ANGUILLA

Common Reporting Standard

Guidance

Guidance issued under section 13 of The International Tax Compliance (CRS) Regulations, 2016

First Issued: July 2017

Last Updated: February, 2020

Version: 2.3

Contents

Overview

General

The Common Reporting Standard (CRS) is a global standard developed by the Organisation for Economic Co-operation and Development (OECD). For the CRS and the Model Competent Authority Agreements, the OECD has developed extensive commentaries that are intended to illustrate or interpret its provisions and to ensure consistency in application across jurisdictions. The Organisation for Economic Cooperation and Development (OECD), in close cooperation with the G20 and other stakeholders, has developed The Common Reporting Standard (CRS). Under the CRS, committed jurisdictions obtain information from their financial institutions and automatically exchange that information with other jurisdictions on an annual basis.

The CRS sets out the financial account information to be exchanged, the financial institutions required to report, the different types of accounts, account holders and controlling persons covered, as well as common due diligence procedures to be followed by financial institutions. The CRS draws on the arrangements in the inter-government agreement known as Foreign Account Tax Compliance Act (FATCA), to maximise efficiency and minimise costs.

The Standard consists of the following elements:

i. The Common Reporting Standard (the CRS) that contains due diligence and reporting rules for financial institutions;
ii. The Model Competent Authority Agreement (the CAA) which serves as the legal framework for exchange;
iii. The Commentaries that illustrate and interpret the CAA and the CRS; and
iv. A CRS XML Schema and User Guide that allows the reporting of information under the CRS in an IT-based and standardised manner.

All CRS legislation and relevant resources are available on the Competent Authority's website

OECD Core Documents & Resources

- The Common Reporting Standard
- Commentaries
- The CRS Implementation Handbook

- CRS Related FAQs
- CRS XML Schema

Purpose and Interpretation of Guidance

This Guidance has been published on the Competent Authority's website along with other relevant materials. These guidance notes are to be treated as supplementary to the Standard and not intended to supersede the OECD materials which form the core of the Standard and its interpretation. These guidance notes provide guidance on the features of the CRS that are specific to Anguilla. Financial Institutions should seek independent legal or other professional advice if unclear as to their obligations under the law.

Domestic Law and Operations

Domestic Law

The CRS is implemented in Anguilla through the Tax Information Exchange (International Cooperation) Act 2016, which serves as the overarching legislation for all forms of exchange of information for tax purposes. Provisions for the CRS are made by way of regulations, namely The International Tax Compliance (CRS) Regulations, 2016, (hereinafter referred to as the CRS Regulations). The CRS Regulations came into force on the 17th July 2016. These regulations incorporate the wider approach and options under the CRS.

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

Competent Authority

For the purposes of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, the Anguilla Competent Authority is the Permanent Secretary of Finance, whose functions are delegated. For the purposes of the CRS, the Comptroller of Inland Revenue has been designated under the CRS Regulations as the Competent Authority. Both hereinafter referred to as the 'Competent Authority'.

Registration Obligations - Updated

Registration on the AEOI Portal

The CRS Regulations are to be amended shortly to require, commencing in 2021, every Anguilla Financial Institution, other than specified exempted institutions, to register on the AEOI Portal. Further details to follow in this regard.

Registration is not required to be repeated annually, however, any changes to registration details must be advised to the Competent Authority.

De- registration on the AEOI Portal

Financial Institutions that wish to deactivate registration on the AEOI Portal should send a letter of notification[1] requesting deactivation to Anguilla.EOI@gov.ai. Please include in the notification the circumstances that the Financial Institution no longer has filing obligations in Anguilla and/or who will be taking over responsibilities for filing obligations. The email should include supporting evidence, such as any relevant Certificate(s) of Dissolution and/or Transfer by Continuation.

The Competent Authority will review the request and consider whether the Reporting Financial Institution has or had outstanding obligations under the CRS Regulations and may require further information regarding the status of any such obligations that appear to be outstanding.

An Anguilla Financial Institution will be required to submit CRS Returns and a CRS Filing Declaration in relation to any part of a reporting period up to the date of migration unless it is migrating to another Participating Jurisdiction which will require the Financial Institution to make CRS Returns for that reporting period.

