as a corporate protector or enforcer). This is subject to the exception in the above section headed “Identification of Controlling Persons of Passive NFEs with Financial Institutions in the chain of legal ownership”.

6. Non-Participating Jurisdictions Entities

a) Determination of CRS status of Entities

The CRS commentary provides that an Entity’s status as a Financial Institution or NFE should be resolved under the laws of the participating jurisdiction in which the Entity is resident. If an Entity is resident in a Non-Participating Jurisdiction - such as the U.S., the rules of the Participating Jurisdiction in which the account is maintained – such as the Cayman Islands, determine the Entity’s status as a Financial Institution or NFE since there are no other rules available.

Therefore, when determining an Entity’s status as an Active or Passive NFE, the rules of the jurisdiction in which the account is maintained determine the Entity’s status.

b) Determining residence of certain foreign Entities

It is possible for an Entity established under the laws of another jurisdiction to be resident in the Cayman Islands for the purposes of the CRS even where it does not have a branch in the Cayman Islands. Where a foreign limited partnership, a foreign limited liability company, or equivalent is organised or incorporated in a Non-Participating Jurisdiction, and:

- (a) its residency is not ascertainable pursuant to the tests set out in the CRS Commentary and CRS Implementation Handbook, and
- (b) it is not reporting its Financial Accounts to the relevant tax authority in another Participating Jurisdiction,

it will be regarded as being subject to the CRS Regulations, if it:

- (i) has a general partner (or managing member, or equivalent) that is

- incorporated, registered or licensed in the Cayman Islands, or,
- (ii) in the case of an individual general partner (or managing member, or equivalent), the person is resident in the Cayman Islands, or
 - (iii) in the case of a foreign company, foreign limited partnership, foreign limited liability company, or equivalent, its "place of effective management" (as described in paragraph 109 of the commentary on Section VIII) is in the Cayman Islands, unless that foreign limited partnership, foreign limited liability company, or equivalent has a tax residency in another jurisdiction.

7. Holding companies and similar vehicles

A holding company or intermediary vehicle may be classified as an Active NFE if it satisfies the criteria of any of subparagraphs D.9. a) to h) of Section VIII of Schedule 1 of the CRS Regulations and the commentary thereon. For example, paragraphs 129 and 130 of the commentary on subparagraph D.9.e) of Section VIII describes the criteria to qualify for the Active NFE status for "holding NFEs that are members of a nonfinancial group." A holding company or intermediary that is not an Active NFE will generally be classified as a Passive NFE unless it falls within the definition of an Investment Entity in subparagraph A.6 a) or b) of Section VIII.

8. Cayman Islands retirement and pension funds

Cayman Islands retirement and pension funds that meet the definitions of Broad Participation Retirement Fund or Narrow Participation Retirement Fund under Section VIII paragraph B of Schedule 1 to the CRS Regulations will be Non-Reporting Financial Institutions under the CRS.

For the purpose of the CRS Regulations, Cayman Islands retirement and pension funds are 'subject to government regulation' if they are registered with the Cayman Islands National Pensions Office.

Cayman Islands retirement and pension funds availing themselves of the Non-Reporting Financial Institution Broad and Narrow Participation Retirement Fund definitions must submit an annual declaration to the Authority in order to satisfy the requirements under the CRS. A template declaration form will be made available by the TIA prior to the first reporting period.

Cayman Islands pension funds managed and administered by the Public Service Pensions Boards are Non-Reporting Financial Institutions as Pension Funds of a Governmental Entity.

9. Look-through requirement for widely-held CIVs and pension funds in the form of trusts in non-participating jurisdictions

When determining the Controlling Persons for New Entity Accounts as part of the application of the “look-through” requirement pursuant to Section VI(2) of Schedule 1 to the CRS Regulations with respect to an Investment Entity described in Section VIII(A)(6)(b) resident in a non-Participating Jurisdiction that is a widely-held, regulated, trust-type Collective Investment Vehicle (CIV) or a trust-type pension fund, a Cayman Reporting Financial Institution does not need to go beyond the information collected and maintained pursuant to domestic AML/KYC Procedures which are as a minimum consistent with Recommendations 10 and 25 of the FATF Recommendations (as adopted in February 2012), as provided for in Paragraph 137 of the Commentary on Section VIII.

In practical terms, this means that a Cayman Reporting Financial Institution will not be required to identify the Controlling Persons of those types of Account Holders in circumstances where it is unnecessary to identify their "beneficial owners" for AML/KYC purposes by virtue of simplified measures in Regulations under the Proceeds of Crime Law (2016 Revision). The simplified measures are currently comprised in regulations 8, 9 and 10 of the Money Laundering Regulations, 2015, but they may change. In any event, simplified measures can only be relied upon in respect of New Entity Accounts in circumstances where there is a lower risk of money laundering or terrorist financing as

contemplated by the FATF Recommendations.

10. Definition of Active NFE – stock regularly traded on an established securities market

The term Active NFE includes an NFE the stock of which is regularly traded on an established securities market or an NFE that is a Related Entity of an Entity the stock of which is regularly traded on an established securities market. The term "stock" is limited to shares in a corporation. Accordingly, only a corporation can qualify as an Active NFE on the basis of the fact that its stock is regularly traded on an established securities market.

11. E-money providers – qualification as a Depository Institution

No special rules apply to electronic money providers. Like other financial industry participants, they must determine whether they are a Financial Institution, as defined by the CRS. That determination will depend on the facts and circumstances. For instance, in order to determine whether an electronic money provider is a Depository Institution, the analysis must be done with reference to Section VIII(A)(5) of the CRS and the related Commentary, in particular paragraph 13.

C. Account-specific issues

1. Indirect distributions by a trust

Pursuant to Section VIII(C)(4), a Reportable Person will be treated as a beneficiary of a trust “if such Reportable Person [...] may receive, directly or indirectly, a discretionary distribution from the trust”.

Indirect distributions by a trust may arise when the trust makes payments to a third party for the benefit of another person. For example, instances where a trust pays the tuition

fees or repays a loan taken up by another person are to be considered indirect distributions by the trust. Indirect distributions also include cases where the trust grants a loan free of interest or at an interest rate lower than the market interest rate or at other non-arm's length conditions. In addition, the write-off of a loan granted by a trust to its beneficiary constitutes an indirect distribution in the year the loan is written-off.

In all of the above cases the Reportable Person will be person that is the beneficiary of the trust receiving the indirect distribution (i.e. in the above examples, the debtor of the tuition fees or the recipient of the favourable loan conditions).

This replicates the OECD CRS FAQ #11 for Section VIII: Definitions. C. Financial Account <http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/CRS-related-FAQs.pdf>

2. Group Cash Value Insurance Contracts or Group Annuity Contracts

Under the CRS Regulations, a Financial Institution may treat an account that is a Group Cash Value Insurance Contract or a Group Annuity Contract, as a non-reportable account until the date on which an amount is payable to an 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:

- The Group Cash Value Insurance Contract or Group Annuity Contract is issued to an employer and covers 25 or more employees/certificate holders;
- The employees/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
- The aggregate amount payable to any employee/certificate holder or beneficiary does not exceed US\$1,000,000.

Please refer to Schedule 1 (Section VII paragraph B) of the CRS Regulations.

3. Dormant Depository Accounts are Excluded Accounts

Regulation 6A(4) of the CRS Regulations provides that a Depository Account is an “Excluded Account” in Section VIIC. of the CRS if it is a dormant account under section 4(1) of the Dormant Accounts Law (2011 Revision) with a balance that does not exceed US\$1,000. The 2016 Amendment to the CRS Regulations repeals the definition of Excluded Account in Schedule 2 of the original 2015 CRS Regulations.

VII. Enforcement

A. Offences

Part 3 of the CRS Regulations establishes various offences which attach to Cayman Financial Institutions or other persons for contravention of the CRS Regulations. A Cayman Financial Institution will commit an offence if it contravenes any of its obligations under Part 2 of the CRS Regulations.

It is an offence for any person to provide a false self-certification to a Cayman Financial Institution. Cayman Financial Institutions and their agents should therefore be aware that a person's false self-certification may give rise to an obligation to make a suspicious activity report pursuant to the Proceeds of Crime Law (2016 Revision).

Cayman Financial Institutions, their representatives and other persons may be criminally liable if they give inaccurate information to the TIA. Cayman Financial Institutions may be liable for the action or inaction of their agents and representatives. Conversely, representatives may be liable for the action or inaction of their Cayman Financial Institution. For the purpose of these Guidance Notes, "representatives" means the persons with imputed liability (directors, etc.) listed in regulation 21(1) the CRS Regulations; the term is also defined in regulation 36(5) in the context of vicarious liability.

A person may be criminally liable if he/she gives information to the TIA which causes the TIA to breach its statutory duty to keep the information it receives confidential.

A person may be criminally liable if he/she hinders the TIA in performing a function under the CRS Regulations or section 5 of the TIA Law concerning the CRS. This could arise, for example, where the person fails to respond to the TIA's requirement to produce information, whether the TIA gives the notice on its own initiative or pursuant to an information request by another Competent Authority.

A person may be criminally liable if he/she tampers with information or if he/she

authorises, advises or counsels someone else to do so. In this context, tampering includes alters, destroys, mutilates, defaces, hides or removes information in a way that causes the person or anyone else to contravene Part 2. This could arise, for example, where a person alters or removes documentary evidence which a Cayman Reporting Financial Institution must rely upon for the purpose of complying with its due diligence and reporting obligations.

Any defendant has a defence if he/she has a reasonable excuse. Insufficient funds and reliance on an agent are not reasonable excuses.

A Cayman Financial Institution's representatives (listed in regulation 21(1)) may be liable where their institution commits an offence unless they exercised reasonable diligence to prevent the contravention.

The court may impose a fine of up to CI\$50,000 for any offence by a body corporate or an unincorporated Cayman Financial Institution or up to CI\$20,000 for an offence by any other person.

The following table summarises who may be liable for contravention of the CRS Regulations. In the table, “CFI” means Cayman Financial Institution, “CRFI” means Cayman Reporting Financial Institution, “TDT” means Trustee Documented Trust and “NRFI” means “Non-Reporting Financial Institution”.

Offences under the CRS Regulations	Persons who may be liable for contravention:		
	Cayman Financial Institutions and trustees in respect of their TDTs	Representatives (i.e. directors, etc. of Cayman Financial Institution)	Any person
Contravention of obligations under regulations in Part2 (reg. 15):	Yes, as indicated for the obligations listed below:	No	No
<ul style="list-style-type: none"> Common Reporting Standard in force [includes due diligence obligations] 	Yes for CFIs		
<ul style="list-style-type: none"> Written policies and procedures (reg. 7) 	Yes for CRFIs and trustees for their TDTs		
<ul style="list-style-type: none"> Notification to TIA (reg. 8) 	Yes for CFIs		
<ul style="list-style-type: none"> Make a return on Reportable Accounts / nil returns (reg. 9) 	Yes for CRFIs and trustees for their TDTs		
<ul style="list-style-type: none"> Requirements for making returns (reg. 10) 	Yes for CRFIs and trustees for their TDTs		
<ul style="list-style-type: none"> Compliance measures of Authority (reg. 10) 	Yes for CFIs		
<ul style="list-style-type: none"> Anti-avoidance (reg. 13) 	Yes for CFIs		
Inaccurate information (reg. 16)	Yes for CFIs		
Causing Authority's unauthorised disclosure of confidential information (reg. 17)	Yes for CFIs	Yes	Yes (e.g. unauthorised access using principal point of contact's login)
Tampering offence (reg. 18)	Yes for CFIs	Yes	Yes
Hindering offence (reg. 19)	Yes for CFIs	Yes	Yes
Imputed offence (of representatives, etc. where CFI commits an offence) (reg. 21)	No for CFIs	Yes	No
False self-certification (reg. 14)	Yes for CFIs	Yes	Yes (e.g. account holder or controlling person of account holder that is an entity)

B. Administrative penalties

Part 4 of the CRS Regulations now includes the Competent Authority's powers to impose administrative penalties matching the court fines described above and the safeguards for them. These sections set out the criteria for deciding penalties, the limitation period, the protection against double jeopardy, the steps required to impose penalties including requirements for breach notices and penalty notices. There are also sections on a party's right of appeal to the court, the automatic stay of penalties on appeal, the appeal hearing and outcome and interest.

Part 5 of the CRS Regulations includes sections on the conduct and *mens rea* of representatives, the giving of notices by the TIA, and evidentiary provisions.

