



# CRS Guidance Notes **Kingdom of Saudi Arabia**



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## 1. Background

### 1.1. General Information

The Common Reporting Standard ("CRS") was developed by the Organization for Economic Co-operation and Development ("OECD") on the mandate of the G20. It is the global standard for the automatic exchange of financial account information for tax purposes. Under the CRS, jurisdictions obtain specified financial account information from their Financial Institutions and automatically exchange that information with partner jurisdictions on an annual basis.

### 1.2. Core Documents

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

The Common Reporting Standard (MCAA/CRS) Agreement that contains the due diligence and reporting rules for Financial Institutions

The Commentary on the CRS, which is an integral part of the CRS and is intended to illustrate or interpret its provisions.

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

- CRS Implementation Handbook
- CRS-related FAQs

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



### 1.3. Scope of KSA CRS Guidance

Common Reporting Standard ("CRS") applies to certain Financial Institutions which are located in the Kingdom of Saudi Arabia ("KSA"). Those Financial Institutions that are considered in scope for the CRS are defined as:

- Custodial Institutions;
- Depository Institutions;
- Investment Entities; and
- Specified Insurance Companies.

Reporting KSA Financial Institutions must undertake a comprehensive review of their existing Financial Accounts to identify the status and tax residency of Account Holders, either directly or indirectly (i.e., via entities).

Going forward, Reporting KSA Financial Institutions must also identify the tax residency and status of Account Holders before onboarding when opening new Financial Accounts.

Account Holders which are considered Reportable Persons must be reported by Reporting KSA Financial Institutions to the General Authority of Zakat and Tax ("ZATCA") on an annual basis.

### 1.4. Purpose of Guidance Notes

The purpose of these CRS guidance notes is to assist entities within KSA in practically assessing their obligations under the CRS and to assist Reporting KSA Financial Institutions in the implementation of the Standard for the Automatic Exchange of Financial Account Information in Tax Matters ("Standard").

This guide is for indicative purpose only and does not constitute a source of law. The Agreement, relevant laws and regulations remain the legal basis upon which it can be relied.



## 2. Financial Institutions

### 2.1. Introduction & overview

In order for an entity to determine the extent of its obligations under the CRS, it must first determine whether it is a Financial Institution. Entities are regarded as Financial Institutions if they fall within any of the following categories:

- Custodial Institution (see Section 2.9)
- Depository Institution (see Section 2.10)
- Investment Entity (see Section 2.11) or
- Specified Insurance Company (see Section 2.12)

Holding companies and relevant treasury companies are generally not considered as Financial Institutions under the CRS unless they meet the definition of Financial Institution. Thus, whether a holding company or treasury center has the status of Financial Institution depends on the facts and circumstances, and in particular on whether it engages in the specified activities or operations of a Financial Institution, even if those activities or operations are engaged solely on behalf of Related Entities or its shareholders. An Entity that, for example, enters foreign exchange hedges on behalf of the Entity's Related Entity financial group to eliminate the foreign exchange risk of such group, will meet the definition of Financial Institution provided that the other requirements of Investment Entity definition are met. A Holding company will also meet the definition of Financial Institution, specifically, Investment Entity, if it functions as or holds itself out as an investment fund, private equity fund, venture capital fund, and similar investment vehicles if investors participate (either through debt or equity) in investment schemes through the holding company.





Each category of Financial Institution outlined above is determined by specific set criteria. All criteria must be met in order for an entity to be classified as that category of a Financial Institution. KSA Financial Institutions will be classified as either Reporting KSA Financial Institutions or Non-Reporting KSA Financial Institutions. This distinction will determine the extent of obligations under the CRS.

Where an entity does not meet the definition of a Financial Institution then the entity should be classified as a Non-Financial Entity ("NFE") (see Section/Chapter 3)

An overview of the classification of entities under the CRS is contained in Appendix 1 of this Chapter.

## **2.2. KSA Financial Institutions**

The CRS applies to Financial Institutions that are resident in the KSA (excluding any branches of these FIs that are located outside the KSA), as well as to any branch and subsidiary (of a non-KSA resident Financial Institution) located in the KSA.

In certain instances, it may be less clear whether a Financial Institution is resident or located in KSA. In such instances, ZATCA will determine the Financial Institution's status based on whether it is tax resident in KSA. A Financial Institution is considered resident in the KSA for tax purposes if:

- It is formed under the Companies Regulations;
- Its place of central control and management is situated within KSA;
- If a non-resident company carries out business in KSA through a permanent establishment (for example, a KSA branch of a foreign bank that trades through a permanent establishment in the KSA is considered resident in the KSA for tax purposes);  
or
- A non-resident partner in a resident personal company through a permanent establishment if it has a partnership interest.



### 2.3. Dual tax residency

Where a Financial Institution is resident in two or more CRS Participating Jurisdictions, such Financial Institution will be subject to the reporting and due diligence and other obligations of the Participating Jurisdiction in which it maintains the Financial Account(s).

Hence, a KSA dual resident Financial Institution (i.e. resident in KSA and other CRS Participating Jurisdiction) should still apply the obligations of CRS in relation to any Financial Accounts maintained in KSA.

### 2.4. Fiscally transparent entities

Where a Financial Institution does not have a residence for tax purposes (e.g. because it is treated as fiscally transparent) it is considered to be a KSA Financial Institution if:

- It is incorporated under the laws of the KSA;
- It has its place of effective management in the KSA; or
- It is subject to financial supervision in the KSA.



## 2.5. Subsidiaries and Branches

KSA Financial Institutions include subsidiaries and branches of non-KSA resident Financial Institutions that are located in the KSA. Subsidiaries and branches of KSA tax resident entities that are not located in the KSA will be covered by the relevant rules in the country in which they are located for the purposes of the CRS.

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

### Example 1

ABC Bank, which is located in Jeddah, KSA, has the following in its group:

- A subsidiary (S) located in Dammam, KSA;
- A foreign subsidiary (D) located in Participating Jurisdiction 1;
- A foreign branch (F) located in Participating Jurisdiction 2; and
- A foreign branch (X) located in a country that is not a CRS participating country and there are no legal or other impediments to compliance with CRS requirements.



## Example 2

WXY Bank, which is located in the United Arab Emirates ("UAE"), has the following in its group:

- Subsidiary (1) located in Ras Al Khaimah (UAE);
- Subsidiary (2) located in the UK; and
- Branch (1) located and tax resident in KSA.

Under the terms of the CRS:

- WXY Bank and Subsidiary 1 will report to the relevant regulator in the UAE;
- Subsidiary 2 will report to HMRC (the UK competent authority); and
- Branch 1 will report to ZATCA.

### 2.5.1. Charities

A Charity, or other not for profit associations are treated as entities under the CRS and may fall within the definition of a Financial Institution. Such entities could be considered Managed Investment Entities, an Investment Entity whose assets are managed by a Financial Institution and more than 50% of its income comes from investing in Financial Assets. This is outlined further in Section 2.11.

If such an entity does not meet the criteria that would define it as a Managed Investment Entity, the KSA Financial Institution must consider whether it could be classified as any other type of Financial Institution, or failing such critereon, a type of NFE.

### 2.5.2. Partnerships

All partnerships, including general partnerships, limited partnerships and limited liability partnerships, are treated as entities for the purposes of CRS. Therefore, a partnership is to be treated as if it were an entity with separate legal personality.

A partnership can be either a Financial Institution or an NFE. To determine the status of a partnership, the partnership must consider whether it could be classified as a Financial, or failing which such critereon, the a type of NFE



## 2.6. Non-Reporting KSA Financial Institutions

The term “Non-Reporting KSA Financial Institution” refers to a Financial Institution that is not required to carry out the onboarding, due diligence, monitoring for a change in circumstance and reporting obligations under the CRS. Non-Reporting KSA Financial Institution means any Financial Institution that is:

- 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;
- 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;
- any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described immediately above, and is defined in domestic law as a Non-Reporting Financial Institution, provided that the status of such Entity as a Non-Reporting Financial Institution does not frustrate the purposes of the CRS;
- an Exempt Collective Investment Vehicle; or
- a trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported with respect to all Reportable Accounts of the trust.

See Section 2.13 below for further details.



## 2.7. Reporting KSA Financial Institution

As per Section (I)(f) of the Standard and Article (1) of the Administrative rules and procedures for applying the multilateral arrangement released by KSA, the term "Reporting KSA Financial Institution" refers to a KSA Financial Institution that is not a Non-Reporting KSA Financial Institution. A Reporting KSA Financial Institution will be required to report under the CRS to ZATCA annually starting from 2018.

A Reporting KSA Financial Institution would be an entity which falls within any of the following categories:

- A Custodial Institution (see Section 2.9)
- A Depository Institution (see Section 2.10)
- An Investment Entity (see Section 2.11); or
- A Specified Insurance Company (see Section 2.12).

## 2.8. Related Entities

An Entity is a Related Entity of another Entity if (a) either Entity controls the other Entity; (b) the two Entities are under common control; or (c) the two Entities are Investment Entities described in subparagraph A(6)(b) of Section VIII, 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.

Whether an entity is a related entity to another entity is relevant for the account balance aggregation rules, the scope of the term Reportable Person and for determining if an NFE can meet the criteria for being an Active NFE.



## 2.9. Custodial Institution

A Custodial Institution is 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:

- 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
- the period during which the entity has been in existence.

An entity with no operating history as of the date of the determination is considered to hold Financial Assets for the account of others as a substantial portion of its business if the entity expects to meet the gross income threshold based on its anticipated functions, assets, and employees, with due consideration given to any purpose or functions for which the entity is licensed or regulated (including those of any predecessor).

Related financial services are considered to include any ancillary service directly related to the holding of Financial Assets by the institution on behalf of others, such as fees for custody, account maintenance or providing financial advice. These may include:

- Custody, account maintenance and transfer fees;
- Commissions and fees earned from executing and pricing securities transactions;
- Income earned from extending credit to customers with respect to Financial Assets held in custody (or acquired through any such extension of credit);
- Income earned from contracts for differences and on the bid-ask spread of Financial Assets;
- Fees for providing financial advice with respect to Financial Assets held in (or potentially to be held in) custody by the entity; and
- For clearance and settlement services.



There may be circumstances where an entity holds Financial Assets for a customer where the income attributable to holding the Financial Assets or providing related financial services either belongs or is otherwise paid to a connected party such as another company in the same group of companies. This may be because the entity holds assets for a customer of a connected party, or simply that any consideration is paid to a connected party, either as an identifiable payment or as one element of a consolidated payment. In that case the attributable income should be taken account of when applying the 20% test.

Where an entity holds Financial Assets that are the property of a connected person, for example a company may hold the Financial Assets of some or all members of the group to which it belongs, and no or nominal fees are paid for that service, that is fees less than would apply on a commercial basis, consideration should be given to what would have been paid by an arm's length customer when applying the 20% test.

An execution only broker that simply executes trading instructions or receives and transmits such instructions to another executing broker will not hold Financial Assets for the account of others so will not be a Custodial Institution. However, such a broker may be a Financial Institution if it falls within the definition of an Investment Entity.

Entities that safe keep Financial Assets for the account of others, such as custodian banks, brokers and central securities depositories, would generally be considered Custodial Institutions. Entities that do not hold Financial Assets for the account of others, such as insurance brokers, should not be Custodial Institutions.





### Example 1

Company A is a Securities Company incorporated in KSA. It acts as a broker of local shares and bonds and holds those shares and bonds in customer accounts. Company A therefore holds as a substantial portion of its business Financial Assets for the account of others. In addition, Company A also provides various services such as financial advice, clearance and settlement services. In the past 3 years, Company A generated a gross income of \$5m from its business of holding Financial Assets for the account of others, this was more than 20% of its total gross income of \$8.75m generated in the same period.

- Company A will be considered as a Custodial Institution as more than 20% of the entity's gross income arises from holding of Financial Assets for the benefit of others and from related financial services.

### 2.9.1. Securities Depository Centre (SDC)

In the KSA, a SDC will not be treated as maintaining Financial Accounts. The participants of KSA securities settlement systems e.g. through Tadawul that hold interests recorded in the SDC are either Financial Institutions, or they access the system through a Financial Institution (a sponsor). It is these Financial Institutions that maintain the accounts and it is these participants and/or sponsors that are responsible for undertaking any reporting obligations.

The relationship between the securities settlement system and its participants is not a Financial Account and accordingly the SDC and any SDC Related Entity is not required to undertake any reporting required in connection with interests held by, or on behalf of, participants.

KSA may allow Reporting Financial Institutions to use service providers to fulfil the reporting and due diligence obligations imposed on KSA Reporting Financial Institutions, as contemplated in domestic law, but these obligations shall remain the responsibility of the Reporting Financial Institutions.



### **2.9.2. Fund Nominees - Distributors in the legal chain of ownership**

Distributors that hold legal title to assets on behalf of customers and are part of the legal chain of ownership of interests in Collective Investment Schemes are Financial Institutions. In most cases they will be Custodial Institutions as they will be holding Financial Assets on behalf of others.

Fund nominees, fund intermediaries and fund platforms should not be generally considered Custodial Institutions but will nevertheless still be Financial Institutions as they would otherwise meet the definition of Investment Entity. In this case, the Financial Accounts will be those maintained by the distributor, and the distributor will be responsible for ensuring it meets its obligations in respect of those accounts.



## 2.10. Depository Institution

A Depository Institution is any entity that accepts deposits in the ordinary course of a banking or similar business. Entities within this definition will include entities regulated in the KSA as bank loan companies or savings or commercial banks. However, this is not an exhaustive list and determining whether an entity is a Depository Institution will depend on the nature of activities that the entity carries out.

An entity is engaged in a "banking or similar business" if, in the ordinary course of its business with customers, the entity accepts deposits or other similar investments of funds and regularly engages in one or more of the following activities:

- makes personal, mortgage, industrial, or other loans or provides other extensions of credit;
- purchases, sells, discounts, or negotiates accounts receivable, instalment obligations, notes, drafts, checks, bills of exchange, acceptances, or other evidences of indebtedness;
- issues letters of credit and negotiates drafts drawn thereunder;
- provides trust or fiduciary services;
- finances foreign exchange transactions; or
- enters into, purchases, or disposes of finance leases or leased assets.

An entity is not a Depository Institution if it does any of the above listed activities but does not accept deposits - for example, financing companies (see below).

A Financial Institution accepts a deposit if a sum of money is paid to it on terms as follows:

- Under which it will be repaid, with or without interest or premium, either on demand or at a time or in circumstances agreed by or on behalf of the person making the deposit and the Financial Institution receiving it; and
- Which are not referable to the provision of property (other than currency) or services or the giving of security.



An Entity is not considered to be engaged in a banking or similar business if for instance the entity solely accepts deposits from persons as collateral or security pursuant to:

- A sale or lease of property; or
- A similar financing arrangement, between such entity and the person holding the deposit with the entity.

The requirement that a Financial Institution accept deposits in the ordinary course of a banking business will generally be met if the money received by way of deposit is lent to others or any other activity of the Financial Institution is financed wholly, or to a material extent, out of the capital of, or interest on, money received by way of deposit.

The following however should therefore generally not be a Depository Institution:

- Entities that solely provide asset based finance services or that accept deposits solely from persons as collateral or security pursuant to a sale or lease of property; a loan secured by property; or a similar financing arrangement, between such entity and the person making the deposit with the entity. For example, this might for instance apply to a leasing, factoring or invoice discounting business;
- Entities that only facilitate money transfers by instructing agents to transmit funds (but do not finance the transactions);
- Insurance brokers; and
- Solicitors.



## 2.11. Investment Entity

An entity will be an Investment Entity if it meets either one of the following two sets of criteria, either Section 2.11.1 or 2.11.2 outlined below:

### 2.11.1. Activity Based Investment Entity

An Activity Based Investment Entity is an entity that primarily conducts as a business, one or more of the following activities, for or on behalf of a customer:

- 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;
- Individual and collective portfolio management; or
- Otherwise investing, administering, or managing funds or money on behalf of other persons

An entity will be regarded as primarily conducting these activities or operations as a business if its gross income from conducting these activities is at least 50% of its total gross income during the shorter of:

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

Activity Based Investment Entities generally include Investment Managers and Advisors.



### 2.11.2. Managed Investment Entity

If an entity does not qualify to be an Activity Based Investment Entity, the entity could qualify to be a Managed Investment Entity.

Managed Investment Entities are entities whose gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets, only if the entity is managed by another entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity. Such activities or operations do not include rendering non-binding investment advice to a customer.

An entity will be regarded as primarily conducting these activities or operations as a business if its gross income from conducting these activities is at least 50% of its total gross income during the shorter of:

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

An entity is “managed by” another entity if the managing Entity performs, either directly or through another service provider, any of the activities or operations described in Section 2.11.1, on behalf of the managed entity. However, an entity does not manage another entity if it does not have discretionary authority to manage the entity’s assets (in whole or part).

An entity may be managed by a mix of other entities and individuals. If one of the entities involved in the management of the entity is a Financial Institution, then the entity meets the requirements of being managed by a Financial Institution.



An entity meets the Financial Assets test if its gross income is primarily attributable to investing, reinvesting or trading in Financial Assets. This is a similar test to that in the section 2.11.1 requiring that at least 50% of its income is attributable to investing, reinvesting or trading in Financial Assets in the shorter of:

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

An entity would generally be considered an Investment Entity if it functions or holds itself out as a collective investment vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leveraged buy-out fund or any similar investment vehicle established with an investment strategy of investing, reinvesting, or trading in Financial Assets.

Certain types of entities can be complex and thus care must be taken when applying the definition of investment entity to them. These are as below:

- Charities;
- Partnerships;
- Personal investment companies; and
- Securitization vehicles.



### 2.11.3. Financial Assets

The term "Financial Assets" includes, but is not restricted to:

- 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 arrangements);
- Insurance Contract or Annuity Contract;
- Any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, Insurance Contract or Annuity Contract;
- Negotiable debt instruments that are traded on a regulated market or over-the-counter market and distributed and held through Financial Institutions; or
- Shares or units in a real estate investment trust.

The following would not be considered to be Financial Assets:

- A non-debt, direct interest in real property; and
- A commodity that is a physical good, such as wheat.

#### Example 1 - Investment advisor

People Co Ltd, provides advice on and discretionary management of securities held by a number of customers. The securities meet the definition for being Financial Assets. Almost 80% of the gross income of People Co Ltd for the last three years has come from providing such services.

- People Co Ltd primarily conducts a business of managing Financial Assets on behalf of customers and therefore should be an Investment Entity.





### **Example 2 - Entity carrying on business managed by a Financial Institution**

Investment Fund XYZ primarily invests in equities on behalf of customers. Fund XYZ is managed by Invest Co Ltd, a Financial Institution. Fund XYZ was formed two years ago since which it has earned 90% of its income from these activities. Fund XYZ is an Investment Entity because it primarily conducts as a business one or more of the relevant activities or operations for or on behalf of a customer. It is not relevant that it is managed by a Financial Institution as it is an Investment Entity by virtue of its business activities.

### **Example 3 - Entity that is managed by a Financial Institution**

Sunshine Partnership LLP is a vehicle set up to invest its members' contributions in Financial Assets. It invests and has no customers. Sunshine Partnership LLP is managed by Invest Co Ltd, a Financial Institution. Sunshine Partnership LLP has been investing for several years and its income is derived exclusively from its investment activities.

- As Sunshine Partnership LLP is managed by a Financial Institution and at least 50% of its income in the last three years is primarily attributable to investing, reinvesting or trading in Financial Assets, the entity should be an Investment Entity.

### **Example 5 - Property fund that is managed by a Financial Institution**

A property fund, the gross income of which is primarily attributable to investing, reinvesting, or trading in real physical property is not an Investment Entity (irrespective of whether it is professionally managed) because real physical property is not a Financial Asset. If, instead, an Entity is holding an interest in another Entity that directly holds real property, the interest held by the first Entity is a Financial Asset, and the gross income from that interest must be considered to determine whether the Entity will meet the definition of Investment Entity.



### Example 7 - Individual broker

B, an individual broker, primarily conducts a business of providing advice to clients, has discretionary authority to manage clients' assets, and uses the services of an entity to conduct and execute trades on behalf of clients. B provides services as an investment advisor and manager to E, a corporation. He has earned 50% or more of its gross income for the past three years from investing, reinvesting, or trading in Financial Assets.

- Because B is an individual, notwithstanding that B primarily conducts certain investment-related activities, B is not an Investment Entity under subparagraph 2.11.2.
- Further, E is not an Investment Entity under subparagraph 2.11.1 as defined in section 2.11 because E is managed by B, an individual.

### 2.11.4. Investment Funds

Investment Funds are the main type of entities covered by Investment Entities in KSA. However, the definition of an Investment Entity is broad and would include in addition to an Investment Fund, persons such as fund administrators, fund managers, investment managers, fund distributors, custodians, and Authorized Persons etc. Although such entities are Investment Entities in accordance with the definition, they will only have reporting obligations, if they hold Financial Accounts.

Whilst the Investment Fund is the Financial Institution in all cases, either at umbrella or sub-fund level, the party responsible for ensuring compliance with the CRS may differ, as outlined in the examples below:

- For an Investment Fund constituted as a corporate entity, that corporate entity is responsible for ensuring its own compliance under the CRS, and
- For an Investment Fund constituted other than as described above and the manager of the Investment Fund is a person who carries on business in the KSA, that person is responsible for ensuring the Investment Fund's compliance under the CRS.



In practice, the corporate entity, trustee, or manager may appoint another to carry out its duties and obligations under the CRS. However, ultimate responsibility for any failure by the appointee to carry out those duties and obligations will remain with the corporate entity, trustee, or manager.

When an Investment Fund is closed but there remains residual debtors and recovery actions are being pursued, the fund will not be an Investment Entity for the purposes of CRS.

Investment funds - according to the Capital Market Law, Chapter 6 "Investment Funds and Collective Investment Schemes", Article 39(a), an investment fund is a collective investment scheme aimed at providing investors therein with an opportunity to participate collectively in the profits of the scheme which is managed by a portfolio manager for specified fees.

KSA investment funds include conventional mutual funds, non-conventional investment funds (for example, exchange traded funds), and specialized funds (for example, employee stock option fund plan, private placement fund, real estate funds etc.). These funds operate in diverse portions of the capital markets and rely on both public offerings and private placements. These funds are subject to a number of regulatory requirements under securities legislation and rules. Securities in investment funds are typically sold through regulated Authorized Persons.



#### 2.11.4.1. Foreign Qualified Intermediaries (Authorised Persons and Equivalent)

Typically, in KSA, an investor that wants to invest in an Investment Fund or on the KSA Tadawul (the KSA stock exchange) will do so via an Authorized Person ("AP"). APs in KSA are entities that provide asset management, brokerage, advisory, custodial and dealing services. Unlike conventional banks, APs are not allowed to take cash deposits. All cash deposits for investment purposes are dealt with by a corresponding bank.

An AP may be licensed to provide one or more of the following services: 'dealing'; 'custody'; 'managing'; 'arranging' and 'advisory'. An AP licensed to provide these services may be classified as a Financial Institution. Each AP will have to review its activities to determine whether it falls within the definition of a Financial Institution and the type of Financial Institution it is.

- **'Dealing'** - An AP licensed to deal in securities (whether as a principal) or agent may be classified as a Financial Institution. Dealing in this case includes the sale, purchase and management of the subscription for or underwriting securities.
- **'Custody'** - An AP licensed to safeguard assets (including securities) belonging to another person may be classified as a Custodial Institution as the AP will be holding assets for the account of others. However, if the AP arranges for another person to safeguard the assets and does not hold the title of the assets then it will not itself be holding the assets for the account of others and should not be classified as a Custodial Institution.
- **'Managing'** - An AP licensed to manage securities belonging to another person in circumstances involving the exercise of discretion (i.e. managing client portfolios) may be classified as an Investment Manager and therefore should be considered as a Non-Reporting FI. An AP in this context would not maintain client accounts nor would it hold any client assets/money. Rather assets would be held at a third party bank or custodian.
- However, an AP licensed to implement a fund's investing strategy and manage its portfolio trading activities (i.e. manage an investment fund) should be classified as a Financial Institution. An AP in this context would be acting in the capacity of a Fund Manager.



- **'Arranging'** - An AP licensed to introduce parties in relation to a securities business; advise on corporate financing businesses or act in any way to bring about a deal with respect to a security may be classified as a NFE provided the AP does not maintain client accounts or hold any client money/assets or is the chain of title of the assets.
- **'Advising'** - An AP licensed to advise a person on the merits of dealing in a security or exercising any right to deal in a security may be classified as an Investment Advisor and therefore an Investment Entity.

Under CRS, Investment Advisers and Investment Managers may be classified as a Reporting Financial Institution. Entities that:

- Render investment advice to, and act on behalf of a customer; or
- Manage portfolios for, and act on behalf of, a customer for the purposes of investing, managing, or administering funds deposited in the name of the customer with a Financial Institution other than such entity will be considered a Reporting Financial Institution for the purposes of the CRS.

In the case of Investment Advisers who solely render investment advice to customers and do not otherwise undertake investment services or maintain financial accounts, these are likely to be NFEs, as they are service providers and will not meet the financial assets test.

Where an AP's activities do not go beyond the provision of investment advice to their customers and/or acting as an intermediary between the Investment Fund and the customer and the AP is not executing orders on behalf of clients, then they will not hold legal title to the assets and therefore are not in the chain of legal ownership of an Investment Fund. Such APs' should not be regarded as a Financial Institution that maintains the Financial Account in respect of the accounts they advise on. Such APs may however be asked by Financial Institutions to provide assistance with the identification of Account Holders and obtaining self-certification forms. For example, APs will often have the most in-depth knowledge of the investor and direct access to the customer so will be best placed to obtain self-certifications.



In practice the outsourcing of services to third parties for account identification and self-certification under CRS should work in a similar manner to those described in the Anti-Money Laundering and counter terrorist financing Rules. As with this Regulation, Financial Institutions should have no obligation to use APs to comply with their CRS obligations, and may instead obtain self-certifications directly.

As noted above, an AP may also have a 'mixed business' i.e. it acts as an adviser or pure intermediary between the investor and the underlying Financial Institution (such as an Investment Fund), on behalf of some customers. In addition, it may also hold legal title to interests on behalf of other customers. In the case where legal title is held, the AP will be a Financial Institution with a reporting obligation in respect of those interests.