Reporting

Financial institutions will be required to report information required under CRS to the Competent Authority via the Anguilla AEOI Portal, which can be accessed at https://anguillaaeoi.gov.ai/ (a portal user guide can be accessed therein). The Competent Authority will then exchange information with jurisdictions that have

[1] This letter should come from the PPOC or a Director / General Partner of the Financial Institution

satisfied the requisite confidentiality and data safeguards standards, and have the appropriate legal instruments and legislative frameworks in place.

The reporting schema to be used is the published CRS XML Schema that is available on the OECD Automatic Exchange Portal.

Reporting Financial Institutions

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

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

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

Non- Reporting Financial Institutions

A non- reporting financial institution means a Financial Institution as defined in subparagraphs B(1)(a), (b), (d) and (e) of Section VIII of the Standard. The rules regarding Non-Reporting Financial Institutions are in Schedule 3 (Section VIII paragraph B) of the CRS Regulations. Retirement and Pension Funds that meet the definitions of Broad Participation Retirement Fund or Narrow Participation Retirement Fund under Schedule 3, Section VIII paragraph B will be Non-Reporting Financial Institutions under the CRS.

Relevant Dates and Reporting Timelines

Under the Section 4 of the CRS Regulations financial institutions are required to file an annual information return, submitted electronically to the Competent Authority by the 31st May of the year following each reporting period. This reporting must be done annually.

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

- Pre-existing Accounts to be subjected to due diligence procedures are those in existence as at 30 June 2016
- New Accounts requiring self-certification by the customer are those opened on or after 1 July 2016

- The review of Pre-existing High Value Individual Accounts as at 30 June 2016 must be completed by 31 December 2016
- The first CRS reporting period ends on 31 December 2016
- Financial Institutions must complete their notifications to individual reported person by 31 January, 2017 for the 2016 reporting calendar year for CRS.
- Financial Institutions must complete their reporting to the Competent Authority by 31st August 2017 for the 2016 reporting calendar year for CRS
- First exchanges of information by the Competent Authority to partner jurisdictions will occur on or before 30 September 2017
- The review of Pre-existing Lower Value Individual Accounts at 30 June 2016 must be completed by 31 December 2017
- The review of Pre-existing Entity Accounts at 30 June 2016 must be completed by 31 December 2017.

Reportable Jurisdictions

As Anguilla applies the wider approach, Financial Institutions must collect information on account holders from all foreign jurisdictions, other than the United States of America. This approach avoids financial institutions needing to perform additional due diligence each time a new jurisdiction joins the Multilateral Competent Authorities Agreement (MCAA). The reporting to the Competent Authority under Section 4 (1) of the CRS Regulations will only be for jurisdictions on the Participating Jurisdictions List.

Participating Jurisdictions

A participating jurisdiction is defined as a jurisdiction listed in Schedule 2 of the CRS Regulations. This list will be amended from time in the event of changes to jurisdictions committed to implementation of the CRS. With the exception of those Participating Jurisdictions that are nonreciprocal, that is not receiving CRS information, Anguilla will exchange information with all Participating Jurisdictions that have committed to the exchange and satisfied of conditions in the relevant Competent Authority Agreement (CAA).

Following the completion of formalities by jurisdictions which are party to the MCAA or a party that has a bilateral CAA with Anguilla, and upon completion of the confidentiality and legal requirement stipulations in the

CRS and the relevant CAAs, the Competent Authority will issue a list of Participating jurisdictions as per Schedule 2 of the CRS Regulations. This list will be published on the Competent Authority's website.

Excluded Accounts

The CRS Regulations define excluded accounts as-

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

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

Dormant accounts (other than annuity contract) with a balance that does not exceed US$1,000 are Low-risk Excluded Accounts for the purposes of the CRS. Please refer to Schedule 1 of the CRS Regulations for further information in relation to excluded accounts.

Nil Returns- Updated

The CRS Regulations are to be amended shortly to mandate the filing of nil returns in 2020 in respect of 2019 reporting period. It is therefore recommended that, in advance, Reporting Financial Institutions report any nil returns in respect of those accounts as the requirements will shortly come into force.

The AEOI portal currently facilitates the efficient filing of nil returns.

Taxpayer Identification Numbers (TINs)

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.

For entities it is recommended that GIINs be used where one has been issued. Alternatively, a TIN (Taxpayer identification Number), a company registration number, an EIN (Global Entity Identification Number) or any other similar identifying number specified by the tax administration of the jurisdiction receiving the information may be used.

