



UNOFFICIAL CONSOLIDATION OF THE MUTUAL LEGAL ASSISTANCE (TAX MATTERS) ACT

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¹ **DISCLAIMER:** *This Consolidation of the Mutual Legal Assistance (Tax Matters) Act has been carried out by the International Tax Authority (“the Authority”) for the purpose of facilitating the work of the Authority. While other persons may choose to use and rely on the consolidated Act for their own purposes, the Authority does not accept any liability that may arise in relation to the consolidated Act and/or us or reliance on the consolidated Act. Persons using and/or relying on the Act should consider taking such further steps (such as authenticating the consolidated Act against the relevant amendments) as may be necessary to satisfy themselves of the authenticity of the provisions they are relying on.*

MUTUAL LEGAL ASSISTANCE (TAX MATTERS) ACT

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MUTUAL LEGAL ASSISTANCE (TAX MATTERS) ACT

*(Acts 18 of 2003, 16 of 2005, 11 of 2011, 11 of 2012, 10 of 2013, 12 of 2014,
3 of 2015, 17 of 2015, 8 of 2018 and 4 of 2022)*

AN ACT TO MAKE PROVISION FOR GIVING EFFECT TO THE TERMS OF THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, INCLUDING THE GOVERNMENT OF THE BRITISH VIRGIN ISLANDS, FOR THE EXCHANGE OF INFORMATION RELATING TO TAXES, AND ANY SIMILAR AGREEMENT TO WHICH THE GOVERNMENT OF THE BRITISH VIRGIN ISLANDS IS A PARTY, FOR GIVING EFFECT TO THE COMMON REPORTING STANDARD, THE FOREIGN ACCOUNT TAX COMPLIANCE ACT AS IT RELATES TO THE MODEL 1 INTERGOVERNMENTAL AGREEMENT ENTERED INTO BETWEEN THE UNITED STATES OF AMERICA AND THE BRITISH VIRGIN ISLANDS, THE BASE EROSION AND PROFIT SHIFTING ACTION 13: COUNTRY-BY-COUNTRY REPORTING; AND FOR MATTERS CONNECTED THEREWITH.ⁱⁱⁱ

Commencement

[1st January, 2004]

Short title and commencement

1. This Act may be cited as the Mutual Legal Assistance (Tax Matters) Act.

PART I

TAX INFORMATION EXCHANGE: GENERAL

Interpretation for Part I

2. (1) In this Part, unless the context otherwise requires— “Agreement” means—
 - (a) the USA Agreement; and
 - (b) any agreement to which this Part applies by virtue of an Order made under section 3(3)ⁱⁱⁱ;

“Authority” means the International Tax Authority established under section 3 of the International Tax Authority Act, Revised Edition 2020;^{iv}

“Inspector” means a person assigned as Inspector under section 44B (1) of the Income Tax Ordinance;

“Minister” means the Minister to whom responsibility for finance is assigned;

“Representative” means a representative of a competent authority of a requesting party;

“request” means a request made under the Agreement by a requesting party to the Authority;

“USA Agreement” means the Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, including the Government of the British Virgin Islands, for the exchange of information relating to taxes, together with the Competent Authority Agreements annexed thereto, as set out in

Schedule 1.^v

(2) In this Part^{vi}, unless the context otherwise requires, any expression which is defined in the Agreement, shall have the same meaning as that given to it in the Agreement.

(3) Where in this Act reference is made to Schedule 1, this shall be construed to include any Schedule set out in an Order made by the Minister pursuant to section 3(3).^{vii}

Implementation of the Agreement

3. (1) This Part^{viii} shall apply for the purpose of giving effect to the Agreement.

(2) Where an Agreement^{ix} is amended by the parties thereto, the Minister may, by Order, amend Schedule 1^x accordingly.

(3) Where the Government of the British Virgin Islands becomes a party to an agreement similar to the USA Agreement, the Minister may, by Order, provide that this Part^{xi} shall apply to that agreement with such necessary modifications as may be specified in the Order and the text of that agreement shall be set out in a Schedule to the Order.

(4) For the avoidance of doubt and notwithstanding anything to the contrary contained in this Part or in any Agreement—

- (a) anything required of the Authority pursuant to or in accordance with a provision of an Agreement shall be dealt with in such manner as would be consistent with and satisfy the requirements of the Agreement, and the doing of such thing by the Authority shall be treated as a power the Authority has by virtue of this Act to exercise^{xii}; and
- (b) the entry into force of an Agreement in relation to tax matters shall not be construed to prevent the Authority from requesting or receiving from any person information in relation to criminal tax matters that occurred prior to the coming into force of that Agreement or this Act.^{xiii}

Power of the Minister to make Orders

3A. (1) The Minister may, on the advice of the Authority, make such Order to be published in the *Gazette* in relation to each Agreement as he considers necessary for the effective carrying out of the provisions of the Agreement and this Act.

(2) Without limiting subsection (1), an Order made under subsection (1) may specify the information required to be provided to the Authority, the manner and the deadlines by which the information shall be provided.

(3) A person who fails to comply with an obligation imposed under an Order made pursuant to subsection (1), commits an offence and is liable—

The Authority

4. (1) The International Tax Authority^{xiv} shall be the competent authority for the purposes of implementing an Agreement and the administration of this Act generally^{xv}.

(2) [DELETED]^{xvi xvii xviii}

(3) [DELETED]^{xix xx}

Power of the Authority to request information

5. (1) The Authority may, for the purposes of complying with a request, by notice in writing, require any person or entity, including but not limited to any person or entity acting as a nominee or trustee or in an agency or fiduciary capacity, to provide such information as may be specified in the notice, provided that the person or entity is reasonably believed to be in the possession or control of the information to which the notice relates.^{xxi xxii}

(2) The power under subsection (1) shall not apply to items subject to legal privilege.

(3) The Authority may require any information provided pursuant to this section—

(a) to be provided within such time as is specified in the notice;

(b) to be provided in such form as the Authority may require; and

(c) to be verified or authenticated in such manner as the Authority may reasonably require.

(4) The Authority may take copies or extracts of any information produced pursuant to this section.

(5) Where a person claims a lien on a document, the production of the document pursuant to this section is without prejudice to his lien.

(6) A person who, without lawful or reasonable excuse, fails to comply with—

(a) a notice issued to him under subsection (1), or

(b) any request made of him by the Authority in exercise of any power pursuant to section 3(4),

commits an offence and is liable—

- (i) on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or both, or
- (ii) on conviction on indictment, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding five years, or both^{xxiii}.

Ensuring compliance with section 5

5A. (1) For the purposes of achieving the objectives of the requirements of section 5 and notwithstanding anything to the contrary contained in any other enactment, every company shall, in addition to any records required to be kept or maintained under the BVI Business Companies Act or any other enactment—

- (a) keep at the office of its registered agent or at such other place or places, within or outside the Virgin Islands, as the directors may determine, the records and underlying documentation of the company; and
 - (b) retain the records and underlying documentation for a period of at least five years from the date—
 - (i) of completion of the transaction to which the records and underlying documentation relate; or
 - (ii) the company terminates the business relationship to which the records and underlying documentation relate.
- (2) Where the records and underlying documentation of a company are kept at a place other than at the office of the company’s registered agent, the company shall provide the registered agent with a written record of the physical address of the place or places at which the records and underlying documentation are kept.
- (3) Where the place at which the records and underlying documentation of the company changes, the company shall provide its registered agent with the physical address of the new location of the records and underlying documentation within fourteen days of the change of the location.
- (4) The records and underlying documentation of the company shall be in such form as—
- (a) are sufficient to show and explain the company’s transactions; and
 - (b) will, at any time, enable the financial position of the company to be determined with reasonable accuracy.
- (5) For the purpose of this section —
- (a) “business relationship” means a continuing arrangement between a company and one or more persons with whom the company engages in business, whether on a one-off, regular, habitual or regular basis;

- (b) “company” has the meaning specified in section 3 of the BVI Business Companies Act, and includes “foreign company” as defined in that section^{xxiv}; and
- (c) “records and underlying documentation” includes accounts and records (such as invoices, contracts and similar documentation) in relation to—
 - (i) all sums of money received and expended by the company and the matters in receipt of which the receipt and expenditure takes place;
 - (ii) all sales and purchases of goods by the company; and
 - (iii) the assets and liabilities of the company.^{xxv}

Power of the Authority to apply for a search warrant

6. (1) Where—

(a) a person who is issued a notice under section 5, fails to comply or only partly complies with such notice, or

(b) the Authority is of the opinion that if a notice is issued to a person under section 5, it would not be complied with or the documents or information to which the notice relates may be removed, tampered with or destroyed,

the Authority may, without prejudice to section 5(6), apply to a Magistrate for a search warrant and a certificate given by the Authority that the issue of a search warrant is required for the purposes of complying with a request shall be sufficient authority for the issue of the search warrant without further inquiry.

(2) On receipt of an application under subsection (1), the Magistrate may authorise a named representative of the Authority, together with a police officer of the rank of Inspector or above and any other person named in the warrant—

- (a) to enter the premises specified in the warrant at any time within one month from the date of the warrant;
- (b) to search the premises and take possession of any information appearing to be information of a type in respect of which the warrant was issued or to take, in relation to such information, any other steps which appear to be necessary for preserving or preventing interference with them;
- (c) to take copies of, or extracts from, any information appearing to be information of a type in respect of which the warrant was issued;
- (d) to require any person on the premises to provide an explanation of any information appearing to be information of a type of which the warrant was issued or to state where such information may be found; and
- (e) to use such force as may be reasonably necessary to execute the warrant.

Interviews and tax examinations

7. (1) Where the competent authority of a requesting party requests that its Representative interview, or examine the records of, a person in the Virgin Islands and the person concerned notifies the Authority, in writing, that he consents to the interview or examination, the Representative may interview, or examine the records of, the person in the Virgin Islands at such time and place as are agreed upon, in writing, by the Authority and the person concerned.^{xxvi}

1(A) The Authority may conduct an interview or examination of any person in the Virgin Islands at such time and place as prescribed by the Authority.^{xxvii}

(2) In conducting an interview or examination under subsection (1) or (1A), a Representative or the Authority may —

- (a) take statements from the person being interviewed; or
- (b) with the consent of the person being interviewed, make copies, or take extracts from, any record.^{xxviii}

(3) A Representative shall not have the power—

- (a) to compel a person to answer any question;
- (b) to compel a person to remain in any place for the purpose of an interview;
- (c) to compel a person to produce any document or thing;
- (d) to enter and search premises without the consent of the owner or occupier of the premises; or
- (e) to seize or take documents or other things without the consent of the person being interviewed.

(4) A person shall, at any time when he is being interviewed by a Representative or the Authority^{xxix}, have the right to be advised, at his own expense, by a legal practitioner of his choice.

(5) A statement made to a Representative or the Authority^{xxx} in the course of an interview under this section shall not, in any proceedings, be used in evidence against the person making the statement.

(6) Where the competent authority of a requesting party so requests, the Authority may, in writing, authorise a Representative or a member of the Authority^{xxxi} to be present when an Inspector is carrying out his functions and powers under section 44B of the Income Tax Ordinance or any other person or authority is carrying out similar tax-related functions or powers under an enactment.

Protection of persons disclosing confidential information

8. (1) A person who divulges any confidential information or makes any statement for the purposes of a request shall be deemed not to commit any offence under any law by reason only of such disclosure or the making of such statement, and such disclosure or

statement shall be deemed not to be a breach of any confidential relationship between that person and any other person.

(2) No civil claim or action whatsoever shall lie against a person who makes a disclosure or statement referred to in subsection (1) or against such person's principal or employer by reason of such disclosure or statement.

Confidentiality with regard to a request

9. (1) The particulars of and all matters relating to a request shall be treated as confidential, and no person who is notified of a request, or is required to take any action, or supply any information in response to or in relation to any or in any way becomes aware of a request^{xxxii}, shall disclose the fact of the receipt of such request or any of the particulars required or information supplied to any other person except in accordance with the Agreement.

(2) A person who contravenes subsection (1) commits an offence and is liable—

- (a) on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or both; or
- (b) on conviction on indictment, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding five years, or both.^{xxxiii}

Service of documents

10. For the purposes of this Part and the Agreement, the service of any notice or document shall be sufficient

- (a) in the case of a Company, by addressing the notice or document to the Company and delivering same by hand, or sending it by registered post or by any other way allowed by any enactment, to the Company's registered office or the office of the Company's registered agent;
- (b) in the case of a body corporate or any association of persons, by delivering same by hand, or sending the notice or document, by registered post or by any other way allowed by an enactment, to the registered or principal office of the body corporate or association of persons;
- (c) in the case of a limited partnership, by delivering the document or notice to the office of the registered agent of the limited partnership or by delivering the document to the general partner;
- (d) in the case of an individual, service of the notice or document may be effected either by
 - (i) personal service;
 - (ii) registered post;
 - (iii) direct delivery; or
 - (iv) any other way allowed by an enactment

to the usual or last known place of abode of business of the addressee.

(2) For the purpose of subsection (1), where a document or notice is required to be sent by post, service of the document or notice may be effected by properly addressing the document or notice to the addressee on whom the document or notice is to be served and posting an envelope containing the document or notice to the address for service.

(3) For the purpose of subsection (1), where a document is required to be sent to the registered or principal office address of the addressee, service of the document or notice may be effected by delivering the document or notice to the secretary or clerk of the registered or principal office.

(4) Where a document is served by

- (a) post, the document shall, unless the contrary is proved, be deemed to have been served at the time when the envelope would have been received in the ordinary course of post;
- (b) personal service, the document is considered served, at the time when the document is received by the person on whom it is served, whether or not receipt of the document has been signed for;
- (c) direct delivery, the document is considered served on the secretary or clerk at the time when the secretary or clerk receives it, whether or not a receipt of the document has been signed for.

(5) For the purpose of this Part and the Agreement, where proof of service of a notice or document is required, an affidavit of service of the delivery of the notice or document made by the person who served the notice or document shall be deemed sufficient.^{xxxiv}

Service of overseas documents in the Virgin Islands

10A (1) Where the competent authority of a requesting party requests that the Authority serve upon the addressee documents, including those relating to judicial decisions, which emanate from the requesting states and which relate to taxes covered by the Agreement, the Authority may

- (a) cause the document to be served by post;
- (b) where a particular method is requested by the requesting state, cause the document to be served in the particular method or the closest to such method available under the laws of the Virgin Islands; or
- (c) where a request is made for personal service, cause the document to be served by a member of the Authority or request the assistance of the Commissioner of Police to cause it to be personally served on the addressee.

