



BERMUDA

**The Common Reporting Standard for Automatic
Exchange of Financial Account Information in Tax
Matters
GUIDANCE**

Date of Issue: 11 April 2017

Table of Contents

Table of Contents.....	i
Overview.....	1
General.....	1
Core Documents.....	1
Domestic Law.....	2
Purpose of this Guidance.....	2
The Bermuda Authority.....	3
Notification and Reporting to the Authority.....	3
Key Dates under the CRS.....	4
Participating Jurisdictions List.....	5
Reportable Jurisdictions List.....	5
Exchange Partners.....	5
Confidentiality.....	5
Guidance on Technical Issues.....	6
Wider Approach.....	7
Nil returns.....	8
Third party service providers.....	8
Due Diligence Modifications.....	9
Residence Address Test for Lower Value Accounts.....	9
Threshold Exemption.....	9
Group Cash Value Insurance Contracts or Group Annuity Contracts.....	10
Currency Translation.....	10
Expanded Definitions.....	11
Controlling Persons of a Trust.....	11
Investment Managers and Advisers.....	12
CRS Self-certification Forms.....	12
Non-Participating Jurisdiction Investment Entities.....	12
Determination of CRS Status of Entities.....	13
Non-Reporting Financial Institutions.....	13
Excluded Accounts.....	14
Additional Miscellaneous Guidance.....	14

Reportable Information – TINs..... 14

Reportable Information – Place of Birth 14

CRS Policies and Procedures..... 14

Account Closure Due to Change of Circumstance 14

Managed Investment Entities..... 15

Investment Funds 16

Trusts 16

Issues Impacting Charities..... 17

Financial Institutions in Liquidation 18

Appendix 1 - Sample Entity and Individual Self-Certification Forms

Overview

General

Globalisation of the financial sector now makes it much easier for individuals and entities to hold money and assets outside of their jurisdiction of tax residence. While the great majority comply with their tax obligations there are some who will use financial structures to evade tax.

Automatic exchange of financial account information is about improving transparency in the fight against tax evasion and protecting the integrity of tax systems. Bermuda is party to a number of international agreements and is committed to tax transparency and compliance.

The Common Reporting Standard (**CRS**) is the result of the drive by the G20 nations to develop a global standard for the automatic exchange of financial account information. Developed by the Organisation for Economic Co-operation and Development (**OECD**), the CRS aims to maximise efficiency and reduce costs for Financial Institutions by drawing heavily on the approach taken to implementing the United States' Foreign Account Tax Compliance Act (**FATCA**) regime.

In October 2014, 45 jurisdictions, including Bermuda, signed a [Multilateral Competent Authority Agreement \(MCAA\)](#) to start exchanging information using the CRS framework from 2017. Since then more jurisdictions have either signed the MCAA, or made a commitment to automatic exchange, resulting in over 100 jurisdictions which have indicated that they will exchange information on financial accounts. Further details can be found at this OECD link:

- [List of countries who have agreed to share information pursuant to the CRS.](#)

Core Documents

The following are the core OECD elements of CRS that are relevant for Bermuda Financial Institutions:

- The [Common Reporting Standard](#) that contains the due diligence and reporting rules for Financial Institutions; and
- The Commentary on the CRS, which is an integral part of the CRS intended to illustrate and assist with interpretation of its provisions which can be found in the [OECD's 'Purple Book' \(CRS Commentary\)](#).
- Annex 5 of the Purple Book regarding the due diligence procedures under the "**Wider Approach**"

The OECD has developed a comprehensive [Automatic Exchange Portal \(OECD AEOI Portal\)](#) that is the principal source for CRS materials and resources. In particular, Bermuda Financial Institutions should

consult the following additional resources which have been issued by the OECD to assist with the application of the CRS:

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

The legal basis for Bermuda to exchange information with other jurisdictions under the CRS is contained in the MCAA to which Bermuda is a party. The MCAA contains the rules on the modalities of the exchange between the Bermuda Competent Authority (Minister of Finance) and partner jurisdictions' Competent Authorities. It also contains representations on confidentiality, safeguards and the existence of the necessary infrastructure for an effective exchange relationship.

Domestic Law

The relevant legislation that requires Bermuda Financial Institutions to collect, maintain and report information for exchange with partner jurisdictions is as follows (**Bermuda CRS Legislation**):

- International Cooperation (Tax Information Exchange Agreements) Act 2005; and
- International Cooperation (Tax Information Exchange Agreements) Common Reporting Standard Regulations 2017 (**CRS Regulations**).

The Bermuda CRS Legislation brings into effect obligations that Bermuda Financial Institutions have to report details of Financial Accounts to the Authority (as defined below) for exchange with other jurisdictions.

A number of terms used in this Guidance are defined in the Bermuda CRS Legislation, and whilst this Guidance provides further information to assist with the interpretation of some of these terms, the reader is referred to the Bermuda CRS Legislation for full definitions of all relevant terms.

Purpose of this Guidance

This Guidance on CRS can neither extend nor restrict the scope of CRS as implemented by the Bermuda CRS Legislation.

As the CRS is a global standard, the OECD has developed extensive and comprehensive materials for the consistent application and interpretation of the CRS by all jurisdictions. This Guidance is therefore limited mainly to providing guidance on aspects of the CRS that are particular to Bermuda. This Guidance is not intended to replicate the information in the aforementioned OECD documents which form the core of the Standard and its interpretation. Financial Institutions should use the 'Commentaries on the Model Competent Authority Agreement and Common Reporting Standard', developed by the OECD, as a source of illustration or interpretation and with the aim of promoting consistency in application amongst Financial

Institutions.

This Guidance is intended to aid businesses that may have responsibilities to review, collect and report information under the Bermuda CRS Legislation. It is also intended as a reference source for Bermuda Financial Institutions, legal and tax professionals for use alongside the Commentaries to the CRS.