For individuals, please consult the OECD listing for published details on TIN format for participating jurisdictions. (See TIN Formats)

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 3 to the CRS Regulations and in paragraphs 25 through 34 of the commentary on the CRS.

Due Diligence Obligations

Every Reporting Financial Institution has the due diligence as obligations detailed in the CRS, and as described in Section 2 to 4 and in Schedule 3 of the CRS Regulations. Every Reporting Financial Institution shall establish, maintain and document procedures that are designed to identify reportable accounts maintained by the institution.

Every Reporting Financial Institution must keep records that the institution obtains or creates for the purpose of complying with the CRS Regulations, including self-certifications and records of documentary evidence for a period of at least six years from the end of the last calendar year to which the record relates (or in the case of a self-certification, the last day on which a related financial account is opened).

Documented policies and procedures should be appropriate for the type of institution and should record any appointment of third party service providers for the performance of obligations. The Reporting Financial Institution remains responsible for performance of obligations, notwithstanding the appointment of a third party.

Where a Reporting Financial Institution has not delegated performance of its CRS obligations to third parties its documented procedures should describe the performance of those CRS obligations in a manner that is corresponds to the type of entity and nature of its business.

Where a Reporting Financial Institution has appointed a third party service provider to perform its CRS obligations it should maintain documented procedures which describe what functions have been retained by the institution, what functions have been delegated to a third party, and how the performance of the delegated functions is overseen. This delegation may occur for example by an investment entity appointing a fund administrator to perform its obligations.

Reliance on AML/KYC procedures for identifying Controlling Persons

The Standard provides that for accounts with a balance or value below USD 1 million (after applying the aggregation rules), the Financial Institution may rely on information collected and maintained for regulatory or customer relationship purposes, including AML/KYC[2] procedures to determine whether a Controlling Person is a Reportable Person (Section V, D, (2), c)). If a Financial Institution does not have and is not required to have any such information on file that indicates the Controlling Person may be a Reportable Person, it cannot document the residence of the Controlling Persons and does not need to report that person as a Controlling Person

Residence/Citizenship by investment schemes

While residence and citizenship by investment (CBI/RBI) schemes allow individuals to obtain citizenship or residence rights through local investments or against a flat fee for perfectly legitimate reasons, they can also be potentially misused to hide their assets offshore by escaping reporting under the OECD/G20 Common Reporting Standard (CRS). In particular, Identity Cards and other documentation obtained through CBI/RBI schemes can potentially be misused abuse to misrepresent an individual's jurisdiction(s) of tax residence and to endanger the proper operation of the CRS due diligence procedures.

Potentially high-risk CBI/RBI schemes are those that give access to a low personal income tax rate on offshore financial assets and do not require an individual to spend a significant amount of time in the location offering the scheme.

The OECD has analysed over 100 CBI/RBI schemes, offered by CRS-committed jurisdictions and have identified schemes that potentially pose a high-risk to the integrity of CRS. Financial Institutions are required to take the outcome of the OECD's analysis of high-risk CBI/RBI schemes into account when performing their CRS due diligence obligations. Further detail is provided on the OECD Webpage - *Frequently Asked Questions*

Under Section VII of the CRS, a Financial Institution may not rely on a self-certification or Documentary Evidence if the Financial Institution knows or has reason to know, that the self-certification or Documentary Evidence is incorrect or unreliable. The same applies with respect to Pre-existing High-Value Accounts where a relationship manager has actual knowledge that the self-certification or Documentary Evidence is incorrect or unreliable.

In making the determination whether a Financial Institution has reason to know that a self-certification or Documentary Evidence is incorrect or unreliable, it should take into account all relevant information available to the Financial Institution, including the results of the OECD's CBI/RBI risk analysis. As a result, where, taking into

[2] Proceeds of Crime Act and associated Anti-Money Laundering Regulations and Anti-Money Laundering Code

account all relevant information, the facts and circumstances would lead the Financial Institution to have doubts as to the tax residency(ies) of an Account Holder or Controlling Person, it should take appropriate measures to ascertain the tax residency(ies) of such persons.

To the extent that the doubt is related to the fact that the Account Holder or Controlling Person is claiming residence in a jurisdiction offering a potentially high-risk CBI/RBI scheme, FIs may consider raising further questions, including:

- Did you obtain residence rights under an CBI/RBI scheme?
- Do you hold residence rights in any other jurisdiction(s)?
- Have you spent more than 90 days in any other jurisdiction(s) during the previous year?
- In which jurisdiction(s) have you filed personal income tax returns during the previous year?