From the AP's perspective it will not be treated as maintaining those accounts where it acts as an adviser or pure intermediary. This is consistent with the treatment of a Central Securities Depository.

APs that have invested seed capital into an investment fund and subsequently hold units in the investment fund should be considered as a Financial Account of the Investment Fund.

#### **2.11.4.2. Identification and reporting on interest in an Investment Fund**

Investment Funds in KSA are not recognized as legal entities. However, as an Investment Fund is a vehicle that uses pooled money of customers, which is managed by an AP on behalf of customers to makes investments and pays a return based on the performance of the pool of assets, it should be an Investment Entity and therefore will have reporting responsibilities with respect to CRS. The manager of the Investment Fund will need to determine which entity carries out the obligations to identify, verify and report on Reportable Accounts, by reference to its own governance structure and contractual arrangements. As noted above, this may fall to the AP.



## Example 1

Investment Funds in KSA are required to have an AP that is a fund manager that acts as a manager of the fund and is normally assigned responsibility for fulfilling the regulatory obligations on behalf of the fund. Therefore, the AP will normally have responsibility for compliance with the obligations in relation to the Financial Accounts of the Investment Fund under the KSA legislation and shall be responsible for the account identification and reporting requirements on behalf of the investment fund.

Fund managers may also use third party service providers to provide fund administration, including maintaining records of investors, account balances and transaction services provided by the transfer agent

The fund's identification and reporting obligations apply only to its immediate account holders. It is required to identify all direct account holders pursuant to the due diligence obligations outlined in this Guidance. Any indirect account will be held through a Financial Institution (for example a platform or other nominee), and the fund's obligation is to identify the direct account holder (such as the Financial Institution) only. In turn, the intermediary Financial Institution will have its own obligation to identify and report on its Reportable Accounts. In turn, Custodial Institutions that act as distributors (and not the fund) would be required to identify and report on their direct account holders. The fund manager has no obligation to identify and report on accounts held indirectly through other Financial Institutions.



### **2.11.5. Personal Investment Companies**

Personal Investment Companies will need to determine whether they fall within the definition of an Investment Entity. Similar to the treatment of Trusts where a Personal Investment Company itself is, or its Financial Assets are, managed by a Financial Institution it should be treated as an Investment Entity. If managed by an individual, it should be classified as an NFE.

### **2.11.6. Securitization vehicles**

Securitization structures are mostly legally remote from the Financial Institution to which the risks and rewards of the structure are associated. Typically, a securitization structure will include an issuing entity, funding entity, seller, mortgage trustee and often counterparties. It should be assessed as to whether each entity within a securitization structure meets the definition of a Financial Institution.

A securitization vehicle that is a KSA Reporting Financial Institution will need to consider if it maintains any Financial Accounts that may be reportable. If there are no Reportable Accounts a nil return must be filed.





## 2.12. Specified Insurance Company

A Specified Insurance Company is 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 product classified as a Cash Value Insurance Contract or an Annuity Contract.

However, the holding company itself will only be a Specified Insurance Company if it issues or is obligated to make payments with respect to Cash Value Insurance Contracts or Annuity Contracts. Only certain persons are permitted to provide Insurance Contracts or Annuity Contracts; therefore, it is unlikely that an insurance holding company will in itself issue, or will be obligated to make payments with respect to Cash Value Insurance or Annuity Contracts.

An "insurance company" is an Entity:

- that is regulated as an insurance business under the KSA laws, regulations, or practices;
- the gross income of which (for example, gross premiums and gross investment income) arising from insurance, reinsurance, and Annuity Contracts for the immediately preceding calendar year exceeds 50% of total gross income for such year; or
- the aggregate value of the assets of which associated with insurance, reinsurance, and Annuity Contracts at any time during the immediately preceding calendar year exceeds 50% of total assets at any time during such year.

The following should not fall within the scope of this provision:

- Insurance companies that only provide general insurance or term life insurance;
- Reinsurance companies that only provide indemnity reinsurance contracts; and
- An Insurance advisor, agent, or broker that sells Cash Value Insurance or Annuity Contracts on behalf of insurance companies is part of the payment chain and will not be a Specified Insurance Company unless obliged to make payments to the Account Holder under the terms of the Cash Value Insurance Contract or Annuity Contract.

The reserving activities of an insurance company will not cause the company to be a Custodial Institution, a Depository Institution, or an Investment Entity



### 2.12.1. Branches of insurance companies

Insurance companies frequently operate local introducing, sales or distribution offices outside the jurisdiction of tax residence of the head office. Where an insurance company that is a Financial Institution has a branch in another jurisdiction, the branch will be a Financial Institution in its own right in that local jurisdiction. It will therefore be necessary to establish whether the Financial Accounts of the insurance company are held or maintained by the branch or by the head office in order to determine the reporting obligations.

When determining whether Financial Accounts of an insurance company are held or maintained by the head office or a branch for CRS purposes, a KSA Financial Institution should consider where the account is maintained in an ordinary sense. The jurisdiction in which an account is maintained is a question of fact having regard to all the circumstances. In the case of the Financial Accounts of an insurance company, the following criteria should be taken into account:

- Regulation of the branch as an insurer and application of the regulatory framework of the jurisdiction in which the branch is located to the Financial Accounts of the branch (assets and insurance liabilities booked in the branch);
- Customer due diligence obligations of the branch with respect to the policy holder;
- Activities of the branch (i.e. sales and sales support or substantive administration of the policy);
- Place of acceptance of the underwriting risk and/or the policy;
- Contracting party of the policy;
- Presence of separate records for customer policies sold through the branch;
- Location of the office issuing the policies; and
- Law applicable to the policies sold by the branch.



Where, based on the above criteria, the conclusion is that the Financial Account is considered to be held or maintained by the branch, the branch will fulfil the due diligence and reporting obligations under the CRS. Where, based on the above criteria, the conclusion is that the Financial Account is considered to be held or maintained by the head office, the head office will fulfil the due diligence and reporting obligations under the CRS.

In particular, where the branch merely acts as an introducer to policies that are then issued by the head office, these Financial Accounts would be deemed to be held by the head office which would fulfil the due diligence and reporting obligations under the CRS. Where the book of a branch is in run-off (i.e. the branch is not accepting new business and not subscribing new policies), the determination as to whether the Financial Accounts are held or maintained by the branch or the head office should be made on the basis of the location of the data and infrastructure in order to adequately undertake that due diligence and reporting.



## 2.13. Non-Reporting Financial Institution

An entity falling within the Non-Reporting Financial Institution category will not have any reporting obligations in relation to any Financial Accounts that they maintain. In addition, Reporting KSA Financial Institutions will not be required to identify, review or report on accounts held by such Non-Reporting Financial Institutions. The categories of Non-Reporting KSA Financial Institutions are set out as follows:

- A KSA Government and KSA Governmental Entities;
- Central Bank;
- International Organizations;
- Broad Participation Retirement Fund;
- Narrow Participation Retirement Fund;
- Pension Fund of a Governmental Entity, International Organisation or Central Bank;
- Qualified Credit Card Issuer;
- Low-risk Non-Reporting Financial Institutions;
- Exempt Collective Investment Vehicle; or
- Trustee-Documented Trust (on the basis the trustee is a Reporting Financial Institution).

A Financial Institution that is a Governmental Entity, International Organization or Central Bank is a Non-Reporting Financial Institution, 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.

### Example 1

A Central Bank that conducts a commercial financial activity, such as acting as an intermediary on behalf of persons other than in the bank's capacity as a Central Bank, is a Reporting FI with respect to payments received in connection with an account held in connection with such activity.



### 2.13.1. KSA Government and KSA Governmental Entities

The Government of the KSA, any political subdivision of the KSA (which, for the avoidance of doubt, includes a state, province, county, municipality, or local authority), or any wholly owned agency or instrumentality of the KSA and the organizations listed below will be treated as Non-Reporting KSA Financial Institutions:

- Saudi Industrial Development Fund (SIDF);
- Public Investment Fund (PIF);
- Human Resources Development Fund (HRDF);
- Saudi Fund for Development (SFD);
- Agricultural Development Fund/Saudi Arabian Agricultural Bank (SAAB);
- Saudi Credit and Savings Bank (SCB); and
- Public Pension Agency (PPA).

The above categories also includes the integral parts, controlled entities, and political subdivisions of the KSA.

An "integral part" of the KSA means any person, organization, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority in the KSA. The net earnings of the governing authority must be credited to its own account or to other accounts of the KSA, 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.

A "controlled entity" means an entity that is separate in form from the KSA or that otherwise constitutes a separate juridical entity, provided that:

- The entity is wholly owned and controlled by one or more Governmental Entities directly or through one or more controlled entities;
- 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
- The entity's assets vest in one or more Governmental Entities upon dissolution.



Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental program, and the program activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of government. Notwithstanding the foregoing, however, income is considered to inure to the benefit of private persons if the 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.

In case of existence of export or development financing programmes or agencies which may either provide loans directly or insure or guarantee loans granted by commercial lenders, then those agencies would generally be considered Governmental Entities and, thus, Non-Reporting Financial Institutions as defined above.

### **2.13.2. Central Bank**

The Saudi Arabian Monetary Agency (SAMA) and any of its wholly owned subsidiaries will be treated as a Non-Reporting KSA Financial Institution(s).

### **2.13.3. International Organisations**

Any KSA international organizations or wholly owned agency or instrumentality thereof will be treated as Non-Reporting KSA Financial Institutions. This category includes any intergovernmental organization (including a supranational organization) that:

- is comprised primarily of governments;
- has in effect a headquarters or substantially similar agreement with the KSA; and
- the income of which does not inure to the benefit of private persons (under the principle noted above).

Arrangements substantially similar to headquarters arrangements include, for example, arrangements that entitle the organization's offices or establishments in the KSA (e.g. a subdivision, or a local or regional office) to privileges and immunities.



#### 2.13.4. Broad Participation Retirement Fund

A Broad Participation Retirement Fund is defined as 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:

- Does not have a single beneficiary with a right to more than 5% of the fund's assets;
- Is subject to government regulation and provides "information reporting" to the tax authorities; and
- Satisfies at least one of the following requirements:
  - 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;
  - The fund receives at least 50 per cent of its total contributions (other than transfers of assets from other plans or from retirement and pension accounts from the sponsoring employers;
  - 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 or retirement and pension accounts, or penalties apply to distributions or withdrawals made before such specified events; or
  - Contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed \$50,000 annually.

"Information reporting" required under the second point above may vary among jurisdictions. While one jurisdiction could require that the fund provides annual information about its beneficiaries, another jurisdiction could require that the fund provides monthly information about contributions and associated tax relief, and annual information about its beneficiaries and total contributions from sponsoring employers. However, whether a fund provides information reporting to the relevant tax authorities in the jurisdiction in which the fund is established or operates is determinative of whether a fund satisfies the requirement under the second point above.



### **2.13.5. Narrow Participation Retirement Fund**

A Narrow Participation Retirement Fund is 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:

- The fund has fewer than 50 participants;
- The sponsoring employer(s) are not Investment Entities or Passive NFEs;
- The employee and employer contributions to the fund (other than transfers of assets from excluded retirement and pension accounts) are limited by reference to earned income and compensation of the employee, respectively;
- Participants that are not residents in the KSA in which the fund is established are not entitled to more than 20% of the fund's assets; and
- The fund is subject to government regulation and provides "information reporting" to the tax authorities.

"Information reporting" required under the above mentioned point shall be treated is the same way as noted above. However, whether a fund provides information reporting to the relevant tax authorities in the jurisdiction in which the fund is established or operates is determinative of whether a fund satisfies the requirement under that point.

### **2.13.6. Pension Fund of a Governmental Entity, International Organisation or Central Bank**

A Pension Fund of a Governmental Entity, International Organization or Central Bank means a fund established by a Governmental Entity, International Organization or Central Bank to provide retirement, disability, or death benefits to beneficiaries or participants that are:

- Current or former employees (or persons designated by such employees); or
- Not current or former employees if the benefits provided are in consideration of personal services performed for the Governmental Entity, International Organisation or Central Bank.





### 2.13.7. Qualified Credit Card Issuer

A Qualified Credit Card Issuer is defined as a KSA Financial Institution that meets the following requirements:

- The FI is an FI 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
- beginning on or before 8 September 2017, 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 (and of the balance due with respect to the card) is refunded to the customer within 60 calendar days, in each case applying the rules related to 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.

A Reporting KSA Financial Institution that does not satisfy the requirements to be a Qualified Credit Card Issuer, but accepts deposits when a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility, may still not report a Depository Account if it qualifies as an Excluded Account (see Section 4.4).

The terms applying to Qualified Credit Card Issuers also apply to other card and Electronic Money Issuers.

#### Example

Company ABC offers only credit cards and no other products. A customer makes a deposit in excess of an outstanding balance due on the card by 50,000 USD. ABC returned the excess deposit within 60 calendar days to the customer as per its recently updated policies and procedure. Such company will be termed as a Qualified Credit Card Issuer and therefore a Non-Reporting Financial Institution.



### 2.13.8. Low-risk Non-Reporting Financial Institutions

A KSA Financial Institution can also be a KSA Non-Reporting Financial Institution provided that:

- The Financial Institution presents a low risk of being used to evade tax;
- The Financial Institution has substantially similar characteristics to any of the Financial Institutions described below:
  - A Governmental Entity, International Organisation Or Central Bank other than with respect to payments deriving from a commercial financial activity as a Specified Insurance Company, Custodial Institution, Or Depository Institution; or
  - A Broad Participation Retirement Fund, Narrow Participant Retirement Fund, Pension Fund of a Governmental Entity, International Organisation or Central Bank, or Qualified Credit Card Issuer.
- The Financial Institution is defined in the domestic law of KSA as a Non-Reporting Financial Institution; and
- The status of the Financial Institution as a KSA Non-Reporting Financial Institution does not frustrate the purpose of CRS.

### 2.13.9. Exempt Collective Investment Vehicle

An Exempt Collective Investment Vehicle is defined as an Investment Entity that is regulated as a collective investment vehicle, if all the interests in the collective investment vehicle are held by or through individuals or Entities that are not Reportable Persons (e.g. because they are Financial Institutions), except a Passive NFE with Controlling Persons who are Reportable Persons.

As a practical matter, an Investment Entity all the interests in which are held by or through non-Reportable Persons would generally not have any reporting obligations, irrespective of whether it qualifies as an Exempt Collective Investment Vehicle under this subparagraph. However, such qualification may be relevant to other obligations imposed on the Investment Entity, such as filing a nil return in the absence of Reportable Accounts.



An Investment Entity that is regulated as a collective investment vehicle does not fail to qualify as an Exempt Collective Investment Vehicle, solely because the collective investment vehicle has issued physical shares in bearer form, provided that:

- the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after 8 September 2017;
- the collective investment vehicle retires all such shares upon surrender;
- the collective investment vehicle performs the due diligence procedures and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and
- the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilised as soon as possible and in any event prior to 8 September 2017.

The following entities shall be treated as Exempt Collective Investment Vehicles wholly provided they fulfil the above criteria:

- The Arab Investment Company (TAIC);
- Al Ra'idah Investment Company;
- Sanabil Investments;
- Human Resources Development Fund (HRDF);
- Agricultural Development Fund/Saudi Arabian Agricultural Bank (SAAB); and
- Saudi Industrial Development Fund (SIDF).



### 2.13.10. Trustee-Documented Trust

A trust that is a Financial Institution (e.g. because it is an Investment Entity) is a Non-Reporting Financial Institution to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported with respect to all Reportable Accounts of the trust.

Hence, a trust established under the laws of KSA, and that is an Financial Institution , is a KSA Non-Reporting Financial Institution to the extent that the trustee is a KSA Reporting Financial Institution and complies with the reporting obligations with respect to all Reportable Accounts of the trust.

It follows that the responsibility of reporting and due diligence obligations under a Trustee-Documented Trust is transferred by the trust to its trustee. This does not modify, however, the time and manner of the reporting and due diligence obligations which remain the same as if they still were the responsibility of the trust. For example, the trustee must not report the information with respect to a Reportable Account of the Trustee-Documented Trust as if it were a Reportable Account of the trustee. The trustee must report such information as the Trustee-Documented Trust would have reported (e.g. to the same jurisdiction) and identify the Trustee-Documented Trust with respect to which it fulfils the reporting and due diligence obligations. This category of Non-Reporting Financial Institution may also apply to a legal arrangement that is equivalent or similar to a trust.



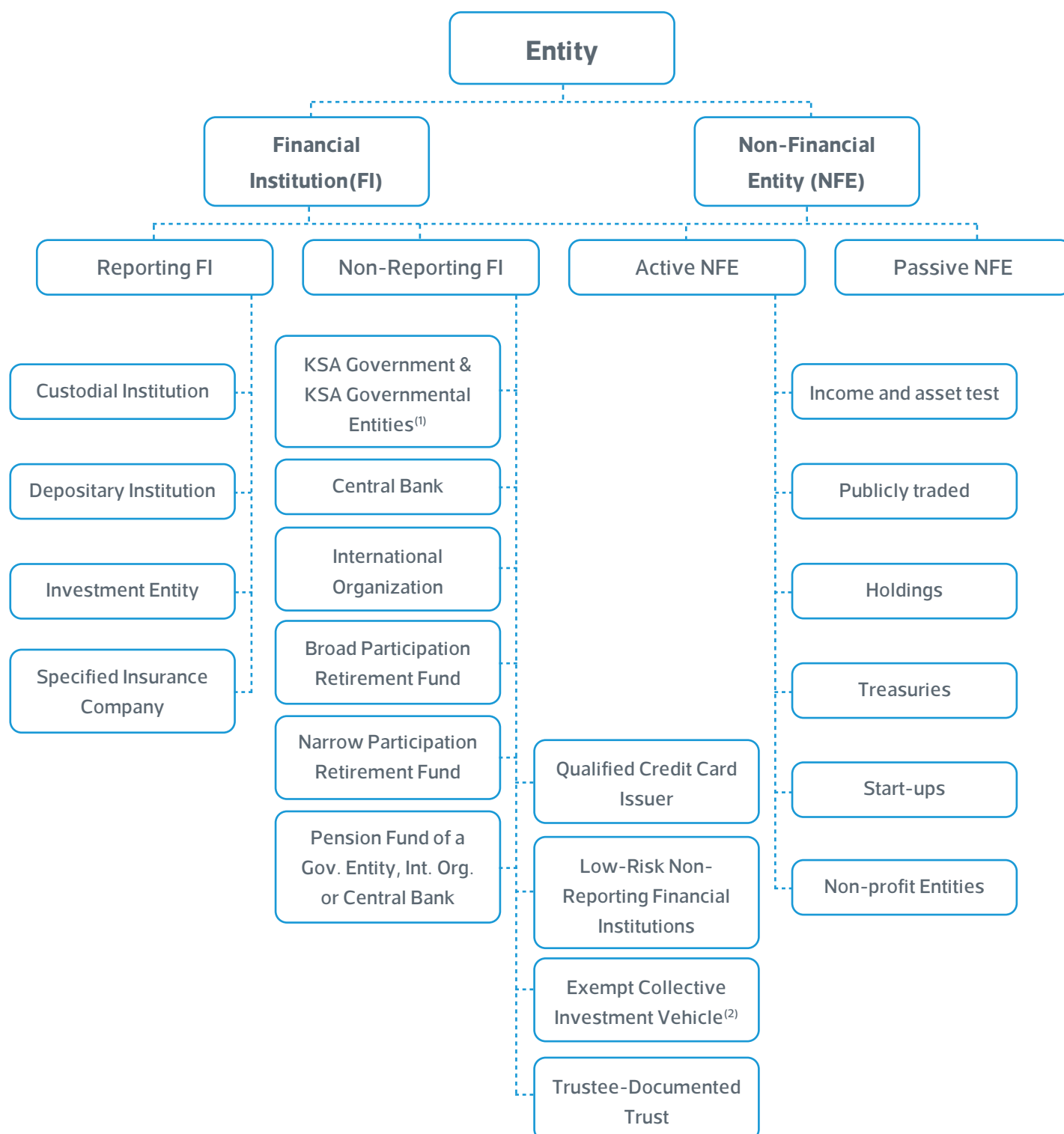
## **2.14. Reporting KSA Financial Institutions in liquidation**

If a Reporting KSA Financial Institution is in the process of liquidation, the CRS entity classification of the Reporting KSA Financial Institution should be re-assessed should there be a change of business activities as a result of the liquidation. If it is found that the entity under liquidation stills meets the definition of a Reporting KSA Financial Institution, then the entity must fulfil the obligations of a Financial Institution.

If the entity no longer meets the definition of a Reporting KSA Financial Institution, then the entity must determine how they are now classified, based on the current and existing fact pattern.



## Appendix 1 - Entity Classifications under the CRS



<sup>(1)</sup> This also includes Saudi Industrial Development Fund (SIDF), Public Investment Fund (PIF), Human Resources Development Fund (HRDF), Saudi Fund for Development (SFD), Agricultural Development Fund/Saudi Arabian Agricultural Bank (SAAB), Saudi Credit and Savings Bank (SCB) and Public Pension Agency (PPA).

<sup>(2)</sup> This also includes The Arab Investment Company (TAIC), Al Ra'idah Investment Company, Sanabil Investments, Human Resources Development Fund (HRDF), Agricultural Development Fund/Saudi Arabian Agricultural Bank (SAAB) and Saudi Industrial Development Fund (SIDF).



### 3. Non-Financial Entities

The term "NFE" is an acronym for Non-Financial Entity and it means any entity that is not a Financial Institution. An NFE can either be an Active NFE or a Passive NFE. A Passive NFE is an NFE which is not an Active NFE

#### 3.1. Active NFE

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 (as defined in Section 3.9) 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 (as defined in Section 2.8 ) of an Entity the stock of which is regularly traded on an established securities market (as defined in Sections 3.4);
- c. The NFE is a Governmental Entity (Section 2.13.1), an International Organization (Section 2.13.3) a Central Bank (Section 2.13.2) or an Entity wholly owned by one or more of the foregoing (as defined in Sections 2.13.1 to 2.13.2);
- 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 (as defined in Section 3.7) that engage in trades or businesses other than the business of a Financial Institution, except that an entity does not qualify for this status if the entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
- e. The NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organization of the NFE;



- f. The NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganizing with the intent to continue or recommence operations in a business other than that of a Financial Institution;
- g. The NFE is a treasury center for a nonfinancial group and 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:
- h. The NFE is a not-for-profit organization that meets all the following requirements:
  - i. It is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organization, business league, chamber of commerce, labor organization, agricultural or horticultural organization, civic league or an organization operated exclusively for the promotion of social welfare;
  - ii. It is exempt from income tax in its jurisdiction of residence;
  - iii. It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
  - iv. The applicable laws of the NFEs jurisdiction of residence or the NFEs 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 NFEs 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; or
  - v. The applicable laws of the NFEs jurisdiction of residence or the NFE's formation documents require that, upon the NFEs liquidation or dissolution, all its assets to be distributed to a Governmental Entity or other non-profit organization, or escheat to the government of the NFEs jurisdiction of residence or any political subdivision thereof.





### 3.2. Passive NFE

A Passive NFE means any:

- i. NFE that is not an Active NFE; or
- ii. A Managed Investment Entity (i.e. "Type B" Investment Entity as outlined in Section 2.11.2 that is not a CRS Participating Jurisdiction Financial Institution.

### 3.3. Stock

The term "stock" is limited to shares in a corporation. Accordingly, only a corporation can qualify as an Active NFE based on the fact that its stock is regularly traded on an established securities market.

### 3.4. Established Securities Market

An "established securities market" means an exchange that is officially recognized and supervised by a governmental authority in which the market is located and that has a meaningful annual value of shares traded on the exchange.

In the KSA, an exchange shall mean "The Saudi Stock Exchange (Tadawul) Company" set up in accordance with Article 20 of the Capital Market Law establishing Tadawul as a joint stock company.

An exchange has a "meaningful annual value of shares traded on the exchange" if it has an annual value of shares traded on the exchange (or a predecessor exchange) exceeding USD 1,000,000,000 during each of the three calendar years immediately preceding the calendar year in which the determination is being made. If an exchange has more than one tier of market level on which stock may be separately listed or traded, each such tier must be treated as a separate exchange.



### 3.5. Related Entity

Entities are related if an entity controls another entity, or the two entities are under common control. For this purpose, control includes direct or indirect ownership of more than 50% of the vote and value in an entity. Whether an entity is a Related Entity of another entity is also relevant for the account balance aggregation rules, as outlined in Section 5.12 , the scope of the term “Reportable Person” as outlined in Section 9.2 and the criterion as outlined in Section 3.1 that an NFE can meet to be an Active NFE.



### 3.6. Regularly Traded

Whether an entity qualifies as an Active NFE under Section 3.1 above can depend on the stock of that corporation being regularly traded on one or more established securities markets or whether the entity is a Related Entity of an entity the stock of which is regularly traded on an established securities market. Stock is "regularly traded" if there is a meaningful volume of trading with respect to the stock on an on-going basis.

A class of stock would generally be treated as meeting the "regularly traded" requirement for a calendar year if the stock is traded during such year on an established securities market and is regularly quoted by dealers making a market in the stock. A dealer makes a market in a stock only if the dealer regularly and actively offers to, and in fact does, purchase the stock from, and sell the stock to, customers who are not related persons with respect to the dealer in the ordinary course of a business. The stock will be regularly traded if at least 50% of:

- i. the combined voting power of all classes of stock entitled to vote; and
- ii. the combined total value of the stock of the corporation are listed on such market during the prior calendar year.

With respect to each class of stock of the corporation, there is a "meaningful volume of trading on an on-going basis" if:

- i. trades in each such class are affected, other than in de Minimis quantities, on one or more established securities markets on at least 60 business days during the prior calendar year; and
- ii. the aggregate number of shares in each such class that are traded on such market or markets during the prior year are at least 10% of the average number of shares outstanding in that class during the prior calendar year.



### 3.7. **Subsidiary**

The term "subsidiary" means any entity whose outstanding stock is either directly or indirectly held (in whole or in part) by the NFE.

### 3.8. **"Substantially All" Test**

With respect to Section 3.1, the term "substantially all" means 80% or more. If, however, the NFEs holding or group finance activities constitute less than 80% of its activities but the NFE receives also active income (i.e. income that is not passive income) otherwise, it qualifies for the Active NFE status, provided that the total sum of activities meets the "substantially all" test. For purposes of determining whether the activities other than holding and group finance activities of the NFE qualify it as an Active NFE, the test of Section 3.1 can be applied to such other activities.