A Bermuda Financial Institution must apply the Bermuda CRS Legislation in force at the time, with reference to any OECD explanatory materials for the CRS and this Guidance as applicable.

Bermuda Financial Institutions are encouraged to seek professional advice if they are uncertain in any way of their obligations under the CRS framework.

The Bermuda Authority

For the purposes of the MCAA, the Bermuda Competent Authority is the Minister of Finance (**Minister**). The delegated functions of the Minister are carried out by the Ministry of Finance which is the government department responsible for the operation of all mechanisms for the exchange of information for tax purposes. The Minister and the Ministry of Finance are referred to in this Guidance as the '**Authority**'.

The Authority is responsible for ensuring that Bermuda Financial Institutions comply with their obligations under the Bermuda CRS Legislation.

Bermuda Financial Institutions will report the information required under the CRS to the Authority which will in turn 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.

Notification and Reporting to the Authority

Notifications and reporting for the CRS will be conducted through the Bermuda Automatic Exchange of Information Electronic Portal (**Electronic Portal**), details of which will be notified by the Authority in accordance with the CRS Regulations.

Notification

The first notification due date for the CRS in Bermuda is 14 July, 2017.

Under regulation 5 of the CRS Regulations, after 2017, notifications for the CRS are due to the Authority by 30 April of the year following each reportable year.

Notification is a one-off process and does not need to be repeated annually. Changes to notification details must, however, be advised to the Authority via the Electronic Portal.

Reporting

The first reporting due date for the CRS in Bermuda is 30 August, 2017.

Under regulation 6 of the CRS Regulations, after 2017, reporting for the CRS is due to the Minister by 31 May of the year following each reporting period. Reporting occurs annually in accordance with the CRS Regulations.

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

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

A user guide will also be issued to assist Bermuda Reporting Financial Institutions with the process of CRS notification and reporting via the Electronic Portal.

Key Dates under the CRS

The following are key dates for the implementation of the CRS in Bermuda:

Preexisting Accounts	Are those maintained by a Bermuda Reporting Financial Institution as of 31 December, 2015
New Accounts	Are those opened on or after 1 January, 2016
Review of Preexisting High Value Individual Accounts as at 31 December 2015	Must be completed by 31 December, 2016
First CRS reporting period	Ended on 31 December, 2016 (i.e. 2016 calendar year)
Notifications to the Authority	By 14 July, 2017 for the 2016 calendar year and for each year thereafter by 30 April, as applicable
Reporting/filing of returns with the Authority	By 30 August, 2017 for the 2016 calendar year and for each year thereafter by 31 May
First exchanges of information by the Authority with partner jurisdictions	Will occur on or before 30 September, 2017
Review of Preexisting Lower Value Individual	Must be completed by 31 December, 2017

Accounts as at 31 December, 2015	
Review of Preexisting Entity Accounts with an aggregate account balance or value that exceeds USD250,000 as at 31 December, 2015	Must be completed by 31 December, 2017

Participating Jurisdictions List

'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 outlined in the Handbook at paragraph 31, Bermuda specifies all committed jurisdictions as Participating Jurisdictions.

A Non-Participating Jurisdiction is any jurisdiction that has not committed to adopt the CRS. A list of Participating Jurisdictions can be found at the page '[CRS by jurisdiction](#)' posted by the OECD which shows the current state of implementation of all committed jurisdictions in a single table. A Non-Participating Jurisdiction would be any jurisdiction not appearing in this table.

'Participating Jurisdictions' are not necessarily 'Reportable Jurisdictions'. Reportable Jurisdictions are those that have both enacted the CRS in domestic legislation and Bermuda has agreed to exchange information with (see further information on 'Reportable Jurisdictions' below).

Reportable Jurisdictions List

In accordance with the CRS Regulations, the Authority will publish by notice in the Gazette every year a list of Reportable Jurisdictions as at 31 December of the previous year for the purposes of the CRS.

The Authority will not be sending any CRS information to non-reciprocal jurisdictions and will not include such non-reciprocal jurisdictions in the list of Reportable Jurisdictions published annually.

Exchange Partners

Following the completion of formalities by jurisdictions which are party to the MCAA, or a bilateral CAA, and upon the satisfaction of confidentiality and legal requirements stipulated in the CRS and the relevant Competent Authority Agreements, a list of Bermuda's exchange partners is [published by the OECD](#).

Confidentiality

Bermuda will exchange information under the CRS with partner jurisdictions which have 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 for all CRS jurisdictions are filed with the OECD Co-ordinating Body Secretariat.

Guidance on Technical Issues

The CRS provides optional approaches for jurisdictions to adopt according to the circumstances of such jurisdictions. Please refer to pages 12–17 of the CRS Handbook for further details on these CRS implementation options.

The table below outlines the options and areas where Bermuda has specified further information (**Options**) and indicates where they have been incorporated into Bermuda's CRS legislative framework (as applicable).

Some of these Options are further elaborated upon in the Guidance below, noting that Bermuda Reporting Financial Institutions should, in the first instance, refer to the OECD core documents for interpretation and implementation assistance.

Options under the CRS	Legislative Reference
1. Wider Approach	Regulation 4(2) of the CRS Regulations
2. Use of reporting period other than calendar year	Regulation 4(1) of the CRS Regulations
3. Phasing in the requirements to report gross proceeds	Not applicable
4. Filing of nil returns	Regulation 6(2) of the CRS Regulations
5. Allowing third party service providers to fulfil obligations for FIs	Regulation 7 of the CRS Regulations
6. Allowing due diligence procedures for New Accounts to be used for Pre-existing Accounts	Regulation 4(5) of the CRS Regulations
7. Allowing the due diligence procedures for High-Value Accounts to be used for Low-Value Accounts	Regulation 4(5) of the CRS Regulations