*** END ***

CRS Guidance Notes v3.0

Appendix 1

Part 1 The Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations, 2015

CAYMAN ISLANDS



Supplement No. 1 published with Extraordinary
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**THE TAX INFORMATION AUTHORITY LAW
(2014 REVISION)**

**THE TAX INFORMATION AUTHORITY (INTERNATIONAL TAX
COMPLIANCE) (COMMON REPORTING STANDARD)
REGULATIONS, 2015**

THE TAX INFORMATION AUTHORITY (INTERNATIONAL TAX COMPLIANCE) (COMMON REPORTING STANDARD) REGULATIONS, 2015

ARRANGEMENT OF REGULATIONS

PART 1 - PRELIMINARY PROVISIONS

1. Citation
2. Definitions
3. Non-Reportable Accounts
4. General rules for accounts
5. Common Reporting Standard commentary

PART 2 - APPLICATION OF THE COMMON REPORTING STANDARD

6. Common Reporting Standard in force
7. Arrangements to be established by Reporting Financial Institutions
8. Obligation to notify
9. Obligation to make a return
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12. Compliance measures
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Schedule 1 - Common Standard on Reporting and Due Diligence for Financial Account Information

Schedule 2 - Excluded accounts

CAYMAN ISLANDS

**THE TAX INFORMATION AUTHORITY LAW
(2014 REVISION)**

**THE TAX INFORMATION AUTHORITY (INTERNATIONAL TAX
COMPLIANCE) (COMMON REPORTING STANDARD)
REGULATIONS, 2015**

The Cabinet, in exercise of the powers conferred by section 25 of the Tax Information Authority Law (2014 Revision), makes the following Regulations -

PART 1 - PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations, 2015. Citation

2. (1) In these Regulations - Definitions

“Authority” means the Tax Information Authority designated under section 4 of the Law, or a person designated by the Authority to act on behalf of the Authority;

“Common Reporting Standard” means the standard for automatic exchange of financial account information developed by the Organisation for Economic Co-Operation and Development as amended from time to time by the Organisation for Economic Co-operation and Development, set out in Schedule 1;

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

“relevant scheduled Agreement” means an agreement that permits the automatic exchange of information for tax purposes and is set out in a Schedule to the Law.

(2) In these Regulations a word or expression used in these Regulations and defined in the Common Reporting Standard but not in these Regulations has the meaning assigned to it in the Common Reporting Standard.

Non-Reportable
Accounts
Schedule 2

3. An account listed as an Excluded Account in Schedule 2 is not a Reportable Account for the purposes of these Regulations.

General rules for
accounts

4. (1) A Reporting Financial Institution shall treat an account balance with a negative value as having a nil value.

(2) If, when a Reporting Financial Institution is applying the Common Reporting Standard, the balance or value of an account is denominated in a currency other than US dollars, a Reporting Financial Institution shall translate a relevant US dollar threshold amount into the other currency by reference to the spot rate of exchange on the date for which the Reporting Financial Institution is determining that threshold amount.

Common Reporting
Standard commentary

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

(2) The Authority may issue guidance notes to aid compliance with these Regulations.

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

PART 2 - APPLICATION OF THE COMMON REPORTING STANDARD

Common Reporting
Standard in force

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

Arrangements to be
established by Reporting
Financial Institutions

7. (1) A Reporting Financial Institution shall establish policies and maintain procedures designed to identify Reportable Accounts.

- (2) The policies and procedures established under paragraph (1) shall -
 - (a) identify each jurisdiction in which an Account Holder or a Controlling Person is resident for income tax or corporation tax purposes or for the purpose of any tax imposed by the law of the jurisdiction that is of a similar character to either of those taxes;
 - (b) apply the due diligence procedures set out in the Common Reporting Standard; and
 - (c) ensure that any information obtained in accordance with these Regulations or a record of the steps taken to comply with these Regulations in respect of a Financial Account is kept for six years from the end of the year to which the information relates or during which the steps were taken.

8. (1) A Reporting Financial Institution that has reporting obligations under these Regulations shall notify the Authority of that fact. Obligation to notify

(2) When notifying the Authority pursuant to paragraph (1) the Reporting Financial Institution shall provide to the Authority -

- (a) the name of the Reporting Financial Institution;
- (b) the categorization of the Reporting Financial Institution as determined in accordance with the Common Reporting Standard; and
- (c) the full name, address, designation and contact details of the individual authorized by the Reporting Financial Institution to be the Reporting Financial Institution's principal point of contact for all purposes of compliance with these Regulations and the Common Reporting Standard.

(3) A Reporting Financial Institution shall provide the notification required pursuant to paragraph (1) and the information required pursuant to paragraph (2) no later than 30th April in the first calendar year in which the Reporting Financial Institution is required to comply with reporting obligations under these Regulations.

(4) A Reporting Financial Institution shall satisfy the requirements of paragraph (3) electronically in a form specified by the Authority.

(5) A Reporting Financial Institution shall notify the Authority immediately of any change to the information provided under paragraph (2).

9. (1) A Reporting Financial Institution shall, in respect of the Reporting Financial Institution's first reporting year and each subsequent calendar year, Obligation to make a return

make a return setting out the information required to be reported under the Common Reporting Standard in respect of each Reportable Account maintained by the Reporting Financial Institution at any time during that year.

(2) Notwithstanding paragraph (1), if during the calendar year in question the Reporting Financial Institution maintains no Reportable Accounts, the Reporting Financial Institution is not required to file a return but may, at the Reporting Financial Institution's own option, do so in accordance with these Regulations.

(3) The first reporting year for the purposes of the Common Reporting Standard is the calendar year 2016.

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

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

- (a) a reference to the balance or value of an account includes a nil balance or value; and
- (b) a reference to paying an amount includes crediting an amount.

Form of return

10. (1) A Reporting Financial Institution shall make the return that is required to be made pursuant to regulation 9 electronically using a form and in a manner specified by the Authority that incorporates an electronic validation process.

(2) Where a Reporting Financial Institution purports to comply with the requirements of paragraph (1) in a manner otherwise than that provided, the Reporting Financial Institution is deemed not to have complied with the requirements of paragraph (1) and the Authority shall treat the Reporting Financial Institution as not having complied with the requirement to make a return pursuant to regulation 9.

(3) The Authority shall assume unless the contrary is proved that -

- (a) the use of the electronic return system specified by the Authority resulted in a return having been made if the return was recorded by the electronic validation process of the system;
- (b) the return was made at the time recorded by the electronic validation process; and

- (c) the person who made the return is the person identified as doing so by the electronic return system.

(4) The Authority shall assume that a return made on behalf of a Reporting Financial Institution was made by the Reporting Financial Institution, unless the Reporting Financial Institution proves that the return was made without the Reporting Financial Institution's authority.

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

Appointment of Third Parties

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

(3) The Reporting Financial Institution is responsible for any failure of the person appointed under paragraph (1) to satisfy the Reporting Financial Institution's obligations under these Regulations.

PART 3 - COMPLIANCE

12. (1) The Authority may require a Reporting Financial Institution -
- (a) within a time specified by the Authority, to provide to the Authority information, including a copy of a relevant book, document or other record, or of electronically stored information; or
 - (b) at a time specified by the Authority, to make available to the Authority for inspection, a book, document or other record, or any electronically stored information,

Compliance measures

that is in the Reporting Financial Institution's possession or under the Reporting Financial Institution's control which the Authority reasonably requires to determine if information submitted to the Authority under these Regulations was correct and complete.

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

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

Anti-avoidance

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

SCHEDULE 1

(regulation 2)

COMMON STANDARD ON REPORTING AND DUE DILIGENCE FOR FINANCIAL ACCOUNT INFORMATION

Section I: General Reporting Requirements

- A. Subject to paragraphs C through E, each Reporting Financial Institution must report the following information with respect to each Reportable Account of such Reporting Financial Institution:
1. the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of the due diligence procedures consistent with Sections V, VI and VII, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, jurisdiction(s) of residence and TIN(s) of the Entity and the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth of each Reportable Person;
 2. the account number (or functional equivalent in the absence of an account number);
 3. the name and identifying number (if any) of the Reporting Financial Institution;
 4. the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or

period, the closure of the account;

5. in the case of any Custodial Account:
 - a) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
 - b) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;
 6. in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
 7. in the case of any account not described in subparagraph A (5) or (6), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.
- B. The information reported must identify the currency in which each amount is denominated.
- C. Notwithstanding subparagraph A(1), with respect to each Reportable Account that is a Preexisting Account or with respect to each Financial Account that is opened prior to becoming a Reportable Account, the TIN(s) or date of birth is not required to be reported if such TIN(s) or date of birth is not in the records of the Reporting Financial Institution and is not otherwise required to be collected by such Reporting Financial Institution under domestic law. However, a Reporting Financial Institution is required to use reasonable efforts to obtain the TIN(s) and date of birth with respect to Preexisting Accounts by the end of the second calendar year following the year in which such Accounts were identified as Reportable Accounts.
- D. Notwithstanding subparagraph A(1), the TIN is not required to be reported if (i) a TIN is not issued by the relevant Reportable Jurisdiction or (ii) the

domestic law of the relevant Reportable Jurisdiction does not require the collection of the TIN issued by such Reportable Jurisdiction.

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

Section II: General Due Diligence Requirements

- A. An account is treated as a Reportable Account beginning as of the date it is identified as such pursuant to the due diligence procedures in Sections II through VII and, unless otherwise provided, information with respect to a Reportable Account must be reported annually in the calendar year following the year to which the information relates.
- B. A Reporting Financial Institution, which pursuant to the procedures described in Sections II through VII, identifies any account as a Foreign Account that is not a Reportable Account at the time the due diligence is performed, may rely on the outcome of such procedures to comply with future reporting obligations.
- C. The balance or value of an account is determined as of the last day of the calendar year or other appropriate reporting period.
- D. Where a balance or value threshold is to be determined as of the last day of a calendar year, the relevant balance or value must be determined as of the last day of the reporting period that ends with or within that calendar year.
- E. Reporting Financial Institutions may apply the due diligence procedures for New Accounts to Preexisting Accounts, and the due diligence procedures for High Value Accounts to Lower Value Accounts. Where New Account due diligence procedures are used for Preexisting Accounts, the rules otherwise applicable to Preexisting Accounts continue to apply.

Section III: Due Diligence for Preexisting Individual Accounts

The following procedures apply with respect to Preexisting Individual Accounts.

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

Annuity Contract is not required to be reviewed, identified or reported, provided the Reporting Financial Institution is effectively prevented by law from selling such Contract to residents of a Reportable Jurisdiction.

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

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

4. If any of the indicia listed in subparagraph B(2)(a) through (e) are discovered in the electronic search, or if there is a change in circumstances that results in one or more indicia being associated with the account, then the Reporting Financial Institution must treat the Account Holder as a resident for tax purposes of each Foreign Jurisdiction for which an indicium is identified, unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.
5. If a “hold mail” instruction or “in-care-of ” address is discovered in the electronic search and no other address and none of the other indicia listed in subparagraph B(2)(a) through (e) are identified for the Account Holder, the Reporting Financial Institution must, in the order most appropriate to the circumstances, apply the paper record search described in subparagraph C(2), or seek to obtain from the Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of such Account Holder. If the paper search fails to establish an indicium and the attempt to obtain the self-certification or Documentary Evidence is not successful, the Reporting Financial Institution must report the account as an undocumented account.
6. Notwithstanding a finding of indicia under subparagraph B(2), a Reporting Financial Institution is not required to treat an Account Holder as a resident of a Foreign Jurisdiction if:
 - a) the Account Holder information contains a current mailing or residence address in the Foreign Jurisdiction, one or more telephone numbers in the Foreign Jurisdiction (and no telephone number in the jurisdiction of the Reporting Financial Institution) or standing instructions (with respect to Financial Accounts other than Depository Accounts) to transfer funds to an account maintained in a Foreign Jurisdiction, the Reporting Financial Institution obtains, or has previously reviewed and maintains a record of:
 - i) A self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Foreign Jurisdiction; and
 - ii) Documentary evidence establishing the Account Holder’s residence for tax purposes other than such Foreign Jurisdiction.

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

- i)* A self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Foreign Jurisdiction; or
- ii)* Documentary evidence establishing the Account Holder's residence for tax purposes other than such Foreign Jurisdiction.

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

- 1. Electronic Record Search.** with respect to High Value Accounts, the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the indicia described in subparagraph B(2).
- 2. Paper Record Search.** If the Reporting Financial Institution's electronically searchable databases include fields for, and capture all of the information described in, subparagraph C(3), then a further paper record search is not required. If the electronic databases do not capture all of this information, then with respect to a High Value Account, the Reporting Financial Institution must also review the current customer master file and, to the extent not contained in the current customer master file, the following documents associated with the account and obtained by the Reporting Financial Institution within the last five years for any of the indicia described in subparagraph B(2):
 - a)* the most recent Documentary Evidence collected with respect to the account;
 - b)* the most recent account opening contract or documentation;
 - c)* the most recent documentation obtained by the Reporting Financial Institution pursuant to AML/KYC Procedures or for other regulatory purposes;
 - d)* any power of attorney or signature authority forms currently in effect; and
 - e)* any standing instructions (other than with respect to a Depository Account) to transfer funds currently in effect.