(2) Where the assistance of the Commissioner of Police is requested under this section to cause any document to be served,

- (a) he shall after it has been served forthwith inform the Authority, in writing when and how it was served and, where possible, furnish the Authority with a receipt signed by the person on whom it was served; and

- (b) if the Commissioner of Police has been unable to cause the document to be served, he shall forthwith inform the Authority of that fact and of the reason.
- (3) Where proof of service is required, then an affidavit made by the person who served the document, shall be deemed sufficient of such proof.
- (4) An affidavit under subsection (3) should contain though not limited to, an exhibited copy of the document, details of the method of service used and the date and time when service was effected.^{xxxv}

PART II^{xxxvi} Foreign Account Tax Compliance Act as it relates to the Model 1 Intergovernmental Agreement entered into between the United States of America and the British Virgin Islands

Interpretation for Part II

11. (1) In this Part, unless the context otherwise requires—

"Active NFFE" means any NFFE that meets any of the following criteria

- (a) less than fifty percent of the NFFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than fifty percent of the assets held by the NFFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
- (b) the stock of the NFFE is regularly traded on an established securities market or the NFFE is a related Entity of an Entity the stock of which is traded on an established securities market;
- (c) the NFFE is organised in a United States territory and all of the owners of the payee are bona fide residents of that United States territory;
- (d) the NFFE is a government, a political subdivision of a government (which includes a state, province, county or municipality), an international organisation, a non-U.S. central bank of issue, or an entity wholly owned by one or more of the foregoing;
- (e) substantially all of the activities of the NFFE consist of holding (in whole or in part) the outstanding stock of, 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 shall not qualify as an NFFE 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;

- (f) the NFFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFFE shall not qualify for this exception after the date that is twenty-four months after the date of the initial organisation of the NFFE;
- (g) the NFFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution;
- (h) the NFFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing and 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;
- (i) the NFFE is an "excepted NFFE" as described in relevant United States Treasury Regulations; or
- (j) the NFFE 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;
 - (ii) 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;
 - (iii) it is exempt from income tax in its jurisdiction of residence;
 - (iv) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - (v) the applicable laws of the NFFE's jurisdiction of residence or the NFFE's formation documents do not permit any income or assets of the NFFE 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 NFFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFFE has purchased; and
 - (vi) the applicable laws of the NFFE's jurisdiction of residence or the NFFE's formation documents require that, upon the NFFE's liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organisation, or escheat

to the government of the NFFE's jurisdiction of residence or any political subdivision thereof;

"Agreement" means the Agreement entered into between the Government of the British Virgin Islands and the Government of the United States of America to improve International Tax Compliance and to implement FATCA, signed on 30th June, 2014;

"Competent Authority" means the International Tax Authority established under section 3 of the International Tax Authority Act, Revised Edition 2020;

"Controlling Persons" means the natural persons who exercise control over an Entity and

- (a) in the case of a trust, such term means the settlor, the trustees, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust; and
- (b) in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions.

The term "Controlling Persons" shall also be interpreted in a manner consistent with the Financial Action Task Force Recommendations;

"Entity" means a legal person or a legal arrangement such as a trust;

"Financial Institution" means

- (a) a custodial institution;
- (b) a depository institution;
- (c) an investment Entity; or
- (d) a specified insurance company.

"Global Intermediary Identification Number" hereinafter referred to as GIIN means a number allocated to a Financial Institution by the Internal Revenue Service of the United States of America for FATCA purposes;

"NFFE" means any Non-United States Entity that is not a Foreign Financial Institution as defined in the relevant U.S. Treasury Regulations or is an Entity described in subparagraph (j) of the definition of Active NFFE, and also includes any Non-U.S. Entity that is established in the Virgin Islands or another Partner Jurisdiction that is not a Financial Institution;

"Nonparticipating Financial Institution" means a nonparticipating FFI as that term is defined in relevant U.S. Treasury Regulations, but does not include a Virgin Islands Financial Institution or other Partner Jurisdiction Financial Institution other than Financial Institution treated as Nonparticipating Financial Institution pursuant to subparagraph 2(b) of Article 5 of the Agreement or the corresponding provision in an agreement between the United States and a Partner Jurisdiction;

"Non-Reporting Virgin Islands Financial Institution" means any Virgin Islands Financial Institution, or other Entity organised under the Laws of the Virgin Islands, that is described in Annex II of the Agreement as a Non-Reporting Virgin Islands Financial Institution or that otherwise qualifies as a deemed-compliant Foreign Financial Institution or an exempt beneficial owner under the relevant United States Treasury Regulations;

"Partner Jurisdiction" means a jurisdiction that has in effect an agreement with the United States to facilitate the implementation of FATCA and the IRS shall publish a list identifying all Partner Jurisdictions;

"Passive NFFE" means any NFFE that is not

- (a) an Active NFFE; or
- (b) a withholding foreign partnership or withholding foreign trust, pursuant to relevant United States Treasury Regulations;

"Registered Deemed-Compliant Financial Institution" means a Non-Reporting Virgin Islands Financial Institution to which a Global Intermediary Identification Number has been properly allocated;

"Reporting Virgin Islands Financial Institution" means any Virgin Islands Financial Institution that is not a Non-Reporting Virgin Islands Financial Institution;

"Specified U.S. Person" means a U.S. person, other than

- (a) a corporation, the stock of which is regularly traded on one or more established securities markets;
- (b) any corporation that is a member of the same expanded affiliated group, as defined in section 1471(e)(2) of the U.S. Internal Revenue Code, as a corporation described in clause (a);
- (c) the United States or any wholly owned agency or instrumentality thereof;
- (d) any State of the United States, any U.S. Territory, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing;
- (e) any organisation exempt from taxation under section 501 (a) of the U.S. Internal Revenue Code or an individual retirement plan as defined in section 7701 (a)(37) of the U.S. Internal Revenue Code;
- (f) any bank as defined in section 581 of the U.S. Internal Revenue Code;
- (g) any real estate investment trust as defined in section 856 of the U.S. Internal Revenue Code;
- (h) any regulated investment company as defined in section 851 of the U.S. Internal Revenue Code or any entity registered with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-64);

- (i) any common trust fund as defined in section 584(a) of the U.S. Internal Revenue Code;
- (j) any trust that is exempt from tax under section 664(c) of the U.S. Internal Revenue Code or that is described in section 4947(a)(1) of the U.S. Internal Revenue Code;
- (k) a dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any State;
- (l) a broker as defined in section 6045(c) of the U.S. Internal Revenue Code; or
- (m) any tax-exempt trust under a plan that is described in section 403(b) or section 457(b) of the U.S. Internal Revenue Code.

"U.S. Person" means a U.S. citizen or resident individual, a partnership or corporation organised in the United States or under the laws of the United States or any State thereof, or a trust if

- (a) a court within the United States would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust; and
- (b) one or more U.S. persons have the authority to control all substantial decisions of the trust, or an estate of a decedent that is a citizen or resident of the United States;

This definition shall be interpreted in accordance with the U.S. Internal Revenue Code;

"U.S. Reportable Account" means a Financial Account maintained by a reporting Virgin Islands Financial Institution and held by one or more Specified U.S. Persons or by a Non-U.S. Entity with one or more controlling persons that is a Specified U.S. Person, provided that an account shall not be treated as a Reportable Account if such account is not identified as a Reportable Account after application of the due diligence procedures outlined in Annex I of the Agreement;

"United States Treasury Regulations" means the regulations made under chapter 4 of Subtitle A, sections 1471 to 1474, of the Internal Revenue Code of 1986 of the United States of America regarding information reporting by foreign Financial Institutions with respect to United States accounts and withholding on certain payments for foreign Financial Institutions to other persons, which are commonly referred to as

- (a) the Foreign Account Tax Compliance Act; or
- (b) FATCA;

"Virgin Islands Financial Institution" means

- (a) any Financial Institution organised under the laws of the Virgin Islands or resident in the Virgin Islands, but excluding any branch of such Financial Institution that is located outside of the Virgin Islands; and

- (b) any branch of a Financial Institution not organised under the laws of the Virgin Islands, if such branch is located in the Virgin Islands.

(2) For the purposes of this Part, a word or expression which is defined in the Agreement has the same meaning in this Part as it does in that Agreement except to the extent that a Virgin Islands Financial Institution may use as an alternative a definition in

- (a) the United States Treasury Regulations; or
- (b) the Common Reporting Standard for Automatic Exchange of Financial Account Information published by the Organisation for Economic Co-operation and Development,

in so far as the use of the definitions would not frustrate the purposes of the Agreement.

(3) In determining whether or not the use of a definition referred to in subsection (2) would frustrate the purposes of the Agreement, a Virgin Islands Financial Institution shall take account of any guidance issued or approved by the Competent Authority.^{xxxvii}

Reporting Virgin Islands Financial Institution to establish and maintain arrangements

12. (1) A Reporting Virgin Islands Financial Institution shall establish and maintain arrangements that are designed to identify U.S. Reportable Accounts and accounts held by Nonparticipating Financial Institutions.

(2) The due diligence requirements for the purposes of this Part, are as set out in Annex 1 of the Agreement and shall be applied in relation to each category of U.S. Reportable Account;

(3) A Reporting Virgin Islands Financial Institution is taken to comply with the obligation to establish and maintain arrangements within subsection (1) only if

- (a) the arrangements meet the due diligence requirements as set out in Annex I of the Agreement; and
- (b) the arrangements secure that the evidence used or a record of the steps taken in accordance with this Part is kept for a period of six years beginning with the end of the year in which the arrangements applied to the financial accounts.

(4) As an alternative to the procedures set out in Annex I of the Agreement, this Part provides for a Reporting Virgin Islands Financial Institution to rely on the procedures described in the relevant U.S. Treasury Regulations to establish whether a financial account is a U.S. Reportable Account or an account held by a Nonparticipating Financial Institution.

(5) An election made under subsection (4) can be made separately for each section of Annex 1 of the Agreement either with respect to all relevant Financial Accounts or, separately, with respect to any clearly identified group of such accounts (such as by line of business or the location of where the account is maintained).

- (6) An election made under subsection (4) or (5),
 - (a) shall be made to the Competent Authority;
 - (b) shall be made in a form determined by the Competent Authority;

- (c) shall be made on or before the reporting date under section 13(5) for the calendar year in question; and
- (d) has effect in relation to the calendar year in respect of which the election is made and all later calendar years, unless the election is withdrawn.

(7) A Reporting Virgin Islands Financial Institution may rely on due diligence procedures performed by third parties, for the purposes of this Part, to the extent provided in the relevant US Treasury Regulations, regardless of whether an election is made under Annex I of the Agreement.^{xxxviii}

Registration Requirements

13. (1) Every Registered Deemed-Compliant Financial Institution shall register with the Internal Revenue Services of the United States of America (IRS) FATCA registration website to obtain a Global Intermediary Identification Number (GIIN) or be registered with the IRS by another entity.

(2) A Reporting Virgin Islands Financial Institution shall

- (a) in respect of 2014 and every following calendar year, prepare the required information as set out in the Agreement at Article 2 paragraph 2 in relation to every U.S. Reportable Account that is maintained by the Reporting Virgin Islands Financial Institution at any time during the calendar year in question; and
- (b) in respect of each of the calendar years 2015 and 2016 prepare the required information as set out in the Agreement at Article 4 paragraph I (b) in relation to the Nonparticipating Financial Institutions.

(3) A Reporting Virgin Islands Financial Institution shall comply with the registration requirements on the IRS FATCA registration website and obtain a GIIN from the IRS and the GIIN shall be included in the required information prepared.

(4) A Reporting Virgin Islands Financial Institution shall comply with the registration requirements of the Competent Authority in order to submit the required information to the Competent Authority as outlined in subsection (5).

(5) The information required under subsection (2) must be submitted to the Competent Authority,

- (a) in relation to the reporting year 2014, on or before 30th June, 2015; and
- (b) in relation to all subsequent years, on or before 31st May.

(6) The modification to the required information to be reported for the years 2014 to 2016 applies, as set out in Article 3 paragraph 3 of the Agreement.

(7) A Reporting Virgin Islands Financial Institution shall implement arrangements to obtain the taxpayer identifying number (TIN) of every Specified U.S. Person who is the account holder of a U.S. Reportable account and provide the TIN with the required information to the Competent Authority

- (a) in the case of pre-existing accounts, from 1st January, 2017; and
- (b) in the case of new accounts opened on or after 1st July, 2014, from that date.

(8) A Reporting Virgin Islands Financial Institution on submission of the required information on an annual basis shall comply with the requirements determined by the Competent Authority.

(9) A Reporting Virgin Islands Financial Institution submitting information to the Competent Authority

- (a) in the year 2015, shall register with the Competent Authority no later than 1st June, 2015; and
- (b) in relation to subsequent years, shall register with the Competent Authority no later than 1st April in the first calendar year in which it is required to comply with the reporting obligations under this Part,

and registration is only required once and remains valid unless revoked by way of notification from the Financial Institution to the Competent Authority.

(10) A Reporting Virgin Islands Financial Institution^{xxxix} shall notify the Competent Authority immediately of any changes to the information provided under subsection (7), including any changes to the details of its primary point of contact.^{xl}

Reporting Virgin Islands Financial Institution may appoint third party

14. (1) A Reporting Virgin Islands Financial Institution may appoint a person as its agent to carry out the duties and obligations imposed on it by this Part or by the Agreement.

(2) Where a person is appointed under subsection (1) the Reporting Virgin Islands Financial Institution

- (a) shall, at all times, have access to and be able to provide, where so requested by the International Tax Authority, the records and documentary evidence used to identify and report on reportable accounts; and
- (b) is responsible for any failure of that person to carry out its obligations notwithstanding that the actions were the actions of that person or that the failure to act was the failure by that person to act.^{xli}

Compliance Measures

15. (1) For the purposes of determining whether any information submitted by a Reporting Virgin Islands Financial Institution in furtherance of the requirements of this Part, are correct and complete, the Competent Authority may require a Reporting Virgin Islands Financial institution

- (a) to provide to the Competent Authority, within a time specified by the Competent Authority, the information, including copies of any relevant books, documents or other records, or any electronically stored information, that the Competent Authority may reasonably require; or
- (b) to make available to the Competent Authority for inspection, at the time specified by the Competent Authority, all copies of books, documents or other records, or any electronically stored information, the Reporting Virgin Islands Financial Institution's possession or under its control; or
- (c) to provide or make available any other such information as the Competent Authority may determine relevant or necessary to determine if the information is correct and complete.