8.	Residence address test for Lower Value Accounts	Regulation 4(6) of the CRS Regulations
9.	Threshold of \$250,000 for Pre- existing Entity Accounts	Regulation 4(8) of the CRS Regulations
10.	Simplified due diligence rules for Group Cash Value Insurance Contracts and Group Annuity Contracts	Regulation 4(9) of the CRS Regulations
11.	Allowing greater use of existing standardised industry coding systems for the due diligence process	Regulation 4(11) of the CRS Regulations For the avoidance of doubt, the permission given by Regulation 4(11) is restricted to Pre-existing Entity Accounts only.
12.	Currency translation rule	Regulation 4(17) of the CRS Regulations
13.	Expanding definition of Pre-existing Account for new accounts	Regulation 4(14) of the CRS Regulations - now refers to Regulation 4(14) in its amended form as amended by the International Cooperation (Tax Information Exchange Agreements) Common Reporting Standard Amendment.
14.	Controlling Persons of a trust	Regulation 4(19) of the CRS Regulations
15.	Active NFE status and treatment of passive income	Regulation 4(20) of the CRS Regulations
16.	Review of Preexisting Accounts completion dates	Regulation 4(18) and 4(18A) of the CRS Regulations - (now refers to Regulation 4(18) and 4(18A) in its amended form as amended by the International Cooperation (Tax Information Exchange Agreements) Common Reporting Standard Amendment Regulations 2017, by inserting the text of Regulation 4 (18A).

Wider Approach

Important information on the Wider Approach and the relevant requisite modifications to the CRS can be found in Annex 5 of the Purple Book.

Under regulation 4(2) of the CRS Regulations, Bermuda Reporting Financial Institutions must apply the

OECD's provisions for the Wider Approach with the relevant changes to the CRS to be applied as follows:

- any language suggesting that the procedures are designed to identify accounts that are Reportable Accounts at the moment the due diligence procedures are performed is deleted or amended; and
- under the indicia search procedure the Reporting Financial Institution is required to search for indicia indicating that the Account Holder is resident in a Foreign Jurisdiction and to treat the Account as held by an Account Holder that is resident of each Foreign Jurisdiction for which an indicium is found (unless the Financial Institution follows the 'curing procedure'). A Foreign Jurisdiction, for this purpose is defined as any Jurisdiction other than the Jurisdiction of the Reporting Financial Institution.

The Wider Approach enables Reporting Financial Institutions to capture and maintain information on the tax residence of Account Holders irrespective of whether or not that Account Holder is a Reportable Person for any given reportable period. The due diligence procedures in the CRS are designed to identify accounts which are held by the residents of the jurisdictions with which Bermuda is committed to exchange information. However, the number of these jurisdictions is not fixed and there is an expectation that under the CRS more jurisdictions will reach agreement with Bermuda over time. As a result, the CRS Regulations have been designed to adopt a Wider Approach to recording the territory in which a person is tax resident irrespective of whether that territory is a Reportable Jurisdiction at the time that the due diligence procedures are performed.

Bermuda Financial Institutions should maintain information and records relating to their due diligence processes. This effectively enables the Financial Institution to 'future proof' their processes such that when a new jurisdiction is added to the list of Reportable Jurisdictions the work in identifying where existing customers are resident has already been carried out. Reducing the number of times that due diligence processes have to be carried out should result in lower costs for the Financial Institutions in complying with their obligations.

Nil returns

Under regulation 6(2) of the CRS Regulations, the filing of nil returns by Financial Institutions is non-mandatory however institutions may choose to submit nil returns via the Bermuda Electronic Portal at their own option. Bermuda Reporting Financial Institutions with no Reportable Accounts are still required to complete the notification requirement via the Bermuda Electronic Portal.

Third party service providers

Regulation 7 of the CRS Regulations allows Bermuda Financial Institutions to rely on third party service providers to fulfill due diligence and reporting obligations under the CRS Regulations. However, Bermuda Financial Institutions remain ultimately responsible for fulfilling these obligations and any failures on the

part of a service provider are imputed to the Bermuda Financial Institution.

Due Diligence Modifications

Under the CRS Regulations, Bermuda 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 the CRS Regulations.

Residence Address Test for Lower Value Accounts

Section III paragraph B of the CRS contains the procedures that apply with respect to Lower Value Accounts. Such procedures are the residence address test and the electronic record search.

Pursuant to the CRS Regulations, Bermuda allows Reporting Financial Institutions to apply (i) either the residence address test or the electronic record search set forth in Section III paragraph B subparagraphs (2) through (6), or (ii) only the electronic record search. Further, Bermuda allows Reporting Financial Institutions to make an election to apply the residence address test either with respect to all Lower Value Accounts or, separately, with respect to any clearly identified group of such accounts (such as by line of business or the location where the account is maintained).

Where a Bermuda Reporting Financial Institution elects to apply the residence address test, such Reporting Financial Institution must apply the test with respect to each Lower Value Account or clearly identified group of such accounts (as permitted by the CRS Regulations). If the Reporting Financial Institution decides not to apply the test or one or more of the requirements of the test are not satisfied, then it must perform the electronic record search with respect to the Lower Value Account.

Threshold Exemption

Under regulation 4(8) of the CRS Regulations Financial Institutions may apply a threshold exemption for the review, identification and reporting of Pre-existing Entity Accounts. This threshold is provided to reduce the compliance burden for Financial Institutions recognising that the due diligence procedures for accounts held by Entities are more complex than those for accounts held by individuals.

For Bermuda Financial Institutions applying the threshold exemption, accounts with a balance or value not exceeding USD250,000 as at 31 December 2015 do not need to be reviewed, identified or reported until the account balance exceeds USD250,000 as at 31 December of a subsequent calendar year. Bermuda 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.

Group Cash Value Insurance Contracts or Group Annuity Contracts

Under the CRS Regulations, a Bermuda Financial Institution may treat an account that is a Group Cash Value Insurance Contract or a Group Annuity Contract (as defined in regulation 4(9) of the CRS Regulations) 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 USD1,000,000.