For example, if a holding company has holding or finance and service activities to one or more subsidiaries for 60% and also functions for 40% as a distribution center for the goods produced by the group it belongs to and the income of its distribution center activities is active according to Section 3.1 it is an Active NFE, irrespective of the fact that less than 80% of its activities consist of holding the outstanding stock of, or providing finance and services to, one or more subsidiaries.

The term "substantially all" covers also a combination of holding stock of and providing finance and services to one or more subsidiaries.



### 3.9. Passive Income

The term “passive income” is generally considered to include the portion of gross income that consists of:

- i. Dividends;
- ii. Interest;
- iii. Income equivalent to interest;
- iv. Rents and royalties, other than rents and royalties derived in the active conduct of a business conducted, at least in part, by employees of the NFE;
- v. Annuities;
- vi. The excess of gains over losses from the sale or exchange of Financial Assets that gives rise to the passive income described previously;
- vii. The excess of gains over losses from transactions (including futures, forwards, options, and similar transactions) in any Financial Assets;
- viii. The excess of foreign currency gains over foreign currency losses;
- ix. Net income from swaps; or
- x. Amounts received under Cash Value Insurance Contracts.

Notwithstanding the foregoing, passive income will not include, in the case of an NFE that regularly acts as a dealer in Financial Assets, any income from any transaction entered in the ordinary course of such dealer’s business as such a dealer.

The context in which the income described above is received is important. For example, where the NFE is a dealer in Financial Assets any such income as described above may be income from a trading activity. Where the income described above is received by an NFE and is accounted for, or is taxable as, income from trading activities it should not be included in gross income as passive income.

The value of a NFE’s assets is determined based on the fair market value or book value of the assets that is reflected on the NFE’s balance sheet.



### **3.10. Application to general insurance companies**

A general insurance company should generally not be treated as a Financial Institution under CRS but instead be classified as an NFE unless it maintains Financial Accounts.



## **4. Financial Accounts**

### **4.1 Introduction**

Reporting KSA Financial Institutions must provide information to ZATCA on an annual basis in relation to Financial Accounts that are Reportable Accounts. To report accurately, Reporting KSA Financial Institutions must be able to determine the types of Financial Accounts it maintains as the information required to be reported differs between different Financial Account types. This chapter will provide guidance surrounding the different types of Financial Accounts under the CRS.

Each category of Financial Account is subject to exclusions and exemptions and further details are explained in this Chapter.

### **4.2 Reportable Accounts**

A Reportable Account is a Financial Account maintained by a Reporting KSA Financial Institution and held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Person(s) that are Reportable Person(s).

Certain Financial Accounts are seen to be low-risk of being used to evade tax and are specifically excluded from needing to be reviewed, see Section 4.4.7)

Reporting KSA Financial Institutions with no Reportable Accounts will still be required to file a nil return to ZATCA, as outlined in the Reporting Chapter (Chapter 10).



### 4.3 Financial Accounts

The term Financial Account is defined under CRS as an account maintained by a Reporting KSA Financial Institution and includes:

1. Depository Accounts;
2. Custodial Accounts;
3. Equity and Debt Interests in certain Investment entities;
4. Cash Value Insurance Contracts; and
5. Annuity Contracts.

The term Financial Account does not include any account that is an Excluded Account (see Section 4.4 below).

The list of accounts under the definition of a Financial Account is illustrative rather than exhaustive. For example, a Financial Account maintained by a Reporting KSA Financial Institution includes a client account or file with an entity engaged in the business of dealing in securities or any other financial instrument, or to provide portfolio management or investment advising services.

When a Reporting KSA Financial Institution is acting as a broker and simply executing trading instructions (sometimes referred to as an "execution only" broker), or is receiving and transmitting such instructions to another person, the Reporting KSA Financial Institution is not required to treat the facilities established for the purposes of executing a trading instruction, or of receiving and transmitting such instructions, as a Financial Account (for example, so-called delivery versus payment ("DVP") accounts benefit from this understanding). The Reporting KSA Financial Institution acting as custodian will be responsible for performing due diligence procedures and reporting where necessary.





### 4.3.1 Maintaining a Financial Account

In general, an account would be a Financial Account when maintained by a Reporting KSA Financial Institution as follows:

- In case of a Depository Account, the Reporting KSA Financial Institution that is obligated to make payments with respect to the account (excluding an agent of a Reporting KSA Financial Institution regardless of whether such agent is a Reporting KSA Financial Institution);
- In the case of a Custodial Account, the Reporting KSA Financial Institution holds custody over the Financial Assets in the account (including a Reporting KSA Financial Institution that holds assets in a nominee name for an Account Holder in such institution);
- In the case of any Equity or Debt Interest in a Reporting KSA Financial Institution, where that Equity or Debt Interest constitutes a Financial Account, is treated as being maintained by that Financial Institution where that Financial Institution is an Investment Entity; and
- In the case of a Cash Value Insurance Contract or an Annuity Contract, the Reporting KSA Financial Institution that is obligated to make payments with respect to the contract in question.

A Reporting KSA Financial Institution may offer more than one type of Financial Account e.g. a Depository Institution may maintain Custodial Accounts and Depository Accounts. Additionally, not all Reporting KSA Financial Institutions will have Financial Accounts (e.g. some types of Investment Managers/Advisors will not maintain Financial Accounts by virtue of their business activities but rather will provide investment advisory services with respect to accounts maintained at other Financial Institutions).



### 4.3.2 Depository Accounts

A 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 Reporting KSA 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.

A Depository Account does not have to be an interest-bearing account.

Reloadable payment cards are also included within the Depository Account definition (see Section 4.6.9).

Cash collateral that is provided to a Reporting KSA Financial Institution will be treated as a Depository Account if it is posted to a cash account opened in the name of the collateral provider unless an exception applies.

#### 4.3.2.1 Credit products

A Depository Account will include any credit balance on a credit card issued by a credit card company engaged in "banking or similar business" as defined below. A credit balance does not include credit balances in relation to disputed charges but does include credit balances resulting from refunds of purchases. Therefore, a regular credit balance on a credit card can result in a Financial Account.

However, credit cards will not be reportable as Depository Accounts if the credit card issuer meets the conditions to be a Qualified Credit Card Issuer and is therefore a Non-Reporting Financial Institution (see Section 2.6). Similarly, where a Reporting KSA Financial Institution does not satisfy the requirements to be a Qualified Credit Card Issuer, but accepts deposits when a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility, it does not have to report the account as a Depository Account if it qualifies as an Excluded Account defined in Section 4.4 below.



#### 4.3.2.1.1 Banking or similar business

An entity is engaged in a banking or similar business if, in the ordinary course of its business with customers, the entity accepts deposits or other similar investments of funds and regularly engages in one or more of the following activities:

- Makes personal, mortgage, industrial or other loans or provides other extensions of credit;
- Purchases, sells, discounts or negotiates accounts receivable, instalment obligations, notes, drafts, cheques, bills of exchange, acceptances or other evidences of indebtedness;
- Issues letters of credit and negotiates drafts drawn thereunder;
- Provides trust or fiduciary services;
- Finances foreign exchange transactions; or
- Enters into, purchases, or disposes of finance leases or leased assets.



### 4.3.3 Custodial Accounts

A Custodial Account means an account that holds one or more Financial Assets (see Section 2.11.3 for examples of Financial Assets) for the benefit of another person. The Financial Account is the custodial relationship itself, not the underlying asset posted to the account.

The definition of a Financial Asset includes, but is not limited to:

- A share or stock in a corporation;
- Fund units;
- Debt instruments e.g. a note, bond, certificate, debenture, or other evidence of indebtedness;
- A currency or commodity transaction;
- A credit default swap;
- A swap based upon a non-financial index;
- A notional principal contract. In general, these are contracts that provide for the payment of amounts by one party to another at specified intervals. These are calculated by reference to a specified index upon a notional principal amount in exchange for specified consideration or a promise to pay similar amounts;
- An Insurance Contract or Annuity Contract; or
- Any warrant, option, future or other derivative instrument.

The term Financial Asset does not include a non-debt, direct interest in real property. However, an interest in indirect real property is considered to be a Financial Asset as holding of the shares of any intermediary entities are considered Financial Assets.

A Cash Value Insurance Contract or an Annuity Contract is not considered to be a Custodial Account, but these could be assets held in a Custodial Account. Where they are assets in a Custodial Account, it suffices for the insurer or custodian (whichever of the two that holds the information) to perform any due diligence and reporting required.

A Custodial Account does not exist just because a Reporting KSA Financial Institution holds shares in a corporation about the administration of the corporation's (or related corporation's) employee stock purchase plan.



#### 4.3.3.1 Collateral

Notwithstanding the above, the Custodial Accounts definition includes all accounts which are maintained for the benefit of another, or arrangements pursuant to which an obligation exists to return cash or assets to another. This also includes Escrow accounts as outlined in Section 4.4.5 below.

Financial instruments provided as collateral to a Reporting KSA Financial Institution will not be treated as a Custodial Account in the case where the collateral is provided pursuant to a financial collateral arrangement transferring title to the collateral taker and giving the collateral taker the right to re-use or re-hypothecate the collateral.

A Custodial Account will not be created if collateral is provided on a full title transfer basis of property, so that the Reporting KSA Financial Institution that is the collateral holder becomes the full legal and beneficial owner of the collateral during the term of the contract. In this scenario the Reporting KSA Financial Institution will be the holder of the property. Under the circumstance where the collateral is returned to the Account Holder (i.e. Account Holder begins making payments again during the period of the contract), then a Custodial Account will be created.

If there is an obligation to return equivalent collateral to the lender/counterparty after the contract and make interim payments (such as interest) to the lender/counterparty during the contract term, a Custodial Account will be created.

Depending upon the exact contractual terms, lending facilities such as margin lending could fall within the scope of Custodial Accounts. For instance, if a Reporting KSA Financial Institution allows an individual to borrow money for the purposes of investing and the amount borrowed is based on the amount of assets held by the borrower (assets which are pledged as collateral on the loan) and there is no intention for the collateral to be fully transferred to the Reporting KSA Financial Institution during the term of the contract, a Custodial Account will be created.



#### 4.3.3.2 Murabaha

Reporting KSA Financial Institutions offering Sharia compliant products should determine whether these products meet the definition of a Financial Account and identify, review and report them accordingly.

Murabaha is an Islamic financing structure, where an intermediary (such as a Reporting KSA Financial Institution) buys an asset with free and clear title to it. The intermediary and prospective buyer then agree upon a sale price (including an agreed upon profit for the intermediary) that can be made through a series of instalments, or as a lump sum payment.

This is a financing structure which effectively involves collateral. As the collateral or asset remains the asset of the intermediary (the Reporting KSA Financial Institution) until the buyer has paid the loan this may constitute as a Custodial Account.



### 4.3.3 Custodial Accounts

A Financial Account includes certain equity and income from debt-claims in certain Investment Entities, such as funds.

Equity or debt interests in Investment Entity solely because it is an investment advisor, or an investment manager, are not Financial Accounts. Thus, equity or debt interests that would generally be considered Financial Accounts include equity or debt interests in an entity:

- that is a Professionally Managed Investment Entity; or
- that functions or holds itself out as a collective investment vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leveraged buyout fund, or any similar investment vehicle established with an investment strategy of investing, reinvesting, or trading in Financial Assets.

In the case of a Financial Institution not described immediately above, any equity or debt interest in the Financial Institution, if the class of interests was established with a purpose or avoiding reporting in accordance with Section I of the CRS.

The definition of the term "Equity Interest" specifically addresses interests in partnerships and trusts:

#### 4.3.4.1 An Equity Interest in a Partnership

In the case of a partnership that is a Reporting KSA Financial Institution, the term "Equity Interest" means a capital or profits interest in the partnership. This means that the Reporting KSA Financial Institution will be required to identify and where necessary, report on the capital or profits interest of any of the partners who are Reportable Persons or Passive NFEs/Managed Investment Entities in non-CRS participating jurisdictions.

#### 4.3.4.2 An equity or debt regularly traded on an established securities market

In contrast to FATCA, for CRS purposes, debt or equity interests that are regularly traded are not, as such, excluded from the definition of a Financial Account.



### 4.3.5 Cash Value Insurance Contracts

An Insurance Contract is a contract (other than an Annuity Contract described below) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.

A Cash Value Insurance Contract is an Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value. The term "Cash Value" is defined as the greater of:

- 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
- the amount the policyholder can borrow under or about (for example, pledging as collateral) the contract.

It is most likely that the type of KSA insurance products within this category will be protection and savings contracts.

A Cash Value Insurance Contract does not include:

- indemnity reinsurance contracts between two insurance companies; and
- term life and pure protection Insurance Contracts, including a refund of any policy premium due to cancellation or termination of the policy (provided the refund is not more than the premium less the cost of the insurance), a reduction in amount insured, or a correction of an error in relation to the premium due and any policyholder bonus.

The term "Cash Value" does not include an amount payable under an Insurance Contract:

- a. solely because 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;
  - the term “other benefit” does not include any benefit payable under an investment-linked insurance contract
  - for these purposes, the term “investment-linked insurance contract” means an insurance contract under which benefits, premiums, or the period of coverage, are adjusted to reflect the investment return or market value of assets associated with the contract.
- c. as a refund of a previously paid premium (less cost of insurance charges if imposed) under an Insurance Contract (other than an investment-linked life insurance, which is defined below, 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 about 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 is described under point (b) above; 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.

When a policy becomes subject to a claim and an amount is payable this does not create a New Account, it is still the same policy, if the policy has not altogether terminated.



#### 4.3.5.1 Non-Cash Value Insurance Contracts

An insurance contract that provides critical illness insurance, disability insurance, long term care insurance or other health related accident or sickness benefits, and which would not otherwise be a cash value insurance contract, is not considered to have a "cash value" merely because it includes a return of premium benefit under which all or part of the premiums paid by the policy owner may be refunded, provided that the amount refunded does not exceed the total cumulative premiums paid under the policy.

#### 4.3.5.2 Investment-linked life insurance contract

An investment-linked life insurance contract is an Insurance Contract that;

- i. is an investment-linked insurance contract (as defined above); and
- ii. is a life insurance contract.

A "life insurance contract" is an Insurance Contract under which the issuer, in exchange for consideration, agrees to pay an amount upon the death of one or more individuals. That a contract provides one or more payments (for example, for endowment benefits or disability benefits) in addition to a death benefit does not cause the contract to be other than a life insurance contract.



### 4.3.6 Annuity Contract

The term "Annuity Contract" means a contract under which the issuer agrees to make payments for a period determined in whole or in part by reference to the life expectancy of one or more individuals. Many Annuity Contracts are Excluded Accounts as detailed in the next section.

The term also includes a contract that is 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.

The term "Financial Account" does not include certain Annuity Contracts such as a noninvestment-linked, non-transferable, immediate life annuity that is issued to an individual and monetizes a pension or disability benefit (including retirement or death benefits, respectively) provided under an account that is an Excluded Account.

A "noninvestment-linked, non-transferable, immediate life annuity" is a non-transferable Annuity Contract that:

- is not an "investment-linked annuity contract", which, in turn, means an Annuity Contract under which benefits, or premiums are adjusted to reflect the investment return or market value of assets associated with the contract;
- is an "immediate annuity", which, in turn, means an Annuity Contract that:
  - is purchased with a single premium or annuity consideration; and
  - no later than one year from the purchase date of the contract commences to pay annually or more frequently substantially equal periodic payments; and
- is a "life annuity contract", which, in turn, means an Annuity Contract that provides for payments over the life or lives of one or more individuals.

Reinsurance of Annuity Contracts between insurance companies are not annuities.



## 4.4 Excluded Accounts

The definition of a Financial Account does not include certain Financial Accounts that are seen to be low-risk of being used to evade tax and are specifically excluded from the scope of the CRS ("Excluded Accounts"). The term "Excluded Account" means any of the following accounts:

- certain retirement or pension accounts (see Section 4.4.1 below);
- certain non-retirement tax-favored accounts (see Section 4.4.2 below);
- certain term life insurance contracts (see Section 4.4.3 below);
- certain estate accounts and accounts held by a Personal Representative ("Wasi") (see Section 4.4.4 below);
- certain escrow accounts (see Section 4.4.5 below);
- Depository Accounts due to not-returned overpayments (see Section 4.4.6 below); and
- low-risk excluded accounts (see Section 4.4.7 below).

For determining whether an account satisfies all the requirements of a particular category of Excluded Account, a Reporting KSA Financial Institution may rely on information in its possession (including information collected pursuant to AML/KYC Procedures) or that is publicly available, based on which it can reasonably determine that the account is an Excluded Account

If a Reporting KSA Financial Institution only maintains accounts that are Excluded Accounts, then it should not have any reporting obligations. However, it may have other obligations imposed on the Reporting KSA Financial Institution, such as filing a nil return to ZATCA in the absence of Reportable Accounts.



#### 4.4.1 Retirement and pension accounts

An account maintained in the KSA that meets all the requirements listed below:

- 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);
- the account is tax-favored (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);
- information reporting is required to the tax authorities with respect to the account;
- withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events, and
- annual contributions are limited to US\$50,000 or less or there is a maximum lifetime contribution limit to the account of US\$1,000,000 or less, excluding rollovers, while also applying the rules for account aggregation and currency translation.

A Financial Account that otherwise satisfies the requirements here will not fail to satisfy such requirements solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements set out for retirement and pension accounts and non-retirement tax-favored accounts or from one or more retirement or pension funds that meet the requirements of any of the following: Broad Participation Retirement Fund, Narrow Participation Retirement Fund and a Pension Fund of a Governmental Entity, International Organization or Central Bank (as defined in the Financial Institutions Chapter 2).



#### 4.4.2 Non-retirement tax-favoured accounts

An account maintained in the KSA that meets all the requirements listed below:

- 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 (see Glossary for definitions), or the account is subject to regulation as a savings vehicle for purposes other than for retirement;
- the account is tax-favored (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);
- 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
- annual contributions are limited to US\$50,000 or less, applying the rules in Section 5.12 for account aggregation and currency translation.

A Financial Account that otherwise satisfies the requirements here will not fail to satisfy such requirements solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements set out for retirement and pension accounts and non-retirement tax-favored accounts or from one or more retirement or pension funds that meet the requirements of any of the following: Broad Participation Retirement Fund, Narrow Participation Retirement Fund and a Pension Fund of a Governmental Entity, International Organization or Central Bank.



#### 4.4.3 Term life insurance contracts

A life insurance contract with a coverage period that will end before the insured individual attains age 90, maintained in the KSA that meets all the requirements listed below:

- 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;
- the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;
- 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 (if 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
- the contract is not held by a transferee for value.



#### **4.4.4 Estate Accounts and accounts held by a Personal Representative ("Wasi")**

Accounts of deceased persons or those held by a Wasi can be considered an Excluded Account if the documentation for such account includes a copy of the deceased's will or death certificate ("Estate Account").

For this purpose, the Reporting KSA Financial Institution must treat the account as having the same status that it had prior to the death of the Account Holder until the date it obtains such copy.

An Estate Account will not be reportable in the year of the Account Holders death and subsequent years for as long as it qualifies as an account held by an estate.

In determining what is meant by "estate", reference must be made to each the KSA's rules on the transfer or inheritance of rights and obligations in the event of death (e.g. the rules on universal succession).

#### **Example 1**

Reportable Person X died on June 15, 2018 and the Reporting KSA Financial Institution is provided with the death certificate on June 20, 2018. As of June 20, 2018, the account will be treated as an Estate Account. If an account remains an Estate Account, the account is not reportable. If the account is still an Estate Account on December 31, 2018, the account is not reportable for the calendar year 2018 and subsequent calendar years until the account status changes.





#### 4.4.5 Escrow Accounts

Accounts held by a Reporting KSA Financial Institution for a non-financial intermediary (such as a firm of solicitors or estate agents) which are maintained in the KSA that meet any the requirements listed below can be Excluded Accounts:

- A court order or judgment;
- A sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:
  - 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 about the sale, exchange, or lease of the property;
  - 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;
  - 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;
  - The account is not a margin or similar account established about a sale or exchange of a Financial Asset; and
  - The account is not associated with an account described in Section 4.4.6, related to Depository Accounts due to not-returned overpayments.
- 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 later; or
- An obligation of a Financial Institution solely to facilitate the payment of taxes later.



#### 4.4.6 Depository Accounts due to non-returned overpayments.

A Reporting KSA Financial Institution that does not satisfy the requirements to be a Qualified Credit Card Issuer (see Section 2.13.7), but accepts deposits when an Account Holder makes a payment more than a balance due with respect to a credit card or other revolving credit facility may still not report a Depository Account that qualifies as an Excluded Account if account satisfies the following requirements:

- the account exists solely because an Account Holder makes a payment more than 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
  - beginning on or before 8 September 2017, the Reporting KSA Financial Institution implements policies and procedures either to prevent an Account Holder from making an overpayment more than \$US50,000, or to ensure that any customer overpayment more than US\$50,000 (and of the balance due with respect to the card or facility) is refunded to the Account Holder within 60 calendar days, in each case applying the rules set Section 5.13 for currency translation. For this purpose, an Account Holder overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.
- a. If a Reporting KSA Financial Institution was formed or organized after 8 September 2017, the latter must satisfy the requirement described in the said point within six months after the date such Reporting KSA Financial Institution was formed or organized.



#### 4.4.7 Low-Risk Excluded Accounts

An account can also be an Excluded Account, if it meets the requirements set out below and the status of the account as an Excluded Account does not frustrate the purposes of the CRS:

- the account presents a low risk of being used to evade tax;
- the account has substantially similar characteristics to any of the accounts described between Sections 4.4.1 and 4.4.6, outlined above; and
- the account is defined in domestic law as an Excluded Account.
- the status of the account as an Excluded Account does not frustrate the purposes of the Common Reporting Standard.

In addition to defined accounts, the following annuities are specifically excluded from the scope of the CRS as they are low-risk of tax abuse:

- Annuities which are held within Excluded Account;
- Pension annuities;
- Immediate needs annuities; and
- Structured settlements that qualify for treatment as such under the ZATCA tax rules or annuities issued to fund such structured settlements.



## 4.5 Account Holders of Financial Accounts

Certain information in respect of an Account Holder of a Reportable Account is reported annually to ZATCA. To identify the individual or entity that is the Account Holder, a Reporting KSA Financial Institution may need to consider the type of account and the capacity in which it is held.

Normally the Account Holder would be the person listed or identified as the holder of the Financial Account by the Reporting KSA Financial Institution that maintains the account. However, when a person (other than a Reporting KSA Financial Institution) holds a Financial Account for the benefit of another person (i.e. as agent, custodian, nominee, signatory, investment advisor, intermediary or other third-party beneficiary), the person holding the account would not be treated as the Account Holder. In such case, the person on whose behalf the account is held would be taken as the Account Holder, unless the Financial Account meets the conditions relating to Intermediary/Escrow Accounts.

A person, other than a Financial Institution, that holds a Financial Account for the benefit or account of another person as an agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as an Account Holder with respect to such account for purposes of this section. Instead, such other person is treated as the Account Holder.

### Example 1

Where a parent opens an account for a child and the account is in the child's name, the child will be the Account Holder.

### Example 2

Where a parent opens an account for a child, however the account is in the parent's name and the parent has not relinquished any control over the account, the parent will be the Account Holder.



### Example 3

An omnibus account is an account between two futures merchants (brokers). Typically, it involves the transaction of individual accounts which are combined in this type of account, allowing for easier management by the futures merchant. The purpose of this is to protect the identities of the individual Account Holders, because the futures merchant transacts for them.

If the Account Holder (the merchant) is a Financial Institution, a Reporting KSA Financial Institution is required to identify the Financial Institution and not look at the underlying individuals. If, however the Account Holder (the merchant) is not a Financial Institution then the Reporting KSA Financial Institution shall have to look through and identify the persons for whom the account is being held on the basis the Account Holder is a Passive NFE or Managed Investment Entity in a non CRS jurisdiction.



#### 4.5.1 Trusts, Estates and Awqaf Funds

Where a Trust or Estate is listed as the holder of a Financial Account then they are to be treated as the Account Holder, rather than any owner or beneficiary. However, accounts held by the estate of a deceased person are not Financial Accounts.

When a Trust or Estate is treated as the Account Holder of a Financial Account this does not remove the requirement to identify the Controlling Persons where that entity is a Passive NFE.

In relation to a share register, where an issuer's share register has been the subject of an acquisition, (for example a takeover by Company A of Company B) and shareholders of Company B have not responded and accepted the offer, they become known as dissenters or dissenting shareholders. On completion of the takeover, the consideration is transferred to a trustee to be held on the dissenters' behalf until they claim the proceeds and it is paid to them. In this case the trustee does not become the Account Holder. This is because the original shareholdings (equity interests) are not Financial Accounts, unless Section 4.3.4 above applies.

An Awqaf fund should not be treated as a Financial Institution under CRS but will instead be classified as an Active NFE.



### 4.5.2 Sole Proprietorships

A sole proprietorship is an unincorporated business with one owner (the sole proprietor). For CRS purposes, a sole proprietorship shall be treated as an Individual Account Holder. Therefore, Reporting KSA Financial Institutions should apply the appropriate new and pre-existing individual due diligence procedures for all sole proprietorships.

If a Reporting KSA Financial Institution has treated a sole proprietorship as an Entity Account Holder prior to the issuance of these Guidance Notes, the Reporting KSA Financial Institutions should immediately obtain a new individual self-certification form from the sole proprietor and accordingly report the account as an account held by an individual if it is identified as a Reportable Account.

### 4.5.3 Partnerships

Where a Financial Account is held in the name of the partnership which is a Financial Institution, it will be the partnership that is the Account Holder rather than the partners in the partnership.

### 4.5.4 Joint Accounts

Where a Financial Account is jointly held, all Account Holders qualify as 'Account Holders'.

Where a Financial Account is jointly held, the balance or value in the account is to be attributed in full to all joint holders of the account. This will apply for both aggregation and reporting purposes.

If an account is jointly held by an individual and an entity, the Financial Institution will need to apply separately both the individual and entity due diligence requirements in relation to that account.



#### **4.5.5 Cash Value Insurance Contracts and Annuity Contracts**

A Cash Value Insurance or Annuity Contract is held by each person entitled to access the contract's value (for example, through a loan, withdrawal, surrender, or otherwise) or with the ability to change a beneficiary under the contract.