The responses to the above questions should assist Financial Institutions in ascertaining whether the provided self-certification or Documentary Evidence is incorrect or unreliable.

Sample Self Certificate Forms

The Business and Industry Advisory Committee to the OECD (BIAC) has drafted self-certification forms. These can be accessed via the below links 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. These forms serve as a basis for self-certification may be adapted or modified as necessary to suit the needs of the relevant Financial Institutions.

Controlling Person tax residency self-certification form

Entity tax residency self-certification form

Individual tax residency self-certification form

Self- Certification – "Day Two" Procedures

Self-certifications should be obtained and validated as part of a Financial Institution's account opening procedures for New Individual and Entity Accounts. The Standard provides that a Reporting Financial Institution must obtain a self-certification upon account opening (Sections IV(A) and V(D)(2)). Where a self-certification is obtained at account opening but validation of the self-certification cannot be completed because it is a 'day two' process undertaken by a back-office function, the self-certification should be validated within a period of 90 days. There are a limited number of instances, where due to the specificities of a business sector it is not possible to obtain a self-certification on 'day one' of the account opening process, in such circumstances, the self-certification should be both obtained and validated as quickly as feasible, and in any case within a period of 90 days. Failure to obtain a self-certification within 90 days will result in the account being reported as undocumented. Financial Institutions with a disproportionate number of undocumented accounts may be subject to compliance reviews by the Competent Authority. A Reporting Financial Institution which fails to take appropriate measures to obtain a valid self-certification from an account holder, or a person opening a new account, in accordance with the due diligence procedures described in Sections II to VI of the Standard commits an offence and is liable on summary conviction to a fine.

Obligations of a Financial Institution to establish tax residency

A Financial Institution is not required to provide customers with tax advice or to perform a legal analysis to determine the reasonableness of self-certification. Instead, as provided in the Standard, for New Accounts the Financial Institution may rely on a self-certification made by the customer unless it knows or has reason to know that the self- certification is incorrect or unreliable, (the "reasonableness" test), which will be based on the information obtained in connection with the opening of the account, including any documentation obtained pursuant to AML/KYC procedures. The Standard provides examples of the application of the reasonableness tests (Section IV, A, and the associated Commentary). The Standard also states that Participating Jurisdictions are expected to help taxpayers determine, and provide them with information with respect to, their residence(s) for tax purposes (Paragraph 6 of the Commentary to Section IV and Paragraph 9 of the Commentary on Section VI). The OECD is facilitating this process through a centralised dissemination of the information (on the Automatic Exchange Portal). Financial Institutions could also direct customers towards this information.

Other Agreements and Regimes

US FATCA was implemented in the Anguilla in accordance with the Anguilla /USA intergovernmental agreement (IGA) signed in January 2017, and the Foreign Account Tax Compliance Tax Compliance Act (United States of America) Regulations, 2017 published in February 2017. 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 IGAs. The FATCA legislative framework in Anguilla will therefore operate parallel to the CRS regime.

CRS Optional Approaches

The CRS provides for the adoption a number of 'optional approaches', which permit jurisdictions to incorporate into their domestic legislations these options where appropriate, without compromising the effectiveness of the Standard. These options are described in pages 12 to 17 of the CRS Implementation Handbook. An overview of these sixteen(16) options is provided below and reference is made to where they have been incorporated in the domestic law.

Alternative approach to calculating account balances – N/A

A jurisdiction that already requires Financial Institutions to report the average balance or value of the account may provide for the reporting of average balance or value during the calendar year or other appropriate reporting period instead of the reporting of the account balance or value as of the end of the calendar year or other reporting period. This option is likely only desirable to a jurisdiction that has provided for the reporting of average balance or value in its FATCA IGA.

Use of reporting period other than calendar year – N/A

A jurisdiction that already requires Financial Institutions to report information based on a designated reporting period other than the calendar year may provide for the reporting based on such reporting period. This option is likely only desirable to a jurisdiction that includes (or will include) a reporting period other than a calendar year in its FATCA implementing legislation.