(2) Where any information which is required to be provided to or inspected by the Competent Authority is located outside of the Virgin Islands in any manner whatsoever, the Reporting Virgin Islands Financial Institution shall take all necessary

steps to bring the information to the Virgin Islands within the time specified by the Competent Authority in writing to enable the Reporting Virgin Islands Financial Institution to comply with the requirements of the Competent Authority under this Part.

(3) The Competent Authority may inspect the due diligence procedures implemented by a Virgin Islands Financial Institution or perform an inquiry into the due diligence procedures of the Virgin Islands Financial Institution.

(4) A Reporting Virgin Islands Financial Institution shall retain for a period of six years all books, documents and other records, including those stored by electronic means, which relate to the information required to be reported to the Competent Authority after the period within which the Reporting Virgin Islands Financial Institution must report for the purposes of this Part.^{xlii}

Obligation to report

16. (1) A Reporting Virgin Islands Financial Institution shall in respect of each of the calendar years 2015 and 2016 report to the Competent Authority

- (a) the names of the non-participating Financial Institutions to whom payments have been made in the year in question; and
- (b) the aggregate value of payments made to each of the nonparticipating Financial Institutions in question.

(2) In determining the total amount of those payments the special rules and definitions at paragraph I.B (1) and paragraph VI.C of Annex I of the Agreement shall be applied.

(3) If for a calendar year no payments are identified as referred to in subsection (1), the Reporting Financial Institution shall report that fact to the Competent Authority.

(4) The Reporting Virgin Islands Financial Institution shall report the information required under this section to the Competent Authority on or before 30th June of the year following the calendar year to which the information relates, in the form the Competent Authority requires, whether electronically or otherwise.^{xliii}

Treatment of Negative Account

17. For the purposes of applying paragraph VI.C of Annex I of the Agreement as required by this Part, an account balance that has a negative value is treated as having a nil value.^{xliv}

Avoidance and circumvention requirement

18. (1) If

- (a) a person enters into any arrangement; and
- (b) the main purpose, or one of the main purposes, of the person in entering into the arrangements is to avoid or circumvent any obligation under this Part, this Part is to have effect as if the arrangement had not been entered into.^{xlv}

Penalties

19. (1) A Reporting Virgin Islands Financial Institution which

- (a) without reasonable excuse, fails to comply with a requirement of the Competent Authority under section 15;
- (b) without reasonable cause, fails to make a report required under this Part;
- (c) fraudulently or negligently makes a false report, whether in its entirety or in any particular part;
- (d) fails to implement arrangements or procedures in order to comply with this Part;
- (e) with intent to avoid the provision of this Part, alters, destroys, mutilates, defaces, hides or removes any document or information, including documents or information electronically held; or
- (f) wilfully obstructs an inquiry by the International Tax Authority under section 15; or
- (g) makes a report under section 16, which contains inaccurate information, or which is incomplete, where
 - (i) the inaccuracy or incompleteness is deliberate;
 - (ii) the inaccuracy or incompleteness is due to a failure to take reasonable care; or
 - (iii) the Reporting Virgin Islands Financial Institution discovers the inaccuracy or incompleteness sometime later and fails to take reasonable steps to inform the Competent Authority

commits an offence and is liable on summary conviction to a fine of five thousand dollars, or in the case of subsection (1) (a), (c), (d), (e) and (f) to imprisonment for a term of two years, or to both such fine and imprisonment.

(2) Subject to subsection (1), where an obligation is created under this Part or the Agreement the general penalty section of the Principal Act applies to this Part and the Agreement.^{xlviixlvii}

Penalties for a Reporting Virgin Islands Financial Institution that is a legal arrangement

19. A (1) Where a Reporting Virgin Islands Financial Institution commits an offence under this Part, and the Reporting Virgin Islands Financial Institution is a limited partnership or trust, the liability falls upon a liable person of the Reporting Virgin Islands Financial Institution.

(2) In subsection (1), “liable person” means, in relation to

- (a) a limited partnership with legal personality, the limited partnership and any of its general partners;

- (b) a limited partnership without legal personality, the general partners;
- (c) a trust, a trustee of the trust,

and anyone else, who otherwise is a de facto decision maker for the Reporting Virgin Islands Financial Institution.

Power to issue guidance

20. (1) The Competent Authority shall issue guidance from time to time and in a form considered appropriate by the International Tax Authority for the purposes of aiding compliance with this Part.^{xlvi}

PART III COMMON REPORTING STANDARDS^{xlix}

Interpretation for Part III

21. (1) In this Part, unless the context otherwise requires—

“Common Reporting Standard” means the standard for automatic exchange of financial account information developed by the Organisation for Economic Co-Operation and Development as set out in Schedule 2²¹ but, if that standard is subsequently amended by any modification made to it and published by the Organisation for Economic Co-Operation and Development, it means that standard as so amended;^{li}

“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;^{lii}

“Group Cash Value Insurance Contract” means a Cash Value Insurance Contract that—

- (a) provides coverage on individuals who are affiliated through an employer, trade association, labour union, or other association or group; and
- (b) charges a premium for each member of the group (or member of a class within the group) that is determined without regard to the individual health characteristics other than age, gender, and smoking habits of the member (or class of members) of the group;^{liii}

“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

² Available on the Organisation for Economic Co-Operation and Development website at <http://www.oecd.org/ctp/exchange-of-tax-information/automatic-exchange-financialaccount-information-commonreporting-standard.pdf>

a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution;

- (b) a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund a Pension Fund of a Governmental Entity, International Organisation or Central Bank or a Qualified Credit Card Issuer;
- (c) any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in subparagraphs B(1)(a) and (b) of the Common Reporting Standard, and is identified in this Act as a Non-Reporting Financial Institution, provided that the status of such Entity as a Non-Reporting Financial Institution does not frustrate the purposes of the Common Reporting Standard;
- (d) an Exempt Collective Investment Vehicle; or
- (e) a trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to Section I with respect to all Reportable Accounts of the trust.^{liv}

“Pre-existing Account” means—

- (a) a Financial Account maintained by a Reporting Financial Institution as of 31st December 2015;
- (b) any Financial Account of an Account Holder, regardless of the date such Financial Account was opened, if—
 - (i) the Account Holder also holds with the Reporting Financial Institution (or with a Related Entity within the same jurisdiction as the Reporting Financial Institution) a Financial Account that is a Pre-existing Account under subparagraph C(9)(a) of Section VIII of the Common Reporting Standard;
 - (ii) the Reporting Financial Institution (and, as applicable, the Related Entity within the same jurisdiction as the Reporting Financial Institution) treats both of the aforementioned Financial Accounts, and any other Financial Accounts of the Account Holder that are treated as Pre-existing Accounts under subparagraph C(9)(a) of Section VIII of the Common Reporting Standard, as a single Financial Account for purposes of satisfying the standards of knowledge requirements set forth in paragraph A of Section VII of the Common Reporting Standard, and for purposes of determining the balance or value of any of the Financial Accounts when applying any of the account thresholds;

- (iii) with respect to a Financial Account that is subject to AML/KYC Procedures, the Reporting Financial Institution is permitted to satisfy such AML/KYC Procedures for the Financial Account by relying upon the AML/KYC Procedures performed for the Pre-existing Account described in subparagraph C(9)(a) of Section VIII of the Common Reporting Standard; and
- (iv) the opening of the Financial Account does not require the provision of new, additional or amended customer information by the Account Holder other than for the purposes of the Common Reporting Standard;^{lv}

“Related Entity” in relation to two Entities, means—

- (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) of Section VIII of the Common Reporting Standard, are under common management, and such management fulfils the due diligence obligations of such Investment Entities. For this purpose control includes direct or indirect ownership of more than 50 % of the vote and value in an Entity;^{lvi}

“relevant Agreement” means an agreement that permits the automatic exchange of information for tax purposes and is an agreement to which Part I applies by virtue of an Order made under section 3(3);^{lvii}

“Reporting Financial Institution” means a Virgin Islands Financial Institution that is not a Non Reporting Financial Institution; and^{lviii lix}

“Standardised Industry Coding System” means a coding system used to classify establishments by business type for purposes other than tax purposes^{lx} ; and^{lxi}

“Virgin Islands Financial Institution” means—

- (a) any Financial Institution that is resident in the Virgin Islands, but excludes any branch of that Financial Institution that is located outside the Virgin Islands; and
- (b) any branch of a Financial Institution that is not resident in the Virgin islands, if that branch is located in the Virgin Islands;^{lxii}

(2) Unless the context otherwise requires or this Part expressly provides to the contrary—

- (a) an expression that is defined in the Common Reporting Standard shall have the same meaning in this Part as that given to it in the Common Reporting Standard;
- (b) where the Common Reporting Standard provides for the construction of an expression therein, that expression shall be construed in accordance with those provisions for the purposes of this Part.^{lxiii}

Competent Authority

22. (1) The International Tax Authority shall be the competent authority for the purpose of this Part and in relation to the implementation of the Common Reporting Standard.^{lxiv}

Non-Reportable Accounts. Schedule 4^{lxv}

23. (1) An account listed as an Excluded Account in Schedule 4^{lxvi} of the Act is not a Reportable Account for the purposes of this Part.

(2) The Minister may, with the approval of Cabinet, by Order published in the *Gazette* amend, Schedule 4^{lxvii} and the Order shall be subject to a negative resolution of the House of Assembly.^{lxviii}

General rule for accounts

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

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

Common Reporting Standard commentary

25. (1) For the purposes of this Part the Common Reporting Standard commentary made and published by the Organisation and Development is an integral part of the Common Reporting Standard and accordingly applies for the purposes of the automatic exchange of financial account information under a relevant agreement.

(2) The Competent Authority may issue guidance to aid compliance with this Part.

(3) The Competent Authority must at least once every calendar year publish in the *Gazette* a list of Participating Jurisdictions and Reportable Jurisdictions for the purposes of the Common Reporting Standards.^{lxxlxxi}

Application of the Common Reporting Standard

26. (1) With effect from the 1st January, 2016 the Common Reporting Standard applies for the purposes of automatic exchange of financial account information under a relevant Agreement.

(2) Accordingly, from that date the Common Reporting Standard forms parts of the laws of the Virgin Islands.

(3) All Virgin Islands Financial Institutions shall apply the Common Reporting Standard in accordance with this Act.^{lxxii}

(4) Where this Act is silent the Common Reporting Standard shall apply.^{lxxiii}

Policies and procedures to be established by Virgin Islands Financial Institutions

27. (1) A Reporting Financial Institution shall establish, implement and maintain written policies and procedures to comply with this Act.

(2) The policies and procedures established pursuant to subsection (1) shall provide for the following:

- (a) identifying each jurisdiction in which an Account Holder or a Controlling Person is resident for income tax or corporation tax purposes or for the purposes of any tax imposed by the law of the jurisdiction that is of a similar character of either of those taxes;
- (b) applying the due diligence procedures set out in the Common Reporting Standard; and
- (c) ensuring that any information obtained in accordance with this Act and a record of the steps taken to comply with this Act in respect of a Financial Account is kept for at least five years after the period within which the Reporting Financial Institution must report.

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

- (a) knows, or has reason to believe, the self-certification or documentary evidence is inaccurate in a material way from its policies and procedures; and
- (b) it files a return that relies on the accuracy of such a self-certification or based on documentary evidence.

(4) A Reporting Financial Institution that fails to establish and maintain policies and procedures designed to identify Reportable Accounts in accordance with this section commits an offence and is liable on conviction on indictment to a fine not exceeding one hundred thousand dollars.^{lxxiv}

Obligation to register^{lxxv}

28. (1) A Virgin Islands Financial Institution shall register^{lxxvi} with the Competent Authority.

(2) In doing so the Virgin Islands Financial Institution must provide to the Competent Authority—

- (a) the name of the Virgin Islands Financial Institution;
- (b) the categorisation of the Virgin Islands Financial Institution as determined in accordance with the Common Reporting Standard;^{lxxvii}
- (c) the full name, address, designation and contact details of the individual authorised by the Virgin Islands Financial Institution to be the Virgin Islands Financial Institution's^{lxxviii} principal point of contact for all purposes of compliance with this Part and the Common Reporting Standard; and^{lxxix}
- (d) and any other information required by the ITA.^{lxxx}

(3) Existing Virgin Islands Financial Institutions shall register with the Competent Authority by 30th April, 2019 or if a Virgin Islands Financial Institution became a Virgin Islands Financial Institution after the coming into force of this Act, it shall register with the Competent Authority by the 30th April in the first calendar year following which the Virgin Islands Financial Institution became a Virgin Islands Financial Institution.^{lxxxi}

(4) The Virgin Islands Financial Institution^{lxxxii} must do so electronically in a form required by the Competent Authority.

(5) A Reporting Financial Institution must register^{lxxxiii} with^{lxxxiv} the Competent Authority immediately of any change to the information provided under subsection (2).^{lxxxv}

(6) A Virgin Islands Financial Institution that fails to register with the Competent Authority in accordance with this section commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars.^{lxxxvi}

Obligation to file a return^{lxxxvii}

29. (1) A Virgin Islands Financial Institution shall, in respect of each calendar year following the coming into force of this Act, file a return—

- (a) setting out the information required to be reported under the Common Reporting Standard in respect of each Reportable Account maintained by the Virgin Islands Financial Institution at any time during that year; or
- (b) if no Reportable Account is maintained, a nil return.^{lxxxviii}

(2) The first reporting year for the purposes of the Common Reporting Standard is the calendar year 2016.^{lxxxix}

(3) A Reporting Financial Institution must file a return^{xc} under this Part on or before 31st May of the year following the calendar year to which the return relates.^{xcj}

(4) A Virgin Islands Financial Institution shall file a return under this Part on or before 31st May of each calendar year following the calendar year to which the return relates.^{xcii}

(5) A Virgin Islands Financial Institution that fails to file a return^{xciii} with the Competent Authority in accordance with this section commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars.^{xciv}

(6) A Virgin Islands Financial Institution that files a return, which contains inaccurate information, or which is incomplete, commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars or to imprisonment for a term of two years, or both, where

- (a) the inaccuracy or incompleteness is deliberate;
- (b) the inaccuracy or incompleteness is due to a failure to take reasonable care; or
- (c) the Virgin Islands Financial Institution discovers the inaccuracy or incompleteness sometime later and fails to take reasonable steps to inform the Competent Authority.