Where no person can access the contract's value or change a beneficiary, the Account Holders are any person named in the contract as an owner and any person who is entitled to receive a future payment under the terms of the contract.

When an obligation to pay an amount under the contract becomes fixed, each person entitled to receive a payment is an Account Holder.

With regards to Annuity Contracts, the Account Holder is the person(s) entitled to exercise all rights under the contract, such as naming the beneficiary, accessing cash value or receiving the Annuity.

This means that in case of payment under the Cash Value Insurance Contract or Annuity Contract, the beneficiary of the amounts paid will be the Account Holder.

#### **4.5.6 Joint life second death Cash Value Insurance Contracts**

Joint life second death Cash Value Insurance Contracts are sometimes taken out by spouses. Such policies insure both parties, but do not pay out on the death of the first person. Instead the policy remains in force until the other person has died or the policy is surrendered.

Where one of the policyholders whose life is assured is a Reportable Person (and the other is not a Reportable Person) this will be a Reportable Account which is reported annually. If the Reportable Person dies during the term of the insurance, it will cease to be a Reportable Account.





## 4.6 Treatment of other types of accounts as Financial Accounts

### 4.6.1 Undesignated/Designated Accounts

Where a Financial Account, held by a non-financial intermediary such as a solicitor or estate agent, does not meet any of the conditions in Section 4.4.5 but is an account, holding on a pooled basis, the funds of underlying clients of the non-financial intermediary where:

- The only person listed or identified on the Financial Account with the Reporting KSA Financial Institution is the non-Financial Intermediary; and
- The non-financial intermediary is not required to disclose or pass their underlying client or clients' information to the Reporting KSA Financial Institution for the purposes of AML/ KYC or other regulatory requirements.

Then, providing both conditions are met, the Reporting KSA Financial Institution is only required to undertake the due diligence procedures in respect of the non-financial intermediary.

A designated client account is an account held with a Reporting KSA Financial Institution, operated by a non-financial intermediary where the underlying client or clients of the intermediary are listed or can be identified by the Reporting KSA Financial Institution. In this case the Reporting KSA Financial Institution should, if required report the underlying client Account Holders.



#### 4.6.2 Execution Brokers

Where a Reporting KSA Financial Institution is acting as an executing broker, and simply executing trading instructions (sometimes referred to as an “execution only” broker), or receiving and transmitting such instructions to another person/ executing broker, the Reporting KSA Financial Institution will not be required to treat the facilities established for the purposes of executing a trading instruction, or receiving and transmitting such instructions, as a Financial Account under the CRS. The Reporting KSA Financial Institution acting as custodian will be responsible for performing due diligence procedures and reporting where necessary.

It is also possible that a Reporting KSA Financial Institution acting as an executing broker may be subject to failed trades and find themselves with the legal ownership of the asset that they intended to broker. In this case neither the holding of the asset, nor any resultant claims (market claims such as the passing of entitlement on dividend and coupon payments, claims compensated through a clearing house, securities depository etc.) will lead to a Financial Account being established by the executing broker.



### 4.6.3 Segregated Accounts

Segregated accounts are accounts in which the Account Holder's funds are held separate from the funds of the broker or Reporting KSA Financial Institution acting for them.

Where an investment manager is appointed to provide direct investment management services by the legal owner of assets, as segregated accounts, then these accounts are not Financial Accounts of the investment manager, but instead are treated as Custodial Accounts of a Custodial Institution (who will need to treat the investors as their Account Holders as there is no interposing fund).

Note that in cases where an investment manager also holds assets on behalf of clients (by acting as a Custodial Institution), reporting will be required on those accounts by virtue of the investment manager falling within the definition of a Custodial Institution.

There will be situations where an investment manager does not hold custody for its customers (e.g. investment managers who arrange for custody as agent on their customers' behalf or where the custody accounts are pooled nominee accounts) but holds the information required for due diligence and reporting.

In the context of KSA this is akin to Discretionary Portfolio Services offered by APs.

#### 4.6.3.1 Clearing, settlement and deposit of securities

In KSA, all clearing, settlement and deposit of securities are dealt with via Tadawul. The participants utilizing Tadawul's securities settlement systems and that hold interests recorded in Tadawul's systems are either Financial Institutions or will access the systems via a Financial Institution. Such Financial Institutions maintain the accounts and are therefore responsible for any relevant reporting obligations and Tadawul itself therefore should not be treated as maintaining Financial Accounts.

Notwithstanding the foregoing, the SDC may report on behalf of such participants in respect of interests recorded as a third-party service provider.



#### 4.6.4 Placing Agents

In certain circumstances "placing agents" will typically acquire shares for a 2-3-day period (maximum 7 days) and hold these as nominee for an underlying investor. The placing agent will also have cash funds deposited by the investor for a similar period. The two would ultimately be matched and the shares delivered to the designated custodian of the investor. To eliminate the creation of a series of Custodial Accounts which would open and close in a 2-3-day window and therefore be potentially reportable such funds will not be regarded as Financial Accounts provided that:

- The account is established and used solely to secure the obligation of the parties to the transaction;
- The account only holds the monies appropriate to secure an obligation of one of the parties directly related to the transaction, or a similar payment, or with a Financial Asset that is deposited in the account in connection with the transaction; and
- The assets of the account, including the income earned thereon, is paid or otherwise distributed for the benefit of the parties when the transaction is completed.

#### 4.6.5 Dormant Accounts

A Reporting KSA Financial Institution may apply its existing normal operating procedures to classify an account as dormant. Where normal operating procedures are not applicable, then the Reporting KSA Financial Institution may classify an account as dormant for the purposes of the CRS where:

- There has been no activity on the account in the past three years;
- The Account Holder has not contacted the Reporting KSA Financial Institution regarding that account or any other account in the past six years; and
- The account is not linked to an active account belonging to the same Account Holder.



The Reporting KSA Financial Institution should classify the account based upon existing documentation it already has in its possession for the Account Holder. Where this review determines that the dormant account is reportable, then the Reporting KSA Financial Institution should make the appropriate report notwithstanding that there has been no contact with the Account Holder.

Where the Reporting KSA Financial Institution has closed the account and transferred the customer's account balances to a pooled 'unclaimed balances account', however described, maintained by the Reporting KSA Financial Institution there will be no customer account to report.

Where the Reporting KSA Financial Institution has closed the account and there is no customer account to report, 'reactivation' will be treated as the opening of a New Account. The Financial Institution would then have to establish the Account Holders' status as if the account were any other type of New Account.

An account will no longer be dormant or considered to be 'reactivated' where:

- Under normal operating procedures the account is not considered dormant;
- The Account Holder contacts the Reporting KSA Financial Institution in relation to that account or any other account held by the Account Holder with that Financial Institution including a former Account Holder whose account balances have been transferred to an unclaimed balances account; or
- The Account Holder initiates a transaction with respect to the dormant account or other any other account held by the Account Holder with that Financial Institution.

The Reporting KSA Financial Institution should then establish the Account Holder's status as if the account were a New Account.



#### 4.6.6 Rollovers

Where some or all the proceeds of a maturing fixed term product are rolled over, automatically or with the Account Holder's interaction, into a new fixed term product this shall not be deemed to be the creation of a New Account.

#### 4.6.7 Syndicated Loans

In relation to syndicated loan activities, an Entity acting as a lead manager/fronting bank/agent ("Agent") of a syndicated invoice finance facility would not in itself be sufficient to bring that entity into the Investment Entity or Custodian Institution definition as a Financial Institution, provided no other business activities would bring the entity into that classification. Note however, typically there is usually an entity within the loan structure that is a Financial Institution.

Where a borrower requires a large or sophisticated facility, or multiple types of facility, this is commonly provided by a group of lenders, known as a syndicate, under a syndicated loan agreement.

To facilitate the process of administering the loan daily, one bank from the syndicate is typically appointed as Agent. The Agent's role is to act as the agent for the lenders, (i.e. not of the borrower) and to coordinate and administer all aspects of the loan once the loan agreement has been executed, including acting as a point of contact between the borrower and the lenders in the syndicate and monitoring the compliance of the borrower with certain terms of the facility.

The Agent performs exclusively operational functions. For example, the borrower makes all payments of interest and repayments of principal and any other payments required under the loan agreement to the Agent and the Agent then passes these monies back to the lenders to which they are due. Similarly, the lenders advance funds to the borrower through the Agent. The terms of a syndicated loan agreement usually entitle the Agent to undertake the roles described above in return for a fee.



In these circumstances the participation of a lender in a syndicated loan, where a Reporting KSA Financial Institution as Agent acts for and on behalf of a syndicate of lenders which includes that lender, does not lead to the creation of a "Custodial Account" held by Reporting KSA Financial Institution.

The lenders hold their interests in a loan directly rather than through the Agent and, therefore, the participation of a lender does not amount to a "Custodial Account" held by Reporting KSA Financial Institution.

### Example 1

In a Syndicated Loan Arrangement if a Reporting KSA Financial Institution has taken on the role of an Agent and performs the operational functions such as passing money from the borrower to the lender and vice versa this would not be considered as a Custodial Account of the Reporting KSA Financial Institution/Agent. However, the Reporting KSA Financial Institution/Agent might be in the chain of payment and may have CRS responsibilities.



#### 4.6.8 Shareholdings and debenture/loan stock holdings

The definition of a Financial Account does not extend to shareholdings on an issuer's share register nor debenture/loan stock holdings (including shareholdings which have been the subject of an acquisition, because of which the original share register no longer exists).

However, shareholdings and loan/debenture stock holdings by a Reporting KSA Financial Institution can be 'financial instruments/contracts' and are reportable if held in a Custodial Account.

#### 4.6.9 Electronic money (E-money)

Certain types of "e-money" products may qualify as Financial Accounts and shall not fail to qualify as they are maintained in an e-money format e.g. "e-wallet" or online Depository Account should be treated as a traditional Depository Account.

Other examples of e-money formats may include the following:

- Pre-paid card/ Charge Cards/Credit Cards — Cash may be loaded onto the card and retained in credit. This should be treated as a Financial Account as a Depository Account unless the issuer qualifies as a Qualified Credit Card Issuer (see Section 2.13.7).
- Pay card or payroll debit card — Cash may be loaded onto the card and retained in credit. This should be treated as a Financial Account as a Depository Account unless the issuer qualifies as a Qualified Credit Card Issuer (see Section 2.13.7).
- Merchant services account — Cash is retained within a merchant's account. This should not be considered as a Depository Account but may be a Custodial Account (note that these should not be considered Escrow Accounts and excluded from the definition of a Financial Account (see Section 4.3). Should the payments not be held in an account i.e. the payments flow through a system these payments should not be deemed to be Financial Accounts.





The Regulation for Issuance and Operations of Credit and Charge Cards defines credit cards and charge cards as follows:

- "Credit Card": shall mean a card which is issued by an Issuer in association with Credit Card Associations. The card so issued is used by a card holder to obtain in advance, by virtue of the Issuer's credit, money, goods, services or other benefits from businesses accepting this card domestically and internationally, and repay the relevant indebtedness thereafter or in accordance with other arrangements. This definition includes Corporate Cards and Business Cards but does not include other types of cards issued such as Debit cards, ATM cards and/or pre-paid cards.
- "Charge Card": a card similar to a Credit Card but one that requires the Charge Card holder to repay the full outstanding amount upon receipt of the account statement or on the due date as per the account statement.

Regulatory Rules for Prepaid payment services in the KSA define prepaid payment services (including the use of prepaid cards) as follows:

- A prepaid payment service, as regulated under these rules, is defined by the holding of monetary value in a prepaid account/electronic record that can be utilised to purchase goods or services from one or more businesses who agree to participate in the prepaid program. The defining features are:
  - Monetary value is held on account for use to purchase goods and services for variable amounts as determined and agreed between the payer and payee at the time of purchase of the prepaid service; and
  - Settlement of transactions can be between otherwise unrelated business entities.



#### **4.6.10 Securities Depository Centre ("SDC")**

As covered in the Financial Institutions Chapter 2, in the KSA, an SDC will not be treated as maintaining Financial Accounts. The participants of KSA securities settlement systems e.g. through Tadawul that hold interests recorded in the SDC, are either Financial Institutions, or they access the system through a Financial Institution (a sponsor). It is these Financial Institutions that maintain the accounts and it is these participants and/or sponsors that are responsible for undertaking any reporting obligations.

The relationship between the securities settlement system and its participants is not a Financial Account and accordingly the SDC and any SDC Related Entity is not required to undertake any reporting required about interests held by, or on behalf of, participants.

#### **4.6.11 Exchange Traded Funds**

An exchange traded fund is a fund composed of a group of stocks that track a specific market index, sector group, or commodity. Unlike a traditional mutual fund, units of exchange traded funds trade like individual stocks on stock exchanges.

An Equity or Debt Interest in an exchange traded fund is a Financial Account for the purposes of the CRS.

If an investment dealer or other financial institution intermediates the purchase for a client of a unit in an exchange traded fund or a closed-end fund (in the remainder of this paragraph, the term "ETF" is used to refer to both), that regularly trades on an established securities market and the unit is registered in nominee-name on the books of the ETF, the ETF would be considered to maintain a financial account.



#### 4.6.12 Nostro and Vostro accounts

Financial Institutions, typically banks, utilize the terms nostro and vostro accounts when referring to two separate accounts relating to the same balance and set of transactions.

A nostro account is a type of depository account that one bank holds with another bank, i.e. a nostro account is Bank A's account of Bank A's money, held by Bank B.

A vostro account is a type of depository account that one bank holds on behalf of another bank, i.e. a vostro account is Bank B's account of Bank B's money, held by Bank A.

Typically, all depository accounts that a Bank holds on behalf of others are treated as vostro accounts by the bank that holds these accounts. A Bank may also refer to its internal funds such as treasury, trading and suspense accounts as vostro accounts, however for the purposes of these Guidance Notes these would not be treated as Financial Accounts of the bank, as they are for the bank's internal purposes only.

It is important to understand the concept of nostro and vostro accounts and who maintains these accounts to establish the appropriate Financial Institution's obligations in respect of the nostro and vostro account.

#### Example 1

If Bank A has a nostro account, this account will be held with another bank (Bank B). Such a nostro account does not constitute a Financial Account at Bank A. However, such a nostro account should constitute a Financial Account at Bank B. As Bank B holds and maintains this account, Bank B will be responsible to complete any due diligence and reporting in respect of this account.



### Example 2

If Bank A has a vostro account, this account will be held by Bank A however, the account will hold monies of another bank (Bank B). Such Vostro account should constitute a Financial Account at Bank A and not a Financial Account at Bank B. As Bank A holds and maintains this account, Bank A will be responsible to complete any due diligence and reporting in respect of this account.

### Example 3

If Bank A has a vostro account, that is an internal suspense account, such a vostro account should not constitute a Financial Account at Bank A.



#### 4.6.13 RMA relationships

The Relationship Management Application ("RMA") is a SWIFT service to manage the business relationships between Financial Institutions. This is a correspondent type arrangement allowing the movement of information (in relation to customers/money transfers); however, it does not actually entail the transfer/movement of money. Therefore, this arrangement should not constitute as a Financial Account.

##### Example 1

KSA Bank A needs a service for its customer in the United Arab Emirates, KSA Bank A has a working relationship with UAE Bank B. KSA Bank A refer its customer to UAE Bank B, and in return, if UAE Bank B has a customer who needs a service in KSA, they will refer their customer to KSA Bank A.

This type of arrangement would not constitute as an account relationship and therefore there is no Financial Account.

##### Example 2

A KSA Bank has a SWIFT RMA relationship with a non-resident Bank. Payments are also received and made to this non-resident Bank via the KSA Bank's nostro account. As the KSA Bank has a nostro account, it should not constitute as a Financial Account at the KSA Bank. Rather it should be a Financial Account at the non-resident Bank. Therefore, the responsibility to complete any due diligence, reporting in respect of this account would be the responsibility of the non-resident Bank who holds and maintains this account.



## 5. Overarching Due Diligence

### 5.1 General Requirements

Reporting KSA Financial Institutions must comply with the following rules and are responsible for the identification and reporting of Financial Accounts held by:

- Reportable Persons; or
- Passive NFEs with one or more Controlling Persons that are Reportable Persons including Non-Participating Jurisdiction Professionally Managed Investment Entity (“NPJPMIE”) (i.e. an Investment Entity defined in Section 2.11)

This Chapter sets out the guidance that Reporting KSA Financial Institutions must follow when carrying out due diligence to identify Reportable Persons.

The required procedures are mainly determined by reference to whether an account is:

- An Individual or Entity Account;
- A Pre-existing or a New Account (refer to Chapters 6-9; or
- A Lower Value or a High Value Pre-existing Individual Account (refer to Section 6.1)



## 5.3 Clarifications to Account Holders

CRS provides for a distinction between Financial Accounts maintained as of 7 September 2017 ("Pre-existing Accounts") and those accounts opened on or after 8 September 2017 ("New Accounts"). A further distinction is made between accounts held by natural persons (including sole proprietorships) ("Individual Accounts") and those accounts held by entities ("Entity Accounts").

A Reporting KSA Financial Institution will need to follow one or more of the following three processes for identification of Reportable Account Holders:

### 5.2.1 Indicia search

The Reporting KSA Financial Institution can identify Reportable Accounts by searching for indicia by reference to documentation or information held or collected in accordance with maintaining or the opening of an account; this may include for example, information held for the purposes of compliance with KSA AML/KYC rules.

### 5.2.2 Self-certification

By obtaining a self-certification from an Account Holder or Controlling Person of a Passive NFE and NPJPMIE where applicable as detailed further in Section 5.4.

### 5.2.3 Publicly available information (for entities only)

In certain cases, the Reporting KSA Financial Institution may be able to determine, using information publically available, the CRS classification of an entity Account Holder.

For further details please refer to the detailed due diligence chapters for entity Account Holders in Chapters 8 and 9.



### 5.3 Clarifications to Account Holders

A Reporting KSA Financial Institution may be asked to clarify the rules of determining a Reportable Person. These rules are complex, and Reporting KSA Financial Institutions are not expected to provide information on all aspects of CRS tax residency and to provide tax advice. If an Account Holder asks for such a clarification, a Reporting KSA Financial Institution can refer the Account Holder to ZATCA. It is the responsibility of Account Holders to determine their jurisdiction of tax residency. Alternatively, an Account Holder may seek professional advice.

Reporting KSA Financial Institutions are expected to help taxpayers determine, and provide them with information with respect to, their residence(s) for tax purposes. The OECD is facilitating this process through a centralized dissemination of the information (on the Automatic Exchange Portal) which Reporting KSA Financial Institutions could direct Account Holders to:

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

Reporting KSA Financial Institutions can also direct their Account Holders to the Appendix section of the self-certification form(s) for definitions of the CRS entity types.





## 5.4 Self-Certification

As part of the process of identifying the status of Account Holders (including identifying the Controlling Persons of entities), Reporting KSA Financial Institutions can rely on self-certifications.

A self-certification form may be used by a Reporting KSA Financial Institution in relation to Individual Account Holders as follows:

- To establish the jurisdiction of tax residence(s) of the holder of a New Individual Account;
- To obtain a TIN from a New Individual Account Holder (if possible) from their jurisdiction of tax residence(s); or
- In order to show that an individual is not tax resident of a jurisdiction, even if indicia are found in respect of a Pre-existing Individual Account that they hold.

A self-certification form may be used by a Reporting KSA Financial Institution in relation to Entity Account Holders as follows:

- To establish the status of an entity where a Financial Institution cannot reasonably determine that the Account Holder is not a Reportable Person based on information in its possession or that is publicly available; or
- To establish whether an entity is a Passive NFE (including NPJPMIEs); and
- To establish the tax residence of a Controlling Person of a Passive NFE.

### 5.4.1 Self-Certification for New Individual Account Holders

#### 5.4.1.1 Obtaining a self-certification

A Reporting KSA Financial Institution is required to obtain a self-certification to enable it to determine where the Account Holder is tax resident, unless the Financial Account is of a type that does not need to be reviewed, identified or reported. The self-certification process and documentation should allow for cases where the Account Holder is a tax resident of more than one country.



#### **5.4.1.2 Where a self-certification is already held**

If the Financial Institution already holds a valid self-certification for the Account Holder, for instance, if one has been obtained for another Financial Account, then provided the Financial Institution is able to access this document they will be held to have 'obtained' this document. However, if there has been a change in circumstance since this self-certification was obtained, or any of the information obtained when the new account is opened indicates that the previous self-certification can no longer be relied upon, then a new self-certification must be obtained.

#### **5.4.1.3 Electronic Signatures**

A Financial Institution may accept an electronic signature of the Account Holder (or person formally authorized to sign). The signature must positively acknowledge that the certification is correct. Reporting KSA Financial Institutions should ensure complete compliance with the requirements of the "Electronic Transactions Law" issued under the Council of Ministers Decision No. 80 dated 7/3/1428 H, and approved by Royal Decree No. M/18 dated 8/3/1428H.



### 5.4.2 Self-Certification for Pre-Existing Individual Account Holders

An individual may have a Pre-existing or New account. The individual may subsequently open a new account, with the same Reporting KSA Financial Institution (or another Reporting KSA Financial Institution within the same jurisdiction if both Reporting KSA Financial Institutions are related). In such a case, there is no need to re-document the Account Holder if:

- the appropriate due diligence requirements have been carried out, or are in the process of being carried out, for the pre-existing account;
- the opening of the new account does not require the provision of new, additional or amended Account Holder information;
- with respect to a financial account subject to AML/KYC procedures, the Reporting KSA Financial Institution is permitted to satisfy those procedures for the new account by relying on the procedures performed in connection with the pre-existing account; and
- the Reporting KSA Financial Institution's computerized systems are able to link the new account to the pre-existing account held by the Account Holder and allow the account balances or values to be aggregated (see Section 5.12 below on aggregation).



## Example 1

An individual holds an individual account with a Reporting KSA Financial Institution. The individual opens a new account at the same Reporting KSA Financial Institution and the new account does not require the provision of new, additional or amended customer information. The Reporting KSA Financial Institution can link the new account to the original account. The new account can be treated as a continuation of the original account and will not be subject to enhanced due diligence until the aggregate balance or value of the accounts exceeds US\$1million.

Note: Section 5.12 includes "account transfers" where an Account Holder closes the original account and at that time replaces it with a new account.

When the Reporting KSA Financial Institution has reason to know that the Account Holder's status is inaccurate in relation to one account, it is considered to know that same concern exists about other accounts held by the Account Holder.

If, following an electronic record search for Lower Value Accounts or the enhanced review procedures for High Value Accounts, indicia are found suggesting the account holder is potentially a Reportable Person, then the Reporting KSA Financial Institution must treat the account as a Reportable Account.

However, if the Reporting KSA Financial Institution obtains a self-certification from the account holder confirming their status and obtains or has previously reviewed and recorded details of any other documents required under the applicable procedures, then the account would not be treated as reportable.



### **5.4.3 Self-Certification for New Entity Account Holders**

#### **5.4.3.1 Obtaining a self-certification**

A Reporting KSA Financial Institution is required to obtain a self-certification to enable it to determine where the Account Holder is tax resident, unless the Financial Account is of a type that does not need to be reviewed, identified or reported. The self-certification process and documentation should allow for cases where the Account Holder is a tax resident of more than one country.

For entities that are Passive NFEs (including NPJPMIEs), the Reporting KSA Financial Institution must identify the Controlling Persons and obtain a self-certification from the Account Holder or any Controlling Persons to determine where their residence(s) for tax purposes.

This determination can be achieved in the same way as described for New Individual Accounts in Section 5.4.1 above.

In the case of a Passive NFE the self-certification can be provided by either the Account Holder or by the Controlling Person(s) themselves.

#### **5.4.3.2 Where a self-certification is already held**

If the Reporting KSA Financial Institution already holds a valid self-certification for the Account Holder, for instance, if one has been obtained for another Financial Account, then provided the Reporting KSA Financial Institution is able to access this document they will be held to have 'obtained' this document. However, if there has been a change in circumstance since this self-certification was obtained, or any of the information obtained when the new account is opened indicates that the previous self-certification can no longer be relied upon, then a new self-certification must be obtained.



#### 5.4.4 Self-Certification Form for Pre-Existing Entity Account Holders

A Reporting KSA Financial Institution must review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine whether the information indicates that the Account Holder is resident in a Reportable Jurisdiction. For this purpose, information indicating that the Account Holder is resident in a Reportable Jurisdiction includes:

- a place of incorporation or organization in a Reportable Jurisdiction;
- an address in a Reportable Jurisdiction (for example, this would be likely to apply for Entities treated as fiscally transparent and could reflect the registered address, principal office, or place of effective management); or
- an address of one or more of the trustees of a trust in a Reportable Jurisdiction.

However, the existence of a permanent establishment (including a branch) in a Reportable Jurisdiction (including an address of a permanent establishment) is not by itself an indication of residence for this purpose.

If the information indicates that the Account Holder is resident in a Reportable Jurisdiction, then, the Reporting KSA 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 with respect to such Reportable Jurisdiction.



### 5.4.5 Format of self-certification form

There is no prescribed format for a self-certification, but it may, for example, form part of the account opening documentation. Whatever form it takes, it must allow the Reporting KSA 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 KSA Financial Institution about the opening of the account, including any documentation collected pursuant to AML/KYC procedures.

A self-certification must be signed by the Account Holder (or a person authorized to do so for her/him under domestic law), or in the case of an account opened by telephone or the internet the self-certification must be positively affirmed — that is, the Account Holder must confirm the information provided. The self-certification must be dated no earlier than the date the Account Holder received the form; undated self-certifications may be date stamped by the receiving Reporting KSA Financial Institution on receipt and that date will be taken as the date of signature. A self-certification is required for all accounts, including those held in the names of minors.

The self-certification may be pre-populated by the Reporting KSA Financial Institution to include the Account Holder's information, except for the jurisdiction(s) of residence for tax purposes, to the extent already available in its records. This includes records held in a central on-boarding system available across multiple jurisdictions in which the Reporting KSA Financial Institution operates.



#### 5.4.6 Collection of self-certification form

The self-certification may be provided in any manner and in any form (e.g., electronically, such as portable document format (.pdf) or scanned documents). If the self-certification is provided electronically, the electronic system must ensure that the information received is the information sent and must document all occasions of user access that result in the submission, renewal, or modification of a self-certification. In addition, the design and operation of the electronic system, including access procedures, must ensure that the person accessing the system and furnishing the self-certification is the person named in the self-certification, and must can provide upon request a hard copy of all self-certifications provided electronically. Where the information is provided as part of the account opening documentation, it does not need to be on any one specific page of the documentation or any specific form, if it is complete.