Phasing in the requirements to report gross proceeds – N/A

A jurisdiction may provide for the reporting of gross proceeds to begin in a later year (as was the case in FATCA). If this option is provided a Reporting Financial Institution would report all the information required with respect to a Reportable Account. This will allow Reporting Financial Institutions additional time to implement systems and procedures to capture gross proceeds for the sale or redemption of Financial Assets. This option is contained in the FATCA IGAs, with reporting required beginning in 2016 and thus Financial Institutions may not need additional time for reporting of gross proceeds for the CRS. The Multilateral Competent Authority Agreement does not provide this option.

Filing of Nil Returns - Updated

To be required.

A jurisdiction may require the filing of a nil return by a Reporting Financial Institution to indicate that it did not maintain any Reportable Accounts during the calendar year or other reporting period.

Section 4, subsection 3 of the CRS Regulations was amended to delete the provision mandating the filing of nil returns. See section on Nil returns above. This provision will be reinserted.

Third Party Service Providers to fulfil reporting obligations for FIs –

Section 3, subsection 1, paragraph (a) of the CRS Regulations

A jurisdiction may allow Reporting Financial Institutions to use service providers to fulfil the Reporting Financial Institution's reporting and due diligence obligations. (Without this, difficulties could occur due to the interactions between various counterparties.) The Reporting Financial Institution remains responsible for fulfilling these requirements and the accounts of the service provider are imputed to the Reporting Financial Institution. This option is available for FATCA. **This option is offered.**

NOTE: Under Section 8 of the CRS Regulations, Financial Institutions may rely on a third party agent or service provider to fulfil due diligence and reporting obligations. However, the Financial Institution remains ultimately responsible for fulfilling these obligations and any failures on the part of the service provider are imputed to the Financial Institution.

Allowing due diligence procedures for New Accounts to be used for Preexisting Accounts –

See Section 3, subsections 2-4 of the CRS Regulations.

A jurisdiction may allow a Financial Institution to apply the due diligence procedures for New Accounts to Preexisting Accounts. This means, for example, a Financial Institution may elect to obtain a self-certification for all Preexisting accounts held by individuals consistent with the due diligence procedures for New Individual Accounts. If a jurisdiction allows a Financial Institution to apply the due diligence procedures for New Accounts to Preexisting Accounts, a jurisdiction may allow a Reporting Financial Institution to make an election to apply such exclusion with respect to (1) all Preexisting Accounts; or (2) with respect to any clearly identified group of such accounts (such as by line of business or location where the account is maintained). **This option is offered.**

Allowing due diligence procedures for High Value Accounts to be used for Low Value Accounts

Section 3, subsection 1, paragraph (a) of the CRS Regulations

A jurisdiction may allow a Financial Institution to apply the due diligence procedures for High Value Accounts to Lower Value Accounts. A Financial Institution may wish to make such election because otherwise they must apply the due diligence procedure for Lower Value Accounts and then at the end of a subsequent calendar year when the account balance of value exceeds $1 million, apply the due diligence procedures for High Value Accounts. **This option is offered.**

Residence address test for Lower Value Accounts –

See Section 3, subsection 1, paragraph b of the CRS Regulations

A jurisdiction may allow 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. The residence address test may apply to Preexisting Lower Value Accounts (less than $1 million) held by Individual Account Holders. **This option is offered.**

Note: In respect of Lower Value Accounts only, the CRS Regulations allows Financial Institutions to determine an Account Holder's residence based on the residence address provided by the account holder so long as that address is current and based on Documentary Evidence. This residence test may apply to Pre-existing Lower Value Accounts held by Individual Account Holders, see commentary of the CRS at commentary on section III, paragraph 9. The 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.

Optional Exclusion from Due Diligence for Preexisting Entity Accounts of less than $250,000

See Section 3, subsection 1, paragraph c of the CRS Regulations

A jurisdiction may allow Financial Institutions to exclude from its due diligence procedures pre-existing Entity Accounts with an aggregate account balance or value of $250,000 or less as of a specified date. If, at the end of a subsequent calendar year, the aggregate account balance or value exceeds $250,000, the Financial Institution must apply the due diligence procedures to identify whether the account is a Reportable Account. If this option is not adopted, a Financial Institution must apply the due diligence procedures to all Preexisting Entity Accounts. **This option is offered.**

Simplified due diligence rules for Group Cash Value Insurance Contracts and Group Annuity Contracts –