3. Exception To The Extent Databases Contain Sufficient Information. A Reporting Financial Institution is not required to perform the paper record search described in subparagraph C(2) to the extent the Reporting Financial Institution's electronically searchable information includes the following:

- a) the Account Holder's residence status;
- b) the Account Holder's residence address and mailing address currently on file with the Reporting Financial Institution;
- c) the Account Holder's telephone number(s) currently on file, if any, with the Reporting Financial Institution;
- d) in the case of Financial Accounts other than Depository Accounts, whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the Reporting Financial Institution or another Financial Institution);
- e) whether there is a current "in-care-of " address or "hold mail" instruction for the Account Holder; and
- f) whether there is any power of attorney or signatory authority for the account.

4. Relationship Manager Inquiry for Actual Knowledge. In addition to the electronic and paper record searches described above, the Reporting Financial Institution must treat as a Reportable Account any High Value Account assigned to a relationship manager (including any Financial Accounts aggregated with that High Value Account) if the relationship manager has actual knowledge that the Account Holder is a Reportable Person.

5. Effect of Finding Indicia.

- a) If none of the indicia listed in subparagraph B(2) are discovered in the enhanced review of High Value Accounts described above, and the account is not identified as held by a resident for tax purposes in a Foreign Jurisdiction in subparagraph C(4), then further action is not required until there is a change in circumstances that results in one or more indicia being associated with the account.
- b) If any of the indicia listed in subparagraph B(2)(a) through (e) are discovered in the enhanced review of High Value Accounts described above, or if there is a subsequent change in circumstances that results in one or more indicia being associated with the account, then the Reporting Financial Institution must treat the Account Holder as a resident for tax purposes of each Foreign Jurisdiction for which an indicium is identified unless it elects to apply subparagraph B(6) and one

- of the exceptions in such subparagraph applies with respect to that account.
- c) If a “hold mail” instruction or “in-care-of” address is discovered in the enhanced review of High Value Accounts described above, and no other address and none of the other indicia listed in subparagraph B(2)(a) through (e) are identified for the Account Holder, the Reporting Financial Institution must obtain from such Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of the Account Holder. If the Reporting Financial Institution cannot obtain such self-certification or Documentary Evidence, it must report the account as an undocumented account.
6. If a Preexisting Individual Account is not a High Value Account as of 31 December 2015, but becomes a High Value Account as of the last day of a subsequent calendar year, the Reporting Financial Institution must complete the enhanced review procedures described in paragraph C with respect to such account within the calendar year following the year in which the account becomes a High Value Account. If based on this review such account is identified as a Reportable Account, the Reporting Financial Institution must report the required information about such account with respect to the year in which it is identified as a Reportable Account and subsequent years on an annual basis, unless the Account Holder ceases to be a Reportable Person.
7. Once a Reporting Financial Institution applies the enhanced review procedures described in paragraph C to a High Value Account, the Reporting Financial Institution is not required to re-apply such procedures, other than the relationship manager inquiry described in subparagraph C(4), to the same High Value Account in any subsequent year unless the account is undocumented where the Reporting Financial Institution should re-apply them annually until such account ceases to be undocumented.
8. If there is a change of circumstances with respect to a High Value Account that results in one or more indicia described in subparagraph B(2) being associated with the account, then the Reporting Financial Institution must treat the account as a Reportable Account with respect to each Foreign Jurisdiction for which an indicium is identified unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.
9. A Reporting Financial Institution must implement procedures to ensure that a relationship manager identifies any change in circumstances of an account. For example, if a relationship manager is notified that the Account Holder

has a new mailing address in a Foreign Jurisdiction, the Reporting Financial Institution is required to treat the new address as a change in circumstances and, if it elects to apply subparagraph B(6), is required to obtain the appropriate documentation from the Account Holder.

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

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

Section IV: Due Diligence for New Individual Accounts

The following procedures apply with respect to New Individual Accounts.

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

Section V: Due Diligence for Preexisting Entity Accounts

The following procedures apply with respect to Preexisting Entity Accounts.

- A. **Entity Accounts Not Required to Be Reviewed, Identified or Reported.** Unless the Reporting Financial Institution elects otherwise, either with respect to all Preexisting Entity Accounts or, separately, with respect to any clearly identified group of such accounts, a Preexisting Entity Account with an aggregate account balance or value that does not exceed USD 250 000 as of 31 December 2015, is not required to be reviewed, identified, or reported as a Reportable Account until the aggregate account balance or value exceeds USD 250 000 as of the last day of any subsequent calendar year.
- B. **Entity Accounts Subject to Review.** A Preexisting Entity Account that has an aggregate account balance or value that exceeds USD 250 000 as of 31 December 2015, and a Preexisting Entity Account that does not exceed USD 250 000 as of 31 December 2015 but the aggregate account balance or value of which exceeds USD 250 000 as of the last day of any subsequent calendar year, must be reviewed in accordance with the procedures set forth in paragraph D.
- C. **Review Procedures for Identifying Entity Accounts With Respect to Which Reporting may be Required.** For Preexisting Entity Accounts described in paragraph B, a Reporting Financial Institution must apply the following review procedures:
1. **Determine the Residence of the Entity.**
 - a) Review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine the Account Holder's residence. For this purpose, information indicating that the Account Holder's residence includes a place of incorporation or organisation, or an address in a Foreign Jurisdiction.
 - b) If the information indicates that the Account Holder is a Reportable Person, the Reporting Financial Institution must treat the account as a Reportable Account unless it obtains a self-certification from the Account Holder, or reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person.
 2. **Determine the Residence of the Controlling Persons of a Passive NFE.** With respect to an Account Holder of a Preexisting Entity Account (including an Entity that is a Reportable Person), the Reporting Financial

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

- a) **Determining whether the Account Holder is a Passive NFE.** For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Financial Institution must obtain a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.
- b) **Determining the Controlling Persons of an Account Holder.** For the purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.
- c) **Determining the residence of a Controlling Person of a Passive NFE.** For the purposes of determining the residence of a Controlling Person of a Passive NFE, a Reporting Financial Institution may rely on:
 - i) information collected and maintained pursuant to AML/KYC Procedures in the case of a Preexisting Entity Account held by one or more NFEs with an aggregate account balance or value that does not exceed USD 1,000,000; or
 - ii) a self-certification from the Account Holder or such Controlling Person of the jurisdiction(s) in which the Controlling Person is resident for tax purposes. If a self-certification is not provided, the Reporting Financial Institution will establish such residence(s) by applying the procedures described in paragraph C of Section III.

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

1. Review of Preexisting Entity Accounts with an aggregate account balance or value that exceeds USD 250,000 as of 31 December 2015

must be completed by 31 December 2017.

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

Section VI: Due Diligence for New Entity Accounts

The following procedures apply with respect to New Entity Accounts.

A. Review Procedures for Identifying Entity Accounts With Respect to Which Reporting may be Required. For New Entity Accounts, a Reporting Financial Institution must apply the following review procedures:

1. **Determine the residence of the Entity.**
 - a) Obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Financial Institution to determine the Account Holder's residence(s) for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures. If the Entity certifies that it has no residence for tax purposes, the Reporting Financial Institution may rely on the address of the principal office of the Entity to determine the residence of the Account Holder.
 - b) If the self-certification indicates that the Account Holder is resident in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account unless it reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person with respect to such Reportable Jurisdiction.
2. **Determine the Residence of the Controlling Persons of a Passive NFE.**

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

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

Section VII: Special Due Diligence Rules

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

- A. **Reliance on Self-Certifications and Documentary Evidence.** A Reporting Financial Institution may not rely on a self-certification or Documentary Evidence if the Reporting Financial Institution knows or has reason to know that the self-certification or Documentary Evidence is incorrect or unreliable.
- B. **Alternative Procedures for Financial Accounts Held by Individual Beneficiaries of a Cash Value Insurance Contract or an Annuity**

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

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

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

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

C. Account Balance Aggregation and Currency Rules.

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

Section VIII: Defined Terms

The following terms have the meanings set forth below:

A. Reporting Financial Institution

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

reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in subparagraph A(6)(a).

An Entity is treated as primarily conducting as a business one or more of the activities described in subparagraph A(6)(a), or an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of subparagraph A(6)(b), if the Entity's gross income attributable to the relevant activities equals or exceeds 50% of the Entity's gross income during the shorter of: (i) the three-year period ending on 31 December of the year preceding the year in which the determination is made; or (ii) the period during which the Entity has been in existence. The term "Investment Entity" does not include an Entity that is an Active NFE because it meets any of the criteria in subparagraphs D(9)(d) through (g).

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

7. The term "**Financial Asset**" includes a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), Insurance Contract or Annuity Contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, Insurance Contract, or Annuity Contract. The term "Financial Asset" does not include a non-debt, direct interest in real property.
8. The term "**Specified Insurance Company**" means any Entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.

B. Non-Reporting Financial Institution

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

2. The term “**Governmental Entity**” means the government of a jurisdiction, any political subdivision of a jurisdiction (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of a jurisdiction or of any one or more of the foregoing (each, a “Governmental Entity”). This category is comprised of the integral parts, controlled entities, and political subdivisions of a jurisdiction.
 - a) An “integral part” of a jurisdiction means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of a jurisdiction. The net earnings of the governing authority must be credited to its own account or to other accounts of the jurisdiction, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity.
 - b) A controlled entity means an Entity that is separate in form from the jurisdiction or that otherwise constitutes a separate juridical entity, provided that:

- i*) the Entity is wholly owned and controlled by one or more Governmental Entities directly or through one or more controlled entities;
 - ii*) the Entity's net earnings are credited to its own account or to the accounts of one or more Governmental Entities, with no portion of its income inuring to the benefit of any private person; and
 - iii*) the Entity's assets vest in one or more Governmental Entities upon dissolution.
 - c*) Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of government. Notwithstanding the foregoing, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a governmental entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons.
3. The term "**International Organisation**" means any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation (including a supranational organisation) (1) that is comprised primarily of governments; (2) that has in effect a headquarters or substantially similar agreement with the jurisdiction; and (3) the income of which does not inure to the benefit of private persons.
 4. The term "**Central Bank**" means an institution that is by law or government sanction the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the jurisdiction, whether or not owned in whole or in part by the jurisdiction.
 5. The term "**Broad Participation Retirement Fund**" means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former

employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that the fund:

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

- d) participants that are not residents of the jurisdiction in which the fund is established are not entitled to more than 20% of the fund’s assets; and
 - e) the fund is subject to government regulation and provides information reporting to the tax authorities.

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

- 8. The term “**Qualified Credit Card Issuer**” means a Financial Institution satisfying the following requirements:
 - a) the Financial Institution is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and
 - b) beginning on or before 1 January 2016, the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of USD 50 000, or to ensure that any customer overpayment in excess of USD 50 000 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.

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

C. Financial Account

1. The term “**Financial Account**” means an account maintained by a Financial Institution, and includes a Depository Account, a Custodial Account and:
 - a) in the case of an Investment Entity, any equity or debt interest in the Financial Institution. Notwithstanding the foregoing, the term “Financial Account” does not include any equity or debt interest in an Entity that is an Investment Entity solely because it (i) renders investment advice to, and acts on behalf of, or (ii) manages portfolios for, and acts on behalf of, a customer for the purpose of investing, managing, or administering Financial Assets deposited in the name of the customer with a Financial Institution other than such Entity;
 - b) in the case of a Financial Institution not described in subparagraph C(1)(a), any equity or debt interest in the Financial Institution, if the class of interests was established with a purpose of avoiding reporting in accordance with Section I; and
 - c) any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a noninvestment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an Excluded Account.

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

2. The term “**Depository Account**” includes any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a Financial Institution in the ordinary course of a banking or similar business. A Depository Account also includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon.
3. The term “**Custodial Account**” means an account (other than an Insurance Contract or Annuity Contract) that holds one or more Financial Assets for the benefit of another person.
4. The term “**Equity Interest**” means, in the case of a partnership that is a Financial Institution, either a capital or profits interest in the partnership.

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

5. The term “**Insurance Contract**” means a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.
6. The term “**Annuity Contract**” means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.
7. The term “**Cash Value Insurance Contract**” means an Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value.
8. The term “**Cash Value**” means the greater of (i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan), and (ii) the amount the policyholder can borrow under or with regard to the contract. Notwithstanding the foregoing, the term “Cash Value” does not include an amount payable under an Insurance Contract:
 - a) solely by reason of the death of an individual insured under a life insurance contract;
 - b) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;
 - c) as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an Insurance

Contract (other than an investment-linked life insurance or annuity contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;

- d) as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an Insurance Contract under which the only benefits payable are described in subparagraph C(8)(b); or
- e) as a return of an advance premium or premium deposit for an Insurance Contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract.