Where an Account Holder provides a paper self-certification a Reporting KSA Financial Institution may retain an original, certified copy, or photocopy (including a microfiche, electronic scan, or similar means of electronic storage) of the self-certification. Any documentation that is stored electronically must be made available by the Financial Institution in hard copy form to ZATCA upon request.

A Reporting KSA Financial Institution may gather the information required for the self-certification and this is valid if it is signed or positively affirmed by the Account Holder. The approach taken by the Reporting KSA Financial Institution in obtaining the self-certification is expected to be in a manner consistent with the procedures followed for the opening of the account. The Reporting KSA Financial Institution will need to maintain a record of this process for audit purposes, in addition to the self-certification itself.

A self-certification is otherwise positively affirmed if the signatory of the self-certification provides the Reporting KSA Financial Institution with an unambiguous acknowledgement that they agree with the representations made through the self-certification. In all cases, the positive affirmation is expected to be captured by the Reporting KSA Financial Institution in a manner such that it can credibly demonstrate that the self-certification was positively affirmed (e.g., voice recording, digital footprint, etc.).





The following examples illustrate how a self-certification may be provided:

**Example 1:** Individual Mr. X completes an online application to open an account with a Reporting KSA Financial Institution - ABC Bank. All the information required for self-certification is entered by Mr. X on an electronic application (including a confirmation of his jurisdiction of residence for tax purposes). Mr. X information, as provided in the electronic self-certification, is confirmed by ABC bank's service provider to have passed the validity and reasonableness tests based on the information it has collected pursuant to AML/KYC Procedures. Mr. X's self-certification is valid.

**Example 2:** Individual Mr. Y makes an application in person to open an account with DEF Bank. Mr. Y produces the identity card as proof of identification and provides all the information required for self-certification to an employee of DEF bank who enters the information into the bank's systems. The application is subsequently signed by Mr. Y. After passing the validity and reasonableness checks, Mr. Y's self-certification is valid.



#### 5.4.7 Timing of a self-certification

A self-certification is required upon account opening. It is expected that Reporting KSA Financial Institutions will maintain account opening processes that facilitate collection of a self-certification at the time of the account opening, whether that process is done face-to-face, online or by telephone.

Where a self-certification is obtained at account opening but validation of the self-certification cannot be completed because it is a 'day two' process undertaken by a back-office function, the self-certification should be validated within a period of 90 days from the opening of the account.

Where the initial self-certification cannot be validated by the back-office function (e.g., missing TIN or signature), a new self-certification should be requested and validated within a period of 90 days from the opening of the account.

There could be limited number of instances, where due to the specificities of a business sector it is not possible to obtain a self-certification on 'day one' of the account opening process, for example, where an insurance contract has been assigned from one person to another or in the case where an investor acquires shares in an investment trust on the secondary market. In such circumstances, the self-certification should be both obtained and validated as quickly as feasible, and in any case within a period of 90 days from the opening of the account. If a valid self-certification is not obtained within a period of 90 days from the opening of the account, the Reporting KSA Financial Institution shall block the account until a valid self-certification is obtained or end the relationship with the Account Holder.

In all cases, Reporting KSA Financial Institutions shall ensure that they have obtained and validated the self-certification in time to be able to meet their due diligence and reporting obligations with respect to the reporting period during which the account was opened.



## 5.4.8 Validity of self-certification forms

### 5.4.8.1 New and Pre-existing Individual Accounts

With respect to an individual account, a self-certification is valid if it is signed (or otherwise positively affirmed) by the Account Holder, it is dated, and it contains the Account Holder's:

- Name;
- Residence address;
- Jurisdiction of residence(s) for tax purposes;
- TIN with respect to each reportable jurisdiction of tax of tax residency declared (if possible); and
- Date of birth.

**Note:** A Reportable Person may not be eligible to obtain a TIN or is otherwise unable to secure a TIN. For example, certain jurisdictions do not issue TINs. A self-certification is not invalid by reason alone of the Account Holder not providing a TIN if a reasonable explanation is provided.



### 5.4.3.2 Where a self-certification is already held

With respect to an entity account, a self-certification is valid if it is signed (or otherwise positively affirmed) by the Account Holder, it is dated, and it contains the Account Holder's:

- Name;
- Address;
- Jurisdiction of residence(s) for tax purposes; and
- TIN with respect to each jurisdiction of tax residency declared (if possible).

**Note:** As above, a Reportable Person may not be eligible to obtain a TIN or is otherwise unable to secure a TIN. For example, certain jurisdictions do not issue TINs. A self-certification is not invalid by reason alone of the Account Holder not providing a foreign TIN if a reasonable explanation is provided as described in the reasonable explanation Section 5.4.10.

If the entity certifies that it has no residence for tax purposes, the Reporting KSA Financial Institution can rely on the address of the principal office of the entity to determine the tax residence of the Account Holder.

A self-certification with respect to Entity Accounts may also contain the Account Holder's status. The Account Holder's status may be any of the following:

#### 5.4.8.2.1 Financial Institutions

- NPJPMIE; or
- Financial Institution (other than NPJPMIE).

#### 5.4.8.2.2 NFEs

- Active NFE:
  - Corporation that is publicly traded or an affiliate of a publicly traded corporation;
  - Governmental Entity;
  - International Organization;
  - Central Bank;
  - Active NFE (other than the top four categories); or
- Active NFE:



#### 5.4.8.2.3 Controlling Persons

The CRS contains a so-called “look through” provision pursuant to which Reporting KSA Financial Institutions must treat an Account Holder that is a NPJPMIE as a Passive NFE and report the Controlling Persons of such Entity that are Reportable Persons.

For purpose of this provision, a Participating Jurisdiction is a jurisdiction that has publicly and at government level committed to adopt the CRS by 2018 (“Committed Jurisdictions”). Committed Jurisdictions are those that have committed in the context of the Global Forum process but also those non-financial centers developing countries that have expressed that commitment by signing the Multilateral Competent Authority Agreement or an equivalent exchange instrument. The US is not considered as a Participating Jurisdiction under CRS (see Royal decree of 14 June 2017, MB/BS of 19 June 2017 at the date of this document).

The self-certification for a Passive NFE is valid only if it is signed (or otherwise positively affirmed) by a person with legal authority to sign on behalf of the entity, it is dated at the latest at the date of receipt, and it contains each Controlling Person(s):

- Name;
- Residence address;
- Jurisdiction of residence(s) for tax purposes;
- TIN with respect to each jurisdiction of the tax residency declared (if possible); and
- Date of birth.

In case such self-certification is not provided, the Reporting KSA Financial Institution must rely on the indicia that it has in its records for such Controlling Person to determine whether it is a Reportable Person. If the Reporting KSA Financial Institution has none of such indicia in its records, then no further action is needed until there is a Change of Circumstances as detailed in Section 5.7.



#### 5.4.9 Confirming the reasonableness of self-certification

Upon account opening, once the Reporting KSA Financial Institution has obtained a self-certification that allows it to determine the Account Holder's residence(s) for tax purposes, the Reporting KSA Financial Institution must confirm the reasonableness of such self-certification based on the information obtained about the opening of the account, including any documentation collected pursuant to AML/KYC procedures (i.e. the "reasonableness" test). This may include information held on the account file or information otherwise known to the Relationship Manager.

For instance, the fact that the self-certification indicates that the Account Holder has no residence for tax purposes but the other documentation on file contains an address constitutes a reason to doubt the validity of the self-certification.

The Reporting KSA Financial Institution must ensure that it obtains a reasonable explanation and documentation, as appropriate, that supports the reasonableness of the self-certification. Refer to Section 5.5 below for examples.

If the Reporting KSA Financial Institution does not obtain a reasonable explanation as to the reasonableness of the self-certification, the Reporting KSA Financial Institution may not rely on the self-certification and must obtain a new, valid self-certification from the Account Holder.

The CRS provides that the term "AML/KYC Procedures" means the Account Holder due diligence procedures of a Reporting KSA Financial Institution pursuant to the anti-money laundering or similar requirements to which such a Reporting KSA Financial Institution is subject. Consequently, for carrying out the due diligence procedures, the applicable AML/KYC procedures are those to which a Reporting KSA Financial Institution is subject at a given moment in time, if, for New Accounts, such procedures are consistent with the 2012 Financial Action Task Force ("FATF") Recommendations.



The following examples illustrate the application of the “reasonableness” test:

**Example 1:** A Reporting KSA Financial Institution obtains a self-certification from the Account Holder upon account opening. The address contained in the self-certification conflicts with the address contained in the documentation collected pursuant to AML/KYC procedures. Due to the conflicting information, the self-certification is incorrect or unreliable and, therefore, it fails the reasonableness test.

**Example 2:** A Reporting KSA Financial Institution obtains a self-certification from the Account Holder upon account opening. The documentation collected pursuant to AML/KYC procedures only indicates the Account Holder’s place of incorporation. In the self-certification, the Account Holder claims to be resident for tax purposes in a jurisdiction that is different from its jurisdiction of incorporation. The Account Holder explains to the Reporting KSA Financial Institution that under relevant tax laws its residence for tax purposes is determined by reference to place of effective management, and that the jurisdiction where its effective management is situated differs from the jurisdiction in which it was incorporated. Thus, because there is a reasonable explanation of the conflicting information, the self-certification is not incorrect or unreliable and, therefore, passes the reasonableness test.

**Example 3:** ABC, a bank that is a Reporting KSA Financial Institution, opens a Depository Account for Mr. D, an individual Account Holder, who is a foreign diplomat. Since the account is a New Individual Account, ABC bank has obtained a self-certification from Mr. D which states that he has his tax residence in the UAE and his current residence in KSA. Mr. D has not included any documentation supporting why his tax residence is not the same to his current residence address. Hence, the self-certification provided by Mr. D is invalid. ABC bank requests from Mr. D a valid self-certification or a reasonable explanation why his tax residence claim is not in the same jurisdiction to his current residence address. Mr. D provides a copy of his diplomatic passport supporting his tax residence in the UAE. Having received documentation supporting the reasonableness of the original self-certification, ABC bank accepts the original self-certification as valid.



#### 5.4.10 Reasonable explanation

In the case where a self-certification fails the reasonableness test, it is expected that the Reporting KSA Financial Institution would obtain either a valid self-certification or a reasonable explanation and documentation (as appropriate) supporting the reasonableness of self-certification.

Examples of such “reasonable explanation” in case the residence address does not correspond to the tax residence contained in the self-certification, include a statement by the individual that he or she;

- is a student at an educational institution in the relevant jurisdiction and holds the appropriate visa (if applicable);
- is a teacher, trainee, or intern at an educational institution in the relevant jurisdiction or a participant in an educational or cultural exchange visitor program, and holds the appropriate visa (if applicable);
- is a foreign individual assigned to a diplomatic post or a position in a consulate or embassy in the relevant jurisdiction; or
- is a frontier worker or employee working on a truck or train travelling between jurisdictions.





## 5.5 Reliance on self-certification and Documentary Evidence

A Reporting KSA Financial Institution may not rely on a self-certification or Documentary Evidence if the Reporting KSA Financial Institution knows (i.e. has actual knowledge) or has reason to know that the self-certification or Documentary Evidence is incorrect or unreliable. A Reporting KSA Financial Institution has "reason to know" that a self-certification or Documentary Evidence is unreliable or incorrect if:

- The self-certification is incomplete with respect to any information provided on the self-certification that is relevant to the claims made by the Account Holder;
- The Documentary Evidence contains any information that is inconsistent with the Account Holder's claim in the self-certification; or
- The Reporting KSA Financial Institutions has other account information that is inconsistent with the Account Holder's claim in the self-certification.

Where the Reporting KSA Financial Institution cannot rely on the original self-certification it must obtain either;

- A valid self-certification that establishes the residence(s) for tax purposes of the Account Holder; or
- A reasonable explanation and documentation (as appropriate) supporting the validity of the original self-certification (and retain a copy or a notation of such explanation and documentation).

A Reporting KSA Financial Institution that relies on a service provider to review and maintain a self-certification is considered to know, or have reason to know, the facts determined by the service provider.



A Reporting KSA Financial Institution may not rely on Documentary Evidence provided by an Account Holder's if the Documentary Evidence does not reasonably establish the identity of the Account Holder's presenting the Documentary Evidence. For example, Documentary Evidence is not reliable if it is provided in person by an individual and the photograph or signature on the Documentary Evidence does not match the appearance or signature of the person presenting the document. A Reporting KSA Financial Institution may not rely on Documentary Evidence if the Documentary Evidence contains information that is inconsistent with the Account Holder's claim as to its status, the Reporting KSA Financial Institution has other account information that is inconsistent with the Account Holder's status, or the Documentary Evidence lacks information necessary to establish the person's status.

A Reporting KSA Financial Institution is not obliged to rely upon audited financial statements to establish that an Account Holder meets a certain asset threshold. It is also not obliged to rely upon organizational documents to establish that an entity has a status.



## Example 1

Mr. A is the Controlling Person of Company X and is a Reportable Person as he is tax resident in Oman (assuming Oman is a Reportable Jurisdiction for KSA) as per the self-certification with the Reporting KSA Financial Institution. Mr. A opens a new Individual Account with the same Reporting KSA Financial Institution and provides a KSA address. The Relationship Manager has actual knowledge the self-certification is incorrect as the current residence address is KSA. The Relationship Manager reaches out to the Account Holder to cure the accounts.

Should a Reporting KSA Financial Institution elect to rely on audited financial statements, it has reason to know that the status claimed is unreliable or incorrect only if the total assets shown on the audited financial statement for the account holder are not within the permissible thresholds, or the notes or footnotes to the financial statement indicate that the account holder is not eligible for the status claimed. If a Reporting KSA Financial Institution elects to rely upon an audited financial statement to establish that the account holder is an Active NFE, it will be required to review the balance sheet and income statement to determine whether the account holder meets the income and asset thresholds set forth in subparagraph D(9)(a) of Section VIII of the Standard and the notes or footnotes of the financial statement for an indication that the account holder is a financial institution. If a Reporting KSA Financial Institution elects to rely upon an audited financial statement to establish a status for an account holder that does not require the account holder to meet an asset or income threshold, it will be required to review only the notes or footnotes to the financial statement to determine whether the financial statement supports the claim of status.

If a Reporting KSA Financial Institution elects to rely on organizational documents to establish an Entity has a status, it will only be required to review the document to the extent needed to establish that the requirements applicable to the status are met, and that the document was executed, but will not be required to review the remainder of the document.



## 5.6 Limits on reasons to know

For purposes of determining whether a Reporting KSA Financial Institution has reason to know that the status applied to an Account Holder is unreliable or incorrect, the Reporting KSA Financial Institution is only required to review information contradicting the status claimed if such information is contained in the current Account Holder master file, the most recent self-certification and Documentary Evidence for the person, the most recent account opening contract, and the most recent documentation obtained by the Reporting KSA Financial Institution for purposes of AML/KYC procedures or for other regulatory purposes. The Reporting KSA Financial Institution is not required to institute their own investigation to determine the status of the Account Holder on the basis the Reporting KSA Financial Institution has followed the requirements in determining the Account Holder's status.

A Reporting KSA Financial Institution that maintains multiple accounts for a single person will have reason to know that a status for the person is inaccurate based on account information for another account held by the person only to the extent that the accounts are either required to be aggregated (see below) or otherwise treated as a single account for purposes of satisfying the standards of knowledge requirements set forth in paragraph A of Section VII of the Standard (Reliance on Self-Certification and Documentary Evidence).

A Reporting KSA Financial Institution does not know or have reason to know that a self-certification (or Documentary Evidence) is unreliable or incorrect solely because of a change of address in the same jurisdiction as that of the previous address. In addition, a Reporting KSA Financial Institution does not know or have reason to know that a self-certification or Documentary Evidence is unreliable or incorrect solely because it discovers any of the CRS indicia and such indicia conflicts with the self-certification or Documentary Evidence. The following example illustrates the application of the limits on the standards of knowledge:



### Example 1

Bank A that is a Reporting KSA Financial Institution, has relied on the residence address test to treat an individual Account Holder, Mr. Z, as a resident of KSA. Five years later, Mr. Z communicates to Bank A that he has moved to the UAE, which is also a Reportable Jurisdiction, and provides his new address. Bank A obtains from Mr. Z a self-certification and new Documentary Evidence confirming that he is resident for tax purposes in the UAE. Bank A must treat Mr. Z as a resident of UAE.



## 5.7 Change in Circumstances

A change in circumstances includes any change to or addition of information in relation to the Account Holder's account (including the addition, substitution, or other change of an Account Holder) or any change to or addition of information to any account associated with such account. Additionally, any change that creates a conflict with a self-certification or other previous documentation associated with an account should be included in the definition of a "change of circumstance".

As per the SAMA and CMA account opening rules and regulations, a periodic information update is required for all accounts. A change of circumstance may be triggered because of this update. A change of circumstance will only have relevance if the change to or addition of information affects the status of the Account Holder (i.e. being identified as a Reportable Person or not).

Associated accounts are those accounts that are associated through the aggregation rules or where a New Account is treated as being a pre-existing obligation. See Section 5.12 for aggregation and Chapters 6 and 8 for pre-existing obligation rules.

Where there is an amendment to the applicable AML/KYC procedures (e.g. upon KSA implementing new FATF Recommendations), Reporting KSA Financial Institutions may be required to collect and maintain additional information for AML/KYC purposes. The additional information obtained under such amended AML/KYC procedures must be used to determine whether there has been a change of circumstances in relation to the identity and/or reportable status of Account Holders and/or Controlling Persons.

If the additional information obtained is inconsistent with the claims made by an Account Holder in a self-certification, there has been a change in circumstances, and a Reporting KSA Financial Institution will have a reason to know that a self-certification is unreliable or incorrect.



## Example 1

Where a Pre-existing Account Holder changes their current residence address from Jurisdiction A to Jurisdiction B, this is considered a change in circumstance. The Reporting KSA Financial Institution must identify the change and identify whether this change could reflect a change in the tax residence(s) of the Account Holder.

A self-certification becomes invalid on the date that the Reporting KSA Financial Institution holding the self-certification knows or has reason to know that circumstances affecting the correctness of the self-certification have changed. For example, where there is a change of address. When that is case, the Reporting KSA Financial Institution cannot rely on the original self-certification and must obtain either;

- a valid self-certification that establishes the residence(s) for tax purposes of the Account Holder, or
- a reasonable explanation and documentation (as appropriate) supporting the validity of the original self-certification (and retain a copy or a notation of such explanation and documentation).

However, a Reporting KSA Financial Institution may choose to treat a person as having the same status that it had prior to the change in circumstances until the earlier of 90 calendar days from the date that the self-certification became invalid due to the change in circumstances, the date that the validity of the self-certification is confirmed, or the date that a new self-certification is obtained.

If the Reporting KSA Financial Institution cannot obtain a confirmation of the validity of the original self-certification or a valid self-certification during such period, the Reporting KSA Financial Institution must treat the Account Holder as resident of the jurisdiction in which the Account Holder claimed to be resident in the original self-certification and the jurisdiction in which the Account Holder may be resident because of the change in circumstances.



## 5.8 Tax Identification Numbers (TINs)

Where it has been established that an Account Holder is a Reportable Person, a Reporting KSA Financial Institution is required to obtain a TIN (from the Account Holder or a person identified as a Controlling Person).

Guidance on TINs for jurisdictions may be found on the OECD website:

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

For KSA, a TIN is issued by the ZATCA to certain taxpayers (see OECD TIN guidance). A TIN is issued once to a taxpayer and does not expire.

A valid KSA TIN (for both individuals and entities) structure is as follows:

- The (first digit) is the GCC member state;
- The (next eight digits) is a serial number; and
- The next digit is a check digit.

Individuals in KSA are issued TINs by ZATCA if they are subject to tax or Zakat on commercial activities, VAT or excise taxes. Entities in KSA are automatically issued a TIN by ZATCA in the case of a Saudi or GCC entity. TINs are also issued (but not automatically) if the entity is fully or partially owned by a non-Saudi or GCC entity.

The TIN can be found on TAX, Zakat, excise tax or VAT Certificates and invoices and in correspondence between ZATCA and taxpayers or on any type of documents issued by ZATCA to taxpayers.

In regards to an individual who does not possess a TIN number then the official documents will be the Saudi national ID or otherwise the residency ID.

In case of the absence of the physical Saudi national ID for verification, then a copy of the national ID along with Saudi passport verification is required.

For Pre-Existing Individual Accounts that are Reportable Accounts, a TIN need only be provided if held by the Reporting KSA Financial Institution. In the absence of a record of the TIN, a date of birth should be provided, but again only where that is held by the Reporting KSA Financial Institution.





For all New Individual Accounts that are identified as Reportable Accounts from 8 September 2017 onwards, the Reporting KSA Financial Institution must ask for a self-certification including a TIN from Account Holders identified as Reportable Persons (only if the individual is subject to tax or Zakat on commercial activities VAT or excise taxes). As mentioned above, an Account Holder may not be eligible to obtain a TIN or is otherwise unable to secure a TIN and this must be confirmed on the self-certification. For example, certain jurisdictions do not issue TINs, and this can be confirmed on the OECD Portal.

There is no requirement for a Reporting Financial Institution to verify that the TIN provided is correct. A Reporting KSA Financial Institution will not be held accountable where information supplied by an individual proves to be inaccurate provided that the Reporting KSA Financial Institution had no reason to doubt the veracity of the information provided.

A Reporting KSA Financial Institution should retain the self-certification containing the TIN, to maintain a record of the Account Holders TIN.

#### **5.4.10 Reasonable explanation**

A Reporting KSA Financial Institution will have reason to know that a self-certification is unreliable or incorrect if the self-certification does not contain a TIN and the information included on the Automatic Exchange Portal indicates that jurisdiction issues TINs to all tax residents (<https://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers>). The Reporting KSA Financial Institution is not required to confirm the format and other specifications of a TIN with the information provided on the Automatic Exchange Portal. However, the Reporting KSA Financial Institution may nevertheless wish to do so to enhance the quality of the information collected and minimize the administrative burden associated with any follow up concerning reporting of an incorrect TIN. In this case, they may also use regional and national websites providing a TIN check module for further verifying the accuracy of the TIN provided in the self-certification.



## 5.8 Tax Identification Numbers (TINs)

A Reporting KSA Financial Institution can accept Documentary Evidence to support an Account Holder's status, provided the documentation is in accordance with applicable regulations in KSA (in original or certified copy form) and meets one of the following criteria:

- A certificate of residence issued by an authorized government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the Account Holder claims to be a resident.
- With respect to an individual, any valid identification issued by an authorized government body (for example, a government or agency thereof, or a municipality), that includes the individual's name and is typically used for identification purposes.
- With respect to an Entity, any official documentation issued by an authorized government body (for example, a government or agency thereof, or a municipality) that includes the name of the Entity and either the address of its principal office in the jurisdiction in which it claims to be a resident or the jurisdiction in which the Entity was incorporated or organized.
- Any audited financial statement, third-party credit report, bankruptcy filing, or securities regulator's report.
- With respect to an Entity Account, the Reporting KSA Financial Institution may use as Documentary Evidence any classification in its records with respect to the Account Holder that was determined based on a standardised industry coding system, that was recored by the Reporting KSA 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 KSA Financial Institution prior to the date used to classify the Financial Account as a Pre-Existing Account, provided that the FI 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 purpose other than tax purposes, such as the NACE codes.



In context of KSA, the acceptable Documentary Evidence for the following categories of Account Holders shall be as follows:

- Saudi National – Saudi ID/ Bataka;
- GCC National – GCC passport; and
- Saudi Residents (All other nationalities) – Passport.

### 5.9.1 Validity of the Documentary Evidence

Documentary Evidence that contains an expiration date may be treated as valid on the later of that expiration date, or the last day of the fifth calendar year following the year in which the Documentary Evidence is provided to the Reporting KSA Financial institution. However, the following Documentary Evidence is considered to remain valid indefinitely:

- Documentary Evidence furnished by an authorized government body (such as a passport or an ID-card);
- Documentary Evidence that is not generally renewed or amended (such as a certificate of incorporation); and
- Documentary Evidence provided by a Non-Reporting Financial Institution or a Reportable Jurisdiction Person that is not a Reportable Person.

All other Documentary Evidence is valid until the last day of the fifth calendar year following the year in which the Documentary Evidence is provided to the Reporting Financial Institution.



### 5.9.2 Retention of Documentary Evidence and Record Keeping

A Reporting KSA Financial Institution may retain an original, certified copy, or photocopy (including a microfiche, electronic scan, or similar means of electronic storage) of the Documentary Evidence or, at least, a notation of the type of documentation reviewed, the date the documentation was reviewed, and the document's identification number (if any) (for example, a passport number). Any documentation that is stored electronically must be made available in hard copy form upon request.

If, however, local KSA requirements for the retention of documentary evidence and record keeping are more stringent, then the Reporting KSA Financial Institution should follow the local KSA requirements. Reporting KSA Financial Institutions must also keep records of its policies and procedures that establish its governance and due diligence processes, including procedures for regular Relationship Manager enquiries. Documentation can be shared and used in relation to more than one financial account.

Records are to be retained at the Reporting KSA Financial Institution's place of business, or at any other place they are equally accessible and as secure as they would be if they were maintained at the Financial Institution's place of business.

A Reporting KSA Financial Institution may rely on Documentary Evidence received by:

- A form or document scanned and received electronically, for example, an image embedded in an e-mail;
- A portable document format (.pdf) attached to an e-mail; or
- A fax.

unless it knows the document was transmitted by a person not authorized to do so. Notations cannot be relied upon in the case of a self-certification form.

For High Value Pre-existing Accounts where a Relationship Manager enquiry is required, records of electronic searches, requests made and responses to Relationship Manager Enquiries should also be retained for six years following the end of the year in which the due diligence was undertaken. Guidance on the identification and role of a Relationship Manager can be found at Section 6.1.11.