See Section 3, subsection 7 of the CRS Regulations

With respect to a group cash value insurance contract or annuity contract that is issued to an employer or individual employees, a jurisdiction may allow a Reporting Financial Institution to treat such contract as a Financial Account that is not a Reportable Account until the date on which an amount is payable to an employee/certificate holder or beneficiary provided that certain conditions are met. These conditions are: (1) the group cash value insurance contract or group annuity contract is issued to an employer and covers twenty-five or more employees/certificate holders; (2) The employees/certificate holders are entitled to receive any contract value related to their interest and to name beneficiaries for the benefit payable upon the employee's death; and (3) the aggregate amount payable to any employee/certificate holder or beneficiary does not exceed $1 million. This provision is provided because the Financial Institution does not have a direct relationship with the employee/certificate holder at inception of the contract and thus may not be able to obtain documentation regarding their residence. **This option is offered.**

Note: Under Section 3, subsection 7 of 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 $1,000,000.

Allowing greater use of existing standardised industry coding systems for the due diligence process

See Section 3, subsection 5 of the CRS Regulations.

A jurisdiction may define documentary evidence to include any classification in the Reporting Financial Institution's records based on a standard industry coding system provided that certain conditions are met (making it easier to identify types of account holders). With respect to a pre- existing entity account, when a Financial Institution is applying its due diligence procedures and accordingly required to maintained a record of documentary evidence, this option would permit the Financial Institution to rely on the standard industry code contained in its records. **This option is offered.**

Currency Translation – N/A

All amounts in the Standard are stated in US dollars and the Standard provides for the use of equivalent amounts in other currencies as provided by domestic law. For example, a lower value account is an account with an aggregate account balance or value of less than $1 million. The Standard permits jurisdictions to include amounts that are equivalent (or approximately equivalent) in their currency to the US dollars amounts as part of their domestic legislation. Further, a jurisdiction may allow a Financial Institution to apply the US dollar amount or the equivalent amounts. This allows a multinational Financial Institution to apply the amounts in the same currency in all jurisdictions in which they operate.

Expanded definition of Preexisting Account when pre-existing customers open a new account

Section 1(1) definition of Pre Existing Account.

A jurisdiction may, by modifying the definition of Preexisting Account, allow a Financial Institution to treat certain new accounts held by preexisting customers as a Preexisting Account for due diligence purposes. A customer is treated as pre-existing if it holds a Financial Account with the Reporting Financial Institution or a Related Entity. Thus, if a preexisting customer opens a new account, the Financial Institution may rely on the due diligence procedures it (or its Related Entity) applied to the customer's Preexisting Account to determine whether the account is a Reportable Account. A requirement for applying this rule is that the Reporting Financial Institution must be permitted to satisfy its AML/KYC procedures for such account by relying on the AML/KYC performed for the Preexisting Account and the opening of the account does not require new, additional, or amended customer information.

Note: "pre-existing account" means—

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

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

(i) the account holder also holds with the Reporting Financial Institution (or with a related entity within the same jurisdiction as the Reporting Financial Institution) a financial account that is a pre-existing account under paragraph (a) of this definition;

(ii) the opening of the financial account does not require the provision of new, additional or amended customer information by the account holder other than for purposes of the Standard;

(iii) the Reporting Financial Institution (and, as applicable, the related entity within the same jurisdiction as the Reporting Financial Institution) treats both of the aforementioned financial accounts, and any other financial accounts of the account holder that are treated as pre-existing accounts under this paragraph, as a single financial account for purposes of satisfying the standards of knowledge requirements set forth in paragraph A of Section VII of the Standard, and for purposes of determining the balance or value of any of the financial accounts when applying any of the account thresholds; and

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

Expanded definition of Related Entity –

See Section 1, subsection 2, paragraph a, of the CRS Regulations.