Regulation 4(9) of the CRS Regulations provides the following definitions in respect of the above:

- 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.

Currency Translation

All amounts in the CRS are stated in US dollars. The CRS Regulations require Bermuda 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, under the CRS a Lower Value Account is a Preexisting Individual Account with an aggregate account balance or value of less than USD1,000,000 (as at 31 December 2015) , 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 Reporting Financial Institution is determining that threshold amount.

Please refer to regulation 4(17) of the CRS Regulations and Section VII paragraph C of the CRS for further details on the account balance aggregation and currency rules.

Expanded Definitions

The CRS Regulations have incorporated the expanded definitions that are available under the CRS including expanded definitions for:

- *Preexisting Account* (please refer to regulation 4(14) of the CRS Regulations for the full definition); and
- *Related Entity* (please refer to regulation 4(15) of the CRS Regulations for the full definition).

Definition of a Participating Jurisdiction Financial Institution

The term Participating Jurisdiction Financial Institution has the meaning as defined in CRS VIII, A.2.

Controlling Persons of a Trust

In accordance with the CRS Commentary on Section VIII paragraph 134, Bermuda Reporting Financial Institutions are permitted to align the scope of the beneficiary(ies) of a trust treated as Controlling Person(s) of the trust with the scope of the beneficiary(ies) of a trust treated as Reportable Persons of a trust that is a Financial Institution (see the CRS Commentary on Section VIII, paragraphs 69-70). Therefore, Bermuda Financial Institutions would only need to report discretionary beneficiaries for the reporting period in which they receive a distribution from the trust.

For a Bermuda Financial Institution to apply this option, the Financial Institution must ensure that they have appropriate procedures in place to identify whether a distribution is made by the trust to a discretionary beneficiary in the reporting period.

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

A Controlling Person is defined in the CRS to mean the natural persons who exercise control over an Entity. In the case of a trust, such term means –

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

Investment Managers and Advisers

Financial Institutions that are not maintaining any financial accounts have no reporting responsibilities. Investment Entities which provide investment advisory or management services that meet the “solely because” test in the definition of Financial Account in Section VIII paragraph C(1) of the CRS will be regarded as not having any financial accounts, and therefore will not have any reporting obligations.

CRS Self-certification Forms

Self-certifications should be obtained and validated as part of a Financial Institution’s account opening procedures. Where it is not possible to obtain and validate 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. The 90 day period is to allow the Account Holder sufficient time to respond to the request for information.

The Business and Industry Advisory Committee to the OECD (**BIAC**) has drafted sample self-certification forms and requested the OECD to make these forms [available on the OECD AEOI Portal](#) to assist with the implementation of the CRS. The OECD has not approved the forms and neither the OECD nor BIAC regard them as mandatory or as best practice documents. They serve only to illustrate how Financial Institutions may consider requesting customer information from their accountholders.

Bermuda Financial Institutions may also use the sample forms attached at Appendix 1 as a basis for self-certification and adapt or modify the forms as necessary to suit their own usage subject to consultation with their CRS advisers.

Non-Participating Jurisdiction Investment Entities

‘Managed Investment Entities that are resident or located in any Non-Participating Jurisdiction must be treated as Passive NFEs and therefore report on the Controlling Persons that are Reportable Persons of such entities must be reported.

Managed Investment Entities are those that meet the definition of an Investment Entity as per the Section VIII subparagraph A(6)(b) of the CRS.

Determination of CRS Status of Entities

The CRS Commentary provides that an Entity's status as a Financial Institution or Non-Financial Institution Entity (**NFE**) should be resolved under the laws of the Participating Jurisdiction in which the Entity is resident.

For example, the question may arise whether a particular Entity that is resident in a Participating Jurisdiction and has a Financial Account in another Participating Jurisdiction, meets the definition of "Financial Institution". The Entity may meet the "substantial portion" test to be a Custodial Institution in one Participating Jurisdiction, but different measurement techniques for gross income may mean that the Entity does not meet such test in another Participating Jurisdiction. In such a case, the classification of the Entity ought to be resolved under the law of the Participating Jurisdiction in which the Entity is resident.

Non-Reporting Financial Institutions

The definitions regarding Non-Reporting Financial Institutions are contained in Section VIII paragraph B of the CRS. The following Guidance relates to two types of Non-Reporting Financial Institutions under the CRS Regulations.

Retirement and Pension Funds

Pension funds that meet the definitions of Broad Participation Retirement Fund or Narrow Participation Retirement Fund under Section VIII paragraph B of the CRS will be Non-Reporting Financial Institutions under the CRS.

Pursuant to the CRS Regulations, any pension fund, prescribed retirement product or pension plan established in Bermuda under:

- the National Pension Scheme (Occupational Pensions) Act 1998;
- the Public Service Superannuation Act 1981;
- Ministers and Members of the Legislature (Salaries and Pensions) Act 1975; or
- the Contributory Pensions Act 1970,

is considered a Non-Reporting Financial Institution for the purposes of the CRS.

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 Authority prior to the

first reporting period.

Excluded Accounts

The CRS Regulations provide that the definition of “Excluded Account” includes any dormant depository account with a balance that does not exceed USD1,000 as such accounts are low-risk for the purposes of the CRS.

Additional Miscellaneous Guidance

Reportable Information – TINs

Bermuda does not issue taxpayer identification numbers (TINs) or functional equivalent identifiers for tax purposes.

Reportable Information – Place of Birth

The requirement to report place of birth is subject to the condition at Section I paragraph E of the CRS. This makes place of birth a reportable item only where the Reporting Financial Institution is otherwise required to obtain and report it under Bermuda domestic law. As Bermuda’s domestic law does not currently require the reporting of a person’s place of birth, Bermuda Reporting Financial Institutions are not required to report place of birth for the purposes of the CRS.

CRS Policies and Procedures

The International Cooperation (Tax Information Exchange Agreements) Act 2005 provides that a Reporting Financial Institution shall establish policies and maintain procedures designed to identify Reportable Accounts and such other information in relation to such accounts as prescribed in the Regulations. These policies and procedures should be written policies and procedures.