Form of return

30. (1) A Virgin Islands Financial Institution shall file^{xcv} a return under section 29 electronically using a form and in a manner specified by the Competent Authority that incorporates an electronic validation process.^{xcvi}

(2) The Competent Authority must treat a return filed otherwise than in accordance with subsection (1) as not having been filed.^{xcvii}

(3) The Competent Authority must assume unless the contrary is proved that—

- (a) the use of the electronic return system specified by the Competent Authority resulted in a return having been filed if the return was recorded by the electronic validation process of the system;
- (b) the return was filed at the time recorded by the electronic validation process; and
- (c) the person who filed the return is the person identified as doing so by the electronic return system.

(4) The Competent Authority must assume that a return filed on behalf of a Virgin Islands Financial Institution was filed by the Virgin Islands Financial Institution, unless the Virgin Islands Financial Institution proves that the return was filed without the Virgin Islands Financial Institution's authority.^{xcviii}

Appointment of Third Parties

31. (1) A Virgin Islands Financial Institution may appoint a person as the Virgin Islands Financial Institution's agent to carry out the duties and obligations imposed on the Virgin Islands Financial Institution by this Part.^{xcix}

(2) If it does so, the Virgin Islands Financial Institution must ensure that the Virgin Islands Financial Institution continues to have access to and is able to produce to the Competent Authority records and documentary evidence used to identify and report on Reportable Accounts.^c

(3) The Virgin Islands Financial Institution is responsible for any failure of the person to carry out the Virgin Islands Financial Institution's obligations.^{ci}

Compliance measures

32.(1) The Competent Authority may require a Virgin Islands Financial Institution—

- (a) within a time specified by the Competent Authority, to provide to it information, including but not limited to, a copy of a relevant book, document or other record, or of electronically stored information; or
- (b) at a time specified by the Competent Authority, to make available to it for inspection, a book, document or other record, or any electronically stored information, that is in the Virgin Islands Financial Institution's possession or under the Virgin Islands Financial Institution's control which the Competent Authority reasonably requires to determine if information submitted to the Competent Authority under this Part was correct and complete.^{cii}

(2) If—

- (a) information the Competent Authority wants or wants to inspect, is outside the Virgin Islands; and
- (b) the Competent Authority requires the Virgin Islands Financial Institution to bring it to the Virgin Islands within a time that will enable it to do so,

the Virgin Islands Financial Institution must comply with the requirement.^{ciii}

(3) A Virgin Islands Financial Institution^{civ} must retain for six years a book, document or other record, including any stored by electronic means, that relates to the information required to be reported to the Competent Authority under this Part.

(4) The Competent Authority may inspect the due diligence procedures implemented by a Virgin Islands Financial Institution or perform an inquiry into the due diligence procedures of the Virgin Islands Financial Institution.^{cv}

(5) Where the Competent Authority inspects or performs an inquiry on a Virgin Islands Financial Institution in accordance with subsection (4) it may where necessary, advise the Financial Services Commission.^{cvi}

(6) Any person who wilfully^{cvi} or knowingly signs (or otherwise positively affirms) a false self-certification commits an offence,^{cvi} and is liable

- (a) on summary conviction to a fine not exceeding five thousand dollars or to imprisonment not exceeding two years or both' or
- (b) on conviction on indictment, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding five years, or both.^{cix}

Rules for applying the Common Reporting Standard

32A. (1) A Reporting Financial Institution^{cx} may apply the due diligence procedures under the Common Reporting Standard for—

- (a) New Accounts to Pre-existing Accounts; and
- (b) High Value Accounts to Lower Value Accounts.

(2) Where a Reporting Financial Institution^{cx} applies the due diligence procedures in accordance with subsection (1) it may do so either with respect to all relevant Pre-existing 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).

(3) Where a Reporting Financial Institution^{cx} applies the due diligence procedures in accordance with subsection (1)(a) the rules otherwise applicable to Pre-existing Accounts outlined in the Common Reporting Standard continue to apply.

(4) A Reporting Financial Institution^{cx} may apply—

- (a) either the residence address test or the electronic record search set forth in subparagraphs B (2) through (6) of Section III of the Common Reporting Standard; or
- (b) only the electronic record search.

(5) Where a Reporting Financial Institution^{cx} applies the residence address test in accordance with subsection (4) it shall apply such a test with respect to each Lower Value Account or clearly identified group of such accounts as permitted by law.

(6) Where a Reporting Financial Institution^{cx} does not apply the residence address test in accordance with subsection (4) or one or more of the test requirements are not satisfied, then the Reporting Financial Institution^{cx} shall perform the electronic record search with respect to the Lower Value Account.

(7) A Reporting Financial Institution may exclude from its due diligence procedures Pre-existing Accounts for an entity with an account balance or value that

does not exceed of two hundred and fifty thousand dollars as of the 31st December, 2015 and if, at the end of a subsequent calendar year, the account balance or value exceeds two hundred and fifty thousand dollars, the Reporting Financial Institution shall apply the due diligence procedures.^{cxvii}

(8) A Reporting Financial Institution^{cxviii} may treat a member's interest in a Group Cash Value Insurance Contract or Group Annuity Contract as a Financial Account that is not a Reportable Account until the date on which an amount is payable to the employee or beneficiary, if the Financial Account that is a member's interest in a Group Cash Value Insurance Contract or Group Annuity Contract meets the following requirements—

- (a) the Group Cash Value Insurance Contract or Group Annuity Contract is issued to an employer and covers twenty-five or more employees;
- (b) the employees 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
- (c) the aggregate amount payable to any employee or beneficiary does not exceed one million dollars.

(9) A Reporting Financial Institution may use as Document Evidence any classification in the Financial Institution's records with respect to the Account Holder that was determined based on a standardised industry coding system, that was recorded by the Virgin Islands Financial Institution consistent with its normal business practices for purposes of AML/KYC Procedures or another regulatory purpose (other than for tax purposes) and that was implemented by the Reporting Financial Institution prior to the date used to classify the Financial Account as a Pre-existing Account, provided that the Reporting Financial Institution does not know or have reason to know that such classification is incorrect or unreliable.^{cxix}

(10) For the purposes of this part a Reporting Financial Institution may align the scope of the beneficiary of a trust treated as a Controlling Person of the trust with the scope of the beneficiary of a trust treated as a Reportable Person of a trust that is a Reporting Financial Institution^{cxx}.

(11) A Reporting Financial Institution acting pursuant to subsection (10) must ensure that the Reporting Financial Institution have appropriate procedures in place to identify when a distribution is made to a discretionary beneficiary of the trust in a given year that enable the trust to report such beneficiary as a Controlling Person.^{cxxi}

(12) A Reporting Financial Institution exercising any options under this section shall keep an internal record of such an option as part of the policies and procedures which they are required to have in place in accordance with section 27.^{cxxii}

Application of agreement signed to implement the Common Reporting Standard

33. (1) Where, pursuant to the Common Reporting Standard, the Government of the Virgin Islands enters into an agreement to implement the provisions of the Common Reporting Standard, the provisions of this Part shall be applied in accordance with that agreement, notwithstanding any inconsistency with the provision of the Common Reporting Standard.

(2) An agreement referred to in subsection (1) may be in the form set out in Schedule 3.^{cxxiii cxxiv}

Anti-avoidance

34. If—

- (a) a person enters into any arrangements, and
- (b) the main purpose, or one of the main purposes, of the person in entering into the arrangements is to avoid any obligation under this Part,

this Part is to have effect as if the arrangement or arrangements had not been entered into.^{cxxv}

PART IV COUNTRY BY COUNTRY REPORTING^{cxxvi}

Interpretation for Part IV

35. (1)^{cxxvii} In this Part, unless the context otherwise requires—

“Consolidated Financial Statements” means the financial statements of an MNE Group in which the assets, liabilities, income, expenses and cash flows of the Ultimate Parent Entity and the Constituent Entities are presented as those of a single economic entity; “Constituent Entity” means—

- (a) any separate business unit of an MNE Group that is included in the Consolidated Financial Statements of the MNE Group for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange;
- (b) any such business unit that is excluded from the MNE Group’s Consolidated Financial Statements solely on size or materiality grounds; and
- (c) any permanent establishment of any separate business unit of the MNE Group included in paragraph (a) or (b) provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting, or internal management control purposes;

“Excluded MNE Group” means, with respect to any Fiscal Year of the Group, a Group having total consolidated group revenue of less than 750 million Euro during the Fiscal Year immediately preceding the Reporting Fiscal Year as reflected in its Consolidated Financial Statements for such preceding Fiscal Year;

“Fiscal Year” means an annual accounting period with respect to which the Ultimate Parent Entity of the MNE Group prepares its financial statements;

“Group” means a collection of enterprises related through ownership or control such that it is either required to prepare Consolidated Financial Statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange;

“International Agreement” means the Multilateral Convention for Mutual Administrative Assistance in Tax Matters, any bilateral or multilateral Tax Convention, or any Tax Information Exchange Agreement to which

the Virgin Islands is a party, and that by its terms provides legal authority for the exchange of tax information between jurisdictions, including automatic exchange of such information;

“Multinational Enterprises (MNE) Group” means any Group that—

- (a) includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction; and
- (b) is not an Excluded MNE Group;

“Qualifying Competent Authority Agreement” means an agreement—

- (a) that is between authorised representatives of those jurisdictions that are parties to an International Agreement; and
- (b) that requires the automatic exchange of country-by-country reports between the party jurisdictions;

“Reporting Entity” means the Constituent Entity that is required to file a country-by-country report conforming to the requirements in section 39 in its jurisdiction of tax residence on behalf of the MNE Group, and such entity may be the Ultimate Parent Entity, the Surrogate Parent Entity, or any entity described in section 37(2)(b);

“Reporting Fiscal Year” means that Fiscal Year, on or after the 1st January, 2018, the financial and operational results of which are reflected in the country-by-country report defined in section 39;

“Resident for tax purpose in the Virgin Islands” means

- (a) being incorporated or established in the Virgin Islands;
- (b) having a place of effective management in the Virgin Islands; or
- (c) being subject to financial supervision in the Virgin Islands; and ^{cxviii}

“Surrogate Parent Entity” means one Constituent Entity of the MNE Group that has been appointed by such MNE Group, as a sole substitute for the Ultimate Parent Entity, to file the country-by-country report in that Constituent Entity’s jurisdiction of tax residence, on behalf of such MNE Group, when one or more of the conditions set out in section 37(2)(b) applies;

“Systemic Failure” with respect to a jurisdiction, means that a jurisdiction has a Qualifying Competent Authority Agreement in effect with the Virgin Islands, but has suspended automatic exchange (for reasons other than those that are in accordance with the terms of that Agreement) or otherwise persistently failed to automatically provide to the Virgin Islands’ country-by-country reports in its possession of MNE Groups that have Constituent Entities in the Virgin Islands;

“Ultimate Parent Entity” means a Constituent Entity of an MNE Group that meets the following criteria—

- (a) it owns directly or indirectly a sufficient interest in one or more other Constituent Entities of such MNE Group such that it is required to prepare Consolidated Financial Statements under accounting principles generally applied in its jurisdiction of tax residence, or would be so required if its equity interests were traded on a public securities exchange in its jurisdiction of tax residence; and
- (b) there is no other Constituent Entity of such MNE Group that owns directly or indirectly an interest described in paragraph (a) in the first mentioned Constituent Entity. ^{cxix}

(2) For the purpose of the definition of “Group” and “Ultimate Parent Entity” public securities exchange means any recognized exchange listed by the Financial Services Commission by notice under section 2(1) of the Regulatory Code, Revised Edition 2013. ^{cxx}

Competent Authority

36. The International Tax Authority shall be the Competent Authority for the purposes of this Part and in relation to the implementation of Base Erosion and Profit Shifting in the Virgin Islands. ^{cxxi}

Obligation to file: Country-by-Country reports

37. (1) Each Ultimate Parent Entity of an MNE Group that is resident for tax purposes in the Virgin Islands shall file a country-by-country report conforming to

the requirements of section 39 with the Competent Authority with respect to its Reporting Fiscal Year on or before the date specified in section 40.

(2) A Surrogate Parent Entity shall file a country-by-country report conforming to the requirements of section 39 with the Competent Authority with respect to the Reporting Fiscal Year of an MNE Group of which it is a Surrogate Parent if

- (a) the entity is resident for tax purposes, in the Virgin Islands; and
- (b) one of the following conditions applies
 - (i) the Ultimate Parent Entity of the MNE Group is not obligated to file a country-by-country report in its jurisdiction of tax residence; or
 - (ii) the jurisdiction in which the Ultimate Parent Entity is resident for tax purposes has a current International Agreement to which the Virgin Islands is a party but does not have a Qualifying Competent Authority Agreement in effect to which the Virgin Islands is a party by the time specified in section 40 for filing the country-by-country report for the Reporting Fiscal Year; or
 - (iii) there has been a Systemic Failure of the jurisdiction of tax residence of the Ultimate Parent Entity that has been notified by the Competent Authority to the Constituent Entity resident for tax purposes in the Virgin Islands.^{cxxxii}

Registration Requirement

38. (1) Any Constituent Entity of an MNE Group that is resident for tax purposes in the Virgin Islands shall register with the Competent Authority whether it is the Ultimate Parent Entity or the Surrogate Parent Entity, no later than the last day of the Reporting Fiscal Year of such MNE Group.

(2) Where a Constituent Entity of an MNE Group that is resident for tax purposes in the Virgin Islands is not the Ultimate Parent Entity nor the Surrogate Parent Entity, it shall register with the Competent Authority of the identity and tax residence of the Reporting Entity, no later than the last day of the Reporting Fiscal Year of such MNE Group.

(3) A Constituent Entity of an MNE Group shall do so electronically in a form required by the Competent Authority.

(4) A Constituent Entity of an MNE Group shall register with^{cxxxiii} the Competent Authority immediately of any change to the information provided under subsection (2).

(5) A Constituent Entity of an MNE which fails to register with the Competent Authority in accordance with this section commits an offence and is liable on conviction to a fine not exceeding one hundred thousand dollars.^{cxxxiv}

Country-by-Country Report

39. (1) For purposes of this Part, a country-by-country report with respect to an MNE Group is a report containing—

- (a) aggregate information relating to the amount of revenue, profit (loss) before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees, and tangible assets other than cash or cash equivalents with regard to each jurisdiction in which the MNE Group operates.
- (b) an identification of each Constituent Entity of the MNE Group setting out the jurisdiction of tax residence of such Constituent Entity, and where different from such jurisdiction of tax residence, the jurisdiction under the laws of which such Constituent Entity is organised, and the nature of the main business activity or activities of such Constituent Entity.