9. The term “**Preexisting Account**” means:

- a) a Financial Account maintained by a Reporting Financial Institution as of 31 December 2015;
- b) any Financial Account of an Account Holder, regardless of the date such Financial Account was opened, if:
 - i) the Account Holder also holds with the Reporting Financial Institution (or with a Related Entity within the same jurisdiction as the Reporting Financial Institution) a Financial Account that is a Pre-existing Account under subparagraph C(9)(a);
 - ii) the Reporting Financial Institution (and, as applicable, the Related Entity within the same jurisdiction as the Reporting Financial Institution) treats both of the aforementioned Financial Accounts, and any other Financial Accounts of the Account Holder that are treated as Pre-existing Accounts under point (b), as a single Financial Account for purposes of satisfying the standards of knowledge requirements set forth in paragraph A of Section VII, and for purposes of determining the balance or value of any of the Financial Accounts when applying any of the account thresholds;
 - iii) with respect to a Financial Account that is subject to AML/KYC Procedures, the Reporting Financial Institution is permitted to satisfy such AML/KYC Procedures for the Financial Account by relying upon the AML/KYC Procedures performed for the Pre-existing Account described in subparagraph C(9)(a); and
 - iv) the opening of the Financial Account does not require the

provision of new, additional or amended customer information by the Account Holder other than for the purposes of the CRS.

10. The term “**New Account**” means a Financial Account maintained by a Reporting Financial Institution opened on or after 1 January 2016.
11. The term “**Preexisting Individual Account**” means a Preexisting Account held by one or more individuals.
12. The term “**New Individual Account**” means a New Account held by one or more individuals.
13. The term “**Preexisting Entity Account**” means a Preexisting Account held by one or more Entities.
14. The term “**Lower Value Account**” means a Preexisting Individual Account with an aggregate balance or value as of 31 December 2015 that does not exceed USD 1 000 000.
15. The term “**High Value Account**” means a Preexisting Individual Account with an aggregate balance or value that exceeds USD 1000 000 as of 31 December 2015 or 31 December of any subsequent year.
16. The term “**New Entity Account**” means a New Account held by one or more Entities.
17. The term “**Excluded Account**” means any of the following accounts:
 - a) a retirement or pension account that satisfies the following requirements:
 - i) the account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits (including disability or death benefits);
 - ii) the account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
 - iii) information reporting is required to the tax authorities with respect to the account;

- iv) withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and
- v) either (i) annual contributions are limited to USD 50,000 or less, or (ii) there is a maximum lifetime contribution limit to the account of USD 1,000,000 or less, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

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

- b) an account that satisfies the following requirements:
 - i) the account is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market, or the account is subject to regulation as a savings vehicle for purposes other than for retirement;
 - ii) the account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
 - iii) withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (for example, the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met; and
 - iv) annual contributions are limited to USD 50,000 or less, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

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

requirements of any of subparagraphs B(5) through (7).

- c) a life insurance contract with a coverage period that will end before the insured individual attains age 90, provided that the contract satisfies the following requirements:
 - i) periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age 90, whichever is shorter;
 - ii) the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;
 - iii) the amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and
 - iv) the contract is not held by a transferee for value.
- d) an account that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate.
- e) an account established in connection with any of the following:
 - i) a court order or judgment.
 - ii) a sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:
 - i) the account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a Financial Asset that is deposited in the account in connection with the sale, exchange, or lease of the property;
 - ii) the account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease;
 - iii) the assets of the account, including the income earned

- thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates;
- iv) the account is not a margin or similar account established in connection with a sale or exchange of a Financial Asset; and
 - v) the account is not associated with an account described in subparagraph C(17)(f).
- iii) an obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time.
 - iv) an obligation of a Financial Institution solely to facilitate the payment of taxes at a later time.
- f) a Depository Account that satisfies the following requirements:
- i) the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and
 - ii) beginning on or before 1 January 2016, the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of USD 50,000, or to ensure that any customer overpayment in excess of USD 50,000 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.
 - g) any other account that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the accounts described in subparagraphs C(17)(a) through (f), and is defined in domestic law as an Excluded Account, provided that the status of such account as an Excluded Account does not frustrate the purposes of the Common Reporting Standard.

D. Reportable Account

1. The term “**Reportable Account**” means an account held by one or more Reportable Persons or by a Passive NFE with one or more

Controlling Persons that is a Reportable Person, provided it has been identified as such pursuant to the due diligence procedures described in Sections II through VII.

2. The term “**Reportable Person**” means a Reportable Jurisdiction Person other than: (i) a corporation the stock of which is regularly traded on one or more established securities markets; (ii) any corporation that is a Related Entity of a corporation described in clause (i); (iii) a Governmental Entity; (iv) an International Organisation; (v) a Central Bank; or (vi) a Financial Institution.
3. The term “**Reportable Jurisdiction Person**” means an individual or Entity that is resident in a Reportable Jurisdiction under the tax laws of such jurisdiction, or an estate of a decedent that was a resident of a Reportable Jurisdiction. For this purpose, an Entity such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated.
4. The term “**Reportable Jurisdiction**” means a jurisdiction (i) with which an agreement is in place pursuant to which there is an obligation in place to provide the information specified in Section I, and (ii) which is identified in a published list.
5. The term “**Participating Jurisdiction**” means a jurisdiction (i) with which an agreement is in place pursuant to which it will provide the information specified in Section I, and (ii) which is identified in a published list.
6. The term “**Controlling Persons**” means the natural persons who exercise control over an Entity. In the case of a trust, such term means the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term “Controlling Persons” must be interpreted in a manner consistent with the Financial Action Task Force Recommendations.
7. The term “**NFE**” means any Entity that is not a Financial Institution.
8. The term “**Passive NFE**” means any: (i) NFE that is not an Active NFE; or (ii) an Investment Entity described in subparagraph A(6)(b)

that is not a Participating Jurisdiction Financial Institution.

9. The term “**Active NFE**” means any NFE that meets any of the following criteria:
- a) less than 50% of the NFE’s gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
 - b) the stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
 - c) the NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
 - d) substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
 - e) the NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE;
 - f) the NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution;
 - g) the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or
 - h) the NFE meets all of the following requirements:
 - i) it is established and operated in its jurisdiction of residence

- exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
- ii) it is exempt from income tax in its jurisdiction of residence;
 - iii) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - iv) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and
 - v) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision thereof.

E. Miscellaneous

1. The term “**Account Holder**” means the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of the Common Reporting Standard, and such other person is treated as holding the account. In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or

an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder.

2. The term “**AML/KYC Procedures**” means the customer due diligence procedures of a Reporting Financial Institution pursuant to the anti-money laundering or similar requirements to which such Reporting Financial Institution is subject.
3. The term “**Entity**” means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation.
4. An Entity is a “**Related Entity**” of another Entity if (i) either Entity controls the other Entity; (ii) the two Entities are under common control; or (iii) the two Entities are Investment Entities described in subparagraph A(6)(b), are under common management, and such management fulfils the due diligence obligations of such Investment Entities. For this purpose control includes direct or indirect ownership of more than 50 % of the vote and value in an Entity.
5. The term “**TIN**” means Taxpayer Identification Number (or functional equivalent in the absence of a Taxpayer Identification Number).
6. The term “**Documentary Evidence**” includes any of the following:
 - a) a certificate of residence issued by an authorised government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the payee claims to be a resident.
 - b) with respect to an individual, any valid identification issued by an authorised government body (for example, a government or agency thereof, or a municipality), that includes the individual’s name and is typically used for identification purposes.
 - c) with respect to an Entity, any official documentation issued by an authorised government body (for example, a government or agency thereof, or a municipality) that includes the name of the Entity and either the address of its principal office in the jurisdiction in which it claims to be a resident or the jurisdiction in which the Entity was incorporated or organised.
 - d) any audited financial statement, third-party credit report, bankruptcy filing, or securities regulator’s report.

With respect to a Pre-existing Entity Account, Reporting Financial Institutions may use as Documentary Evidence any classification in the Reporting Financial Institution's records with respect to the Account Holder that was determined based on a standardised industry coding system, that was recorded by the Reporting Financial

Institution consistent with its normal business practices for purposes of AML/KYC Procedures or another regulatory purposes (other than for tax purposes) and that was implemented by the Reporting Financial Institution prior to the date used to classify the Financial Account as a Pre-existing Account, provided that the Reporting Financial Institution does not know or does not have reason to know that such classification is incorrect or unreliable. The term “standardised industry coding system” means a coding system used to classify establishments by business type for purposes other than tax purposes.

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

Section IX: Effective Implementation

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

SCHEDULE 2

EXCLUDED ACCOUNTS

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

(2) An account is a dormant account if -

- (a) the account holder has not initiated a transaction with regard to the account or any other account held by the account holder with the Reporting Financial Institution in the previous three years;
- (b) the account holder has not communicated with the Reporting Financial Institution regarding the account or any other account held by the account holder with the Reporting Financial Institution in the previous six years;
- (c) the account is treated as a dormant account under the Reporting Financial Institutions normal operating procedures in accordance with the Dormant Accounts Law (2011 Revision); or
- (d) in the case of a cash value insurance contract, the Reporting Financial Institution has not communicated with the account holder regarding the account or any other account held by the account holder with the Reporting Financial Institution in the previous six years.

Made in Cabinet the 13th day of October, 2015.

Kim Bullings

Clerk of the Cabinet.

CRS Guidance Notes v3.0

Appendix 1

Part 2 The Tax Information Authority (International Tax Compliance) (Common Reporting Standard) (Amendment) Regulations, 2016

CAYMAN ISLANDS



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**THE TAX INFORMATION AUTHORITY LAW
(2016 REVISION)**

**THE TAX INFORMATION AUTHORITY (INTERNATIONAL TAX
COMPLIANCE) (COMMON REPORTING STANDARD) (AMENDMENT)
REGULATIONS, 2016**

THE TAX INFORMATION AUTHORITY (INTERNATIONAL TAX COMPLIANCE) (COMMON REPORTING STANDARD) (AMENDMENT) REGULATIONS, 2016

ARRANGEMENT OF REGULATIONS

1. Citation
2. Amendment of regulation 2 of Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations, 2015 - definitions
3. Repeal of regulations 3 and 4 - non-reportable accounts Schedule 2 - general rules for accounts
4. Amendment of regulation 5 - common reporting standard commentary
5. Insertion of regulation 5A - guidelines
6. Insertion of regulation 6A - rules for applying the standard
7. Amendment of regulation 7 - arrangements to be established by reporting financial institutions
8. Repeal and substitution of regulation 8 - obligation to notify
9. Amendment of regulation 9 - obligation to make a return
10. Repeal and substitution of regulation 10 - form of return
11. Amendment of regulation 11 - appointment of third parties
12. Deletion of heading to Part 3 - compliance
13. Amendment of regulation 12 - compliance measures
14. Amendment of regulation 13 - anti-avoidance
15. Insertion of Part 3- offences, Part 4 - compliance - and Part 5 - miscellaneous
16. Amendment of Schedule 1 - common standard on reporting and due diligence for financial account information
17. Repeal of Schedule 2 - excluded accounts

CAYMAN ISLANDS

**THE TAX INFORMATION AUTHORITY LAW
(2016 REVISION)**

**THE TAX INFORMATION AUTHORITY (INTERNATIONAL TAX
COMPLIANCE) (COMMON REPORTING STANDARD) (AMENDMENT)
REGULATIONS, 2016**

The Cabinet, in exercise of the powers conferred by section 25 of the Tax Information Authority Law (2016 Revision), makes the following Regulations -

1. These Regulations may be cited as the Tax Information Authority (International Tax Compliance) (Common Reporting Standard) (Amendment) Regulations, 2016.