Account Closure Due to Change of Circumstance

An entity may change its status in a number of ways during a relevant reporting period, for example:

- a change of activity in the year results in a Financial Institution becoming an NFE;
- a change of tax residence results in a Bermuda Entity becoming subject to CRS outside of the Bermuda, and ceasing to be subject to CRS in Bermuda;
- an Entity is continued to a new Participating Jurisdiction (same effect as change of tax residence); or
- an Entity is continued to a new Non-Participating Jurisdiction.

In each case, reporting for CRS will no longer be applicable in Bermuda but the Entity and its accounts continue to exist and remain the same. Therefore, in each of these cases (and any other relevant scenarios), the cessation of reporting would be classified as an “account closure” for CRS purposes for each relevant account.

The general position is that accounts closed - even preexisting accounts during remediation period- should be reported if any indicia has been found or they have been classified as reportable based on the available information.

Managed Investment Entities

An Entity will be an Investment Entity if it is managed by a Financial Institution and meets the financial assets test as described below.

An Entity is managed by a Financial Institution if that Financial Institution is managed by a Depository Institution, Custodial Institution, Specified Insurance Company or an Investment Entity that meets the criteria of Section VIII paragraph A(6)(a) of the CRS. An Entity is not regarded as managed by a Financial Institution if that Financial Institution does not have discretionary authority to manage the Entity’s assets either in whole or in part.

An Entity that is indirectly managed by a Related Entity which is a Financial Institution will meet the ‘managed by’ test.

Maintaining a bank account with a depository institution would not satisfy the ‘managed by’ test as the ‘managed by’ test is related to whether there is discretionary management or similar services. Please see the core OECD CRS documents for further information.

Note that it is commonly understood that the activities or operations described in Section VIII, subparagraph (A)(6)(a) of the CRS do not include rendering non-binding investment advice to a customer that does not involve any form of portfolio management or investing, administering or managing of financial assets or money on behalf of other persons.

An Entity may be managed by a mix of other Entities and individuals. If one of the Entities involved in the management of the Entity is a Financial Institution within the meaning of the CRS then the Entity meets the requirements for being managed by a Financial Institution.

An Entity meets the Financial Assets test if its gross income is primarily attributable to investing, reinvesting or trading in Financial Assets such that at least 50% of its gross income is attributable to investing, reinvesting or trading in financial assets during the shorter of:

- the three year period ending on 31 December in the year preceding that in which its status as in investment entity is determined; or
- the period during which the entity has been in existence.

The term Financial Asset is defined very broadly in the CRS and, as stated in the CRS Commentary, is used in the definition of the terms 'Custodial Institution', 'Investment Entity', 'Custodial Account' and 'Excluded Account'. While it does not refer to assets of every kind, the term intends to encompass any assets that may be held in an account maintained by a Financial Institution with the exception of a non-debt, direct interest in real property. While the CRS Commentary does not explicitly list cash as an example, the Authority's perspective is that cash would be included because it is not explicitly excluded.

Investment Funds

Depending on how the fund is structured, various entities may fall within the definition of Investment Entity. The fund itself will need to determine which entity carries out the obligations to identify, verify and report on account holders that are reportable under the CRS, by reference to its own governance structure and contractual arrangements.

Trusts

Trusts are treated as Entities by the CRS.

A trust can be classified as either a Financial Institution or a NFE. Where a trust meets the criteria under the definition of a Financial Institution it is most likely to be an Investment Entity but it may, alternatively, meet the requirements for being a Custodial Institution. For example, shares held in trust may be in a Custodial Account and therefore subject to reporting by the trust as the Custodial Institution that holds the account.

A trust is unlikely to be regarded as an activity based Investment Entity (CRS Section VIII subparagraph A(6)(a)) because trusts generally do not carry on businesses for or on behalf of customers. Trusts are more likely to be managed Investment Entities (CRS Section VIII subparagraph A(6)(b)) but must meet both the tests to fall within this category of Financial Institution, that is, (i) its gross income must be primarily derived from investing, reinvesting or trading in financial assets and (ii) it must be managed by a Financial Institution.

Underlying companies can be covered by the 'Trustee-Documented Trust' category referred to in the CRS Commentary thereby making the trustee responsible for reporting for all of the Entities in the trust structure.

The 'managed by' Test in Relation to Trusts

For the purposes of the 'managed by' test, a distinction should be made between one entity 'managing' another and one entity 'administering' another. For instance the following services provided by an entity to another will not constitute the latter entity being 'managed by' the former:

- provision of co-secretary and/or company secretarial services;
- provision of registered office;
- preparation of final financial statements (from company books and records);
- preparation of tax returns; or
- provision of bookkeeping services.

Calculation of Gross Amount

In the case of a trust classified as a Financial Institution under CRS with a Bermuda resident trustee:

- the gross amount can be calculated as the gross value of the property in the trust. This amount may be reported as balance. Any distributions will be reported as gross payments.
- the value of distributions paid to a discretionary beneficiary in the reporting period should be treated as gross payments and the gross amount paid to the discretionary beneficiary should be reported as the account value.

Account Balance

Noting that the CRS Handbook describes the account balance of a settlor as the "total value of all trust property", it also allows the use of the value that is used for reporting to the Account Holder on the investment results for a given period for settlors and mandatory beneficiaries. If the value has not been recalculated, then the CRS Handbook provides that the account balance for settlors and mandatory beneficiaries may be the value of the interest upon acquisition or the total value of all trust property.

TCSPs as Trustees

A Trust Company and Service Provider (**TCSP**) acting as a trustee of a trust classified as a Financial Institution should not be treated as an Equity Interest Holder as TCSPs do not have any economic entitlement over the assets of the underlying trust. In relation to a trust which is classified as a Passive NFE, only trustees who are natural persons should be treated as Controlling Persons and therefore TCSPs acting as trustees would not be reportable in this regard.