(2) The country-by-country report shall be filed in a form identical to and applying the definitions and instructions contained in the standard template set out at Annex III of Chapter V of the OECD Final Report.^{cxxxv}

Time for Filing

40. The country-by-country report required for this Part shall be filed no later than twelve months after the last day of the Reporting Fiscal Year of the MNE Group.^{cxxxvi}

Use of Confidentiality of Country-by-Country Report Information

41. (1) The Competent Authority shall use the country-by-country report as necessary for purposes of assessing high-level transfer pricing risks and other base erosion and profit shifting related risks in the Virgin Islands, including assessing the risk of non-compliance by members of the MNE Group with applicable transfer pricing rules, and where appropriate for economic and statistical analysis, if applicable.

(2) For the purposes of subsection (1), transfer pricing adjustments by the Competent Authority will not be based on the country-by-country Report.

(3) Notwithstanding subsection (1), the Competent Authority shall use the country-by-country Report and any other information obtained pursuant to this Act for the purposes of collaboration on compliance and enforcement with other Competent Authorities pursuant to a Qualifying Competent Authority Agreement.

(4) The Competent Authority shall preserve the confidentiality of the information contained in the country-by-country report at least to the same extent that would apply if such information were provided to it under the provisions of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.^{cxxxvii}

General penalty

42. (1) Where an obligation is created under this Act in respect of a person (other than the Authority or any person acting in accordance with his directive) for which a penalty is not prescribed, a failure to comply with the obligation shall constitute an offence.^{cxviii}

(1A) Any person who wilfully, knowingly, fraudulently, recklessly or negligently provide any false, inaccurate, incomplete or incorrect information to the Competent Authority, or who discovers the false, inaccurate, incomplete or incorrect information, but without reasonable excuse, fails to notify the Competent Authority as soon as practicable after making the discovery commits an offence.^{cxix}

(2) A person who contravenes subsections (1) or^{cxli} (1A) commits an offence and is liable—

- (a) on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or both, or
- (b) on conviction on indictment, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding five years, or both.^{cxlii}

(3) Where an obligation created under this Act or the Agreement falls upon a limited partnership or trust, for which a penalty is not imposed, then notwithstanding the generality of subsection (1) and (2), a failure to comply with such obligation shall constitute an offence under this Part, and any liable person shall be liable

- (a) on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years or both; or
 - (b) on conviction on indictment, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding five years, or both.
- (4) For the purpose of subsection (3), a “liable person” means, in relation to
- (a) A limited partnership with legal personality, the limited partnership any of its general partners;
 - (b) A limited partnership without legal personality, the general partner; and
 - (c) A trust, a trustee of the trust,

and anyone else, who otherwise is a de facto decision maker for the limited partnership or trust.

SCHEDULE 1

(Section 2(1))

THE U.S.A. AGREEMENT

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, INCLUDING THE GOVERNMENT OF THE BRITISH VIRGIN ISLANDS, FOR THE EXCHANGE OF INFORMATION RELATING TO TAXES

The Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, including the Government of the British Virgin Islands, (“the parties”), desiring to facilitate the exchange of information relating to taxes, have agreed as follows:

ARTICLE 1

SCOPE OF AGREEMENT

The competent authorities of the parties shall provide assistance through exchange of information relating to the administration and enforcement of the domestic laws of the parties concerning the taxes and the tax matters covered by this Agreement, including information that may be relevant to the determination, assessment, verification, enforcement or collection of tax claims with respect to persons subject to such taxes, or to the investigation or prosecution of criminal tax evasion in relation to such persons. The territorial scope of this Agreement, in respect of the United Kingdom, is the territory of the British Virgin Islands.

ARTICLE 2

JURISDICTION

To enable the appropriate implementation of this Agreement, information shall be provided in accordance with this Agreement by the competent authority of the requested party:

- (a)* without regard to whether the person to whom the information relates is a resident or national of a party, or whether the person by whom the information is held is a resident or national of a party; and
- (b)* provided that the information is present within the territory, or in the possession or control of a person subject to the jurisdiction, of the requested party.

ARTICLE 3

TAX COVERED

The taxes covered by this Agreement are in the case of the United States of America, federal income taxes; and in the case of the British Virgin Islands, such taxes as may

from time to time, be imposed by law; provided that the types of tax covered may be extended by agreement between the competent authorities in the form of an exchange of letters.

ARTICLE 4

DEFINITIONS

In this Agreement –

“competent authority” means, for the United States of America, the Secretary of the Treasury or his delegate, and for the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing;

“criminal tax evasion” means wilfully, with dishonest intent to defraud the public revenue, evading or attempting to evade any tax liability where an affirmative act constituting an evasion or attempted evasion has occurred. The tax liability must be of a significant or substantial amount, either as an absolute amount or in relation to an annual tax liability, and the conduct involved must constitute a systematic effort or pattern of activity designed or tending to conceal pertinent facts from or provide inaccurate facts to the tax authorities of either party. The competent authorities shall agree on the scope and extent falling within this definition;

“information” means any fact, statement, document or record in whatever form;

“information gathering measures” means judicial, regulatory or administrative procedures enabling a requested party to obtain and provide the information requested;

“items subject to legal privilege” means:

- (a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;
- (b) communications between a professional legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and
- (c) items enclosed with or referred to in such communications and made –
 - (i) in connection with the giving of legal advice; or
 - (ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,

when the items are in the possession of a person who is entitled to possession of them. Items held with the intention of furthering a criminal purpose are not subject to legal privilege, and nothing in this Article shall prevent a professional legal adviser from providing the name and address of a client where doing so would not constitute a breach of legal privilege;

“person” means a natural person, a company or any other body or group of persons;

“requested party” means the party to this Agreement which is requested to provide or has provided information in response to a request;

“requesting party” means the party to this Agreement submitting a request for or having received information from the requested party;

“tax” means any tax covered by this Agreement.

ARTICLE 5

EXCHANGE OF INFORMATION UPON REQUEST

1. The competent authority of a requested party shall provide upon request in writing by the requesting party information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the conduct being investigated would constitute a crime under the laws of the requested party if it occurred in the territory of the requested party. If the information received by the competent authority of the requested party is not sufficient to enable it to comply with the request for information, it shall advise the competent authority of the requesting party of that fact with suggestions of the additional information required to enable the effective processing of the request.

2. If the information in possession of the competent authority of the requested party is not sufficient to enable it to comply with the request for information, the requested party shall take all relevant information gathering measures to provide the requesting party with the information requested, notwithstanding that the requested party may not, at that time, need such information for its own tax purposes.

3. If specifically requested by the competent authority of the requesting party, the competent authority of the requested party shall provide information under this Article, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. Each party shall ensure that its competent authority, for the purposes of this Agreement, has the authority to obtain and provide upon request:

- (a) information held by banks, other financial institutions, and any person, including nominees and trustees, acting in an agency or fiduciary capacity;
- (b) information regarding the beneficial ownership of companies, partnerships and other persons.

5. The competent authority of the requesting party shall provide the following information to the competent authority of the requested party when making a request for information under this Agreement in order to demonstrate the relevance of the information sought to the request:

- (a) the name of the authority seeking the information or conducting the investigation or proceeding to which the request relates;

- (b) the identity of the taxpayer under examination or investigation;
- (c) the nature and type of the information requested, including a description of the specific evidence, information or other assistance sought;
- (d) the tax purposes for which the information is sought;
- (e) the period of time with respect to which the information is requested;
- (f) reasonable grounds for believing that the information requested is present in the territory of the requested party or is in the possession or control of a person subject to the jurisdiction of the requested party and may be relevant to the tax purposes of the request;
- (g) to the extent known, the name and address of any person believed to be in possession or control of the information requested;
- (h) a declaration that the request conforms to the law and administrative practice of the requesting party and would be obtainable by the requesting party under its laws in similar circumstances, both for its own tax purposes and in response to a valid request from the requested party under this Agreement.

6. The competent authority of the requested party shall forward the requested information as promptly as possible to the competent authority of the requesting party. To ensure a prompt response, the competent authority of the requested party shall:

- (a) confirm receipt of a request in writing to the competent authority of the requesting party, and shall notify the competent authority of the requesting party of any deficiencies in the request within 60 days of receipt of the request;
- (b) if the competent authority of the requested party has been unable to obtain and provide the information requested within a reasonable period relative to the nature of the request, or if obstacles are encountered in furnishing the information, or if the competent authority of the requested party refuses to provide the information, it shall immediately inform the competent authority of the requesting party to explain the reasons for its inability or the obstacles or its refusal.

ARTICLE 6

TAX EXAMINATION (OR INVESTIGATION) ABROAD

1. The requested party may, to the extent permitted under its domestic laws, allow representatives of the competent authority of the requesting party to enter the territory of the requested party in connection with a request to interview persons and examine records with the prior written consent of the persons concerned. The competent authority of the requesting party shall notify the competent authority of the requested party of the time and place of the meeting with the persons concerned.

2. At the request of the competent authority of the requesting party, the competent authority of the requested party may permit representatives of the competent authority of the requesting party to be present when a tax examination is being carried out in the territory of the requested party.

3. If the request referred to in paragraph 2 is granted, the competent authority of the requested party conducting the examination shall, as soon as possible, notify the competent authority of the requesting party of the time and place of the examination, the authority or person authorised to carry out the examination and the procedures and conditions required by the requested party for the conduct of the examination. All decisions regarding the conduct of the examination shall be made by the requested party conducting the examination.

ARTICLE 7

POSSIBILITY OF DECLINING A REQUEST

1. The Competent authority of the requested party may decline to assist:

- (a) where the request is not made in conformity with this Agreement;
- (b) where the requesting party has not pursued all means available in its own territory, except where recourse to such means would give rise to disproportionate difficulty; or
- (c) where the disclosure of the information requested would be contrary to the public policy of the requested party.

2. This Agreement shall not impose upon a party any obligation to provide items subject to legal privilege, nor any trade, business, industrial, commercial or professional secret or trade process. Information described in Article 5(4) shall not by reason of that fact alone constitute such a secret or process.

3. A request for information shall not be refused on the ground that the tax liability giving rise to the request is disputed by the taxpayer.

4. The requested party shall not be required to obtain and provide information which the requesting party would be unable to obtain in similar circumstances:

- (a) under its own laws for the purpose of the enforcement of its own tax laws; or
- (b) in response to a valid request from the requested party under this Agreement.

ARTICLE 8

CONFIDENTIALITY

1. All information provided and received by the competent authorities of the parties shall be kept confidential and shall be disclosed only to persons or authorities (including judicial, administrative and, in the case of the United States, Congressional oversight authorities or, in the case of the British Virgin Islands, a select committee of

the Legislative Council) officially concerned with the purposes specified in Article 1, and used by such persons or authorities only for such purposes or for oversight purposes, including the determination of any appeal. For these purposes, information may be disclosed in public court proceedings or in judicial proceedings.

2. Except as provided in paragraph 1, information provided under this Agreement shall not be disclosed to any third party.

ARTICLE 9

SAFEGUARDS

Nothing in this Agreement shall affect the rights and safeguards secured to persons by the laws or administrative practice of the requested party, provided and to the extent that these are not so burdensome or time-consuming as to act as impediments to access to the information.

ARTICLE 10

ADMINISTRATIVE COST OR DIFFICULTIES

1. The requesting party shall reimburse the requested party for direct out of pocket costs of processing each request (including direct out of pocket costs of litigation directly relating to such request), as agreed by the parties.

2. In the event that compliance with the obligations under this Agreement occasions undue difficulty for either party, either as a result of the number or complexity of requests, the respective competent authorities shall consult with a view to resolving the difficulty under Article 11.

ARTICLE 11

MUTUAL AGREEMENT PROCEDURE

Where difficulties or doubts arise between the parties regarding the implementation or interpretation of this Agreement, the respective competent authorities shall use their best efforts to resolve the matter by mutual agreement.

ARTICLE 12

ENTRY INTO FORCE

1. This Agreement shall enter into force when each party has notified the other of the completion of its necessary internal procedures for entry into force. Upon entry into force it shall have effect for criminal tax evasion beginning on 1 January 2004, and with respect to all other matters covered in Article 1 beginning on 1 January 2006.

2. Upon entry into force, the provisions of the Agreement shall have effect with respect to criminal tax evasion for taxable periods commencing from 2003, and shall have effect with respect to all other matters for taxable periods commencing from 2006.

ARTICLE 13

TERMINATION

1. This Agreement shall remain in force until terminated by either party.
2. Either party may terminate this Agreement by giving notice of termination in writing. Such termination shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of notice of termination by the other party.
3. A party which terminates this Agreement shall remain bound by the provisions of Article 8 with respect to any information obtained under this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorised in that behalf by the respective parties, have signed this Agreement.

Done at Washington, in duplicate, this 3rd day of April, 2002.

For the Government of
States of

For the Government of the United Kingdom of America:
Great Britain and Northern

Ireland:

PAUL O'NEILL

CHRISTOPHER MEYER

For the Government of
the British Virgin Islands:

F. J. SAVAGE

***COMPETENT AUTHORITY AGREEMENT BETWEEN THE
DEPARTMENT OF THE TREASURY, UNITED STATES OF AMERICA AND
THE MINISTRY OF FINANCE, BRITISH VIRGIN ISLANDS***

The Competent Authorities agree that “criminal tax evasion” as defined in Article 4 of the Tax Information Exchange Agreement (“the Agreement”) between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, including the Government of the British Virgin Islands, shall be interpreted as follows:

1. “Criminal tax evasion” shall include, but not necessarily be limited to, the following offenses under U.S. law, provided that the conduct involved otherwise falls within the definition of criminal tax evasion provided in Article 4 of the Agreement:
 - A. attempting to evade or defeat the assessment or collection of a tax;
 - B. signing and filing a document, required by law to be filed to advise tax authorities of the amount of tax due, or pertaining to the collection or payment thereof, that is false as to any material matter;
 - C. aiding or assisting in the preparation of a document, required by law to advise tax authorities of the amount of tax due, that is false as to any material matter, whether or not such falsity is with the knowledge or consent of the person authorized or required to present such document;
 - D. corruptly obstructing or impeding, or endeavouring to obstruct or impede, the due administration of tax assessment and collection; and
 - E. conspiring to commit any of the above-stated offenses or conspiring to defraud the government.