Citation

2. The Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations, 2015, in these Regulations referred to as the “principal Regulations”, are amended in regulation 2 as follows -

Amendment of regulation 2 of Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations, 2015 - definitions

- (a) in paragraph (1) by -
 - (i) in the definition “Organisation for Economic Co-Operation and Development”, by deleting “; and” and substituting “;”;
 - (ii) in the definition “relevant scheduled Agreement”, by deleting the full stop and substituting “;”;
 - (iii) inserting in the appropriate alphabetical sequence the following definitions -
 - “ “appeal” means an appeal under regulation 32 and any further appeals relating to the decision on such an appeal;
 - “breach notice” means the notice mentioned in regulation 28(1)(a);
 - “Cayman Financial Institution” means -
 - (a) a Financial Institution resident in the Islands other than any of the institution’s branches outside the Islands; and

- (b) a branch in the Islands of a Financial Institution not resident in the Islands;
- “Cayman Reporting Financial Institution” means a Cayman Financial Institution other than a Non-Reporting Financial Institution;
- “commentary” means the commentary mentioned in regulation 5(1);
- 2016 Revision
“company” means a company as defined under section 2 of the Companies Law (2016 Revision), a foreign company registered under that Law or an LLC;
- “continuing penalty” means the notice mentioned in regulation 24(2);
- “contravention”, for a provision about an offence or a penalty, means the contravention that constituted the offence or the act or omission to which the penalty relates;
- “designated person” means a person designated mentioned in the definition of “Authority”;
- “electronic address” includes an email address and the address of a digital mailbox;
- “electronic portal” means the Authority’s electronic portal for the automatic exchange of information;
- Law 5 of 2014
“exempted limited partnership” means an exempted limited partnership as defined under section 2 of the Exempted Limited Partnership Law, 2014 (Law 5 of 2014);
- “give”, for a notice or information, includes to deliver, provide, send, transmit or make the notice or information;
- “inaccurate” means incomplete, incorrect or unreliable;
- “interest”, for a provision about a penalty, means interest accrued or accruing on the penalty under regulation 35;
- 2013
Revision
“limited partnership” means a limited partnership registered under section 49 of the Partnership Law (2013 Revision);
- Law 2 of 2016
“LLC” means a limited liability company as defined under section 2 of the Limited Liability Companies Law, 2016 (Law 2 of 2016);
- “notice” means written information given, or to be given, electronically or by another mode of communication;
- “official website” means -

- (a) the website of the Department for International Tax Cooperation;
- (b) any website of the Authority; or
- (c) another Government website about international tax cooperation;

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

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

“penalty notice” means the notice mentioned in regulation 28(1)(c);

“primary penalty” means the notice mentioned in regulation 24(1);

“principal point of contact”, for a Cayman Financial Institution, means the individual most recently notified under regulation 8 as its principal point of contact;

“resident in the Islands”, for a Financial Institution, means -

- (a) being incorporated or established in the Islands;
- (b) having in the Islands a place of effective management as defined under paragraph 109 of the commentary; or
- (c) being subject to financial supervision in the Islands;

“return” (other than in Schedule 1) means a return required under regulation 9(1); and

“stayed”, for a penalty or interest, means that they cannot be enforced because of the operation of regulation 30(1).”; and

- (b) by repealing paragraph (2) and substituting the following paragraph -

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

The Tax Information Authority (International Tax Compliance) (Common Reporting Standard) (Amendment) Regulations, 2016

Repeal of regulation 3 - non-reportable accounts Schedule 2 and regulation 4 - general rules for accounts

3. The principal Regulations are amended by repealing regulations 3 and 4.

Amendment of regulation 5 - common reporting standard commentary

4. The principal Regulations are amended by repealing regulation 5(2).

Insertion of regulation 5A - guidelines

5. The principal Regulations are amended by inserting after regulation 5 the following regulation -

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

Insertion of regulation 6A - rules for applying the standard

6. The principal Regulations are amended by inserting after regulation 6 the following regulation -

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

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

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

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

(4) For paragraph 17(g) of the definition “Excluded Account” in Section VIIC. of the standard, a Depository Account is defined as an Excluded Account if the account -

- (a) is a dormant account under section 4(1) of the Dormant Accounts Law (2011 Revision); and
- (b) has a balance of \$1,000 or less.

2011 Revision

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

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

7. The principal Regulations are amended in regulation 7 as follows -

Amendment of regulation 7 - arrangements to be established by reporting financial institutions

(a) by deleting the marginal note and substituting the following marginal note: “Required policies and procedures for Cayman Reporting Financial Institutions”;

(b) by repealing paragraph (1) and substituting the following paragraph -

“(1) Each Cayman Reporting Financial Institution shall -

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

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

(c) in paragraph (2), by deleting the words “The policies and procedures established under paragraph (1)” and substituting the words “Without limiting paragraph (1), the policies and procedures”;

(d) in subparagraph (2)(c), by deleting the words “these Regulations” wherever they appear and substituting the words “this Part”; and

(e) by inserting after paragraph (2) the following paragraph -

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

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

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

Repeal and substitution
of regulation 8 -
obligation to notify

8. The principal Regulations are amended by repealing regulation 8 and substituting the following regulation -

“Obligation of
Cayman
Financial
Institutions to
notify certain
information

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

- (a) a notice (an “information notice”) stating the required information about the institution on or before -
 - (i) 30th April 2017; or
 - (ii) if an entity becomes a Cayman Financial Institution after that date, the next 30th April after the entity became a Cayman Financial Institution; and
- (b) if any of the required information so notified changes, a notice stating details of the change (a “change notice”).

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

- (a) posted on an official website, for the information of Cayman Financial Institutions generally; or
- (b) stated in a notice given to any particular Cayman Financial Institution in question.

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

(4) In this regulation -

“exempted body” means -

- (a) the Cayman Islands Monetary Authority under section 5(1) of the Monetary Authority Law (2016 Revision) (“CIMA”);
- (b) a Governmental Entity; or
- (c) a Pension Fund of CIMA or a Governmental Entity; and

“required information”, for a Cayman Financial Institution,

2016 Revision

means -

- (a) the institution's name and any number given to it by the Authority as a Financial Institution;
- (b) whether the institution is a Cayman Reporting Financial Institution or a Non-Reporting Financial Institution; and
- (c) if the institution is a Cayman Reporting Financial Institution, its type or types under paragraph B of Section VIII of the standard;
- (d) if the institution is a Non-Reporting Financial Institution, its classification under paragraph A of Section VIII of the standard; and
- (e) the full name, address, business entity, position and contact details (including an electronic address) of -
 - (i) an individual the institution has authorised to be its principal point of contact for compliance with this Part; and
 - (ii) an individual the institution has authorised to give change notices for its principal point of contact.”.

9. The principal Regulations are amended in regulation 9 as follows -

Amendment of regulation 9 - obligation to make a return

- (a) by repealing paragraphs (1), (2) and (3) and substituting the following paragraph -

“(1) Each Cayman Reporting Financial Institution shall, for each calendar year from and including 2016, make a return to the Authority -

- (a) for each Reportable Account the institution maintained during the year setting out the information required to be reported under the Common Reporting Standard; or
 - (b) if the institution did not maintain any Reportable Account in any Reportable Jurisdiction during the year, a nil return.”; and
- (b) in paragraph (4), by deleting the words “Reporting Financial Institution” and substituting the words “Cayman Reporting Financial Institution”.

Repeal and substitution of regulation 10 - form of return

10. The principal Regulations are amended by repealing regulation 10 and substituting the following regulation -

“Requirements for making returns

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

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

- (a) a post on an official website, for their information generally; or
- (b) a notice given to any particular Cayman Reporting Financial Institution in question.

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

- (a) has been made as required under paragraph (1); or
- (b) was made -
 - (i) when the return was accepted by the portal;
 - (ii) by whoever made the return by using the portal; and
 - (iii) with the authority of the Cayman Reporting Financial Institution on whose behalf the return purports to have been made.”.

Amendment of regulation 11 - appointment of third parties

11. The principal Regulations are amended in regulation 11 as follows -

- (a) by deleting the word “Reporting” wherever it appears and substituting the word “Cayman”; and
- (b) by deleting the words “these Regulations” wherever they appear and substituting the words “this Part”.

Deletion of heading to Part 3 - compliance

12. The principal Regulations are amended by deleting the heading to Part 3.

Amendment of regulation 12 - compliance measures

13. The principal Regulations are amended in regulation 12 as follows -

- (a) by deleting the marginal note and substituting the following marginal note: “Authority’s monitoring function”;
- (b) in paragraph (1) by -
 - (i) deleting the words “require a Reporting Financial Institution” and substituting the words “, by notice given to

- a Cayman Reporting Financial Institution, require the institution”; and
- (ii) deleting the words from “that is” to “complete.” and substituting the words “that is in the institution’s possession or under its control that the Authority reasonably requires to decide whether or not information the institution gave the Authority was accurate.”;
- (c) in paragraph (2), by deleting the words “Reporting Financial Institution” wherever they appear and substituting the word “institution”; and
 - (d) in paragraph (3) by -
 - (i) deleting the words “Reporting Financial Institution” and substituting the words “Cayman Reporting Financial Institution”; and
 - (ii) deleting the words “these Regulations” and substituting the words “this Part”.
14. The principal Regulations are amended in regulation 13 by -
- (a) deleting the words “these Regulations,” and substituting the words “this Part.”; and
 - (b) deleting the words “these Regulations are” and substituting the words “this Part is”.
15. The principal Regulations are amended by inserting after regulation 13 the following Parts -

Amendment of regulation 13 - anti-avoidance

Insertion of Part 3-offences, Part 4 - compliance - and Part 5 - miscellaneous

“PART 3 - OFFENCES

General offences and defence

Offence about false self-certifications

14. (1) A person commits an offence if -
- (a) the person makes a self-certification that is false in a material particular for the Common Reporting Standard; and
 - (b) a Cayman Financial Institution is given the self-certification for any purpose for which the self-certification was made or purports to have been made.
- (2) For paragraph (1), it does not matter that -
- (a) the self-certification was made outside the Islands;
 - (b) the person did not know, or had no reason to

- know, that the self-certification was false; or
- (c) the self-certification was given to the institution by someone else.

(3) In this regulation -

“makes” means to sign or otherwise positively affirm; and

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

Offence to
contravene
Part 2

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

Inaccurate
information
offence

16. A Cayman Financial Institution commits an offence if -

- (a) in purported compliance with Part 2, the institution gives the Authority information that is materially inaccurate (the “act”); and
- (b) the institution -
 - (i) knew of the inaccuracy when the act was done;
 - (ii) in doing the act, behaved fraudulently, intentionally, negligently or recklessly;
 - (iii) in doing the act, contravened its policies or procedures under regulation 7; or
 - (iv) discovered the inaccuracy after doing the act, but did not tell the Authority about the inaccuracy as soon as practicable after making the discovery.

Offence about
access to
confidential
information

17. A person commits an offence if -

- (a) in purported compliance with Part 2, the person gives the Authority information that is materially inaccurate (“the act”); and
- (b) the act was done intentionally to cause, or the person knew the act was likely to cause, a contravention of section 20A of the Law.

Tampering
offence

18. A person commits an offence if the person -

- (a) alters, destroys, mutilates, defaces, hides or removes information in a way that causes the

- person or anyone else to contravene Part 2 in relation to the information; or
- (b) authorises, advises or counsels someone else to contravene paragraph (a).
- Hindering offence 19. A person commits an offence if the person hinders the Authority in performing a function under these Regulations or under section 5 of the Law concerning the Common Reporting Standard.
- Reasonable excuse defence 20. (1) It is a defence to a proceeding for an offence against this Part (other than against regulation 21) for the defendant to prove the defendant had a reasonable excuse.
- (2) However, neither insufficiency of funds nor reliance on an agent appointed under regulation 11 (or anyone else) is a reasonable excuse.
- (3) If a defendant had a reasonable excuse for a contravention but the excuse has ceased, the defendant is to be treated as having continued to have the excuse if the contravention is remedied without unreasonable delay after the excuse ceased.
- Criminal liability of directors etc. of Cayman Financial Institutions*
- Imputed offence 21. (1) If a Cayman Financial Institution commits an offence against this Part all of the following of or relating to the institution are also guilty of that offence -
- (a) if the institution is a body corporate, its directors, managers secretaries and other similar officers to any such office, whatever called, and -
- (i) if the institution is an LLC, its members; and
- (ii) if the institution is another type of company being managed by its members, its members; and
- (b) if the institution is a limited partnership or exempted limited partnership, its general partners and any of its limited partners who

- are participating in its management;
- (c) if the institution is any other type of partnership, its partners;
- (d) if the institution is a trust, its trustees; and
- (e) anyone else who, when the offence was committed was -
 - (i) purporting to act in a capacity or position mentioned in subparagraphs (a) to (d); or
 - (ii) otherwise a *de facto* decision maker for the institution.

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

Punishment

Punishment and criteria

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

- (a) for the following, \$50,000 -
 - (i) for an offence by a body corporate; or
 - (ii) for an offence by an individual who forms, or forms part of, an unincorporated Cayman Financial Institution; or
- (b) otherwise, \$20,000.

(2) In deciding the amount of the fine -

- (a) regulation 25 applies as if a reference to a penalty were to the fine and a reference to the Authority were to the court; and
- (b) the court shall have regard to any penalty imposed for the contravention.

Provisions about Criminal Procedure Code (2014 Revision)

23. (1) Regulation 22 applies despite sections 6(2) and 8 of the Criminal Procedure Code (2014 Revision).

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

PART 4 - COMPLIANCE

Administrative penalties and safeguards for them

Power to penalise

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

- (a) for the following, \$50,000 -
 - (i) for an offence by a body corporate; or
 - (ii) for an offence by an individual who forms, or forms part of, an unincorporated Cayman Financial Institution; or
- (b) otherwise, \$20,000.

(2) Also, if -

- (a) a primary penalty has been imposed, which penalty has not been stayed;
- (b) the contravention has not been remedied; and
- (c) the party is capable of remedying the contravention,

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

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

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

Criteria for deciding penalty

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

- (a) the need to ensure strict compliance with, and to penalise and deter contravention of, these Regulations;
- (b) the nature, seriousness and consequences of the contravention;

- (c) the apparent degree of the party's inadvertence, intent or negligence in committing the contravention;
- (d) the party's conduct after becoming aware of the contravention, including, for example -
 - (i) whether and how quickly the party brought the contravention to the Authority's attention; and
 - (ii) the party's efforts to remedy the contravention or prevent its reoccurrence; and
- (e) the party's history of compliance with the Common Reporting Standard, in the Islands or elsewhere, of which the Authority is aware.