Issues Impacting Charities

Redaction of Information on Human Rights Grounds

The information reported under the CRS has the potential to impact on the recipients of grants from charities where the charity meets the definition of a Financial Institution. When applicable, the CRS requires the transmission of the grant recipients' data to the jurisdiction of their tax residence.

In some cases, the activities or background of the individual may mean that supplying this data to the other jurisdiction will place them at risk. The types of risks individuals may face are numerous, and this Guidance cannot cover all of the potential areas. If a charity is concerned about the human rights implications associated with any information it is required to report under the CRS it should contact the Authority to discuss those concerns.

While the CRS agreements include safeguards to protect the data exchanged from being used in a way that is not compatible with the legal agreements it is exchanged under, the Authority recognises that there may be cases where the threat to individuals as a result of their information being exchanged may warrant information being redacted from that transmitted.

The Authority will continue to monitor the policies and practices of other jurisdictions with which it shares customer information, and will not share data where it may be contra to Bermuda public policy. Charities and other organisations working in other jurisdictions are well placed to identify new threats as a result of changes in other jurisdictions and should be proactive in raising concerns with the Authority.

Financial Institutions in Liquidation

A Financial Institution which is in the process of liquidating or has ceased to meet the definition of a Financial Institution because it has ceased certain activities should file a final CRS report to the extent the entity had reportable accounts in the year of liquidation or cessation of activities. The Electronic Portal will be able to accept such returns in the current year the Financial Institution is liquidating or has ceased CRS relevant activities and such a Financial Institution does not need to wait for the following year to make its final filing.

In this context if an entity (corporation, partnership, or trust) that ceases to carry on Financial Institution activities (including an Investment Entity Financial Institution by virtue of being managed by a Financial Institution which terminates the "management" agreement), or that enters into liquidation (or similar) proceeding, should file a final CRS report to the extent that it had Reportable Accounts in that year.

Appendix 1

Sample Entity and Individual Self-Certification Forms

The following pages contain examples of self-certification forms to collect data from Account Holders in relation to the CRS.

Entity Self-Certification

Instructions for completion

*[We/Entity Name] [are/is] obliged under the International Cooperation (Tax Information Exchange Agreements) Act 2005, the International Cooperation (Tax Information Exchange Agreements) Common Reporting Standard Regulations 2017, and treaties and intergovernmental agreements entered into by Bermuda in relation to the Common Reporting Standard, to collect certain information about each Account Holder's tax residency status and certain other information. 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 Self-Certification Form (**Self-Certification**) shall have the same meaning as in the CRS. Please see the Appendix for certain CRS definitions.*

If any of the information below about your tax residence, CRS classification or other information changes in the future, please ensure you advise us of these changes promptly (and within 14 days of such change). If you have any questions about how to complete this Self-Certification, please contact your tax advisor. Please note that an Account Holder's status for CRS purposes may be different from its status under other exchange of information regimes (such as the FATCA or UK CDOT regimes). Please note that where there are joint Account Holders each Account Holder is required to complete a separate Self-Certification.

SECTION 1: Account Holder Identification

(a) Legal Name of Entity _____

(b) Country of Incorporation or Organization _____

(c) Date of Incorporation or Organization _____

(d) Current Registered 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 _____

(e) Mailing Address (if different from above)

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

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

Country _____

Postal Code/ZIP Code _____

SECTION 2: Entity Type

(Please provide the Account Holder's status for CRS purposes by ticking one of the following boxes.)

1. (a) Financial Institution — Investment Entity

- i. An Investment Entity located in a Non-Participating Jurisdiction and managed by another Financial Institution

(Note: if ticking this box you must also complete **item 2** below)

- ii. Other Investment Entity

(b) Financial Institution — Depository Institution, Custodial Institution or Specified Insurance Company

If you have ticked either **(a)** or **(b)** above, please provide, if obtained, the Account Holder's Global Intermediary Identification Number ("**GIIN**") obtained for purposes of the U.S. Foreign Account Tax Compliance Act (FATCA).

							.						.			.			
--	--	--	--	--	--	--	---	--	--	--	--	--	---	--	--	---	--	--	--

(c) Non-Reporting Financial Institution:

If you have ticked **(c)** above, please provide the category of Non-Reporting Financial Institution for CRS purposes:

(d) Active NFE — an NFE the stock of which is regularly traded on an established securities market or an NFE which is a Related Entity of an Entity the stock of which is regularly traded on an established securities market

If you have ticked **(d)** above, please provide the name of the relevant established securities market on which the NFE is regularly traded: _____

If you are a Related Entity of a regularly traded Entity, please also provide the name of the regularly traded Entity that the NFE in **(d)** is a Related Entity of: _____

(e) Active NFE — other than in (d) above

If you have ticked **(e)** above, please provide the relevant category of Active NFE for CRS purposes:

(f) Passive NFE (Note: if ticking this box you must also complete item 2 below)

2. Controlling Person(s) of the Account Holder (for any Account Holder that is a Passive NFE or Investment Entity treated as such for CRS purposes):

If you have ticked either item **1(a)(i)** or **1(f)** above, then please, provide the following information for each

Controlling Person.

Full Name	Current residence address	Date and place of birth	Country/ countries of tax residence	Details of controlling interest	Taxpayer Identification Number (TIN) or equivalent

Note 1: Details of a controlling interest may include any of the following: control by ownership, by other means, or as a senior managing official (in case of a legal person), as a settlor, trustee, protector, beneficiary or other (in case of a trust), or as a settlor-equivalent, trustee-equivalent, protector-equivalent, beneficiary-equivalent or other-equivalent (in case of a non-trust).

Note 2: Each natural person that is a Controlling Person must also complete a Controlling Person Self-Certification before this Entity Self-Certification will be considered complete.