In determining whether any of these offenses “relates to a tax liability that is significant or substantial either as an absolute amount or in relation to an annual tax liability” (as required by the definition in Article 4 of the Agreement), it shall not be required that the tax liability in question (1) be owed by the perpetrator of the offense himself or itself (for example, where the perpetrator aids and assists in the preparation of another taxpayer’s document); (2) relate to the tax year referenced in the document forming the basis of the offense; or (3) be exactly determined or formally assessed at the time of the offense or the making of the request for assistance, provided that the request contains evidence of a tax liability sufficient to meet the requirements of the Agreement. Furthermore in the case of any above-stated offense which does not require an existing tax liability as an element, such as an offense described in B, C, D and perhaps E, the requesting party may show that the offense “relates to a tax liability that is significant or substantial either as an absolute amount or in relation to an annual tax liability” by establishing that the perpetrator had a tax evasion motive falling within this description.

2. The following factual circumstances, especially where they appear in a combination or pattern, shall be relevant to the Competent Authority’s

determination whether the conduct described in a request constitutes a systematic effort or pattern of activity designed or tending to conceal pertinent facts from or provide inaccurate facts to the tax authorities:

- A. preparing, causing to be prepared, signing or filing any document that is (1) required by law to be filed to advise tax authorities of the amount of tax due and (2) false as to any matter necessary to the determination of such tax or having a tendency to impede the tax authorities in verifying or auditing the document;
- B. keeping a double set of books, one of which is directed at establishing the true amount of tax due and the other of which is directed at establishing less than the true amount of tax due and is used to prepare, or is available to support, a false declaration to tax authorities regarding the amount of tax due;
- C. making false entries or alterations, directed at establishing less than the true amount of tax due, to a set of books that is used to prepare, or is available to support, a false declaration to tax authorities regarding the amount of tax due;
- D. creating false invoices or documents, or altering invoices or documents that are used to prepare, or are available to support, a false declaration to tax authorities regarding the amount of tax due;
- E. destroying books or records that establish the true amount of tax due;
- F. concealing assets or sources of income that constitute evidence of, or that could be used to satisfy, the true amount of tax due; and
- G. handling one's affairs to avoid making the usual records that constitute evidence of the true amount of tax due.

Department of Treasury
Internal Revenue Service
United States of America

Ministry of Finance
Government of the
British Virgin Islands

CAROL A. DUNAHOO FRANK J. SAVAGE Director, International Governor
Large and Mid-Size Business Division

Date: April 3, 2002

Date: April 3, 2002

***COMPETENT AUTHORITY AGREEMENT BETWEEN THE
DEPARTMENT OF THE TREASURY, UNITED STATES OF AMERICA AND
THE MINISTRY OF FINANCE, BRITISH VIRGIN ISLANDS***

With reference to the Tax Information Exchange Agreement (“the Agreement”) between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, including the Government of the British Virgin Islands, the Competent Authorities agree as follows:

1. With reference to Article 5, Section 2 of the Agreement, in the event that a requesting party is unable to provide additional information as requested of it pursuant to the provisions of Article 5, Section 1, this circumstance may frustrate the information gathering measures available to the requested party.
2. Accordingly, it is understood by the parties that the Competent Authorities will work together in an effort to ensure that, where a request is received by the requested party, it is able to properly and effectively implement the appropriate information gathering measures.

Department of Treasury
Internal Revenue Service
United States of America

Ministry of Finance
Government of the
British Virgin Islands

CAROL A. DUNAHOO
Director, International
Large and Mid-Size Business Division

FRANK J. SAVAGE
Governor

Date: April 3, 2002

Date: April 3, 2002

[REPEALED]^{cxliii}

[REPEALED]^{cxliv}

SCHEDULE 2^{exlv}

(Sections 21 and 26)^{exlvi}

COMMON STANDARD ON REPORTING AND DUE DILIGENCE FOR FINANCIAL ACCOUNT INFORMATION

Section I: General Reporting Requirements

- A. Subject to paragraphs C through E, each Reporting Financial Institution must report the following information with respect to each Reportable Account of such Reporting Financial Institution:
1. the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of the due diligence procedures consistent with Sections V, VI and VII, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, jurisdiction(s) of residence and TIN(s) of the Entity and the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth of each Reportable Person;
 2. the account number (or functional equivalent in the absence of an account number);
 3. the name and identifying number (if any) of the Reporting Financial Institution;
 4. the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;
 5. in the case of any Custodial Account:
 - a) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
 - b) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;
 6. in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
 7. in the case of any account not described in subparagraph A (5) or (6), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any

redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

- B. The information reported must identify the currency in which each amount is denominated.
- C. Notwithstanding subparagraph A(1), with respect to each Reportable Account that is a Preexisting Account or with respect to each Financial Account that is opened prior to becoming a Reportable Account, the TIN(s) or date of birth is not required to be reported if such TIN(s) or date of birth is not in the records of the Reporting Financial Institution and is not otherwise required to be collected by such Reporting Financial Institution under domestic law. However, a Reporting Financial Institution is required to use reasonable efforts to obtain the TIN(s) and date of birth with respect to Preexisting Accounts by the end of the second calendar year following the year in which such Accounts were identified as Reportable Accounts.
- D. Notwithstanding subparagraph A(1), the TIN is not required to be reported if (i) a TIN is not issued by the relevant Reportable Jurisdiction or (ii) the domestic law of the relevant Reportable Jurisdiction does not require the collection of the TIN issued by such Reportable Jurisdiction.
- E. Notwithstanding subparagraph A(1), the place of birth is not required to be reported unless the Reporting Financial Institution is otherwise required to obtain and report it under domestic law and it is available in the electronically searchable data maintained by the Reporting Financial Institution.

Section II: General Due Diligence Requirements

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

used for Preexisting Accounts, the rules otherwise applicable to Preexisting Accounts continue to apply.

Section III: Due Diligence for Preexisting Individual Accounts The following procedures apply with respect to Preexisting Individual Accounts. **A. Accounts Not Required to be Reviewed, Identified, or Reported.**

A Preexisting Individual Account that is a Cash Value Insurance Contract or an Annuity Contract is not required to be reviewed, identified or reported, provided the Reporting Financial Institution is effectively prevented by law from selling such Contract to residents of a Reportable Jurisdiction.

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

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

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

1. **Electronic Record Search.** with respect to High Value Accounts, the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the indicia described in subparagraph B(2).
2. **Paper Record Search.** If the Reporting Financial Institution's electronically searchable databases include fields for, and capture all of the information described in, subparagraph C (3), then a further paper record search is not required. If the electronic databases do not capture all of this information, then with respect to a High Value Account, the Reporting Financial Institution must also review the current customer master file and, to the extent not contained in the current customer master file, the following documents associated with the account and obtained by the Reporting Financial Institution within the last five years for any of the indicia described in subparagraph B(2):
 - a) the most recent Documentary Evidence collected with respect to the account;
 - b) the most recent account opening contract or documentation;
 - c) the most recent documentation obtained by the Reporting Financial Institution pursuant to AML/KYC Procedures or for other regulatory purposes;
 - d) any power of attorney or signature authority forms currently in effect; and
 - e) any standing instructions (other than with respect to a Depository Account) to transfer funds currently in effect.
3. **Exception To The Extent Databases Contain Sufficient Information.** A Reporting Financial Institution is not required to perform the paper record search described in subparagraph C (2) to the extent the Reporting Financial Institution's electronically searchable information includes the following:
 - a) the Account Holder's residence status;
 - b) the Account Holder's residence address and mailing address currently on file with the Reporting Financial Institution;
 - c) the Account Holder's telephone number(s) currently on file, if any, with the Reporting Financial Institution;
 - d) in the case of Financial Accounts other than Depository Accounts, whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the Reporting Financial Institution or another Financial Institution);
 - e) whether there is a current "in-care-of" address or "hold mail" instruction for the Account Holder; and
 - f) whether there is any power of attorney or signatory authority for the account.
4. **Relationship Manager Inquiry for Actual Knowledge.** In addition to the electronic and paper record searches described above, the Reporting Financial Institution must treat as a Reportable Account any High Value Account assigned to a relationship manager (including any Financial Accounts aggregated with that High Value Account)

if the relationship manager has actual knowledge that the Account Holder is a Reportable Person.

5. Effect of Finding Indicia.

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

unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.

9. A Reporting Financial Institution must implement procedures to ensure that a relationship manager identifies any change in circumstances of an account. For example, if a relationship manager is notified that the Account Holder has a new mailing address in a Foreign Jurisdiction, the Reporting Financial Institution is required to treat the new address as a change in circumstances and, if it elects to apply subparagraph B (6), is required to obtain the appropriate documentation from the Account Holder.
- D. Review of Preexisting High Value Individual Accounts must be completed by 31 December 2016. Review of Preexisting Lower Value Individual Accounts must be completed by 31 December 2017.
- E. Any Preexisting Individual Account that has been identified as a Reportable Account under this Section must be treated as a Reportable Account in all subsequent years, unless the Account Holder ceases to be a Reportable Person.

Section IV: Due Diligence for New Individual Accounts

The following procedures apply with respect to New Individual Accounts.

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

Section V: Due Diligence for Preexisting Entity Accounts

The following procedures apply with respect to Preexisting Entity Accounts.

- A. **Entity Accounts Not Required to Be Reviewed, Identified or Reported.** Unless the Reporting Financial Institution elects otherwise, either with respect to all Preexisting Entity Accounts or, separately, with respect to any clearly identified group of such accounts, a Preexisting Entity Account with an aggregate account balance or value that

does not exceed USD 250 000 as of 31 December 2015, is not required to be reviewed, identified, or reported as a Reportable Account until the aggregate account balance or value exceeds USD 250 000 as of the last day of any subsequent calendar year.

- B. Entity Accounts Subject to Review.** A Preexisting Entity Account that has an aggregate account balance or value that exceeds USD 250 000 as of 31 December 2015, and a Preexisting Entity Account that does not exceed USD 250 000 as of 31 December 2015 but the aggregate account balance or value of which exceeds USD 250 000 as of the last day of any subsequent calendar year, must be reviewed in accordance with the procedures set forth in paragraph D.
- C. Review Procedures for Identifying Entity Accounts With Respect to Which Reporting may be Required.** For Preexisting Entity Accounts described in paragraph B, a Reporting Financial Institution must apply the following review procedures:
- 1. Determine the Residence of the Entity.**
 - a)* Review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine the Account Holder's residence. For this purpose, information indicating that the Account Holder's residence includes a place of incorporation or organisation, or an address in a Foreign Jurisdiction.
 - b)* If the information indicates that the Account Holder is a Reportable Person, the Reporting Financial Institution must treat the account as a Reportable Account unless it obtains a self-certification from the Account Holder or reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person.
 - 2. Determine the Residence of the Controlling Persons of a Passive NFE.** With respect to an Account Holder of a Preexisting Entity Account (including an Entity that is a Reportable Person), the Reporting Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons and determine the residence of such Controlling Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account is treated as a Reportable Account. In making these determinations the Reporting Financial Institution must follow the guidance in subparagraphs C(2)(a) through (c) in the order most appropriate under the circumstances.
 - a)* Determining whether the Account Holder is a Passive NFE. For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Financial Institution must obtain a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.
 - b)* Determining the Controlling Persons of an Account Holder. For the purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial

Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.

- c) Determining the residence of a Controlling Person of a Passive NFE. For the purposes of determining the residence of a Controlling Person of a Passive NFE, a Reporting Financial Institution may rely on:
 - i) information collected and maintained pursuant to AML/KYC Procedures in the case of a Preexisting Entity Account held by one or more NFEs with an aggregate account balance or value that does not exceed USD 1 000 000; or
 - ii) a self-certification from the Account Holder or such Controlling Person of the jurisdiction(s) in which the Controlling Person is resident for tax purposes. If a self certification is not provided, the Reporting Financial Institution will establish such residence(s) by applying the procedures described in paragraph C of Section III.

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

- 1. Review of Preexisting Entity Accounts with an aggregate account balance or value that exceeds USD 250 000 as of 31 December 2015 must be completed by 31 December 2017.
- 2. Review of Preexisting Entity Accounts with an aggregate account balance or value that does not exceed USD 250 000 as of 31 December 2015 but exceeds USD 250 000 as of 31 December of a subsequent year, must be completed within the calendar year following the year in which the aggregate account balance or value exceeds USD 250 000.
- 3. If there is a change of circumstances with respect to a Preexisting Entity Account that causes the Reporting Financial Institution to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the Reporting Financial Institution must re-determine the status of the account in accordance with the procedures set forth in paragraph C.

Section VI: Due Diligence for New Entity Accounts

The following procedures apply with respect to New Entity Accounts.

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

1. Determine the residence of the Entity.

- a) Obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Financial Institution to determine the Account Holder's residence(s) for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Financial Institution in connection with the opening of the account, including any documentation collected pursuant to

AML/KYC Procedures. If the Entity certifies that it has no residence for tax purposes, the Reporting Financial Institution may rely on the address of the principal office of the Entity to determine the residence of the Account Holder.

- b)* If the self-certification indicates that the Account Holder is resident in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account unless it reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person with respect to such Reportable Jurisdiction.
- 2. **Determine the Residence of the Controlling Persons of a Passive NFE.** With respect to an Account Holder of a New Entity Account (including an Entity that is a Reportable Person), the Reporting Financial Institution must identify whether the Account Holder is a Passive NFE with one or more Controlling Persons and determine the residence of such Reportable Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. In making these determinations the Reporting Financial Institution must follow the guidance in subparagraphs A(2)(a) through (c) in the order most appropriate under the circumstances.
 - a)* **Determining whether the Account Holder is a Passive NFE.** For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Financial Institution must rely on a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFE or a Financial Reporting Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.
 - b)* **Determining the Controlling Persons of an Account Holder.** For purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.
 - c)* **Determining the residence of a Controlling Person of a Passive NFE.** For purposes of determining the residence of a Controlling Person of a Passive NFE, a Reporting Financial Institution may rely on a self-certification from the Account Holder or such Controlling Person.

Section VII: Special Due Diligence Rules

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

- A. **Reliance on Self-Certifications and Documentary Evidence.** A Reporting Financial Institution may not rely on a self-certification or Documentary Evidence if the Reporting Financial Institution knows or has reason to know that the self-certification or Documentary Evidence is incorrect or unreliable.

- B. Alternative Procedures for Financial Accounts Held by Individual Beneficiaries of a Cash Value Insurance Contract or an Annuity Contract and for a Group Cash Value Insurance Contract or Group Annuity Contract.** A Reporting Financial Institution may presume that an individual beneficiary (other than the owner) of a Cash Value Insurance Contract or an Annuity Contract receiving a death benefit is not a Reportable Person and may treat such Financial Account as other than a Reportable Account unless the Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person.