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

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

Limitation
period

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

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

- (a) one year after becoming aware of the contravention; or
- (b) six years after the contravention happened.

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

Protection
against double
jeopardy

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

Procedure for imposing penalty

The Tax Information Authority (International Tax Compliance) (Common Reporting Standard) (Amendment) Regulations, 2016

- Steps required to impose penalty
28. (1) The Authority can only impose a primary penalty by -
- (a) giving the party a notice that complies with regulation 29 (a “breach notice”);
 - (b) if regulation 30 applies, complying with that regulation; and
 - (c) giving the party a notice that complies with regulation 31 (a “penalty notice”).
- (2) The Authority can only impose a continuing penalty by giving the party a penalty notice.
- (3) The same penalty notice may be given for two or more continuing penalties for the same primary penalty.
- Breach notice for primary penalty
29. (1) A breach notice shall be dated and state -
- (a) the party’s name;
 - (b) that the Authority proposes to impose a penalty on the party (the “proposed action”) for the offence it believes the party committed;
 - (c) the facts and circumstances that the Authority believes constituted the offence;
 - (d) the amount of the penalty the Authority proposes (the “proposed amount”); and
 - (e) that the party may, within a period stated in the notice after receiving the notice, make written representations to the Authority about the proposed action, the proposed amount, or both.
- (2) The stated period cannot end less than sixty days after the giving of the notice.
- Considering representations and deciding primary penalty
30. (1) This regulation applies only if a breach notice has been given for a penalty, the period stated in the notice has ended and the party has made representations as stated in the notice.
- (2) The Authority shall consider all matters raised in the representations concerning the proposed action and the proposed amount mentioned in regulation 29(1) and

reconsider the proposed action and, if relevant, the proposed amount.

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

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

Penalty notice
for all penalties

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

- (a) the party's name;
- (b) that that the Authority has imposed a penalty of a stated amount on the party;
- (c) if the penalty is a primary penalty, reasons for the decision to impose the penalty and for its amount;
- (d) if the penalty is a continuing penalty, the date of the penalty notice for each relevant primary penalty;
- (e) that the penalty will become a debt owing by the party to the Crown thirty days after the notice has been given; and
- (f) the substance of the party's appeal right.

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

Appeals

Appeal right

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

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

Automatic stay
on appeal

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

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

Appeal hearing
and outcome

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

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

- (a) affirm, set aside or vary the decision appealed against (the “original decision”); or
- (b) set aside the original decision and remit the matter to the Authority for it to reconsider with directions the court considers fit.

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

- (a) the court’s decision is (other than for regulations 28 and 32) deemed to have always been the original decision;
- (b) the court may, at the Authority’s request, issue a judgment against the party for all or any part of the penalty that continues to be unpaid and for interest; and
- (c) the request may be made during the appeal; when the court’s decision is handed down or at any later time on production of a certificate under regulation 38(3)(j).

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

Interest

Interest

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

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

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

- (a) five percent; or
- (b) the average percentage of the annual consumer price index and inflation rates for the most recent three calendar years published by -
 - (i) the Islands' Economics and Statistics Office (or any other similar body) under the Statistics Law (2016 Revision); or
 - (ii) if those rates cease to be published, the index that most closely performs the functions of publishing the rates.

2016 Revision

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

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

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

PART 5 - MISCELLANEOUS

Conduct and
mens rea of
representatives

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

- (a) the Authority deciding whether or not to impose a penalty or the amount of a penalty; and
- (b) a court hearing a civil or criminal proceeding (including an appeal) relating to Part 3 or 4.

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

- (a) the principal was not in a position to prevent the conduct; or
- (b) if the principal was in such a position, the principal took reasonable steps to prevent the

conduct.

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

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

(5) In this regulation -

“engaging”, in conduct, includes failing to engage in conduct;

“representative”, of the principal, means any of the following of or relating to the principal -

- (a) a director, manager or other officer, whatever called, or an employee or other agent;
- (b) if the principal is an LLC, its members;
- (c) if the principal is another type of company being managed by its members, its members;
- (d) if the principal is a limited partnership or exempted limited partnership, its general partners and any of its limited partners who, when the conduct took place, were participating in its management;
- (e) if the principal is any other type of partnership, its partners;
- (f) if the principal is a trust, its trustees; or
- (g) anyone else who, when the conduct took place, was -
 - (i) purporting to act in a capacity or position mentioned in paragraphs (a) to (f); or
 - (ii) otherwise a *de facto* decision maker for the principal; and

“state of mind”, of the principal or a representative, includes their -

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

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

Giving of notices by Authority

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

- (a) the person concerned;
- (b) another person who had, or had apparently, been, authorised by the person concerned to communicate with the Authority for an official purpose;
- (c) the electronic agent, as defined under section 2 of the Electronic Transactions Law (2003 Revision), of the person concerned; and
- (d) if the person concerned is a Cayman Financial Institution, its principal point of contact.

2003 Revision

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

(3) Without limiting paragraph (1), if the person concerned is an individual, the Authority may give the person a notice for any purpose of these Regulations in any way that, under section 18(4) of the Criminal Procedure Code (2014 Revision), a summons may be served.

2014 Revision

(4) In this regulation -

“official purpose” means a purpose related to the Authority’s functions under the Law, these Regulations or other Regulations under the Law.

Evidentiary provisions

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

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

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

- (a) that a stated document is a copy of a post on an official website under regulation 8 or 10 that appeared on the website on a stated day or during a stated period;
- (b) that a stated Cayman Financial Institution has not given a notice required under regulation 8;
- (c) that a stated individual was a stated Cayman Financial Institution's principal point of contact at a stated time or during a stated period;
- (d) when a stated Cayman Reporting Financial Institution made a return that was accepted by use of the electronic portal (an "accepted return");
- (e) that a stated document is a copy of an accepted return;
- (f) that a stated Cayman Reporting Financial Institution has not made an accepted return for a stated calendar year;
- (g) that a stated document is a copy of a notice given under these Regulations to a stated person (the "party");
- (h) that an electronic address stated in a copy mentioned in paragraph (g) was, when the party was given the notice, an electronic address for the giving of notices to the party under regulation 37;
- (i) that on a stated day the party was given the notice in a stated way; or
- (j) that a penalty or interest of a stated amount is owing to the Crown by a stated person.

The Tax Information Authority (International Tax Compliance) (Common Reporting Standard) (Amendment) Regulations, 2016

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

2003 Revision

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

Amendment of Schedule 1 - common standard on reporting and due diligence for financial account information

16. The principal Regulations are amended in Section VIA 2.(a) of Schedule 1 by deleting the words “Financial Reporting Financial Institution” and substituting the words “Reporting Financial Institution”.

Repeal of Schedule 2 - excluded accounts

17. The principal Regulations are amended by repealing Schedule 2.

Made in Cabinet the 13th day of December, 2016.

Kim Bullings
Clerk of the Cabinet.

CRS Guidance Notes v3.0

Appendix 2 - CRS List of Participating Jurisdictions

GOVERNMENT

Departmental Notice

COMMON REPORTING STANDARD LIST OF PARTICIPATING JURISDICTIONS

This notice is published by the Tax Information Authority pursuant to regulation 5(3) of the Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations. The following is the list of jurisdictions that are to be treated as Participating Jurisdictions for the purposes of the Common Reporting Standard contained in Schedule 1 of those regulations.

This notice supersedes the notice published by Extraordinary Gazette No. 29/2017 dated Friday, 31 March 2017. This means that Azerbaijan and Pakistan have been added as Participating Jurisdictions.

Andorra	France	Nauru
Anguilla	Germany	Netherlands
Antigua and Barbuda	Ghana	New Zealand
Argentina	Gibraltar	Niue
Aruba	Greece	Norway
Australia	Greenland	Pakistan
Austria	Grenada	Panama
Azerbaijan	Guernsey	Poland
Bahamas, The	Hong Kong (China)	Portugal
Bahrain	Hungary	Qatar
Barbados	Iceland	Romania
Belgium	India	Russian Federation
Belize	Indonesia	Saint Kitts and Nevis
Bermuda	Ireland	Saint Lucia
Brazil	Isle of Man	Saint Vincent and the Grenadines
British Virgin Islands	Israel	Samoa
Brunei Darussalam	Italy	San Marino
Bulgaria	Japan	Saudi Arabia
Canada	Jersey	Seychelles
Cayman Islands	Korea	Singapore
Chile	Kuwait	Sint Maarten
China	Latvia	Slovak Republic
Colombia	Lebanon	Slovenia
Cook Islands	Liechtenstein	South Africa
Costa Rica	Lithuania	Spain
Croatia	Luxembourg	Sweden
Curaçao	Macau (China)	Switzerland
Cyprus	Malaysia	Trinidad and Tobago
Czech Republic	Malta	Turkey
Denmark	Marshall Islands	Turks and Caicos Islands
Dominica	Mauritius	United Arab Emirates
Estonia	Mexico	United Kingdom
Faroe Islands	Monaco	Uruguay
Finland	Montserrat	Vanuatu

3 January 2018 Issued by:
Tax Information Authority
Department for International Tax Cooperation
Government Administration Building, Box 135 133
Elgin Avenue
Grand Cayman KY1- 9000
Cayman Islands www.ditc.gov.ky

CRS Guidance Notes v3.0

Appendix 3 – CRS List of Reportable Jurisdictions

GOVERNMENT

Departmental Notice

COMMON REPORTING STANDARD LIST OF REPORTABLE JURISDICTIONS

This notice is published by the Tax Information Authority for the purposes of the Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations. The following is the list of jurisdictions that are to be treated as Reportable Jurisdictions for the purposes of the Common Reporting Standard contained in Schedule 1 of those regulations.

This notice supersedes the notice published by Extraordinary Gazette No. 49/2017 dated Wednesday, 14 June 2017. This means that Azerbaijan and Pakistan will be Reportable Jurisdictions for reports due in 2018 onwards and that Kuwait has been removed as a Reportable Jurisdiction for reports due in 2018 onwards.

(FOR REPORTS DUE IN 2017 ONWARDS)

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

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

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

3 January 2018

Issued by:

Tax Information Authority
Department for International Tax Cooperation
Government Administration Building, Box 135 133
Elgin Avenue
Grand Cayman KY1- 9000
Cayman Islands www.ditc.gov.ky

CRS Guidance Notes v3.0

Appendix 4 - Template Entity and Individual Self-Certification Forms

[Also published on the DITC's website.]

Entity Self-Certification

Instructions for completion

We are obliged under the Tax information Authority Law, the Regulations, and Guidance Notes made pursuant to that Law, and treaties and intergovernmental agreements entered into by the Cayman Islands in relation to the automatic exchange of information for tax matters (collectively "AEOI"), to collect certain information about each account holder's tax status. Please complete the sections below as directed and provide any additional information that is requested. Please note that we may be obliged to share this information with relevant tax authorities. Terms referenced in this Form shall have the same meaning as applicable under the relevant Cayman Islands Regulations, Guidance Notes or international agreements.

If any of the information below regarding your tax residence or AEOI classification changes in the future, please ensure you advise us of these changes promptly. If you have any questions about how to complete this Form, please refer to accompanying guidelines for completion or contact your tax advisor.

PART I: General

Section 1: Account Holder Identification

Legal Name of Entity/Branch	Country of incorporation/organisation
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Current Residence or Registered Address:

Number & Street	City/Town
-----------------	-----------

State/Province/County	Post Code	Country
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Mailing address (if different from above):

Number & Street	City/Town
-----------------	-----------

State/Province/County	Post Code	Country
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PART II: US IGA

Section 2: U.S. Persons

Please tick and complete as appropriate.

- (a) The entity is a **Specified U.S. Person** and the entity's U.S. federal taxpayer identifying number (U.S. TIN) is as follows:

- (b) The entity is a U.S. Person that is not a Specified U.S. Person.

Indicate exemption¹

If the entity is not a U.S. person, please complete Section 3.

Section 3: US FATCA Classification for all Non United States Entities

Please complete this section if the entity is **not** a U.S. Person

- 3.1** If the entity is a **Registered Foreign Financial Institution**, please tick one of the below categories, and provide the entity's FATCA GIIN at 3.1.1.

- (a) Reporting Model 1 FFI
- (b) Registered Deemed Compliant Foreign Financial Institution (other than a reporting Model 1 FFI, sponsored FFI, or non-reporting IGA FFI)
- (c) Reporting Model 2 FFI
- (d) Participating Foreign Financial Institution

3.1.1 Please provide your *Global Intermediary Identification number (GIIN)*: _____

(if registration in progress indicate so)

- 3.2** If the entity is a **Financial Institution but unable to provide a GIIN or has a Sponsored Entity GIIN**, please complete one of the below categories:

- (a) The Entity is a Sponsored Financial Institution (sponsored by another entity that has registered as a Sponsoring Entity) and (select one):
- i. has no US reportable accounts, is a Sponsored FI in a Model 1 IGA jurisdiction and therefore not required to obtain a Sponsored Entity GIIN. Please provide the Sponsoring Entity's name and GIIN.