## 5.10 Third Party Service Providers

Reporting KSA Financial Institutions can rely on a third-party service provider to fulfil all or part of its obligations under CRS, but the obligation remains the responsibility of the Reporting KSA Financial Institution. Thus, any failure by a third-party service provider will be a failure on the part of the Reporting KSA Financial Institution. The Reporting KSA Financial Institution is also required always to have access to or can produce when requested by the pertinent regulator (i.e. SAMA or CMA or Competent Authority (ZATCA)), the records and Documentary Evidence used to identify and report on Reportable Accounts. The mere provision of service by a third party does not cause it to maintain a Financial Account for the purposes of the CRS, even if it is a Financial Institution. It is not a requirement that the service provider be within the KSA as the Reporting KSA Financial Institution or obtain approval from the KSA regulator(s) to act as a service provider. For further details the Reporting KSA Financial Institution should refer to industry specific outsourcing regulations, for example, data protection and privacy regulations.

To rely on third party service providers, Reporting KSA Financial Institutions must have their own policies and procedures in place to ensure that the service provider is meeting their own obligations and understands the requirements of the CRS.

### Example 1

Investment Entity ABC is a mutual fund managed by fund manager M1 that is resident in KSA. KSA allows the Reporting KSA Financial Institutions to use service providers to fulfil all their CRS related obligations. As Investment Entity ABC is a Reporting Financial Institution in KSA, Investment Entity ABC may use fund manager M1 to perform the due diligence procedures and comply with its reporting and other CRS obligations.



## 5.11 Document sharing

Documentation is required to support the status of each Financial Account held. However, in the following circumstances documentation obtained by a Reporting KSA Financial Institution can be used in relation to more than one Financial Account

### 5.11.1 Single Branch System

A Reporting KSA Financial Institution may rely on documentation furnished by an Account Holder where an existing Account Holder opens a new Financial Account with the same Financial Institution and where both accounts are treated as a single account or obligation for due diligence and reporting purposes.

### 5.11.2 Universal account systems

A Reporting KSA Financial Institution may rely on documentation furnished by an Account Holder for an account held at another branch location of the same Financial Institution if:

- The Reporting KSA Financial Institution treats all accounts that share documentation as a single account for due diligence and reporting purposes, and
- The Reporting KSA Financial Institution and the other branch location are part of a universal account system that uses a Account Holder identifier that can be used to retrieve systematically all other accounts of the Account Holder.

In this scenario a Reporting KSA Financial Institution must be able to produce to SAMA/CMA/ZATCA the necessary records and documentation relevant to the status claimed.



### 5.11.3 Shared account systems

A Reporting KSA Financial Institution may rely on documentation provided by an Account Holder for an account held at another branch location (excluding overseas branches) of the same Financial Institution, if:

- The Financial Institution treats all accounts that share documentation as consolidated accounts.

A shared account system must allow the Reporting KSA Financial Institution to easily access data about the nature of the documentation, the information contained in the documentation (including a copy of the documentation itself), and the validity status of the documentation.

If the Reporting KSA Financial Institution becomes aware of any fact that may affect the reliability of the documentation, the information system must allow the Financial Institution to easily record this data in the system.

Additionally, the Reporting KSA Financial Institution must be able to show how and when it transmitted data regarding such facts into the information system and demonstrate that any data it has transmitted to the information system has been processed and the validity of the documentation subjected to appropriate due diligence.



## 5.12 Aggregation

A Reporting KSA Financial Institution will need to consider aggregation of in scope Financial Accounts only (i.e. out of scope accounts are excluded) of both individuals and entities under certain circumstances to consider whether individual accounts are Lower Value Accounts or High Value Accounts and whether entity accounts are below the de Minimis threshold.

An account with a balance or value that is negative must be reported as having an account balance or value equal to zero.

### 5.12.1 Application of aggregation rules

A Reporting KSA Financial Institution is required to aggregate all Financial Accounts held by the same Account Holder that are maintained by it, but only to the extent that the Financial Institution's current computerized systems link the Financial Accounts by reference to a data element, for example a Customer Number or TIN. Accounts are not considered linked just because they are connected as part of a broader account grouping, such as a household or family relationship.

Where accounts can be linked by a data element and details of the balances are provided (for example, the system is able to display all balances of a suite of accounts held by an Account Holder) but the system does not provide an aggregated balance of the accounts, the Reporting KSA Financial Institution will still be required to carry out the aggregation process - it is not necessary for the computer system to total the balances of the accounts for the aggregation rule to apply.

Where an Account Holder can manage many accounts in a single place, such as a secure online environment, this does not automatically lead to the aggregation rules applying. Aggregation is dependent on the Reporting KSA Financial Institution's core systems being able to aggregate as explained above.

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 (see Section 5.12.3).





There is a special rule applicable to determine whether a Financial Account is a High Value Account. By this rule, a Reporting KSA Financial Institution is required, in addition to the other account aggregation rules, to aggregate all 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. This requirement includes aggregating all accounts that the Relationship Manager has associated with one another through a name, relationship code, customer identification number, TIN, or similar indicator, or that the Relationship Manager would typically associate with each other under the procedures of the Reporting KSA Financial Institution (or the department, division, or unit with which the Relationship Manager is associated).

**Note:** Reporting KSA Financial Institutions should only aggregate accounts that are held by the same Account Holder. All accounts held by any Individual, or Entity, are required to be aggregated.

**Example 1:** (Reporting KSA Financial Institution not required to aggregate accounts): An Entity, ABC, holds a Depository Account with T Bank (a Reporting KSA Financial Institution). The balance in ABC's account at the end of Year 1 is US\$160,000. ABC also holds another Depository Account with T Bank, with a US\$165,000 balance at the end of Year 1. T Bank's retail banking businesses share computerized information management systems, but T Bank's accounts are not associated with one another in the shared computerized information system, as the accounts cannot be linked by a common data element. Therefore, ABC is not required to aggregate the accounts and both accounts are eligible for the de Minimis exception as neither pre-existing account exceeds the de Minimis threshold of US\$250,000.



**Example 2:** (Reporting KSA Financial Institution required to aggregate accounts): Same facts as Example 1, except that both of ABC's Depository Accounts are linked by ABC with reference to T Bank's internal customer identification number. The system shows the account balances for both accounts, and such balances may be electronically aggregated, though the system does not show a combined balance for the accounts. In determining whether such accounts meet the de Minimis threshold, T Bank is required to aggregate the account balances of all Depository Accounts using the account aggregation rules. Under those rules, T Bank is treated as holding Depository Accounts with ABC bank with an aggregate balance of US\$325,000. Accordingly, neither account is eligible for the de Minimis thresholds, because the pre-existing accounts, when aggregated, exceed the de Minimis US\$250,000 threshold.



### 5.12.2 Special Aggregation rule applicable to Relationship Managers.

A Financial Institution may appoint a Relationship Manager for an Account Holder.

For the purposes of determining the aggregate balance or value of accounts held by a person to determine whether an account is a High Value Account, a Reporting KSA Financial Institution shall also be required, in the case of any 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.

This requirement includes aggregating all accounts that the Relationship Manager has associated with one another through a name, relationship code, customer identification number, TIN or similar indicator, or that the Relationship Manager would typically associate with each other under the procedures of the Financial Institution.

#### Example 1 – Lower Value Account

Mr. G, an individual, holds many accounts with Bank A and has been assigned a Relationship Manager. Bank A can aggregate the accounts held by Mr. G by a National ID. In addition to this aggregation via the system, as a Relationship Manager is assigned to Mr. G, Bank A must request if they have any knowledge of another account held by the individual. If so, the accounts must be aggregated. This inquiry is performed, and the aggregated balance of accounts is less than US\$1million. On this basis, Bank A must apply due diligence procedures relevant to Lower Value Accounts (see Section 6.1.4).

#### Example 2 – High Value Accounts

The facts are as in Example 1 above, but the aggregated balance of accounts held by Mr. G exceeds US\$1million. As the aggregate balance of all Financial Accounts linked by a common data element and held by the individual exceeds US\$1 million, the Reporting KSA Financial Institution must apply the enhanced due diligence procedure relevant to High Value Accounts (see Section 6.1.8).



### Example 3 – Individuals and Controlling Persons of entities

Mrs. J, an individual, has a pre-existing Depository Account with Bank A but also controls 50% of Entity B and 100% of Entity C. Entities B and C both hold pre-existing accounts with Bank A. Account balances of these accounts as at 7 September 2017 are as follows:

- Mrs. J's Depository Account - US\$45,000;
- Entity B's Depository Account - US\$1.5million; and
- Entity C's Custodial Account - US\$125,000 (balance not exceeded US\$1million to date).

The Relationship Manager knows that Mrs. J is the Controlling Person of Entities B and C. Thus, there is a requirement to aggregate all three accounts.

The aggregate balance of the account is greater than US\$1,000,000 therefore Mrs. J's account should be reviewed as a High Value Account. As Entity B's account exceeds the US\$250,000 de Minimis threshold, this account should be reviewed. As Entity C's account is less than the US\$250,000 de Minimis threshold, this account is not required to be reviewed until the balance exceeds US\$1,000,000 at the end of any calendar year.

### Example 4: Application of the US\$1million threshold for High Value Accounts

Bank A can link the accounts of Mr. Z by a taxpayer identification number:

- A Depository Account with a balance of US\$40,000; and
- A Custodial Account with a balance of US\$980,000.

As the aggregated total is more than US\$1million Mr. Z is identified as a holder of a High Value Account. The enhanced review procedures for high value accounts, including the Relationship Manager enquiry, apply to both accounts to determine if the Account Holder is resident in a Reportable Jurisdiction.



### 5.12.3 Joint Accounts

For joint accounts, the entire balance or value of the account should be attributed to each holder of the account. This applies for both aggregation and reporting purposes.

#### Example 1 – Lower Value Account

Two individual Account Holders have three accounts between them, one Depository Account each and a jointly held Depository Account with the following balances:

- Account Holder A US\$35,000;
- Account Holder B US\$15,000; and
- Joint Account US\$970,000.

A data element in the Reporting KSA Financial Institution's computer system allows the joint account to be associated with both A and B. The system shows the individual balances of the accounts; however, it does not show a combined balance. The fact that there is not a combined balance does not prevent the aggregation rules applying.

The balance of the joint account is attributable in full to each of the Account Holders. In this example the aggregate balance for A would be US\$1,005,000 and for B US\$985,000. As the amount after aggregation exceeds the threshold of US\$1million with respect to Account Holder A, the enhanced review procedures for High Value Accounts, including the Relationship Manager enquiry, apply to Account Holder A to determine if the Account Holder is resident in a Reportable Jurisdiction. And since the aggregated amount is below the US\$1million threshold with respect to Account Holder B, Account Holder B is not subject to the enhanced review procedures for High Value Accounts.



## Example 2 – Aggregation of negative balances

Two individual Account Holders have three depository accounts between them, one account each and a jointly held account, all with the same Reporting KSA Financial Institution with the following balances:

- Account Holder A US\$1.2million;
- Account Holder B US\$49,000; and
- Joint Account (US\$250,000) – treated as nil.

The accounts can be linked and therefore must be aggregated, but for the purposes of aggregation the negative balances should be treated as nil.

In this example, after applying the threshold of US\$1million, the enhanced review procedures for High Value Accounts, including the Relationship Manager Enquiry, must be applied to Account Holder A's account but not to Account Holder B's account.



#### 5.12.4 Aggregation of Pre-existing Entity Accounts

For purposes of determining the aggregate balance or value of accounts held by an entity, all accounts held by the entity will need to be aggregated where the Reporting KSA Financial Institution's computerized system can link the accounts by reference to a common data element.

The following examples illustrate outcomes from the aggregation rules. Unless otherwise stated, all balances or values referred to in the following examples are balances or values as at 7 September 2017.

##### Example 1

Entity Y has two Depository Accounts with Bank X. The balances are as follows:

- Depository Account US\$150,000; and
- Depository Account US\$110,000.

Bank X applies the US\$250,000 threshold and its computer system allows the account balances to be aggregated. (Note – for entity accounts held at 7 September 2017, the \$250,000 threshold exemption for pre-existing entity accounts can be applied). The accounts must be reviewed since the aggregated balance exceeds the applicable threshold of US\$250,000 for an entity.



## Example 2

Person A has an individual Depository Account with Bank X. Person A also controls 100% of entity Y and 50% of entity Z, both of which also have Depository Accounts with Bank X. None of these accounts are managed by a Relationship Manager. The balances are as follows:

- Individual Depository Account US\$35,000;
- Entity Y Depository Account US\$130,000; and
- Entity Z Depository Account US\$110,000.

Bank X has applied the US\$250,000 de Minimis threshold and these accounts can be linked in Bank X's system. Where there is no Relationship Manager, an account can only be aggregated with other accounts held by that Account Holder identified by the computer system. Therefore, the aggregated balance of the entity accounts is US\$240,000.

The individual Depository Account must be reviewed as there is no de Minimis thresholds for individuals.

Both entity accounts are not required to be reviewed since the aggregation rule does not apply to cause the entity accounts to exceed the threshold that triggers the review.





### Example 3

Individual A has a custodial account with Bank X. Individual A also controls 100% of Entity Y and 50% of Entity Z. As at 7 September 2017, Entity Y holds a custodial account and Entity Z holds a Depository Account, (both accounts are with Bank X). A Relationship Manager is assigned to Individual A. The balances are as follows:

- Individual A Custodial Account US\$35,000;
- Entity Y Custodial Account US\$1.18million; and
- Entity Z Depository Account US\$110,000.

Entity Z's Depository Account has never exceeded US\$250,000.

Bank X must make an enquiry of the Relationship Manager assigned to Individual A to establish whether the Manager knows of any accounts that are directly or indirectly owned, controlled or established (other than in a fiduciary capacity) by Individual A.

The Relationship Manager knows Individual A is the Controlling Person of Entity Y and Entity Z and, therefore, is required to aggregate the three accounts. Since the aggregated balance of Individual A's account exceeds US\$1million, Individual A's account is a High Value account subject to the enhanced review procedures. The value of Entity Y's account exceeds the US\$250,000 threshold that applies to Pre-existing Entity Accounts held at 7 September 2017 and must be reviewed Whereas Entity Z's account is not required to be reviewed as its balance does not exceed the threshold that applies to Pre-existing Entity Accounts held at 7 September 2017.



### **5.12.5 Exempt Products and products not included within the Financial Accounts definition**

If a product is exempt from being treated as a Financial Account or not included within the definition of a Financial Account, it does not need to be included for the purposes of aggregation. For example, where an individual holds a KSA exempt account as well as several Depository Accounts with the same Financial Institution and their systems allow these to be linked, then the Reporting KSA Financial Institution must aggregate the Depository Accounts but not the KSA exempt account. See Chapter 4 on Financial Accounts for more information.

### **5.12.6 Investment Funds**

In the case of Investment Funds, aggregation is required at Reporting Financial Institution level. In the case of funds this can be at umbrella or at sub-fund level, depending on how the fund chooses to register.

### **5.12.7 Related Entities**

Data confidentiality rules prevent computer systems to link accounts across related entities. Therefore, aggregating accounts and applying the aggregation rules across related entities shall not be possible in KSA.



### 5.12.8 Reporting

After aggregation takes place, if it is determined that the accounts are reportable, the accounts should be reported individually. Reporting KSA Financial Institution should not consolidate the accounts for reporting purposes. For further details please refer to the Reporting Chapter 10.

#### Example – Separate account reporting

Person Y holds three Depository Accounts with Bank Z. The balances are as follows:

- Account 0001 US\$3,000;
- Account 0002 US\$32,000; and
- Account 0003 US\$25,000.

The aggregated balances total US\$60,000 and all the accounts are reportable. Bank Z should report on the three accounts individually and not consolidate the information into a single entry for reporting purposes.



### 5.13 Currency Conversion

Most accounts maintained by Reporting KSA Financial Institutions are generally denominated in Saudi Arabian Riyal ("SAR").

The USD threshold limit should be converted to determine if it applies to accounts in SAR or other currencies. For reporting purposes, the account balance or value of an account may be reported in US dollars or in the currency in which the account is denominated.

In determining whether a Pre-existing Account meets a threshold, the relevant date is the spot rate on 7 September 2017 (or, in the case of an insurance contract or an annuity contract, the most recent contract anniversary date). In determining whether a Pre-existing Account continues to meet a threshold in subsequent years or a new account meets or continues to meet a threshold, the relevant date is the spot rate on the last day of the calendar year or other appropriate period (i.e. in the case of an insurance contract or annuity contract, the date of the most recent contract valuation).

#### Example 1

A Pre-existing entity account which is an Insurance Contract is valued at SAR 900,000 as of 7 September 2017. To be measured against the US\$250,000 threshold, the Reporting KSA Financial Institution can use the spot rate at 7 September 2017 (3.750093 SAR to US\$1) (please note this rate is illustrative and each Reporting KSA Financial Institution should use stored or published spot rates). This would result in a contract value of US\$239,994 and the contract would not be reportable, as it is below US\$250,000.

Alternatively, a Reporting KSA Financial Institution could convert non-US dollar balances into US dollars and then apply the thresholds. Regardless of the method of conversion, the rules for determining the spot rate apply.

The method of conversion must be applied consistently. Examples of acceptable published exchange rates include, Reuters, Bloomberg, Financial Times and exchange rates published on the pertinent regulator's website.



## 5.14 Mergers or Bulk Acquisitions of Accounts

Where a Reporting KSA Financial Institution acquires accounts by way of a merger or bulk acquisition, the Reporting KSA Financial Institution can elect to rely on the status of Account Holders as determined by the predecessor, a Reporting Financial Institution, provided that the Reporting Financial Institution had met its due diligence obligations.

A Reporting KSA Financial Institution in relation to a Financial Institution, means another Financial Institution which has not previously been a Related Entity of the institution; and which immediately before the merger or acquisition was a Reporting Financial Institution or a Partner Jurisdiction Financial Institution.

The Financial Institution may continue to rely on the status of the Account Holder if it has no reasonable cause to believe that the status is unreliable or incorrect.

An Account Holder's status will need to be verified by the acquiring Reporting KSA Financial Institution in accordance with the due diligence procedures should the acquirer have reason to know that it is incorrect or if there is a change in circumstance.

This rule only applies where the predecessor is not a Related Entity of the acquirer, either before or after the merger or bulk acquisitions.

The Reporting KSA Financial Institution may treat accounts acquired in a merger or bulk acquisition that takes place before 7 September 2017 as pre-existing accounts for the purposes of applying the identification and documentation procedures by treating the accounts as if they had been acquired on 7 September 2017.



### 5.14.1 Mergers of Investment Entities

Mergers of Investment Entities can be different to mergers of Custodial Institutions or Depository Institutions. The Financial Accounts of Investment Entities are its Equity and Debt Interest, so the merger of two such entities creates a series of New Accounts in the surviving entity.

Mergers of Investment Entities will normally involve a surviving fund taking over the assets of the merging fund in exchange for issuing shares or units to the investors of the merging fund. The shares or units in the merging fund are then extinguished. The new shares in the surviving fund will be New Accounts.

So that fund mergers are not impeded or held up by the requirement to perform due diligence on a series of New Accounts, special rules apply to the documentation of New Accounts on a merger of Investment Entities. There are many potential scenarios depending upon whether the merging fund (the investors of which will create the New Accounts in the surviving fund) is a Reporting KSA Financial Institution. These are considered below.



### 5.14.2 Merging fund is a Reporting Financial Institution

Where the merging fund is a Reporting Financial Institution in a CRS Partner Jurisdiction, the surviving fund can rely on the account identification and documentation performed by the merging fund and will not need to undertake any further account due diligence to comply with its CRS obligations. The surviving fund can continue to use the same account classification as the merging fund until there is a change in circumstances for the Financial Account.

#### Example 1

Fund A and Fund B are both Reporting KSA Financial Institutions. Fund B will merge with Fund A with Fund A being the surviving fund. Fund A may rely on the account identification and documentation performed by Fund B. Fund A may also rely on the account classifications until there is a change in circumstances e.g. an investor becomes a Reportable Person.



### 5.14.3 Merging fund is not a Reporting Financial Institution

Where the merging fund is not a Reporting Financial Institution in a CRS Partner Jurisdiction, the surviving fund will need to undertake account identification procedures on the New Accounts. However, in these circumstances the account identification procedures will be limited to those that are required for Pre-existing Accounts and should be carried out at the latest by the 31 December following the date of the merger or 31 December of the year following the year of the merger, if the merger takes place after 30 September of any calendar year.

A Financial Institution will not be required to obtain new documentation (including new self-certifications) for new Account Holders where the new accounts are created by a merger.

A Financial Institution may still however choose to obtain new documentation and an assessment may be made based on the number of units.

#### Example 1

Fund A is a Reporting KSA Financial Institution. Fund A and Fund B merge on 1 October 2017 with Fund A emerging as the surviving fund. New Accounts will be created in respect of the new shares created in Fund A.

Fund A will need to complete account identification procedures on such New Accounts. However, in this case such procedures will be limited to those that would be carried out for Pre-Existing accounts provided they are completed by 31 December 2018.

### 5.14.4 Acquisitions in relation to Pre-existing Cash Value Insurance Contracts

It is common for Insurance Companies in KSA to sell off “backbooks” of business to another company, especially when the Insurance Company no longer sells that type of business. Where this relates to Pre-existing Accounts, the transferor can continue to rely on the original identification of the transferee company. Information maintained for regulatory or Account Holder relationship purposes.





## 5.15 Information maintained for regulatory or Account Holder relationship purposes

Under certain circumstances, Reporting KSA Financial Institutions will have an obligation to review information maintained for regulatory or Account Holder relationship purposes (including information collected pursuant to AML/KYC Procedures).

The obligation to carry out the review is required in the following circumstances;

Determining whether an Account Holder is a Reportable Person:

- Undertaking a paper based review of an Individual High Value Account Holder;
- Identifying whether a Controlling Person of a Passive NFE is a Reportable Person; or
- Confirming the reasonableness of a self-certification.

For the purposes of complying with CRS, a Reporting KSA Financial Institution is only required to review 'active' information, as this is the information being 'maintained' for Account Holder and regulatory purposes, i.e. information that is accessible and in current use. Information that is in use for automated purposes only, such as mailing lists, will still qualify as active.

Information that is simply being retained for regulatory or Account Holder purposes (i.e. must be kept as per applicable regulation, or access to the information will only be needed on a 'just in case' basis, a change of status, such as death of the named contact or maturation of a policy) will not need to be reviewed as, for the purposes of the CRS, is not being maintained so does not have to be reviewed until it is used again.

Data that is being retained will need to be reviewed if the information ever becomes 'active' again. This will be when the information is used with respect to the operation of the account, such as on a change in status of the type mentioned above. A review of the information that does not relate to operation of the account (such as an AML review of the Reporting KSA Financial Institution) will not lead to the information being treated as 'active' and no review would be needed.



When the material is reviewed, new information found will qualify as a change in circumstance. Information is only 'new' if it is in addition to what was found on previous reviews, for example the finding of an indicia for an individual where that indicia has been identified from other documentation and was cured, will not be new information. If the Reporting KSA Financial Institution has previously "cured or repaired" other indicia the same information may be used, provided that the date of the 'cure' postdates the date of the information being reviewed, and that the cure obtained meets the criteria for curing the new indicia found.

In practice this is likely to mean that the data held electronically is the information maintained for regulatory purposes. Although there may be situations where paper files or electronic non-searchable documents also need to be reviewed, archived data that may have been obtained for regulatory purposes, or historic records that are being retained until account closure or in case of dispute do not need to be reviewed.



## 6. Due diligence (Pre-existing individual customer)

### 6.1 Introduction

All Financial Accounts maintained by a KSA Reporting Financial Institution on 7 September 2017 which are held by one or more individuals or sole proprietorships will be treated as Pre-existing Individual Accounts for the purposes of the CRS. Financial Accounts that have been closed on or before 7 September 2017 are not required to be reviewed. All Pre-existing individual accounts will fall under the following categories:

- Pre-existing Individual Accounts with an aggregate account balance or value that does not exceed an amount equivalent to US\$1 million as at 7 September 2017 ("Lower Value Accounts"); and
- Pre-existing Individual Accounts with an aggregate account balance or value that exceeds an amount equivalent to US\$1 million as at 7 September 2017 ("High Value Accounts") or that become High Value Accounts at the end of a subsequent calendar year.

No de minimis thresholds can be applied (unlike under FATCA) and hence Reporting KSA Reporting Financial Institutions are required to review all such accounts in scope. The due diligence rules differ based on whether the account is High Value or Lower Value account.

- For Lower Value Accounts, the due diligence requirements provide for either a:
- Residence address test, based on Documentary Evidence; or
- Electronic record search.

For High Value Accounts, in addition to the due diligence requirements of the Lower Value Accounts, enhanced due diligence procedures apply, including an actual knowledge test by the Relationship Manager and a paper record search (where all the necessary information is not held electronically).

An overview of due diligence requirements may be found in the flow chart in Appendix 1 to this chapter. Detailed guidance is included in each following Section below.



### **6.1.1 Deadline for completing the Pre-existing individual due diligence**

The Pre-existing individual due diligence deadlines are as follows:

- The deadline for completing the due diligence procedures for Pre-existing High Value Individual Accounts is 28 February 2018; and
- The deadline for completing the due diligence procedures for Pre-existing Lower Value Accounts is 31 December 2018.

### **6.1.2 Pre-existing Individual Accounts not required to be reviewed, identified or reported.**

The following accounts will not need to be reviewed, identified or reported to ZATCA:

- A Pre-existing Individual Account that is a Cash Value Insurance Contract or an Annuity Contract, provided the law or regulations of KSA effectively prevent the sale of such a Cash Value Insurance Contract or an Annuity Contract to non-residents.

Where ownership of a Pre-existing annuity or cash value insurance contract is assigned to another person, this should be treated as a New Account. This is to ensure that pre-existing contracts assigned after 8 September 2017 are correctly identified and reported where necessary.



### 6.1.3 Reportable Accounts

All Pre-existing Individual Accounts (subject to Section 5.1 above) will be reportable to ZATCA where the Reporting KSA Financial Institution has identified the Account holder as tax resident in a Reportable Jurisdiction or where there is Reportable Jurisdiction indicia which is not cured.

An account is identified as a Reportable Account based on its status at the end of the calendar year or reporting period. Information with respect to that account must be reported as if it were a Reportable Account through the full calendar year or reporting period in which it was identified as such pursuant to the relevant due diligence procedures.

Reporting KSA Financial Institutions should perform their due diligence reviews within the prescribed deadlines and in advance of the reporting deadline to provide Account Holders the chance to cure the indicia where curing procedures are applied (see Section 5.1.7 for curing procedures below).

Once an account is a Reportable Account, it maintains such status until the date it ceases to be a Reportable Account 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.