A Reporting Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract or an Annuity Contract is a Reportable Person if the information collected by the Reporting Financial Institution and associated with the beneficiary contains indicia as described in paragraph B of Section III. If a Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person, the Reporting Financial Institution must follow the procedures in paragraph B of Section III.

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

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

The term "Group Annuity Contract" means an Annuity Contract under which the obligees are individuals who are affiliated through an employer, trade association, labour union, or other association or group. **C. Account Balance Aggregation and Currency Rules.**

- 1. Aggregation of Individual Accounts.** For purposes of determining the aggregate balance or value of Financial Accounts held by an individual, a Reporting Financial Institution is required to aggregate all Financial Accounts maintained by the Reporting Financial Institution, or by a Related Entity, but only to the extent that the Reporting Financial Institution's computerised systems link the Financial Accounts by reference to a data element such as client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the

entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this subparagraph.

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

Section VIII: Defined Terms

The following terms have the meanings set forth below:

A. Reporting Financial Institution

1. The term "**Reporting Financial Institution**" means any Participating Jurisdiction Financial Reporting Financial Institution that is not a Non- Reporting Financial Institution.
2. The term "**Participating Jurisdiction Financial Institution**" means (i) any Financial Institution that is resident in a Participating Jurisdiction, but excludes any branch of that Financial Institution that is located outside such Participating Jurisdiction, and (ii) any branch of a Financial Institution that is not resident in a Participating Jurisdiction, if that branch is located in such Participating Jurisdiction.
3. The term "**Financial Institution**" means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.
4. The term "**Custodial Institution**" means any Entity that holds, as a substantial portion of its business, Financial Assets for the account of others. An Entity holds Financial Assets for the account of others as a substantial portion of its business if the Entity's gross income attributable to the holding of Financial Assets and related financial services equals or exceeds 20% of the Entity's gross income during the shorter of: (i) the three-year period that ends on 31 December (or the final day of a non-calendar year

accounting period) prior to the year in which the determination is being made; or (ii) the period during which the Entity has been in existence.

5. The term “**Depository Institution**” means any Entity that accepts deposits in the ordinary course of a banking or similar business.
6. The term “**Investment Entity**” means any Entity:
 - a) that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
 - i) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
 - ii) individual and collective portfolio management; or iii) otherwise investing, administering, or managing Financial Assets or money on behalf of other persons; or
 - b) the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in subparagraph A(6)(a).

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

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

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

B. Non-Reporting Financial Institution

1. The term “**Non-Reporting Financial Institution**” means any Financial Institution that is:
 - a) a Governmental Entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution;
 - b) a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organisation or Central Bank; or a Qualified Credit Card Issuer;
 - c) any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in subparagraphs B(1)(a) and (b), and is defined in domestic law as a Non-Reporting Financial Institution, provided that the status of such Entity as a Non-Reporting Financial Institution does not frustrate the purposes of the Common Reporting Standard;
 - d) an Exempt Collective Investment Vehicle; or
 - e) a trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to Section I with respect to all Reportable Accounts of the trust.
2. The term “**Governmental Entity**” means the government of a jurisdiction, any political subdivision of a jurisdiction (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of a jurisdiction or of any one or more of the foregoing (each, a “Governmental Entity”). This category is comprised of the integral parts, controlled entities, and political subdivisions of a jurisdiction.
 - a) An “integral part” of a jurisdiction means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of a jurisdiction. The net earnings of the governing authority must be credited to its own account or to other accounts of the jurisdiction, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity.
 - b) A controlled entity means an Entity that is separate in form from the jurisdiction or that otherwise constitutes a separate juridical entity, provided that:
 - i) the Entity is wholly owned and controlled by one or more Governmental Entities directly or through one or more controlled entities;
 - ii) the Entity’s net earnings are credited to its own account or to the accounts of one or more Governmental Entities, with no portion of its income inuring to the benefit of any private person; and
 - iii) the Entity’s assets vest in one or more Governmental Entities upon dissolution.

- c) Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of government. Notwithstanding the foregoing, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a governmental entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons.
3. The term “**International Organisation**” means any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation (including a supranational organisation) (1) that is comprised primarily of governments; (2) that has in effect a headquarters or substantially similar agreement with the jurisdiction; and (3) the income of which does not inure to the benefit of private persons.
4. The term “**Central Bank**” means an institution that is by law or government sanction the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the jurisdiction, whether or not owned in whole or in part by the jurisdiction.
5. The term “**Broad Participation Retirement Fund**” means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that the fund:
- a) does not have a single beneficiary with a right to more than five per cent of the fund’s assets;
 - b) is subject to government regulation and provides information reporting to the tax authorities; and
 - c) satisfies at least one of the following requirements:
 - i) the fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;
 - ii) the fund receives at least 50% of its total contributions (other than transfers of assets from other plans described in subparagraphs B(5) through (7) or from retirement and pension accounts described in subparagraph C(17)(a)) from the sponsoring employers;
 - iii) distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death (except rollover distributions to other retirement funds described in subparagraphs B(5) through (7) or retirement and pension accounts described in subparagraph C(17)(a)), or penalties apply to distributions or withdrawals made before such specified events; or
 - iv) contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed USD

50 000 annually, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

6. The term “**Narrow Participation Retirement Fund**” means a fund established to provide retirement, disability, or death benefits to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that:
 - a) the fund has fewer than 50 participants;
 - b) the fund is sponsored by one or more employers that are not Investment Entities or Passive NFEs;
 - c) the employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described in subparagraph C(17)(a)) are limited by reference to earned income and compensation of the employee, respectively;
 - d) participants that are not residents of the jurisdiction in which the fund is established are not entitled to more than 20% of the fund’s assets; and
 - e) the fund is subject to government regulation and provides information reporting to the tax authorities.
7. The term “**Pension Fund of a Governmental Entity, International Organisation or Central Bank**” means a fund established by a Governmental Entity, International Organisation or Central Bank to provide retirement, disability, or death benefits to beneficiaries or participants that are current or former employees (or persons designated by such employees), or that are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services performed for the Governmental Entity, International Organisation or Central Bank.
8. The term “**Qualified Credit Card Issuer**” means a Financial Institution satisfying the following requirements:
 - a) the Financial Institution is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and
 - b) beginning on or before 1 January 2016, the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of USD 50 000, or to ensure that any customer overpayment in excess of USD 50 000 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.
9. The term “**Exempt Collective Investment Vehicle**” means an Investment Entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through individuals

or Entities that are not Reportable Persons, except a Passive NFE with Controlling Persons who are Reportable Persons.

C. Financial Account

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

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

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

5. The term “**Insurance Contract**” means a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.
6. The term “**Annuity Contract**” means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.
7. The term “**Cash Value Insurance Contract**” means an Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value.
8. The term “**Cash Value**” means the greater of (i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan), and (ii) the amount the policyholder can borrow under or with regard to the contract. Notwithstanding the foregoing, the term “Cash Value” does not include an amount payable under an Insurance Contract:
 - a) solely by reason of the death of an individual insured under a life insurance contract;
 - b) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;
 - c) as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an Insurance Contract (other than an investment-linked life insurance or annuity contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;
 - d) as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an Insurance Contract under which the only benefits payable are described in subparagraph C(8)(b); or
 - e) as a return of an advance premium or premium deposit for an Insurance Contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract.
9. The term “**Preexisting Account**” means:
 - a) a Financial Account maintained by a Reporting Financial Institution as of 31 December 2015;
 - b) any Financial Account of an Account Holder, regardless of the date such Financial Account was opened, if:
 - i) the Account Holder also holds with the Reporting Financial Institution (or with a Related Entity within the same jurisdiction as the Reporting Financial Institution) a Financial Account that is a Pre-existing Account under subparagraph C(9)(a);
 - ii) the

Reporting Financial Institution (and, as applicable, the Related Entity within the same jurisdiction as the Reporting Financial Institution) treats both of the aforementioned Financial Accounts, and any other Financial Accounts of the Account Holder that are treated as Pre-existing Accounts under point (b), as a single Financial Account for purposes of satisfying the standards of knowledge requirements set forth in paragraph A of Section VII, and for purposes of determining the balance or value of any of the Financial Accounts when applying any of the account thresholds; iii) with respect to a Financial Account that is subject to AML/KYC Procedures, the Reporting Financial Institution is permitted to satisfy such AML/KYC Procedures for the Financial Account by relying upon the AML/KYC

Procedures performed for the Pre-existing Account described in subparagraph C(9)(a); and

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

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

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

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

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

- c) a life insurance contract with a coverage period that will end before the insured individual attains age 90, provided that the contract satisfies the following requirements:
 - i) periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age 90, whichever is shorter;
 - ii) the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;

- iii) the amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and
- iv) the contract is not held by a transferee for value.
- d) an account that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate.
- e) an account established in connection with any of the following:
 - i) a court order or judgment.
 - ii) a sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:
 - i) the account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a Financial Asset that
is deposited in the account in connection with the sale, exchange, or lease of the property;
 - ii) the account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease;
 - iii) the assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates;
 - iv) the account is not a margin or similar account established in connection with a sale or exchange of a Financial Asset; and
 - v) the account is not associated with an account described in subparagraph C(17)(f).
 - iii) an obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time.
 - iv) an obligation of a Financial Institution solely to facilitate the payment of taxes at a later time.
 - f) a Depository Account that satisfies the following requirements:
 - i) the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and

- ii) beginning on or before 1 January 2016, the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of USD 50 000, or to ensure that any customer overpayment in excess of USD 50 000 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.
- g) any other account that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the accounts described in subparagraphs C(17)(a) through (f), and is defined in domestic law as an Excluded Account, provided that the status of such account as an Excluded Account does not frustrate the purposes of the Common Reporting Standard.

D. Reportable Account

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

8. The term “**Passive NFE**” means any: (i) NFE that is not an Active NFE; or (ii) an Investment Entity described in subparagraph A(6)(b) that is not a Participating Jurisdiction Financial Institution.
9. The term “**Active NFE**” means any NFE that meets any of the following criteria:
 - a) less than 50% of the NFE’s gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period
are assets that produce or are held for the production of passive income;
 - b) the stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
 - c) the NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
 - d) substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
 - e) the NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE;
 - f) the NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution;
 - g) the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or
 - h) the NFE meets all of the following requirements:
 - i) it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;

- ii) it is exempt from income tax in its jurisdiction of residence; iii) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
- iv) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and
- v) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision thereof.

E. Miscellaneous

1. The term “**Account Holder**” means the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of the Common Reporting Standard, and such other person is treated as holding the account. In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder.
2. The term “**AML/KYC Procedures**” means the customer due diligence procedures of a Reporting Financial Institution pursuant to the anti-money laundering or similar requirements to which such Reporting Financial Institution is subject.
3. The term “**Entity**” means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation.
4. An Entity is a “**Related Entity**” of another Entity if (i) either Entity controls the other Entity; (ii) the two Entities are under common control; or (iii) the two Entities are Investment Entities described in subparagraph A(6)(b), are under common management, and such management fulfils the due diligence obligations of such Investment Entities. For this purpose, control includes direct or indirect ownership of more than 50 % of the vote and value in an Entity.
5. The term “**TIN**” means Taxpayer Identification Number (or functional equivalent in the absence of a Taxpayer Identification Number).
6. The term “**Documentary Evidence**” includes any of the following:

- a) a certificate of residence issued by an authorised government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the payee claims to be a resident.
- b) with respect to an individual, any valid identification issued by an authorised government body (for example, a government or agency thereof, or a municipality), that includes the individual's name and is typically used for identification purposes.
- c) with respect to an Entity, any official documentation issued by an authorised government body (for example, a government or agency thereof, or a municipality) that includes the name of the Entity and either the address of its principal office in the jurisdiction in which it claims to be a resident or the jurisdiction in which the Entity was incorporated or organised.
- d) any audited financial statement, third-party credit report, bankruptcy filing, or securities regulator's report.

With respect to a Pre-existing Entity Account, Reporting Financial Institutions may use as Documentary Evidence any classification in the Reporting Financial Institution's records with respect to the Account Holder that was determined based on a standardised industry coding system, that was recorded by the Reporting Financial Institution consistent with its normal business practices for purposes of AML/KYC Procedures or another regulatory purposes (other than for tax purposes) and that was implemented by the Reporting Financial Institution prior to the date used to classify the Financial Account as a Pre-existing Account, provided that the Reporting Financial Institution does not know or does not have reason to know that such classification is incorrect or unreliable. The term "standardised industry coding system" means a coding system used to classify establishments by business type for purposes other than tax purposes.

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

Section IX: Effective Implementation

- A. A jurisdiction must have rules and administrative procedures in place to ensure effective implementation of, and compliance with, the reporting and due diligence procedures set out above including:
 - 1. rules to prevent any Financial Institutions, persons or intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures;
 - 2. rules requiring Reporting Financial Institutions to keep records of the steps undertaken and any evidence relied upon for the performance of the above procedures and adequate measures to obtain those records;
 - 3. administrative procedures to verify Reporting Financial Institutions' compliance with the reporting and due diligence procedures; administrative procedures to follow up with a Reporting Financial Institution when undocumented accounts are reported;

4. administrative procedures to ensure that the Entities and accounts defined in domestic law as Non-Reporting Financial Institutions and Excluded Accounts continue to have a low risk of being used to evade tax; and
5. effective enforcement provisions to address non-compliance.^{cxlvii}

MODEL AGREEMENT BETWEEN THE COMPETENT AUTHORITIES OF [JURISDICTION A] AND [JURISDICTION B] ON THE AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION TO IMPROVE INTERNATIONAL TAX COMPLIANCE

Whereas, the Government of [Jurisdiction A] and the Government of [Jurisdiction B] have a longstanding and close relationship with respect to mutual assistance in tax matters and desire to improve international tax compliance by further building on that relationship;

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

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

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

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

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

SECTION 1

Definitions

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

a) The term “[Jurisdiction A]” means [...].