SECTION 3: Country or Countries of Tax Residence and TINs of Account Holder

(a) Please indicate the Account Holder’s place of tax residence (if resident in more than one country please detail all countries and associated TINs).

If the Account Holder is not a tax resident in any jurisdiction (e.g., because it is fiscally transparent), the Account Holder must clearly indicate that below and provide its place of effective management or country in which its principal office is located.

If a TIN is unavailable please provide the appropriate reason **A**, **B** or **C** where indicated below:

- Reason A - The country where the Account Holder is liable to pay tax does not issue TINs to its residents
- Reason B - The Account Holder is otherwise unable to obtain a TIN (Please explain why you are unable to obtain a TIN in the below table if you have selected this reason)

- Reason C - No TIN is required. (Note. Only select this reason if the authorities of the country of tax residence entered below do not require the TIN to be disclosed)

Country or countries of tax residence	Taxpayer Identification Number (TIN) or equivalent	If no TIN available: Reason A, B or C

(b) If the Account Holder selected Reason B above, please explain in the following boxes why you are unable to obtain a TIN:

1	
2	
3	

SECTION 4: Declaration and Undertakings

I/We declare (as an authorised signatory/authorised signatories of the Entity) that the information provided in this Self-Certification is, to the best of my/our knowledge and belief, accurate and complete. I/We acknowledge that the information contained in this form and information regarding the Account Holder and any Reportable Account(s) may be reported to the tax authorities of the country/jurisdiction in which this account(s) is/are maintained and exchanged with tax authorities of another country/jurisdiction or countries/jurisdictions in which the Account Holder may be tax resident pursuant to intergovernmental agreements to exchange financial account information. I/We undertake to advise [you/Entity Name] within 14 days and provide an updated Self-Certification to [you/Entity Name] within 30 days where any change in circumstances occurs, which causes any of the information contained in this Self-Certification to be inaccurate or incomplete. I/We certify that I am/we are authorised to sign for the Account Holder in respect of all the account(s) to which this form relates.

Authorised Signature:

Authorised Signature:

Name: _____

Name: _____

Position/Title: _____

Position/Title: _____

Date: _____

Date: _____

Controlling Person Self-Certification

Instructions for completion

*[We/Entity Name] [are/is] obliged under the International Cooperation (Tax Information Exchange Agreements) Act 2005, the International Cooperation (Tax Information Exchange Agreements) Common Reporting Standard Regulations 2017, and treaties and intergovernmental agreements entered into by Bermuda in relation to the Common Reporting Standard, to collect certain information about each Account Holder's tax residency status and certain other information. 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 Self-Certification Form (**Self-Certification**) shall have the same meaning as in the CRS. Please see the Appendix for certain CRS definitions.*

If any of the information below changes in the future, please ensure you advise us of these changes promptly (and within 14 days of such change). If you have any questions about how to complete this Self-Certification, please contact your tax advisor.

SECTION 1: Controlling Person Identification

(a) Legal Name of 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: _____

(b) Name of Controlling Person

Family Name or Surname(s): _____

Title: _____

First or Given Name: _____

Middle Name(s): _____

(c) Current Residence Address of Controlling Person

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

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

Country _____

Postal Code/ZIP Code _____

(d) Mailing Address (if different from above)

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

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

Country _____

Postal Code/ZIP Code _____

(e) Date [and Place of Birth]¹ of Controlling Person

Date of birth (dd/mm/yyyy) _____

[Town or City of birth _____]

[Country of birth _____]

SECTION 2: Country or Countries of Tax Residence and TINs of Controlling Person

(a) Please indicate the Controlling Person’s place of tax residence (if resident in more than one country please detail all countries and associated TINs). If a TIN is unavailable please provide the appropriate reason **A, B** or **C** where indicated below:

- **Reason A** - The country where the Controlling Person is liable to pay tax does not issue TINs to its residents
- **Reason B** - The Controlling Person is otherwise unable to obtain a TIN (Please explain why you are unable to obtain a TIN in the below table if you have selected this reason)
- **Reason C** - No TIN is required. (Note. Only select this reason if the authorities of the country of tax residence entered below do not require the TIN to be disclosed)

Country or countries of tax residence	Taxpayer Identification Number (TIN) or equivalent	If no TIN available: Reason A, B or C

(b) If the Controlling Person selected Reason B above, please explain in the following boxes why you are unable to obtain a TIN:

1.	
2.	
3.	

¹ To be deleted as applicable

SECTION 3: Type of Controlling Person

Please provide the Controlling Person's status by ticking the appropriate box(es) as applicable.

Type of controlling interest	Entity 1	Entity 2	Entity 3
a. Controlling Person of a legal person – control by ownership			
b. Controlling Person of a legal person – control by other means			
c. Controlling Person of a legal person – senior managing official			
d. Controlling Person of a trust - settlor			
e. Controlling Person of a trust - trustee			
f. Controlling Person of a trust - protector			
g. Controlling Person of a trust - beneficiary			
h. Controlling Person of a trust – other			
i. Controlling Person of a legal arrangement (non-trust) – settlor-equivalent			
j. Controlling Person of a legal arrangement (non-trust) – trustee-equivalent			
k. Controlling Person of a legal arrangement (non-trust) – protector-equivalent			
l. Controlling Person of a legal arrangement (non-trust) – beneficiary-equivalent			
m. Controlling Person of a legal arrangement (non-trust) – other-equivalent			

SECTION 4: Declaration and Undertakings

I declare that the information provided in this Self-Certification is, to the best of my knowledge and belief, accurate and complete. I acknowledge that the information contained in this form and information regarding the Controlling Person and any Reportable Account(s) may be reported to the tax authorities of the country/jurisdiction in which this account(s) is/are maintained and exchanged with tax authorities of another country/jurisdiction or countries/jurisdictions in which the Controlling Person may be tax resident pursuant to intergovernmental agreements to exchange financial account information. I undertake to advise [you/Entity Name] within 14 days and provide an updated Self-Certification to [you/Entity Name] within 30 days where any change in circumstances occurs, which causes any of the information contained in this Self-Certification to be inaccurate or incomplete. I certify that I am the Controlling Person (or I am authorised to sign for the Controlling Person) of all the account(s) held by the Entity Account Holder(s) as detailed in the Entity Self-Certification to which this Self-Certification relates.