Related Entities are generally defined as one entity that controls another entity or two or more entities that are under common control. Control is defined to include direct or indirect ownership of more than 50 percent of the vote and value in an Entity. As provided in the Commentary, most funds will likely not qualify as a Related Entity of another fund, and thus will not be able to apply the rules described above for treating certain New Accounts as Preexisting Accounts or apply the account aggregation rules to Financial Accounts maintained by Related Entities. AF jurisdiction may modify the definition of Related Entity so that a fund will qualify as a Related Entity of another fund by providing that control includes, with respect to Investment Entities described in subparagraph (A)(6)(b), two entities under common management, and such management fulfils the due diligence obligations of such Investment Entities

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

Grandfathering rule for bearer shares issued by Exempt Collective Investment Vehicle – N/A

With respect to an Exempt Collective Investment Vehicle, a jurisdiction may provide a grandfathering rule if the jurisdiction previously allowed collective investment vehicles to issue bearer shares. The Standard provides that a collective investment vehicle that has issued physical shares in bearer form will not fail to qualify as an Exempt Collective Investment Vehicle provide that: (1) it has not issued and does not issue any physical shares in bearer form after the date provided by the jurisdiction; (2) it retires all such shares upon surrender; (3) it performs the due diligence procedures and reports with respect to such shares when presented for redemption or payment; and (4) it has in place policies and procedures to ensure the shares are redeemed or immobilized as soon as possible and in any event prior to the date provided by the jurisdiction.

Controlling Persons of Trusts- N/A

The definition of Controlling Person of a trust includes the settlor(s), trustee(s), beneficiary (ies), protector(s) and any other natural person exercising ultimate effective control over the trust. A jurisdiction may however allow Reporting Financial Institutions to align the scope of beneficiaries of a trust, who are treated as Controlling Persons of that trust, with the scope of the beneficiaries who are treated as Reportable Persons of a trust that is a Financial Institution. In such cases, a Reporting Financial Institution would only need to report discretionary beneficiaries as Controlling Persons in the year they receive distributions from the Passive NFE trust. Jurisdictions allowing their Financial Institutions to make use of this option must ensure that such Financial Institutions have appropriate procedures in place to identify when a distribution is made to a discretionary beneficiary of the trust in a given year that enables the trust to report such beneficiary as a Controlling Person. For instance, the Reporting Financial Institution would require notification from the trustee that a distribution has been made to that discretionary beneficiary.

Non- Participating Jurisdiction Investment Entities

In accordance with Schedule 3 [Section VIII paragraph D (8)] of the CRS Regulations, Anguilla Financial Institutions are required to treat 'managed' Investment Entities, (or branches thereof) that are resident in (or located in) any Non-Participating Jurisdiction, as Passive NFEs and therefore report on the Controlling Persons of such entities that are Reportable Persons as defined in Schedule 3 [Section VIII paragraph D(2)] of the CRS Regulations.

'Managed' Investment Entities are those that meet the definition of an Investment Entity as per the Schedule 3 [Section VIII paragraph A(6)(b)] of the CRS Regulations. Any Jurisdiction that is not listed as a Participating Jurisdiction is therefore a Non-Participating Jurisdiction.

Determination of CRS Status of Entities

The CRS commentary provides that an Entity's status as a Financial Institution or nonfinancial entity (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, the rules of the jurisdiction in which the account is maintained 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. For example, a Financial Institution resident in a Non-Participating Jurisdiction with accounts maintained in Anguilla may apply the active NFE definition in Schedule 3 [Section VIII paragraph D (9)] of the CRS Regulations.

Exchanges of CRS Returns by the Competent Authority

Confidentiality

Anguilla 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.

Anguilla will exchange information under CRS with partner jurisdictions which have in place adequate measures to ensure the required confidentiality and data safeguards are met. Information provided to or received by the Competent Authority for CRS purposes or otherwise for tax purposes shall be kept confidential as provided in accordance with Section 22 of the Tax Information Exchange (International Cooperation) Act, 2016.

Improper disclosure of any information is a criminal offence, punishable by financial penalties or/and imprisonment.

Enforcement

Under Section of the CRS Regulations, the Competent Authority may, by notice in writing, require a Financial Institution to give the Competent Authority within 14 days, any information as the Competent Authority may reasonably require for any purpose relating to the administration or enforcement of these Regulations. Where any information which is required to be provided to, or inspected by the Competent Authority is located outside of Anguilla, the Financial Institution is required to bring the information to Anguilla within the time specified in writing by the Competent Authority to enable the institution to comply with the requirements of the Competent Authority

Section 10 of the CRS Regulations establishes offences which attaches to contravention of the CRS Regulations by Financial Institutions and other persons. A Financial Institution will commit an offence if it contravenes any of its obligations under CRS Regulations and will be subject to sanctions. It is an offence for any person to provide a false self-certification to a Financial Institution.