- b) The term “[Jurisdiction B]” means [...].
- c) The term “Competent Authority” means:
 - (1) in the case of [Jurisdiction A], [...]; and
 - (2) in the case of [Jurisdiction B], [...].
- d) The term “[Jurisdiction A] Financial Institution” means (i) any Financial Institution that is resident in [Jurisdiction A], but excludes any branch of that Financial Institution that is located outside [Jurisdiction A], and (ii) any branch of a Financial Institution that is not resident in [Jurisdiction A], if that branch is located in [Jurisdiction A].
- e) The term “[Jurisdiction B] Financial Institution” means (i) any Financial Institution that is resident in [Jurisdiction B], but excludes any branch of that Financial Institution that is located outside [Jurisdiction B], and (ii) any branch of a Financial Institution that is not resident in [Jurisdiction B], if that branch is located in [Jurisdiction B].
- f) The term “Reporting Financial Institution” means any [Jurisdiction A] Financial Institution or [Jurisdiction B] Financial Institution, as the context requires, that is not a Non-Reporting Financial Institution.
- g) The term “Reportable Account” means a [Jurisdiction A] Reportable Account or a [Jurisdiction B] Reportable Account, as the context requires, provided it has been identified as such pursuant to due diligence procedures, consistent with the Annex, in place in [Jurisdiction A] or [Jurisdiction B].
- h) The term “[Jurisdiction A] Reportable Account” means a Financial Account that is maintained by a [Jurisdiction B] Reporting Financial Institution and held by one or more [Jurisdiction A] persons that are Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a [Jurisdiction A] Reportable Person.
- i) The term “[Jurisdiction B] Reportable Account” means a Financial Account that is maintained by a [Jurisdiction A] Reporting Financial Institution and held by one or more [Jurisdiction B] persons that are Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a [Jurisdiction B] Reportable Person.
- j) The term “[Jurisdiction A] Person” means an individual or Entity that is identified by a [Jurisdiction B] Reporting Financial Institution as resident in [Jurisdiction A] pursuant to due diligence procedures consistent with the Annex, or an estate of a decedent that was a resident of [Jurisdiction A]. 14

- k) The term “[Jurisdiction B] Person” means an individual or Entity that is identified by a [Jurisdiction A] Reporting Financial Institution as resident in [Jurisdiction B] pursuant to due diligence procedures consistent with the Annex, or an estate of a decedent that was a resident of [Jurisdiction B].
- l) The term “TIN” means a [Jurisdiction A] TIN or a [Jurisdiction B] TIN, as the context requires.
- m) The term “[Jurisdiction A] TIN” means a [...].
- n) The term “[Jurisdiction B] TIN” means a [...].

2. Any capitalised term not otherwise defined in this Agreement will have the meaning that it has at that time under the law of the jurisdiction applying the Agreement, such meaning being consistent with the meaning set forth in the Annex. Any term not otherwise defined in this Agreement or in the Annex will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the jurisdiction applying this Agreement, any meaning under the applicable tax laws of that jurisdiction prevailing over a meaning given to the term under other laws of that jurisdiction.

SECTION 2

Exchange of Information with Respect to Reportable Accounts

1. Pursuant to the provisions of Article [...] of the [Convention]/[Instrument] and subject to the applicable reporting and due diligence rules consistent with the Annex, each Competent Authority will annually exchange with the other Competent Authority on an automatic basis the information obtained pursuant to such rules and specified in paragraph 2.
2. The information to be exchanged is, in the case of [Jurisdiction A] with respect to each [Jurisdiction B] Reportable Account, and in the case of [Jurisdiction B] with respect to each [Jurisdiction A] Reportable Account:
 - a) the name, address, TIN and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of due diligence procedures consistent with the Annex, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, and TIN of the Entity and the name, address, TIN and date and place of birth of each Reportable Person;
 - b) the account number (or functional equivalent in the absence of an account number);
 - c) the name and identifying number (if any) of the Reporting Financial Institution;

- d)* the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account;
- e)* in the case of any Custodial Account:
 - (1) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
 - (2) the total gross proceeds from the sale or redemption of property paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;
- f)* in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
- g)* in the case of any account not described in subparagraph 2(e) or (f), the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

SECTION 3

Time and Manner of Exchange of Information

1. For the purposes of the exchange of information in Section 2, the amount and characterization of payments made with respect to a Reportable Account may be determined in accordance with the principles of the tax laws of the jurisdiction exchanging the information.
2. For the purposes of the exchange of information in Section 2, the information exchanged will identify the currency in which each relevant amount is denominated.
3. With respect to paragraph 2 of Section 2, information is to be exchanged with respect to [xxxx] and all subsequent years and will be exchanged within nine months after the end of the calendar year to which the information relates. Notwithstanding the foregoing sentence information is only required to be exchanged with respect to a calendar year if both jurisdictions have in effect legislation that requires reporting with respect to such calendar year that is consistent with the scope of exchange provided for in Section 2 and the reporting and due diligence procedures contained in the Annex.

4. Notwithstanding paragraph 3, the information to be exchanged with respect to [xxxx] is the information described in paragraph 2 of Section 2, except for gross proceeds described in subparagraph 2(e)(2) of Section 2.

5. The Competent Authorities will automatically exchange the information described in Section 2 in a common reporting standard schema in Extensible Markup Language.

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

SECTION 4

Collaboration on Compliance and Enforcement

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

SECTION 5

Confidentiality and Data Safeguards

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

2. Each Competent Authority will notify the other Competent Authority immediately regarding any breach of confidentiality or failure of safeguards and any sanctions and remedial actions consequently imposed.

SECTION 6

Consultations and Amendments

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

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

SECTION 7

Term of Agreement

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

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

COMPETENT AUTHORITY FOR COMPETENT AUTHORITY FOR [Jurisdiction A]:
[Jurisdiction B]:”^{cxlix}

SCHEDULE 4^{cl}

(Section 23)

EXCLUDED ACCOUNTS

Dormant Accounts

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

(2) An account is a dormant account if—

- (a)* the account holder has not initiated a transaction with regard to the account or any other account held by the account holder with the Reporting Financial Institution in the previous three years,
- (b)* the account holder has not communicated with the Reporting Financial Institution regarding the account or any other account held by the account holder with the Reporting Financial Institution in the previous six years,
- (c)* notwithstanding the provisions of the Dormant Accounts Act, the account is treated as dormant under the Virgin Islands Financial Institutions normal operating procedures that are consistently applied for all accounts maintained provided that such are in line with the definition of a dormant account found in the CRS Commentary on Section III paragraph 9; and^{cli}
- (d)* in the case of a cash value insurance contract, the Reporting Financial Institution has not communicated with the account holder regarding the account or any other account held by the account holder with the Reporting Financial Institution in the previous six years.^{clii}

ⁱ Amended by Act No. 17 of 2015

ⁱⁱ Amended by Act No. 4 of 2022

ⁱⁱⁱ Amended by Act No. 16 of 2005

^{iv} Substituted by Act No. 4 of 2022

^v Amended by Act No. 16 of 2005

^{vi} Amended by Act No. 16 of 2005

^{vii} Inserted by Act No. 11 of 2011

^{viii} Amended by Act No. 16 of 2005

^{ix} Amended by Act No. 11 of 2011

^x Amended by Act No. 16 of 2005

^{xi} Amended by Act No. 16 of 2005

^{xii} Amended by Act No. 12 of 2014

^{xiii} Inserted by Act No. 10 of 2013

^{xiv} Amended by Act No. 4 of 2022

^{xv} Inserted by Act No. 11 of 2011

^{xvi} Amended by Act No. 16 of 2005

^{xvii} Amended by Act No. 11 of 2011

^{xviii} Deleted by Act No. 4 of 2022

^{xix} Amended by Act No. 11 of 2011

^{xx} Deleted by Act. No. 4 of 2022

^{xxi} Substituted by Act No. 17 of 2015

xxii Substituted by Act No. 4 of 2022
xxiii Substituted by Act No. 12 of 2014
xxiv Inserted by Act No. 11 of 2012
xxv Substituted by Act No. 12 of 2014
xxvi Substituted by Act No. 4 of 2022
xxvii Inserted by Act No. 4 of 2022
xxviii Substituted by Act No. 4 of 2022
xxix Inserted by Act No. 4 of 2022
xxx Inserted by Act No. 4 of 2022
xxxi Inserted by Act No. 4 of 2022
xxxii Amended by Act No. 11 of 2011
xxxiii Substituted by Act No. 12 of 2014
xxxiv Repealed and replaced by No. 4/2022
xxxv Inserted by No. 4/2022
xxxvi Repealed and replace by Act No. 4 of 2022
xxxvii Inserted by Act No. 4 of 2022
xxxviii Inserted by Act No. 4 of 2022
xxxix Amended by Act No. 18 of 2025
xl Inserted by Act No. 4 of 2022
xli Inserted by Act No. 4 of 2022
xlii Inserted by Act No. 4 of 2022
xliii Inserted by Act No. 4 of 2022
xliv Inserted by Act No. 4 of 2022
xlv Inserted by Act No. 4 of 2022
xlvi Inserted by Act No. 4 of 2022
xlvii Repealed and Substituted by Act No. 18 of 2025
xlviii Inserted by Act No. 4 of 2022
xlix Amended by Act No. 4 of 2022
l Amended by Act No. 18 of 2025
li Inserted by Act No. 17 of 2015
lii Inserted by Act No. 18 of 2018
liii Inserted by Act No. 18 of 2018
liv Inserted by Act No. 4 of 2022
lv Inserted by Act No. 18 of 2018
lvi Inserted by Act No. 18 of 2018
lvii Inserted by Act No. 17 of 2015
lviii Inserted by Act No. 18 of 2018
lix Substituted by Act No. 4 of 2022
lx Inserted by Act No. 18 of 2018
lxi Inserted by Act No. 4 of 2022
lxii Inserted by Act No. 18 of 2018
lxiii Inserted by Act No. 17 of 2015
lxiv Inserted by Act No. 17 of 2015 and repealed and replaced by Act. No. 4 of 2022
lxv Substituted by Act No. 18 of 2024
lxvi Substituted by Act No. 18 of 2024
lxvii Substituted by Act No. 18 of 2024
lxviii Inserted by Act No. 17 of 2015
lxix Inserted by Act No. 17 of 2015
lxx Inserted by Act No. 17 of 2015
lxxi Amended by Act No. 8 of 2018
lxxii Inserted by Act No. 8 of 2018
lxxiii Inserted by Act No. 8 of 2018
lxxiv Inserted by Act No. 7 of 2015 and *repealed and replaced by No. 4 of 2022*
lxxv Amended by Act No. 8 of 2018
lxxvi Substituted by Act No. 18 of 2008
lxxvii Amended by Act No. 4 of 2022
lxxviii Amended by Act No. 18 of 2008
lxxix Amended by Act No. 4 of 2022

lxxx Inserted by Act No. 4 of 2022
lxxxi Substituted by Act No. 18 of 2008
lxxxii Inserted by Act No. 18 of 2008
lxxxiii Amended by Act No. 18 of 2008
lxxxiv Amended by Act No. 4 of 2022
lxxxv Inserted by Act No. 17 of 2015
lxxxvi Inserted by Act No. 18 of 2008
lxxxvii Inserted by Act No. 18 of 2008
lxxxviii Substituted by Act No. 18 of 2008
lxxxix Amended by Act No. 18 of 2008
xc Amended by Act No. 4 of 2022
xci Amended by Act No. 18 of 2008
xcii Substituted by Act No. 18 of 2008
xciii Amended by Act No. 4 of 2022
xciv Inserted by Act No 18 of 2008
xcv Amended by Act No. 18 of 2008
xevi Inserted by Act No. 17 of 2015
xevii Inserted by Act No. 17 of 2015 and amended by Act No. 18 of 2008
xeviii Inserted by Act No. 17 of 2015 and amended by Act No. 18 of 2008.
xcix Inserted by Act No. 17 of 2015 and amended by Act No. 18 of 2008
c Inserted by Act No. 17 of 2015 and Amended by Act No. 18 of 2008
ci Inserted by Act No. 17 of 2015 and amended by Act No. 18 of 2008
cii Inserted by Act No. 17 of 2015 and amended by Act No. 18 of 2008
ciii Inserted by Act No. 17 of 2015 and amended by Act No. 18 of 2008
civ Inserted by Act No. 17 of 2015 and amended by Act No. 18 of 2008
cv Inserted by Act No. 18 of 2008
cvi Inserted by Act No. 18 of 2008
cvii Amended by Act No.18 of 2025
cviii Inserted by Act No. 18 of 2008
cix Inserted by Act No. 4 of 2022
cx Inserted by Act No.8 of 2018 and amended by Act No. 4 of 2022
cxi Inserted by Act No. 8 of 2018 and amended by Act No. 4 of 2022
cxii Inserted by Act No. 8 of 2018 and amended by Act No. 4 of 2022
cxiii Inserted by Act No. 8 of 2018 and amended by Act No. 4 of 2022
cxiv Inserted by Act No. 8 of 2018 and amended by Act No. 4 of 2022
cxv Amended by Act No. 18 of 2025
cxvi Inserted by Act No. 8 of 2018 and amended by Act No. 4 of 2022
cxvii Inserted by Act No. 8 of 2018 and amended by Act No. 4 of 2022
cxviii Inserted by Act No. 8 of 2018 and amended by Act No. 4 of 2022
cxix Inserted by Act No. 8 of 2018 and amended by Act No. 4 of 2022
cxx Inserted by Act No. 8 of 2018 and amended by Act No. 4 of 2022
cxi Inserted by Act No. 8 of 2018 and amended by Act No. 4 of 2022
cxii Inserted by Act No. 18 of 2008 and amended by Act No. 4 of 2022
cxiii Inserted by Act No. 17 of 2015
cxiv Amended by Act No. 18 of 2025
cxv Inserted by Act. 17 of 2015
cxvi Amended by Act No. 4 of 2022
cxvii Inserted by Act No. 4 of 2022
cxviii Inserted by No. 4/2022
cxcix Inserted by Act No. 8 of 2018
cxx Inserted by No. 4/2022
cxxi Inserted by Act No. 8 of 2018
cxxii Substituted by Act No. 4/2022
cxxiii Inserted by Act No. 4 of 2022
cxxiv Inserted by Act No. 8 of 2018
cxxv Inserted by Act No. 8 of 2018
cxxvi Inserted by Act No. 18 of 2018
cxxvii Inserted by Act No. 18 of 2018

xxxviii Amended by Act. No 18 of 2018
xxxix Inserted by Act No. 18 of 2018
xli Repealed and Substituted by No. 18 of 2025
xlii Amended by Act No. 18 of 2025
xliv Substituted by Act No. 14 of 2014 and Amended by Act No. 18 of 2018
xlviii Repealed by Act No. 4 of 2022
xlix Repealed by Act No. 4 of 2022
l Renumbered by Act No. 4 of 2022
lii Amended by Act No. 18 of 2025
liii Inserted by Act No. 17 of 2015
liv Renumbered by Act No. 4 of 2022
lv Inserted by Act No. 17 of 2015
lvi Renumbered by Act No. 4 of 2022
lvii Inserted by Act No. 17 of 2015 and Substituted by Act No. 18 of 2018
lviii Inserted by Act No. 17 of 2015