Sponsoring Entity's Name: _____

Sponsoring Entity's GIIN: _____

Cont..

¹ Under the US IGA and in the U.S. Internal Revenue Code, Specified US Person does not include: An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37); The United States or any of its agencies or instrumentalities; A state, the District of Columbia, a possession of the United States, or any of their political subdivisions, or instrumentalities; A corporation the stock of which is regularly traded on one or more established securities markets, as described in Reg. section 1.1472-1(c)(1)(i); A corporation that is a member of the same expanded affiliated group as a corporation described in Reg. section 1.1472-1(c)(1)(i); A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state; A real estate investment trust; A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940; A common trust fund as defined in section 584(a); A bank as defined in section 581; A broker; A trust exempt from tax under section 664 or described in section 4947; or A tax-exempt trust under a section 403(b) plan or section 457(g) plan.

- ii. its Sponsor has obtained a Sponsored Entity GIIN on its behalf.

Please provide the Sponsoring Entity's name and GIIN, and Sponsored Entity's GIIN.

Sponsoring Entity's Name:

Sponsoring Entity's GIIN:

Sponsored Entity's GIIN:

- (b) The Entity is a Trustee Documented Trust. Please provide the Trustee's name and GIIN.

Trustee's Name:

Trustee's GIIN:

- (c) The Entity is a Certified Deemed Compliant, or otherwise Non-Reporting, Foreign Financial Institution (including a Foreign Financial Institution deemed compliant under Annex II of an IGA, except for a Trustee Documented Trust or Sponsored Financial Institution).

Indicate exemption:

- (d) The Entity is a Non-Participating Foreign Financial Institution

3.3 If the entity is **not a Foreign Financial Institution**, please confirm the Entity's FATCA status below:

- (a) The Entity is an **Exempt Beneficial Owner**.²

Indicate status:

- (b) The Entity is an **Active Non-Financial Foreign Entity**.³ Indicate qualifying criteria (see Exhibit A):

- (c) The Entity is a **Direct Reporting NFFE**.⁴ Please provide the Entity's GIIN.

Direct Reporting NFFE's GIIN:

- (d) The Entity is a **Sponsored Direct Reporting NFFE**.⁵ Please provide the Sponsoring Entity's name and GIIN.

Sponsoring Entity's Name:

Sponsoring Entity's GIIN:

Sponsored Entity's GIIN:

- (e) The Entity is a **Passive Non-Financial Foreign Entity**.⁶

² "Exempt Beneficial Owner" means any of the entities listed as such in Annex II.I of the US IGA or Section 1.1471-6 or 1.1471-6T of the U.S. Treasury Regulations. See additional notes in Exhibit A

³ See definition of *Active Non-Financial Foreign Entity* in Exhibit A

⁴ See US Treasury FATCA Regulations, 26 CFR 1.1472-1(c)(3)

⁵ See US Treasury FATCA Regulations, 26 CFR 1.1472-1(c)(5)

⁶ See definition of *Passive Non-Financial Foreign Entity* in Exhibit A

If you have ticked 3.3(e) *Passive Non-Financial Foreign Entity*, please complete either i. OR ii. below

i. Indicate the full name, address, and tax reference type and number of any *Substantial U.S. Owners*.

If the Entity has chosen to use the definition of 'Substantial U.S. Owner' from the U.S. Treasury Regulations in lieu of the definition of 'Controlling Person' as permitted under Article 4(7) of the Agreement between the Government of the Cayman Islands and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA, please complete the table below providing details of any Substantial U.S. Owners.⁷

Note: The decision to utilize the definition of 'Substantial U.S. Owner' in lieu of Controlling Person is only permitted with respect to PART II: US IGA.

Full Name	Full residence address	Tax reference type and number

OR

ii. Alternatively, if you wish to use the Controlling Person definition as per the CRS definition in Exhibit B then please complete the following:

Please indicate the name of any *Controlling Person(s)*⁸:

Full Name of any Controlling Person(s)

Please complete Part IV below providing further details of any ultimate Controlling Persons who are natural persons

⁷ See definition of *Substantial U.S. Owner(s)* in Exhibit A.

⁸ See definition of *Controlling Person(s)* in Exhibit A.

PART III: Common Reporting Standard

Section 4: Declaration of All Tax Residency [repeat any residences indicated in Part II, Section 2 (US)]

Please indicate the Entity's place of tax residence (if resident in more than one jurisdiction please detail all jurisdictions and associated tax reference number type and number).

For the purposes of the Common Reporting Standard (CRS), all matters in connection with residence are determined in accordance with the CRS and its Commentaries.

If an entity has no residence for tax purposes please indicate the jurisdiction in which its place of effective management is situated. Please indicate not applicable if jurisdiction does not issue or you are unable to procure a tax reference number or functional equivalent, and indicate the reason below.

Jurisdiction(s) of tax residency	Tax reference number type	Tax reference number (e.g. TIN)

If applicable, please specify the reason for non-availability of a tax reference number:

Section 5: CRS Classification

Provide your CRS classification by checking the corresponding box(es). Note that CRS classification does not necessarily coincide with your classification for US FATCA purposes.

5.1 If the entity is a *Financial Institution*⁹, please tick this box and specify the type of Financial Institution in (a), (b), or (c) below¹⁰:

(a) Reporting Financial Institution under CRS. (Please note this classification only applies to a Financial Institution in a CRS Participating Jurisdiction. If the entity is a Financial Institution in a Non-Participating Jurisdiction¹¹ under CRS, proceed to 5.1 (c)).

OR

(b) Non-Reporting Financial Institution under CRS. (Please note this classification only applies to a Financial Institution in a CRS Participating Jurisdiction. If the entity is a Financial Institution in a Non-Participating Jurisdiction under CRS, proceed to 5.1 (c)). Specify the type of Non-Reporting Financial Institution below:

- Governmental Entity
- International Organization
- Central Bank
- Broad Participation Retirement Fund
- Narrow Participation Retirement Fund
- Pension Fund of a Governmental Entity, International Organization, or Central Bank
- Exempt Collective Investment Vehicle
- Trust whose trustee reports all required information with respect to all CRS Reportable Accounts
- Qualified Credit Card Issuer
- Other Entity defined under the domestic law as low risk of being used to evade tax.

Specify the type provided in the domestic law: _____

OR

⁹ See definition of *Financial Institution* in Exhibit B.

¹⁰ Where the entity is resident in a Participating Jurisdiction, use the terms as defined under the CRS regime in that Jurisdiction. Where the entity is resident in a Non-Participating Jurisdiction, definitions under the Cayman Islands CRS regime must be used.

¹¹ See definition of *Non-Participating Jurisdiction* in Exhibit B.

5.2 If the entity is an *Active Non-Financial Entity* ("NFE") please tick this box and specify the type of Active NFE below:

(a) Corporation that is regularly traded or a related entity of a regularly traded corporation.

Provide the name of the stock exchange where traded: _____

If you are a related entity of a regularly traded corporation, provide the name of the regularly traded corporation: _____

(b) Governmental Entity, International Organization, a Central Bank, or an Entity wholly owned by one or more of the foregoing; OR

(c) Other Active Non-Financial Entity.¹⁴ Indicate qualifying criteria (see Exhibit B): _____

5.3 If the entity is a *Passive Non-Financial Entity* please tick this box.¹⁵

If you have ticked this box please indicate the name of the *Controlling Person(s)*. Please refer to the definition of *Controlling Person* in Exhibit B.

Full Name of any Controlling Person(s)	(must not be left blank)

Please complete Part IV below providing further details of any ultimate *Controlling Person(s)* who are natural person(s).

Entity Declaration and Undertakings

I/We declare (as an authorised signatory of the Entity) that the information provided in this form is, to the best of my/our knowledge and belief, accurate and complete. I/We undertake to advise the recipient promptly and provide an updated Self-Certification form within 30 days where any change in circumstances occurs, which causes any of the information contained in this form to be inaccurate or incomplete. Where legally obliged to do so, I/we hereby consent to the recipient sharing this information with the relevant tax information authorities.

I/we acknowledge that it is an offence to make a self-certification that is false in a material particular.

Authorised Signature: _____

Authorised Signature: _____

Position/Title: _____

Position/Title: _____

Date (dd/mm/yyyy): / / _____

Date (dd/mm/yyyy): / / _____

¹⁴ See definition of *Active Non-Financial Entity* in Exhibit B.

¹⁵ Please see the definition of *Passive Non-Financial Entity* in Exhibit B.

PART IV: Controlling Persons

(please complete for each Controlling Person who is a natural person)

Section 6 – Identification of a Controlling Person

6.1 Name of Controlling Person:

Family Name or Surname(s):

First or Given Name:

Middle Name(s):

6.2 Current Residence Address:

Line 1 (e.g. House/Apt/Suite Name, Number, Street)

Line 2 (e.g. Town/City/Province/County/State)

Country:

Postal Code/ZIP Code:

6.3 Mailing Address: (please complete if different from 6.2)

Line 1 (e.g. House/Apt/Suite Name, Number, Street)

Line 2 (e.g. Town/City/Province/County/State)

Country:

Postal Code/ZIP Code:

6.4 Date of birth¹⁶ (dd/mm/yyyy)

____/____/____

6.5 Place of birth¹⁷

Town or City of Birth

Country of Birth

6.6 Please enter the legal name of the relevant entity Account Holder(s) of which you are a Controlling Person

Legal name of Entity 1

Legal name of Entity 2

Legal name of Entity 3

¹⁶ The Controlling Person's date of birth is not required to be collected if the Controlling Person is not a Reportable Jurisdiction Person

¹⁷ The Controlling Person's place of birth is not required to be collected if the Controlling Person is not a Reportable Jurisdiction Person

Section 7 – Jurisdiction of Residence for Tax Purposes and related Taxpayer Reference Number or functional equivalent (“TIN”)

Please complete the following table indicating:

- (i) where the Controlling Person is tax resident;
- (ii) the Controlling Person’s TIN for each jurisdiction indicated;¹⁸ and,
- (iii) if the Controlling Person is a tax resident in a jurisdiction that is a Reportable Jurisdiction(s) then please also complete **Section 10 “Type of Controlling Person”**.

If the Controlling Person is tax resident in more than three jurisdictions please use a separate sheet

	Jurisdiction(s) of tax residency	Tax reference number type	Tax reference number (e.g. TIN)
1			
2			
3			

If applicable, please specify the reason for non-availability of a tax reference number:

¹⁸ The Controlling Person’s TIN is not required to be collected if the Controlling Person is not a Reportable Jurisdiction Person.

Section 8 – Type of Controlling Person

(Please only complete this section if you are tax resident in one or more Reportable Jurisdictions)

Please provide the Controlling Person's Status by ticking the appropriate box.	Entity 1	Entity 2	Entity 3
a. Controlling Person of a legal person – <i>control by ownership</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Controlling Person of a legal person – <i>control by other means</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Controlling Person of a legal person – <i>senior managing official</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Controlling Person of a trust – <i>settlor</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Controlling Person of a trust – <i>trustee</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Controlling Person of a trust – <i>protector</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Controlling Person of a trust – <i>beneficiary</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Controlling Person of a trust – <i>other</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i. Controlling Person of a legal arrangement (non-trust) – <i>settlor-equivalent</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j. Controlling Person of a legal arrangement (non-trust) – <i>trustee-equivalent</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k. Controlling Person of a legal arrangement (non-trust) – <i>protector-equivalent</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l. Controlling Person of a legal arrangement (non-trust) – <i>beneficiary-equivalent</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m. Controlling Person of a legal arrangement (non-trust) – <i>other-equivalent</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Controlling Person Declaration and Undertakings

- I acknowledge that the information contained in this form and information regarding the Controlling Person(s) and any Reportable Account(s) may be reported to the tax authorities of the jurisdiction in which this account(s) is/are maintained and exchanged with tax authorities of another jurisdiction(s) in which [I/the Controlling Person] may be tax resident pursuant to international agreements to exchange financial account information.
- I certify that either (a) I am the Controlling Person, or am authorised to sign for the Controlling Person, of all the account(s) held by the entity Account Holder to which this form relates; or (b) I am authorised by the Account Holder to make this declaration.
- **I declare that all statements made in this declaration are, to the best of my knowledge and belief, correct and complete.**
- I acknowledge that it is an offence to make a self-certification that is false in a material particular.
- I undertake to advise the recipient within 30 days of any change in circumstances which affects the tax residency status of the individual identified in Part IV of this form or causes the information contained herein to become incorrect, and to provide the recipient with a suitably updated self-certification and Declaration within 30 days of such change in circumstances.

Signature: _____

Print name: _____

Date (dd/mm/yyyy): / /

Note: If you are not the Controlling Person, and not authorised to sign the Declaration on behalf of the Account Holder, please indicate the capacity in which you are signing the form on behalf of the Controlling Person. If signing under a power of attorney or other equivalent written authorisation, on behalf of the Controlling Person, please also attach a certified copy of the power of attorney or written authorisation.