#### Example 1

(Account that becomes a Reportable Account): An account is opened on 28 May 2000 and is identified as a Reportable Account on 3 December 2017. As the account was identified as a Reportable Account during calendar year 2017, information with respect to that Reportable Account must be reported in calendar year 2018 with respect to the full calendar year 2017 and on an annual basis thereafter, until a change in circumstances occurs (see Section 5.7).



## Example 2

(Account that ceases to be a Reportable Account): The facts are the same as in Example 1. However, on 24 March 2018, the Account Holder ceases to be a Reportable Person and, as a consequence, the account ceases to be a Reportable Account. As the account ceased to be a Reportable Account on 24 March 2018, information with respect to that account is not required to be reported with respect to calendar year 2018, in 2019, nor afterwards, unless the account once again becomes a Reportable Account in calendar year 2019 or any subsequent calendar year.

## Example 3

(Account that is closed): An account is opened on 9 September 2018 and becomes a Reportable Account on 8 February 2019. However, on 27 September 2019, the Account Holder closes the account. As the account was a Reportable Account between 8 February 2019 and 27 September 2019 and was closed in calendar year 2019, information with respect to that account (including the fact the account was closed, but not the balance of that account) must be reported in calendar year 2020 with respect to the part of calendar year 2019 between 1 January 2019 and 27 September 2019.

## Example 4

(Account that ceases to be a Reportable Account and is closed): The facts are the same as in Example 2, except that on 4 July 2018 the Account Holder closes the account. Because the account ceased to be a Reportable Account on 24 March 2018, information with respect to that account is not required to be reported with respect to calendar year 2018, in 2019. This example also covers the death of the person before the closing of the account.



#### 6.1.4 Lower Value Accounts

A Lower Value Account is a Pre-existing individual account with a balance or value that is equal to or less than US\$ 1 million as at 7 September 2017. Such an account remains a Lower Value Account until it exceeds US\$ 1 million on 31 December, 2017, or on 31 December of any subsequent year.

In determining whether an Account Holder of a Lower Value Account is a Reportable Person, the KSA Reporting Financial Institution has two options for making such a determination. It can apply either:

- A residence address test; or
- An electronic records search.

If the KSA Reporting Financial Institution applies the residence address test and this does not determine the residence of the individual Account Holder, then it must also apply the electronic record search.

KSA Reporting Financial institutions can apply the residence address test to all Lower Value Accounts or, separately, to any clearly identified group of such accounts. A group of accounts may, for example, be those maintained by a particular line of business or those maintained in a particular location.

KSA Reporting Financial institutions may also opt to go straight to an electronic record search for indicia of tax residence without first applying the residence address test.



### 6.1.5 Residence address test

If the KSA Reporting Financial Institution has in its records a current residence address for the Account Holder based on Documentary Evidence, the KSA 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.

There is no requirement to conduct a paper search to examine the Documentary Evidence. Refer to the Section on Documentary Evidence below in Section 6.1.5.3

A KSA Reporting Financial Institution must have policies and procedures in place to verify the residence address based on Documentary Evidence. For purposes of determining whether an individual Account Holder is a Reportable Person, the KSA Reporting Financial Institution may treat such individual as being a resident for tax purposes of the jurisdiction in which an address is located if:

- The KSA Reporting Financial Institution has in its records a residence address for the individual Account Holder (see Section 6.1.5.1;
- Such residence address is current (see Section 6.1.5.2; and
- Such residence address is based on Documentary Evidence (see Section 6.1.5.3).





### 6.1.5.1 Presence of a Residence Address

The residence address held by a KSA Reporting Financial Institution must be sufficiently detailed to identify where the Account Holder resides and will generally be in a form that identifies the street and the town, city or area where the individual lives in sufficient detail for the KSA Reporting Financial Institution to determine the jurisdiction in which the residence is located.

In general, an “in-care-of” address or a post office box is not a residence address. However, a post office box would generally be considered a residence address where it forms part of an address together with, e.g. a street, an apartment or suite number, or a rural route, and thus clearly identifies the actual residence of the Account Holder. Similarly, in special circumstances such as that of military personnel, an “in-care-of” address may constitute a residence address.

Jurisdictions implementing the CRS may determine other special circumstances where an “in-care-of” address or a post office box is used that clearly identify a residence address, provided that such determination does not frustrate the purposes of the CRS.

It is possible that after the application of the residence address test it is determined that the Account Holder has two residence addresses, provided that all the conditions for applying the residence address test are met. For example, with respect to a bank account maintained in Country A, a bank could have two addresses meeting the requirements in a case where a resident of Country B is working and living half her time in Country B and Country C. In this case a self-certification form could be sought, or the account could be reported to all Reportable Jurisdictions where there is a residence address.



### **6.1.5.2 Residence Address considered "Current"**

A residence address is considered to be "current" where it is the most recent residence address that was recorded by the KSA Reporting Financial Institution. However, a residence address is not considered to be "current" if it has been used for mailing purposes and mail has been returned undeliverable as addressed (other than due to an error). Notwithstanding the foregoing, a residence address associated with an account that is a dormant account would be considered to be "current" during the dormancy period. Further guidance on "dormant accounts" is provided in Section 6.1.6.6.

Where the KSA Reporting Financial Institution has recorded two or more mailing or residence addresses with respect to the account holder and one of such addresses is that of a service provider of the account holder (e.g., external asset manager, investment advisor, or attorney), the KSA Reporting Financial Institution should not treat the service provider's address as the residence of the account holder.



### 6.1.5.3 Residence Address based on acceptable Documentary Evidence

A residence address is considered to be based on Documentary Evidence, if the KSA Reporting Financial Institution's policies and procedures ensure that the current residence address in its records is the same address, or in the same jurisdiction, as that on the Documentary Evidence.

A KSA Reporting Financial Institution can accept Documentary Evidence to support an Account Holder's status, provided the documentation is in accordance with applicable regulations in KSA (in original or certified copy form) and so meets one of the following criteria:

- A certificate of residence issued by an authorized government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the Account Holder claims to be a resident;
- Any valid identification issued by an authorized government body (for example, a government or agency thereof, or a municipality), that includes the individual's name and is typically used for identification purposes. E.g. Iqama in KSA; or
- Any audited financial statement, third-party credit report, bankruptcy filing, or securities regulators report.

In context of KSA, the acceptable Documentary Evidence shall be as follows:

- Saudi National - Saudi National ID;
- GCC National - GCC Residence ID; or
- Saudi Residents (All other nationalities) - documentation collected in line with the latest regulator SAMA/ CMA rules on account opening.

If a KSA Reporting Financial Institution has relied on the residence address test and there is a change in circumstances that causes the KSA Reporting Financial Institution to know or have reason to know that the original Documentary Evidence is incorrect or unreliable, the KSA Reporting Financial Institution must, by a later of:

- The last day of the relevant calendar year, or other appropriate reporting period; or
- 90 calendar days following the notice, or discovery of such change in circumstances



Obtain a self-certification and new Documentary Evidence to establish the residence(s) for tax purposes of the Account Holder. If the KSA Reporting Financial Institution cannot obtain the self-certification and new Documentary Evidence by such date, the KSA Reporting Financial Institution must apply the electronic record search procedure described in the Section [6.1.6].

### Example 1

(ID card): Sunshine Bank has policies and procedures in place, pursuant to which it has collected a copy of the ID card of all its pre-existing Individual Account Holders and pursuant to which it ensures that the current residence address in its records for those accounts is in the same jurisdiction as the address on their identity card. Sunshine Bank may therefore treat such Account Holders as being resident for tax purposes of the jurisdiction in which such address is located.

### Example 2

ABC Bank has relied on the residence address test to treat an individual Account Holder, Tom, as a resident of Reportable Jurisdiction 1. Five years later, Tom communicates to ABC Bank that he has moved to jurisdiction 2, which is also a Reportable Jurisdiction, and provides his new address. ABC Bank obtains a self-certification form and new Documentary Evidence confirming that he is resident for tax purposes in jurisdiction 2. ABC Bank therefore must treat Tom as a resident of Reportable Jurisdiction 2 for that calendar year and for all subsequent calendar years until there is another change in circumstance.



### 6.1.6 Electronic record search

Where a KSA Reporting Financial Institution fails to establish the residence of an individual with a Lower Value Account by the Residence Address Test, or is unable, or chooses not to apply the Residence Address Test, it must perform the electronic record search and review its electronically searchable data for Reportable Jurisdiction indicia. Electronically searchable data means data held in a system that includes these specific searchable fields, regardless of whether the data is populated.

The Account Holder will be regarded as a resident of a Reportable Jurisdiction if any of the indicia below apply:

- Identification of the Account Holder as resident in a Reportable Jurisdiction;
- The current mailing or residence address (including a post office box) of the Account Holder in a Reportable Jurisdiction;
- There are one or more current telephone numbers in a Reportable Jurisdiction (and no telephone number in KSA);
- Standing instructions (other than with respect to a Depository Account) to transfer funds to an account maintained in a Reportable Jurisdiction;
- A current effective power of attorney or signatory authority granted to a person with an address in a Reportable Jurisdiction; or
- An "in-care-of" address or "hold mail" instruction in a Reportable Jurisdiction if the KSA Reporting Financial Institution does not have any other address on file for the Account Holder.

When carrying out an electronic search there is no requirement to search systems of related entities.

If none of the above indicia are discovered through an electronic records search, no further action is required in respect of Lower Value Accounts until there is a subsequent change of circumstance that results in one or more of the above indicia being associated with the account or the account becomes a High Value Account.



Where such indicia arise, the KSA Reporting Financial Institution should treat the Account Holder as resident for tax purposes of each Reportable Jurisdiction for which an indicium is identified, unless the KSA Reporting Financial Institution takes steps to cure the indicia (see Section 6.1.7 for Curing Procedures).

In case of a change in circumstances, a KSA Reporting Financial Institution may choose to treat a person as having the same status that it had prior to the change in circumstances until the later of:

- the last day of the relevant calendar year;
- other appropriate reporting period; or
- or 90 calendar days following the date that the indicium was identified due to the change in circumstances.

A KSA Reporting Financial Institution will not be treated as having reason to know that that an Account Holder's status is incorrect because it retains information or documentation that may conflict with its review of the Account Holder's status if it was not necessary to review that information or those documents under the procedures for the electronic record search.

### **Example 1:**

XYZ Bank in KSA completes an electronic records search of its Lower Value Accounts for Reportable Jurisdiction indicia but no Reportable Jurisdiction are identified. XYZ Bank will then not have a reason to know that one of these account holders was a Reportable Person even if it held a copy of a Reportable Jurisdiction passport for the account holder. This is only applicable where XYZ Bank was not required to or had not previously reviewed that documentation or information.



#### **6.1.6.1 Mailing or Residence Address**

Where the indicia found during the electronic record search indicates a current mailing or residence address (including a post office box) in a Reportable Jurisdiction, the account will be a Reportable Account.

A mailing or residence address is current for this purpose where it is the most recent address recorded by the KSA Reporting Financial Institution with respect to the Account Holder. Where the account is a dormant account the mailing or residence address attached to the account can be considered as 'current' during the period of dormancy.

Where the KSA Reporting Financial Institution has recorded two or more mailing or residence addresses in different Reportable Jurisdictions, the Account Holder and details of the account are potentially reportable to multiple jurisdictions. However, where one or more of those addresses is for a service provider of the Account Holder, for example, an asset manager, investment advisor or lawyer, the KSA Reporting Financial Institution is not required to treat the service provider's address as an indication of residence.



### 6.1.6.2 Telephone Number in Reportable Jurisdiction

The telephone number(s) in a Reportable Jurisdiction is only required to be treated as an indicium of residence where that number is current, that is, it is the most recent telephone number(s) held by the KSA Reporting Financial Institution for that Account Holder. Additionally, the telephone number is only considered indicia if there is no telephone number listed in KSA.

A telephone number is not considered an indicia unless it is clearly identifiable as a telephone number in a reportable jurisdiction (for example, contains a published foreign area code).

If two or more telephone numbers are held, any that relate to a service provider of the Account Holder such as a lawyer, accountant or financial adviser, etc., is not an indicium of residence of the Account Holder.

In the case of any number that is known not to relate to a telephone, for example a permanent fax number, the number should not be treated as indicia of residence. However, if there is any doubt over the function, or the number has a combined function at least one of which is as a phone number, the number should be treated as indicia of residence if it is a Reportable Jurisdiction number.





### 6.1.6.3 Standing Instructions

Where at the time of review there are current standing instructions to transfer funds to an account maintained in a Reportable Jurisdiction, the account must be considered a Reportable Account.

There will be a standing instruction if the Account Holder has mandated the KSA Reporting Financial Institution to make repeat payments without further instruction from the Account Holder, to another account that can be clearly identified as being an account maintained in a Reportable Jurisdiction.

Instructions to make an isolated payment will not be a standing instruction even when given significantly in advance of the payment being made.

#### Example 1

An individual, Laila, holds a Custodial Account with ABC Bank, a custodial bank resident in Reportable Jurisdiction 1. Laila also holds a Depository Account with DEF Bank, a commercial bank resident in Reportable Jurisdiction 2. Laila has provided ABC Bank with standing instructions to transfer to the Depository Account, all the income generated with respect to the securities held in the Custodial Account.

As the standing instructions are with respect to a Custodial Account and the funds are to be transferred to an account maintained in a Reportable Jurisdiction, then such standing instructions are an indicium of residence in Reportable Jurisdiction 2.



#### **6.1.6.4 Hold Mail or In-Care-Of Address only**

If a hold mail instruction or an in-care-of address is discovered in the review of Lower Value Accounts, and none of the other indicia and no other address are identified for the Account Holder, the KSA Reporting Financial Institution must, in the order most appropriate to the circumstances, apply the paper record search 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 a self-certification form or Documentary Evidence is not successful, the KSA Reporting Financial Institution must report the account as an undocumented account.

An instruction to send all correspondence electronically is not a "hold mail" instruction. Where the Reporting KSA Reporting Financial Institution holds an "in-care-of" address in a Reportable Jurisdiction and does not have any other address on file for the Account Holder, the indicia are met.

#### **6.1.6.5 Power of Attorney**

Where the indicia found is a current effective power of attorney or signatory authority granted to a person with an address in a Reportable Jurisdiction, the account must be reported.



### 6.1.6.6 Dormant Accounts

An account (other than an Annuity Contract) is a "dormant account" if:

- The Account Holder has not initiated a transaction with regard to the account or any other account held by the Account Holder with the KSA Reporting Financial Institution in the past three years;
- The Account Holder has not communicated with the KSA Reporting Financial Institution that maintains such account regarding the account or any other account held by the Account Holder with the KSA Reporting Financial Institution in the past six years; and
- In the case of a Cash Value Insurance Contract, the KSA Reporting Financial Institution has not communicated with the Account Holder that holds such account regarding the account or any other account held by the Account Holder with the KSA Reporting Financial Institution in the past six years.

Alternatively, an account (other than an Annuity Contract) may also be considered as a "dormant account" under applicable laws or regulations or the normal operating procedures of the Reporting KSA Financial Institution that are consistently applied for all accounts maintained by such institution in a particular jurisdiction, provided that such laws or regulations or such procedures contain substantially similar requirements to those listed above.

An account ceases to be a dormant account when:

- The Account Holder initiates a transaction with regard to the account or any other account held by the Account Holder with the KSA Reporting Financial Institution;
- The Account Holder communicates with the KSA Reporting Financial Institution that maintains such account regarding the account or any other account held by the Account Holder with the KSA Reporting Financial Institution; or
- The account ceases to be a dormant account under applicable laws or regulations or the KSA Reporting Financial Institution's normal operating procedures.



## 6.1.7 Curing Procedures

The specific steps to be undertaken to cure each indicium are as follows:

CRS Indicia	CRS Indicia
a. Identification of the Account Holder as a resident for tax purposes of a Reportable Jurisdiction	<ol style="list-style-type: none"><li>1. A self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction;</li></ol> <b>and</b> <ol style="list-style-type: none"><li>2. Documentary Evidence establishing the Account Holder's non-reportable status (See Section 6.1.7.2)</li></ol>
b. Current mailing or legal residence address (including a post office box) in a Reportable Jurisdiction	<ol style="list-style-type: none"><li>1. A self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction;</li></ol> <b>and</b> <ol style="list-style-type: none"><li>2. Documentary Evidence establishing the Account Holder's non-reportable status (See Section 6.1.7.2)</li></ol>
c. One or more current telephone numbers in a Reportable Jurisdiction and no telephone number in KSA	<ol style="list-style-type: none"><li>1. A self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction;</li></ol> <b>and</b> <ol style="list-style-type: none"><li>2. Documentary Evidence establishing the Account Holder's non-reportable status (See Section 6.1.7.2)</li></ol>



d. Standing instructions (other than with respect to a Depository Account) to transfer funds to an account maintained in a Reportable Jurisdiction	<ol style="list-style-type: none"><li>1. A self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction;</li></ol> <p><b>and</b></p> <ol style="list-style-type: none"><li>2. Documentary Evidence establishing the Account Holder's non-reportable status (See Section 6.1.7.2)</li></ol>
e. Currently effective power of attorney or signatory authority granted to a person with an address in Reportable Jurisdiction	<ol style="list-style-type: none"><li>1. A self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction;</li></ol> <p><b>or</b></p> <ol style="list-style-type: none"><li>2. Documentary Evidence establishing the Account Holder's non-reportable status (See Section 6.1.7.2)</li></ol>
f. A "hold mail" instruction or "in-care-of" address in a Reportable Jurisdiction if the Reporting FI does not have any other address on file for the Account Holder;	<ol style="list-style-type: none"><li>1. Paper Record Search (see Section 6.1.10) should this fail, then;</li></ol> <p><b>or</b></p> <ol style="list-style-type: none"><li>2. Self-Certification or Documentary Evidence to establish the residence(s) for tax purposes (See Section 5.5)</li></ol>

The self-certification form or Documentary Evidence that has been previously reviewed may be relied upon for purposes of the curing procedure unless the Reporting KSA Reporting Financial Institution knows or has reasons to know that the self-certification form or Documentary Evidence is incorrect or unreliable.



### 6.1.7.1 Self-certification forms

A self-certification form obtained from the Account Holder must pass the validity and reasonableness tests (see Chapter 5 on Overarching Due diligence, Sections 5.8 and 5.9 for the requirements to test the validity and reasonableness of the self-certification form).

The self-certification form obtained as part of the curing procedure does not need to contain an express confirmation that an Account Holder is not resident in a particular jurisdiction, provided the Account Holder confirms that it contains all its jurisdictions of tax residence (i.e. the information with respect to the Account Holder's jurisdiction(s) of residence is correct and complete).

### 6.1.7.2 Documentary Evidence

Documentary Evidence is sufficient to establish an Account Holder's non-reportable status if the Documentary Evidence (see Section 5.9):

- confirms that the Account Holder is resident in a jurisdiction other than the relevant Reportable Jurisdiction;
- contains a current residence address outside the relevant Reportable Jurisdiction; or
- is issued by an authorised government body of a jurisdiction other than the relevant Reportable Jurisdiction.

Where a KSA Reporting Financial Institution has contacted an Account Holder for a self-certification form but the Account Holder has not responded, the account should be treated as reportable 90 days after initiating contact.



### **6.1.8 High Value Accounts**

A Pre-Existing High Value Account is an account with an aggregated balance or value that exceeds US\$ 1 million on 7 September, 2017 or on December 31 of any subsequent year. The KSA Reporting Financial Institution must perform the electronic record search and then continue, where appropriate, with a paper record search and a Relationship Manager inquiry. When an account is identified as a High Value Account, the residence address test may not be used to establish the residence jurisdiction of the Account Holder.

The Reporting KSA Reporting Financial Institution may choose to apply the new individual account onboarding procedures and obtain a self-certification form from Account Holders rather than carry out the due diligence requirements for pre-existing High Value Accounts.

### **6.1.9 Electronic record search**

The same procedures which apply for Lower Value Accounts under Section 6.1.4 apply for High Value Accounts.



### 6.1.10 Paper record search

A Reporting KSA Reporting Financial Institution must carry out a paper record search to the extent that the information on residence of an Account Holder is not captured by the electronic record search. A paper record search will not be required where all the indicia outlined under Section 6.1.12 is electronically searchable.

For example, where the electronically searchable databases contain all the required information except for details of standing instructions to transfer funds, the paper record search will only be required to identify details of standing instructions to transfer funds to a Reportable Jurisdiction.

The exception for the paper record search would not be available where an indicia field was simply left blank unless, pursuant to the Reporting KSA Financial Institution's policies and procedures, the fact that the field is left blank means that the information is not in the Reporting KSA Financial Institution's records (e.g. because a telephone number has not been provided, or a power of attorney has not been granted).

The paper record search should include a review of the current master file and, to the extent that they are not contained in the current master file, the following documents associated with the account and obtained by the KSA Reporting Financial Institution within the last 5 years:

- The most recent Documentary Evidence collected with respect to the account;
- The most recent account opening contract or documentation;
- The most recent documentation obtained by the KSA Financial Institution for AML/KYC procedures or other regulatory purposes;
- Any power of attorney or signatory authority currently in effect; and
- Any standing instructions to transfer funds currently in effect (other than for a Depository Account).

These should be reviewed for any of the indicia listed in Section 6.1.6.





A KSA Reporting Financial Institution is not required to perform the paper record search for any Pre-existing individual account for which it has retained a self-certification form and Documentary Evidence which establishes the account holder's non-reportable status unless there is a subsequent change in circumstances that results in one or more indicia being associated with the account. However, it must still perform the Relationship Manager enquiry, outlined Section 6.1.11.

A KSA Reporting Financial Institution can rely on the review of High Value Accounts by third party service providers where there is a contract obliging the service provider to perform the review.



### 6.1.11 Relationship Manager inquiry

The Relationship Manager inquiry is required for Pre-existing High Value individual accounts, in addition to the electronic records search and the paper record search. The KSA Reporting Financial Institution must consider whether a Relationship Manager is associated with an account, which includes any accounts aggregated with such an account that has actual knowledge that would identify the Account Holder as a Reportable Person (unless the indicia can be cured).

The Relationship Manager is an officer or other employee of the Reporting KSA Reporting Financial Institution who is assigned responsibility for specific account holders on an on-going basis (including as an officer or employee that is a member of a Reporting KSA Reporting Financial Institution's private banking department), advises account holders regarding their banking, investment, trust, fiduciary, estate planning, or philanthropic needs, and recommends, makes referrals to, or arranges for the provision of financial products, services, or other assistance by internal or external providers to meet those needs. For example, an investment advisor at a financial institution with a book of clients is a relationship manager in respect of each client that relies on the advisor's expertise, advice, and/or stewardship to achieve investment objectives.

However, the person is not considered a Relationship Manager unless that person is ultimately charged with managing the account holder's affairs at the institution - a responsibility that is expected to involve interfacing regularly with the account holder to report information and keep abreast of the account holder's overall investment needs. Similarly, a financial institution employee who generally performs front-desk services for walk-in customers is not a relationship manager. Therefore, a person whose functions do not involve direct client contact or which are of a back office, administrative, or clerical nature is not considered a Relationship Manager. Additionally, self-employed insurance intermediaries cannot be considered as Relationship Managers. Relationship management must be more than ancillary or incidental to the job function of a person for the person to be considered a relationship manager.



It would be considered rare for more than one Relationship Manager to be associated to an account.

A person is only a Relationship Manager for purposes described above with respect to an account that has an aggregate balance or value of more than US\$ 1 million, taking into account the account aggregation and currency translation rules. Therefore, in determining whether an officer or employee of a KSA Reporting Financial Institution is a Relationship Manager:

- The employee must satisfy the definition of Relationship Manager (as outlined above); and
- The aggregate balance or value the Account Holder's accounts must exceed US\$1 million.

If there is no Relationship Manager assigned to the Financial Account, the KSA Reporting Financial Institution does not need to design a specific step for the High Value Accounts to undergo the Relationship Manager inquiry and does not need to apply the Relationship Manager aggregation rules.

The first role of a Relationship Manager must be to certify whether he or she knows of any more accounts at the KSA Reporting Financial Institution that are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same individual which, when all the accounts are considered collectively, their account balances aggregate to more than US\$1million. If that is the case, the KSA Reporting Financial Institution must treat each account held by the individual as a High Value account. The second role of a Relationship Manager is to assist with the proper identification of reportable accounts. As well as the electronic search (and paper record search where required), a Reporting KSA Financial Institution must consider whether a relationship manager associated with the High Value Account has actual knowledge that identifies the Account Holder as a Reportable Person. If the relationship manager knows the Account Holder is Reportable Person, the High Value Account (and any other Financial Account aggregated with the High Value Account) must be reported.



A KSA Reporting Financial Institution must also ensure that it has procedures in place to capture any change of circumstance in relation to a High Value Account made known to the Relationship Manager in respect of the Account Holder's status. However, a Reporting FI is not obliged to have or to appoint a Relationship Manager.

Once the KSA Reporting Financial Institution applies the enhanced review procedures to a High Value Account, it is not required to re-apply such procedures, other than the relationship manager inquiry, in any subsequent year.

### Example 1

An individual holds a Custodial Account with a Reporting KSA Financial Institution. The value of the account at the end of the appropriate reporting period is an amount equivalent to US\$1.35 million. An employee of the Reporting KSA Financial Institution's private banking team has a role that requires them to manage the account on an ongoing basis and maintain the KSA Reporting Financial Institution's relationship with the individual Account Holder. As the employee satisfies the definition of a "Relationship Manager" and the account has a value more than US\$1million, the employee will be a Relationship Manager with respect to this account.

### Example 2

An individual holds a Custodial Account with a KSA Reporting Financial Institution with a value at the end of the appropriate reporting period of an amount equivalent to US\$780,000. In addition, the individual also has a Depository Account with the KSA Reporting Financial Institution with a balance at the same date of an amount equivalent to US\$427,000. The KSA Reporting Financial Institution's internal systems link the accounts to the same Account Holder thus the accounts must be aggregated, the aggregate balances exceed US\$1million so belong to a High Value Account Holder. The relationship with the Account Holder is managed in a similar way to that in Example 1 above. The employee with that role will be a Relationship Manager in respect of the accounts held by this Account Holder.



**Example 3:** The facts are the same as in Example 2 except that the employee has no direct contact with the Account Holder simply performing an administrative role in relation to the accounts. Here the employee is not a Relationship Manager.



### 6.1.12 Effects of finding Indicia

If none of the indicia listed in Section 6.1.6 are discovered in the enhanced review of High Value Accounts, and the account is not identified as held by a Reportable Person, 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.