Signature: _____

Name: _____

Date: _____

Note: If you are not the Controlling Person please indicate the capacity in which you are signing the form. [If signing under a power of attorney please also attach a certified copy of the power of attorney.]

Capacity: _____

Individual Self-Certification

Instructions for completion

*[We/Entity Name] [are/is] obliged under the International Cooperation (Tax Information Exchange Agreements) Act 2005, the International Cooperation (Tax Information Exchange Agreements) Common Reporting Standard Regulations 2017, and treaties and intergovernmental agreements entered into by Bermuda in relation to the Common Reporting Standard, to collect certain information about each Account Holder's tax residency status and certain other information. 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 Self-Certification Form (**Self-Certification**) shall have the same meaning as in the CRS. Please see the Appendix for certain CRS definitions.*

If any of the information below about your tax residence or other information changes in the future, please ensure you advise us of these changes promptly (and within 14 days of such change). If you have any questions about how to complete this Self-Certification, please contact your tax advisor. Please note that an Account Holder's status for CRS purposes may be different from its status under other exchange of information regimes (such as the FATCA or UK CDOT regimes). Please note that where there are joint Account Holders each Account Holder is required to complete a separate Self-Certification.

SECTION 1: Account Holder Identification

(a) Name of Account Holder

Family Name or Surname(s): _____

Title: _____

First or Given Name: _____

Middle Name(s): _____

(b) Current Residence Address of Account Holder

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

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

Country _____

Postal Code/ZIP Code _____

(c) Mailing Address (if different from above)

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

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

Country _____

Postal Code/ZIP Code _____

(d) Date [and Place of Birth]² of Account Holder

Date of birth (dd/mm/yyyy) _____

[Town or City of birth _____]

[Country of birth _____]

SECTION 2: Country or Countries of Tax Residence and TINs of Account Holder

(a) Please indicate the Account Holder’s place of tax residence (if resident in more than one country please detail all countries and associated TINs). If a TIN is unavailable please provide the appropriate reason **A**, **B** or **C** where indicated below:

- Reason A - The country where the Account Holder is liable to pay tax does not issue TINs to its residents
- Reason B - The Account Holder is otherwise unable to obtain a TIN (Please explain why you are unable to obtain a TIN in the below table if you have selected this reason)
- Reason C - No TIN is required. (Note. Only select this reason if the authorities of the country of tax residence entered below do not require the TIN to be disclosed)

Country or countries of tax residence	Taxpayer Identification Number (TIN) or equivalent	If no TIN available: Reason A, B or C

(b) If the Account Holder selected Reason B above, please explain in the following boxes why you are unable to obtain a TIN:

1.	
2.	
3.	

SECTION 3: Declaration and Undertakings

I declare that the information provided in this Self-Certification is, to the best of my knowledge and belief, accurate and complete. I acknowledge that the information contained in this form and information regarding the Account Holder and any Reportable Account(s) may be reported to the tax authorities of the country/jurisdiction in which this account(s) is/are maintained and exchanged with tax authorities of another

² To be deleted as applicable

country/jurisdiction or countries/jurisdictions in which the Account Holder may be tax resident pursuant to intergovernmental agreements to exchange financial account information. I undertake to advise [you/Entity Name] within 14 days and provide an updated Self-Certification to [you/Entity Name] within 30 days where any change in circumstances occurs, which causes any of the information contained in this Self-Certification to be inaccurate or incomplete. I certify that I am the Account Holder (or I am authorised to sign for the Account Holder) of all the account(s) to which this Self-Certification relates.

Signature: _____

Name: _____

Date: _____

Note: If you are not the Account Holder please indicate the capacity in which you are signing the form. [If signing under a power of attorney please also attach a certified copy of the power of attorney.]

Capacity: _____

APPENDIX - Certain Common Reporting Standard (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 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 government of the NFE's jurisdiction of residence or any political subdivision thereof.

“Controlling Person(s)” 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.

“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.

“Depository Institution” means any Entity that accepts deposits in the ordinary course of a banking or similar business.

“Entity” means a legal person or a legal arrangement, such as a corporation, partnership, trust or foundation.

“Financial Account” means any account maintained by a Financial Institution and includes a Depository Account, a Custodial Account, equity and debt interests in certain Investment Entities, and certain Cash Value Insurance Contracts and Annuity Contracts, as set out in the Common Reporting Standard.

“Financial Institution” means a “Custodial Institution”, a “Depository Institution”, an “Investment Entity”, or a “Specified Insurance Company”.

“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 that is described in a) above.

An Entity is treated as primarily conducting as a business one or more of the activities described in a) above, or an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of b) above, 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 of d) through g) of the "Active NFE" definition. The "Investment Entity" definition 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.

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

"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 a) and b) above, 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 CRS;
- 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 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 set out in 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 of 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 NFE" means any: (i) NFE that is not an Active NFE; and (ii) Investment Entity described in subparagraph b) of the "Investment Entity" definition that is not a Participating Jurisdiction Financial Institution.

An Entity is a **"Related Entity"** of another Entity if either Entity controls the other Entity, or the two Entities are under common control. For this purpose control includes direct or indirect ownership of more than 50% of the vote and value in an Entity..

"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 of the Common Reporting Standard.

“Reportable Jurisdiction” means a jurisdiction *(i)* with which an agreement is in place pursuant to which there is an obligation in place to provide information under Section I of the Common Reporting Standard, and *(ii)* which is identified in a published list.

“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.

“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.

“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.

“TIN” means Taxpayer Identification Number (or functional equivalent in the absence of a Taxpayer Identification Number).