Capacity: _____

EXHIBIT A
US IGA DEFINITIONS

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 this Agreement, and such other person is treated as holding the account. For purposes of the immediately preceding sentence, the term “Financial Institution” does not include a Financial Institution organized or incorporated in a U.S. Territory. 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.

Active Non-Financial Foreign Entity means any NFFE which is a Non U.S. entity that meets any of the following criteria:

- (a) Less than 50 percent of the NFFE’s gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50 percent of the assets held by the NFFE 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 NFFE is regularly traded on an established securities market or the NFFE is a Related Entity of an Entity the stock of which is traded on an established securities market;
- (c) The NFFE is organized in a U.S. Territory and all of the owners of the payee are bona fide residents of that U.S. Territory;
- (d) The NFFE is a non-U.S. government, a government of a U.S. Territory, an international organization, a non-U.S. central bank of issue, or an Entity wholly owned by one or more of the foregoing;
- (e) substantially all of the activities of the NFFE consist of holding (in whole or in part) the outstanding stock of, and 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 NFFE shall not qualify for this status if the NFFE 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;
- (f) The NFFE 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 NFFE shall not qualify for this exception after the date that is 24 months after the date of the initial organization of the NFFE;
- (g) The NFFE 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;
- (h) The NFFE 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
- (i) The NFFE is an “excepted NFFE” as described in relevant U.S. Treasury Regulations; or
- (j) The NFFE meets all of the following requirements:
 - i) It is established and maintained in its country 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 country 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 Entity’s country of residence or the Entity’s formation documents do not permit any income or assets of the Entity 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 Entity’s charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the Entity has purchased; and
 - v) The applicable laws of the Entity’s country of residence or the Entity’s formation documents require that, upon the

Entity'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 Entity's jurisdiction of residence or any political subdivision thereof.

Code means the U.S Internal Revenue Code of 1986, as amended.

Controlling Person means the natural persons who exercise direct or indirect control over an entity. In the case of a trust, such term means the settlor, the trustees, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person 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' shall be interpreted in a manner consistent with the Financial Action Task Force Recommendations ("FATF").

FATF Recommendations on Controlling Persons:

Identify the beneficial owners of the customer and take reasonable measures to verify the identity of such persons, through the following information. For legal persons¹⁹:

- (a) The identity of the natural persons (if any – as ownership interests can be so diversified that there are no natural persons (whether acting alone or together) exercising control of the legal person or arrangement through ownership) who ultimately have a controlling ownership interest²⁰ in a legal person; and
- (b) to the extent that there is doubt under (a) as to whether the person(s) with the controlling ownership interest are the beneficial owner(s) or where no natural person exerts control through ownership interests, the identity of the natural persons (if any) exercising control of the legal person or arrangement through other means.
- (c) Where no natural person is identified under (a) or (b) above, financial institutions should identify and take reasonable measures to verify the identity of the relevant natural person who holds the position of senior managing official.

Entity means a legal person or a legal arrangement such as a trust.

Exempt Beneficial Owners under the US IGA include Government entities, International Organisations, Central Bank, Broad Participation Retirement Funds, Narrow Participation Retirement Funds, Pension Funds of an Exempt Beneficial Owner, and Investment Entities wholly owned by Exempt Beneficial Owners. Please refer to the IGA for detailed definitions.

Financial Institution means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company, where:

- (a) *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 percent 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;
- (b) *Depository Institution* means any entity that accepts deposits in the ordinary course of a banking or similar business;
- (c) *Investment Entity* means any entity that conducts as a business (or is managed by an entity that conducts as a business) one or more of the following activities or operations for or on behalf of a customer: (1) 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; (2) individual and collective portfolio management; or (3) otherwise investing, administering, or managing funds or money on behalf of other persons. The term Investment entity 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; and
- (d) *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.

NFFE means any Non-U.S. Entity that is not a Financial Institution as defined in US FATCA.

Non-U.S. Entity means an Entity that is not a U.S. Person.

¹⁹ Measures (a) to (b) are not alternative options, but are cascading measures, with each to be used where the previous measure has been applied and has not identified a beneficial owner.

²⁰ A controlling ownership interest depends on the ownership structure of the company. It may be based on a threshold, e.g. any person owning more than a certain percentage of the company (e.g. 25%).

Passive Non-Financial Foreign Entity means any NFFE that is not an Active Non-Financial Foreign Entity.

Related Entity 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 percent of the vote or value in an entity. Notwithstanding the foregoing, either Party may treat an entity as not a related entity if the two entities are not members of the same affiliated group, as defined in Section 1471(e)(2) of the Code.

Specified U.S. Person means a U.S. Person other than:

- (a) a corporation the stock of which is regularly traded on established securities markets;
- (b) any corporation that is a member of the same expanded affiliated group;
- (c) the United States or any wholly owned agency or instrumentality thereof;
- (d) any State of the United States, any U.S. Territory, any political subdivision or wholly owned agency or instrumentality of any one or more of the foregoing;
- (e) any organization exempt from taxation under section 501 (a) of the Internal Revenue Code (the "Code") or certain individual retirement plans defined in section 7701(a)(37) of the Code ;
- (f) any bank as defined in section 581 of the Code;
- (g) any real estate investment trust as defined in section 856 of the Code;
- (h) any regulated investment company defined in section 851 of the Code or any entity registered with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940;
- (i) any common trust fund as defined in section 584(a) of the Code;
- (j) any trust that is exempt from tax under section 664(c) of the Code or that is described in 4947(a)(1) of the Code;
- (k) a dealer in securities, commodities, or derivative financial instruments that is registered as such under the laws of the United States or any State;
- (l) a broker as defined in section 6045(c) of the Code; or
- (m) any tax-exempt trust under a plan that is described in section 403(b) or section 457(g) of the Code

Substantial U.S. Owner (as defined in Regulations section 1.1473-1(b)) means generally:

- (a) With respect to any foreign corporation, any Specified U.S. Person that owns, directly or indirectly, more than 10 percent of the stock of such corporation (by vote or value);
- (b) With respect to any foreign partnership, any Specified U.S. Person that owns, directly or indirectly, more than 10 percent of the profits interests or capital interests in such partnership; and
- (c) In the case of a trust—
 - i. Any Specified U.S. Person treated as an owner of any portion of the trust under sections 671 through 679 of the IRC; and
 - ii. Any Specified U.S. Person that holds, directly or indirectly, more than 10 percent of the beneficial interests of the trust.

U.S. Person means a U.S. citizen or resident individual, a partnership or corporation organized in the United States or under the laws of the United States or any State thereof, a trust if (i) a court within the United States would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust, and (ii) one or more U.S. persons have the authority to control all substantial decisions of the trust, or an estate of a decedent that is a citizen or resident of the United States. Refer to the U.S. Internal Revenue Code for further interpretation.

EXHIBIT B
CRS DEFINITIONS

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.

Active Non-Financial Entity means any NFE that meets any of the following criteria:

- a) less than 50% of the NFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
- b) the stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
- c) the NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
- d) substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
- e) the NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE;
- f) the NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution;
- g) the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or
- h) the NFE meets all of the following requirements:
 - i) it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
 - ii) it is exempt from income tax in its jurisdiction of residence;
 - iii) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - iv) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and
 - v) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision thereof.

Controlling Person means the natural persons who exercise direct or indirect control over an entity.

In the case of a trust, such term means the settlor(s), the trustees(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' shall be interpreted in a manner consistent with the Financial Action Task Force Recommendations ("FATF").

FATF Recommendations on Controlling Persons:

Identify the beneficial owners of the customer and take reasonable measures to verify the identity of such persons, through the following information. For legal persons²¹:

- (a) The identity of the natural persons (if any – as ownership interests can be so diversified that there are no natural persons (whether acting alone or together) exercising control of the legal person or arrangement through ownership) who ultimately have a controlling ownership interest²² in a legal person; and
- (b) to the extent that there is doubt under (a) as to whether the person(s) with the controlling ownership interest are the beneficial owner(s) or where no natural person exerts control through ownership interests, the identity of the natural persons (if any) exercising control of the legal person or arrangement through other means.
- (c) Where no natural person is identified under (a) or (b) above, financial institutions should identify and take reasonable measures to verify the identity of the relevant natural person who holds the position of senior managing official.

Financial Institution means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company, where:

- (a) **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 percent 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;
- (b) **Depository Institution** means any entity that accepts deposits in the ordinary course of a banking or similar business;
- (c) **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 limb (A) of this definition.

An entity is treated as primarily conducting as a business one or more of the activities described in limb (A), or an entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of limb (B) if the entity's gross income attributable to the relevant activities equals or exceeds 50% of the entity's gross income during the shorter of: (i) the three-year period ending on 31 December of the year preceding the year in which the determination is made; or (ii) the period during which the entity has been in existence. The term "Investment Entity" does not include an entity that is an Active Non-Financial Foreign Entity because it meets any of the criteria in subparagraphs d) through (g) of the definition of Active NFE.

²¹ Measures (a) to (b) are not alternative options, but are cascading measures, with each to be used where the previous measure has been applied and has not identified a beneficial owner.

²² A controlling ownership interest depends on the ownership structure of the company. The threshold in respect of a legal person is direct or indirect ownership or control of 10% or more of the shares or voting rights in the legal person, being the threshold specified by the Anti-Money Laundering Regulations, 2017 which implement the FATF Recommendations in the Cayman Islands.

The preceding 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; and

- (d) **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.

Non-Financial Entity or **NFE** means any Entity that is not a Financial Institution.

Non-Participating Jurisdiction means a jurisdiction that is not a Participating Jurisdiction.

Non-Reporting Financial Institution means any Financial Institution that is:

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

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 (of the CRS), and (ii) which is identified in a published list.

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.

Passive Non-Financial Entity means any: (i) Non-Financial Entity that is not an Active Non-Financial Entity; or (ii) an Investment Entity described in limb B (or subparagraph A(6)(b) of the Standard) of the definition of Investment Entity that is not a Participating Jurisdiction Financial Institution.

Related Entity means an entity related to another entity because (i) either entity controls the other entity; (ii) the two entities are under common control; or (iii) the two entities are Investment Entities described limb B of the definition of Investment Entity, are under common management, and such management fulfils the due diligence obligations of such Investment Entities. For this purpose control includes direct or indirect ownership of more than 50 % of the vote and value in an Entity.

Individual Self-Certification

Instructions for completion

We are obliged under the Tax Information Authority Law, the Regulations, and Guidance Notes made pursuant to that Law, and treaties and intergovernmental agreements entered into by the Cayman Islands in relation to the automatic exchange of information for tax matters (collectively "AEOI"), to collect certain information about each account holder's tax status. Please complete the sections below as directed and provide any additional information that is requested. Please note that we may be obliged to share this information with relevant tax authorities. Terms referenced in this Form shall have the same meaning as applicable under the relevant Cayman Islands Regulations, Guidance Notes or international agreements.

If any of the information below regarding your tax residence or AEOI classification changes in the future, please ensure you advise us of these changes promptly. If you have any questions about how to complete this Form, please contact your tax advisor.

Please note that where there are joint account holders each investor is required to complete a separate Self-Certification form.

Section 1: Account Holder Identification

/ /

Account Holder Name	Date of Birth (dd/mm/yyyy)	Place and Country of Birth
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Permanent Residence Address:

Number & Street	City/Town	
State/Province/County	Post Code	Country

Mailing address (if different from above):

Number & Street	City/Town	
State/Province/County	Post Code	Country

Section 2: Declaration of U.S. Citizenship or U.S. Residence for Tax purposes

Please tick either (a) or (b) or (c) and complete as appropriate.

(a) I confirm that I am a U.S. citizen and/or resident in the U.S. for tax purposes (green card holder or resident under the substantial presence test) and my U.S. federal taxpayer identifying number (U.S. TIN) is as follows:

(b) I confirm that I was born in the U.S. (or a U.S. territory) but am no longer a U.S. citizen as I have voluntarily surrendered my citizenship as evidenced by the attached documents.

(c) I confirm that I am not a U.S. citizen or resident in the U.S. for tax purposes.

Complete section 3 if you have non-U.S. tax residences.

Section 3: Declaration of Tax Residency (other than U.S.)

I hereby confirm that I am, for tax purposes, resident in the following countries (indicate the tax reference number type and number applicable in each country).

Country/countries of tax residency	Tax reference number type	Tax reference number

Please indicate not applicable if jurisdiction does not issue or you are unable to procure a tax reference number or functional equivalent. If applicable, please specify the reason for non-availability of a tax reference number:

Section 4: Declaration and Undertakings

I declare that the information provided in this form is, to the best of my knowledge and belief, accurate and complete. I undertake to advise the recipient promptly and provide an updated Self-Certification form within 30 days where any change in circumstances occurs which causes any of the information contained in this form to be inaccurate or incomplete. Where legally obliged to do so, I hereby consent to the recipient sharing this information with the relevant tax information authorities.

I acknowledge that it is an offence to make a self-certification that is false in a material particular.

Signature: _____

Date (dd/mm/yyyy): / /