If any of the indicia listed in Section 6.1.6 are discovered in the enhanced review of High Value Accounts, or if there is a subsequent change in circumstances that results in one or more indicia being associated with the account, the Reporting KSA Financial Institution must treat the account as a Reportable Account with respect to each Reportable Jurisdiction for which an indicium is identified unless it elects to apply the curing procedure and one of the exceptions applies with respect to that account. Indicia discovered in one review procedure, cannot be used to cure an indicia identified in another review procedure. For example, a current residence address in a Reportable Jurisdiction within the knowledge of the Relationship Manager cannot be used to cure a different residence address currently on file with the KSA Reporting Financial Institution discovered in the paper record search. Refer to Section 6.1.7 for curing procedures.

In the case of a hold mail instruction or in-care-of address in a Reportable Jurisdiction, if the paper search fails to establish any indicia, then the KSA Reporting Financial Institution must attempt to obtain from the Account Holder a self-certification form or Documentary Evidence to establish the residence for tax purposes of the Account Holder. If those attempts fail, the KSA Reporting Financial Institution must report the account as an undocumented account.



Once a KSA Reporting Financial Institution has performed the enhanced review procedures to a High Value account, it is not required in any subsequent year to re-apply those procedures (other than a Relationship Manager inquiry) on the account unless the account is undocumented. If the account is undocumented, the KSA Reporting Financial Institution should re-apply the enhanced review procedures annually until such account ceases to be undocumented. With respect to the Relationship Manager inquiry, annual verifications with respect to the individual account holder would suffice without there being a requirement for Relationship Managers to confirm on an account-by-account basis that they do not have actual knowledge that an Account Holder assigned to them is a Reportable Person. It suffices that Relationship Managers be instructed to bring changes in circumstances to the attention of the appropriate officials within the Reporting KSA Financial Institution responsible for reporting.

A Reporting KSA Financial Institution that finds indicia should have ample time to attempt to contact an account holder to verify their residency for tax purposes on or before the reporting deadline for that particular calendar year. However, it is appreciated that attempts to reach out to an Account Holder may not elicit a response. If no information is provided to allow the Reporting KSA Financial Institution to not treat the Account Holder as a resident of the jurisdiction to which indicia relates before it is required to submit the information to ZATCA, it is expected that the KSA Reporting Financial Institution will report the account based on the information in its possession.



### 6.1.13 Change in circumstances

Once the due diligence procedures have been completed the Account Holder will be identified as either a Non-Reportable Person or a Reportable Person. That status will not change until a change of circumstance is identified by the Reporting KSA Financial Institution.

A change of circumstance includes any change to, or addition of, information in relation to an Account Holder's status and includes details of any addition, substitution or other change of an Account Holder as well as information in respect of any accounts associated with the Account Holder, that is, accounts associated through the aggregation rules (or where a new account has been treated as a pre-existing obligation for due diligence purposes).

A change of circumstance is only relevant if the new information affects the status of the Account Holder for the purposes of the exchange of information agreements, whether that is based on the due diligence procedures or from a self-certification. For example, a person who has been identified as reportable to the UAE provides the Reporting KSA Financial Institution with details of a change of residential address to a property in Bahrain. That is evidence that there has been a change of circumstance affecting the reportable status of the Account Holder. If, however, the new address had also been in the UAE the reportable status established earlier would not be affected and no further action would be required on the part of the Reporting KSA Financial Institution.

Once a change of circumstance has been identified the Reporting KSA Financial Institution must request a self-certification or other documentation from the Account Holder to establish whether the individual is a Reportable Person and, if so, to which jurisdiction the Reportable Information should be sent. If the Account Holder fails to respond to the request the Reporting KSA Financial Institution should treat the Account Holder as reportable to each jurisdiction for which it holds indicia unless it can apply the curing procedure (see Section 6.1.7).





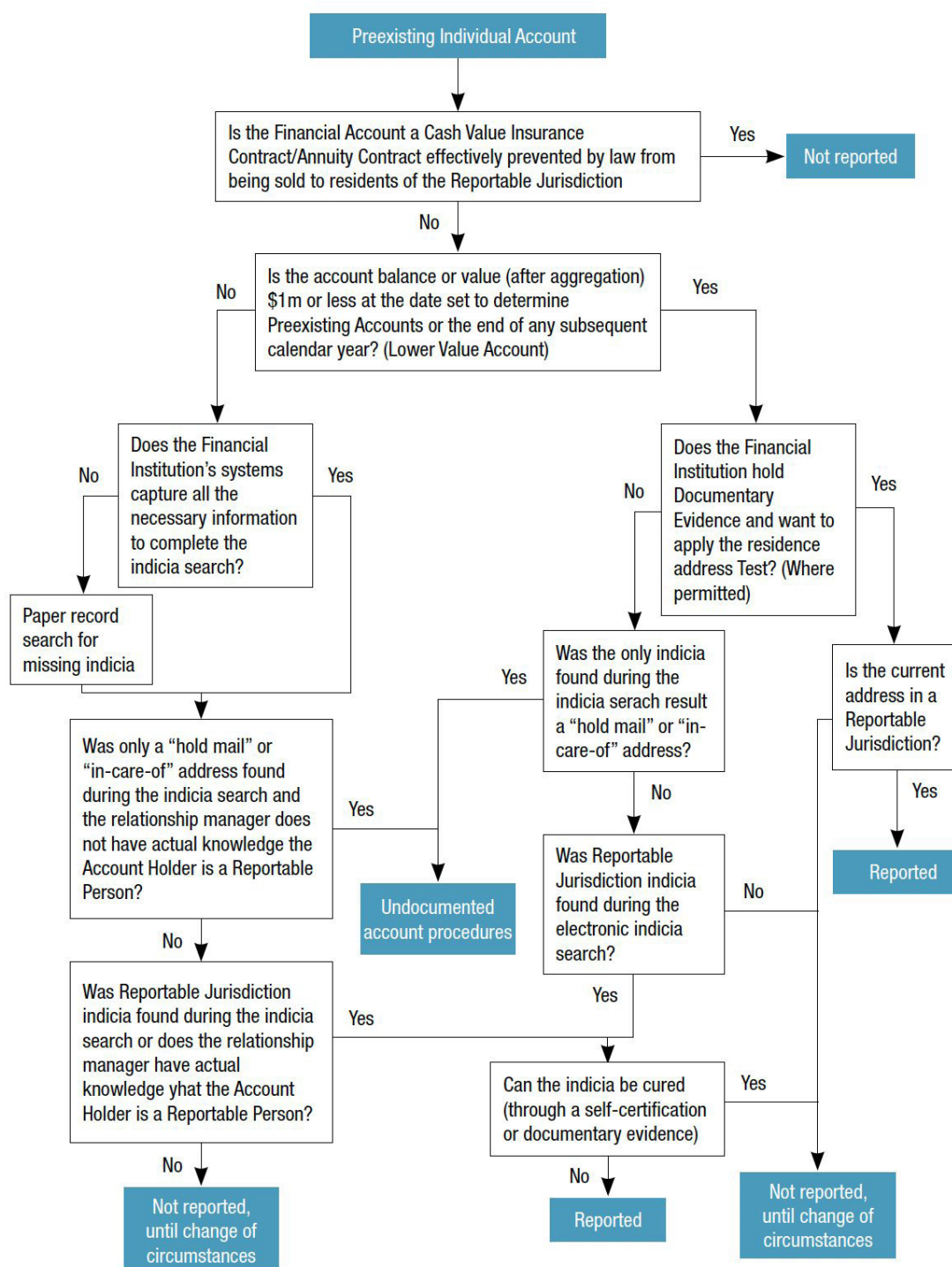
## 6.2 Timing of review

Review of High Value Pre-existing Individual Accounts must be completed by 28 February 2018 and Lower Value Pre-existing Individual Accounts must be completed by 31 December 2018. Where a Lower Value Account becomes a High Value Account at the end of a subsequent calendar year, enhanced due diligence procedures for High Value Accounts must be performed by the end of the calendar year after the year in which the balance or value exceeded US\$1million.

Any Pre-existing Individual Account that has been identified as a Reportable Account must be treated as a Reportable Account in all subsequent years, unless the Account Holder ceases to be a Reportable Person.



## Appendix 1 - Due diligence procedure for Preexisting Individual Accounts<sup>1</sup>



<sup>1</sup>Standard for Automatic Exchange of Financial Account Information in Tax Matters  
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## **7. New Individual Accounts**

### **7.1 Due diligence of new Individual Account Holders**

#### **7.1.1 Introduction**

Any Financial Account opened by an individual or sole proprietor on or after 8 September 2017 must be classified as a New Individual Account.

The due diligence procedures for New Individual Accounts require that a valid self-certification form must be obtained from the Account Holder (see Chapter 5) on Overarching Due Diligence for further details of the self-certification form collection).

If the self-certification form establishes that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, then the Reporting KSA Financial Institution must treat the account as a Reportable Account, until a change of circumstances occurs (see Section 5.7 on Change in Circumstance).

The wider approach has been applied in KSA, which requires that Reporting KSA Financial Institutions are permitted to identify the country in which a person is tax resident irrespective of whether that country is a Reportable Jurisdiction.

This section contains the due diligence procedures for New Individual Accounts and provides for the collection of a self-certification form (see Chapter 5) on Overarching Due Diligence for further details on the confirmation of the self-certification form reasonableness).



### 7.1.2 New account opening for Pre-existing individual Account Holders

An individual may have a pre-existing account (i.e. an account opened on or before 7 September 2017) with the Reporting KSA Financial Institution and may subsequently open a new account with the same Financial Institution on or after 8 September 2017. In such a case, there is no requirement to re-document the Account Holder by the Reporting KSA Financial Institution if:

- i. The appropriate due diligence requirements have already been carried out, or are in the process of being carried out, for the original account;
- ii. The opening of the new account does not require the provision of new, additional or amended customer information;
- iii. With respect to a Financial Account subject to AML/KYC procedures, the Reporting KSA Financial Institution is permitted to satisfy those procedures for the new account by relying on the procedures performed about the pre-existing account; and
- iv. The KSA Reporting Financial Institution computerized systems can link the new account held by the Account Holder and allow the account balances or values to be aggregated.

This means that the standards of knowledge to be applied, the change of circumstances rules and aggregation requirements will apply to all accounts held by the account holder.

Where the Reporting KSA Financial Institution has reason to know that the Account Holder's status is inaccurate in relation to one account, it is considered to know that same concern exists about other accounts held by the Account Holder. In such cases, since the KSA Reporting Financial Institution knows, or has reason to know, that the original self-certification is incorrect or unreliable, it 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.



## Example

XYZ holds a pre-existing individual account with a KSA Reporting Financial Institution. XYZ later opens a new account at the same Financial Institution. The Reporting KSA Financial Institution can link the new account to the pre-existing account and hence the new account does not require the provision of new, additional or amended customer information. The new account can be treated as a continuation of the first account and will not be subject to re-documentation or enhanced due diligence until such a time as the balance or value of the accounts exceeds US\$1million.

Please note this section also applies to "account transfers" where an Account Holder closes the original account and replaces it with a New account (See Section 5.12).



## 7.2 Collection of a self-certification form

It is expected that the Reporting KSA Financial Institution will maintain account-opening processes that facilitate the collection of a self-certification form at the time of the account opening, whether that process is done face-to-face, online or by telephone. The account opening process must allow the Reporting KSA Financial Institution to determine the Account Holder's residence(s) for tax purposes and the Reporting KSA Financial Institution must confirm the reasonableness of such self-certification form based on the information obtained about the opening of the account, including any documentation collected pursuant to AML/KYC procedures. A Reporting KSA Financial Institution should not provide customers with tax advice.

If an account is jointly held by an individual and an entity, then both the individual and entity new account due diligence requirements (see Chapter 9 for new entity requirements) in relation to that account must be applied. Similarly, if an account is jointly held by two or more individuals, then each individual Account Holder must be subject to new individual due diligence procedures individually and the self-certification forms must be collected from each Account Holder prior to account opening.



### 7.2.1 Timing of collection of a self-certification form

The self-certification form must be collected from the Account Holder before the account is opened. There may however be circumstances where it is not possible or practical to obtain a self-certification form on 'day one' of the account opening process, for example, where an insurance contract has been assigned from one person to another or in the case where an investor acquires shares in an investment trust on the secondary market and this does not come to the attention of the Reporting KSA Financial Institution until after the event.

In such circumstances, the self-certification form should be obtained and validated as soon as possible and in any case within a period of 90 days after the Reporting KSA Financial Institution has knowledge that a new account has come into existence. This must be in sufficient time for the account to be reported, where the Account Holder is a Reportable Person, for the period in which the Reporting KSA Financial Institution identifies the account. Reporting KSA Financial Institutions should have strong measures in place to obtain the self-certification form in these circumstances. Reporting KSA Financial institutions likely to be affected by these circumstances must have processes and procedures in place to ensure that self-certification forms are sought from such Account Holders.

KSA has implemented strong measures in place to ensure that valid self-certifications are always obtained for New Accounts. This is defined as the closure or freezing of the account after the expiry of 90 days.



### 7.2.2 Timing of validation of a self-certification form

The Reporting KSA Financial Institution should endeavor to collect and validate self-certification forms prior to account opening. Where a self-certification form is obtained at account opening but validation of the self-certification form cannot be completed because it is a 'day two' process undertaken by a back-office function, the self-certification form should be validated within a period of 90 days from the opening of the account. Validation of a self-certification form involves the Reporting KSA Financial Institution performing the validity (completeness) and reasonableness (based on the information obtained about the opening of the account, including any documentation collected pursuant to AML/KYC procedures) tests on the self-certification form to ensure the form meets the minimum acceptable requirements under the CRS.

When the self-certification form cannot be validated (e.g. the self-certification form is missing the Tax Identification Number ("TIN") or the form has not been positively affirmed by the Account Holder), a new self-certification form should be requested and validated within a period of 90 days from the opening of the account.

Refer to the Overarching Due Diligence chapter (Chapter 5) for details on the format of the self-certification and validity checks that are required to be performed on them.

A valid self-certification will become invalid however, on the date that the Reporting KSA Financial Institution holding the self-certification knows or has reason to know that circumstances affecting the correctness of the self-certification have changed. However, a Reporting KSA Financial Institution may choose to treat a person as having the same status that it had prior to the change in circumstance until the earlier of:

- 90 calendar days from the date that the self-certification is confirmed; or
- The dates that the validity of the self-certification is confirmed; or
- The date that a new self-certification is obtained.





Once the self-certification is confirmed, the Reporting KSA Financial Institution must determine if the account is a Reportable Account.

Where the Reporting KSA Financial Institution is unable to obtain a valid self-certification form within 90 days of opening the account, and there are no indicia of residence in any jurisdiction, then the account is not reportable under the CRS. However, if there are indicia of residence in a reportable jurisdiction, then the account is reportable under the CRS.



### 7.3 Determining whether Account Holder is a Reportable Person

If the self-certification form establishes that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, the Reporting KSA Financial Institution must treat the account as a Reportable Account (until a change in circumstance).

The self-certification form must allow the Account Holder to declare the Account Holder's residence(s) for tax purposes. Generally, an individual will have one jurisdiction of tax residence. However, an individual may be resident for tax purposes in two or more jurisdictions. An individual may not be tax resident in any jurisdiction, however it is considered that such cases are rare and as such the Reporting KSA Financial Institution must perform the relevant tests (including confirming the reasonableness of the self-certification form provided and obtaining a reasonable explanation and documentation from the Account Holder) to determine whether this is correct or not.

Generally, an individual will be resident for tax purposes in a jurisdiction if, under the laws of that jurisdiction (including tax conventions), he/she pays or should be paying income tax therein because of his/her domicile, residence or any other criterion of a similar nature, and not only from sources in that jurisdiction. Dual tax resident individuals may rely on the tiebreaker rules contained in tax conventions (if applicable) to solve cases of double residence for determining their residence for tax purposes.

CRS Participating Jurisdictions are expected to help taxpayers determine, and provide them with information with respect to, their residence(s) for tax purposes. The OECD is also facilitating this process through a centralized repository providing an overview of the tax residency rules applicable to jurisdictions which have committed to the CRS. Reporting KSA Financial Institutions may direct their customers to this information.

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/#d.en.347760>



### 7.3.1 Tax residency examples

The following examples illustrate how an individual's residence for tax purposes may be determined:

#### Example 1

An individual has his permanent home in Jurisdiction A and is a resident of Jurisdiction A. He has had a stay of more than six months in Jurisdiction B and according to the legislation of Jurisdiction B he is, in consequence of the length of the stay, therefore considered a tax resident of Jurisdiction B. On this basis, he is a tax resident of both Jurisdiction A and B and should certify both jurisdictions A and B on the self-certification form he is required to complete.

#### Example 2

Same facts as Example 1, except that the individual only had a stay of eight weeks in Jurisdiction B and according to the legislation of Jurisdiction B he is not, because of the length of the stay, considered a tax resident of Jurisdiction B. Thus, he is only considered a tax resident in Jurisdiction A and should therefore certify that on the self-certification form he is required to complete.

#### Example 3

An individual is a citizen of Jurisdiction A and lives in Jurisdiction B. Jurisdiction A taxes based on citizenship while jurisdiction B taxes based on physical residency. The individual is therefore considered tax resident in both Jurisdiction A and B.



#### **7.4 Accounts held by beneficiaries of a Cash Value Insurance Contract that is a Life Insurance Contract**

Reporting KSA Financial Institution can treat an individual beneficiary (other than the owner) who receives a death or life benefit under a Cash Value Insurance Contract that is a Life Insurance Contract as a non-resident of a Reportable Jurisdiction and treat such account as a non-reportable account unless the Reporting KSA Financial Institution has knowledge of reason to know that the beneficiary is a resident of a Reportable Jurisdiction on the basis of the identification according to the rules on anti-money laundering.

When the beneficiary of an insurance company is determined to be the legal estate of the Account Holder and the insurance company pays out to the notary it (the insurance company) thus has no knowledge or reason to know that the individual beneficiary(is) is (are) resident(s) of a Reportable Jurisdiction. On this basis, the Reporting KSA Financial Institution can treat the account as a Non-Reportable Account until a change in circumstance occurs.

#### **7.5 Reliance on the self-certification form and Documentary Evidence**

Where information already held by a Reporting KSA Financial Institution, conflicts with any statements or self-certification or the Reporting KSA Financial Institution has reason to know that the self-certification or other documentary evidence is incorrect then it may not rely on that Documentary Evidence or self-certification form.

A Reporting KSA Financial Institution will be considered to have reason to know that a self-certification or other documentation associated with an account is unreliable or incorrect if, based on the relevant facts; a reasonably prudent person would know this to be the case.

In such cases, a Reporting KSA Financial Institution should inform the Account Holder about such instance and request for documentation (self-certification form or Documentary Evidence) to establish the individual's status. The Account Holder needs to submit the required documentation within 90 days from the initial contact, otherwise the account becomes reportable if the customer fails to provide the required documentation.



## Example 1

An individual customer Mr. A approaches Bank X (a Reporting KSA Financial Institution) to open a new account. Mr. A already has an account with Bank X. Bank X's policies are such that all documentation must be obtained from all new account holders irrespective of if the account holder has another account with Bank X. In line with CRS onboarding requirements, Bank X asks Mr. A to complete a self-certification form along with the account opening form. Mr. A submits the self-certification form along with the account opening forms.

- During the due diligence process (review of the documents submitted by Mr. A), Bank X observes that the information regarding the jurisdiction of tax residence of Mr. A is different to the information already held by Bank X. The current records held by the Bank show that Mr. A is a UK tax resident. However, on the self-certification form, Mr. A has just provided Bank X, he has declared himself as a KSA tax resident and has not declared that he is UK tax resident.
- Therefore, Bank X has a reason to know that the self-certification form provided is unreliable or incorrect.
- Bank X contacts Mr. A to inform him of this discrepancy and request new documentation to establish Mr. A's country of tax residence. From this date, Mr. A has 90 days to provide new correct documentation to Bank X.
- If Mr. A fails to provide the required documentation within the 90 days, Bank X should treat Mr. A as resident of the jurisdiction in which the Account Holder claimed to be resident in the original self-certification (UK) and the jurisdiction in which he may be resident (KSA) as a result of the change in circumstances.
- Bank X will consider Mr. A's account as a Reportable Account and report the account to ZATCA as the UK is a Reportable Jurisdiction.



## 8. Due diligence (Pre-existing Entity customer)

### 8.1 Introduction

All Financial Accounts maintained by a Reporting KSA Financial Institution as of 7 September 2017 held by entities will be treated as Pre-existing Entity Accounts for the purposes of the CRS. Financial Accounts that have been closed on or before 6 September 2017 are not required to be reviewed (see below). Sole proprietorships are not treated as entities but are subject to the due diligence rules for individuals, outlined in Chapter 6.

#### Example 1

Entity A opens a Depository Account on 10 August 2017. This will not be treated as a New Entity Account by the Reporting KSA Financial Institution as it was opened before 8 September 2017 and instead it will be treated as a Pre-existing Entity Account (on the basis it is still open on 7 September 2017).

#### Example 2

Entity B opens a Depository Account on 1 October 2017. This will be treated as a new entity account by the Reporting KSA Financial Institution as it was opened after 8 September 2017. The Reporting KSA Financial Institution will have to follow the due diligence review process for New Entity Accounts



## 8.2 Threshold Exemptions that apply to Pre-existing Entity Accounts

The CRS in KSA allows Reporting KSA Financial Institutions to elect whether to apply the threshold exemptions when reviewing and identifying Pre-existing Entity Accounts. The election can apply to all Financial Accounts or to a clearly identifiable group of accounts, such as accounts held by a line of business or specific classes of accounts.

If a threshold exemption has been applied but the aggregate account balance or value for a Pre-existing Entity Account exceeds USD\$250,000 as of the last day of 31 December 2017 or any subsequent calendar year, the account must then be reviewed within the calendar year following the year in which the aggregate account balance or value exceeds such amount.

If a Reporting KSA Financial Institution does not want to apply the exemption, it can elect to review all or, separately, with respect to any clearly identified group of such accounts (which will be required to form part of a clearly identifiable group of accounts).

Unless requested to do so, a Reporting KSA Financial Institution is not required to advise ZATCA of whether it has elected to review all or, separately, with respect to any clearly identifiable group of its Pre-existing Entity Accounts. However, it is required to record its decisions, including the basis of its determination of a clearly identifiable group of accounts (if any) in respect of which it has made the election for a calendar year.

### Example 1

An entity has a Financial Account with a value of US\$100,000 on 2 September 2017 with a Reporting KSA Financial Institution, Bank F. Bank F will not be required to review this account, as the account balance is below the US\$250,000 de Minimis threshold. However, Bank F must continue to monitor the account balance at each subsequent year-end. On the basis that the account balance is US\$300,000 on 31 December 2017, this account then comes into scope for review and the relevant due diligence processes should be completed by Bank F during calendar year 2018 and by 31 December 2018.



## 8.3 Reportable Accounts

A Reporting KSA Financial Institution has reporting obligations in respect of:

- An account held by one or more entities that is a Reportable Person (see Section 8.4.1 below); and
- An account is held by an entity that is a Passive NFE (or Managed Investment in non CRS Jurisdiction) with one of more Controlling Persons (see Section 8.4), that is a Reportable Persons (see below).

A Reportable Person is defined as a Reportable Jurisdiction Person other than the following:

- a corporation the stock of which is regularly traded on one or more established securities markets or a Related Entity of any such entity (see Section 2.8)
- a Governmental Entity (see Section 2.13.1)
- a International Organisation (see Section 2.13.3);
- a Central Bank (see Section 2.13.2; or
- a Financial Institution.

### Example 1

XYZ Limited is a Passive NFE tax resident in KSA with Financial Accounts with a total aggregated balance of over \$250,000. It has three individual owners who are identified as Controlling Persons of the company. Two of these owners are KSA tax residents and the third is tax resident in France which is a Reportable Jurisdiction. As a result, Financial Accounts held by XYZ Limited with a Reporting KSA Financial Institution will be Reportable Accounts by virtue of the entity having a Controlling Person that is a Reportable Person.





## 8.4 Pre-existing entity account classification process

Unless the account is not required to be reviewed, identified or reported as the de-minimis limit (see above) is applied, the entity account is subject to review to determine whether:

- The entity is a Reportable Person; and
- The entity is Passive NFE (or Managed Investment in non CRS Jurisdiction) with one of more controlling persons who are Reportable Persons.

### 8.4.1 Identification of an Entity as a Reportable Person

If the threshold exemption has been applied and when the aggregate account balance or value does not exceed US\$250,000 as of the last day of any subsequent calendar year, the Entity Account is not reportable.

If the aggregate account balance or value exceeds US\$250,000, then the next step is to determine whether the Pre-Existing Entity Account is a Reportable Person.

To determine if the Account Holder is resident in a Reportable Jurisdiction, the Reporting KSA Financial Institution must review information maintained for regulatory or Account Holder relationship purposes (including information collected pursuant to AML/KYC procedures). For this purpose, information indicating that the Account Holder is resident in a Reportable Jurisdiction includes:

- a place of incorporation or organisation in a Reportable Jurisdiction;
- an address in a Reportable Jurisdiction (for example, this would be likely to apply for Entities treated as fiscally transparent and could reflect the registered address, principal office, or place of effective management); or
- an address of one or more of the trustees of a trust in a Reportable Jurisdiction.

As the definition of entity goes beyond corporate structures to include fiscally transparent vehicles such as trusts and partnerships, the address of the entity should be interpreted widely so will include the registered office, principal office and/or the place of effective management.



However, the existence of a Permanent Establishment (including a branch) in a Reportable Jurisdiction (including an address of a permanent establishment) is not by itself an indication of residence for this purpose.

If the information indicates that the Account Holder is resident in a Reportable Jurisdiction, then, the Reporting KSA 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 with respect to such Reportable Jurisdiction.

In determining whether a Pre-existing Entity Account is held by a Reportable Person, the Reportable KSA Financial Institution may follow the guidance in the most appropriate order. This would allow a Reporting Financial Institution, for example, to determine that a Pre-existing Entity Account is held by an Entity that is not a Reportable Person (e.g. a corporation that is publicly traded or is a Financial Institution) and, thus, the account is not a Reportable Account. On the other hand, the Reporting Financial Institution could also opt to start the process by establishing that the Entity is not resident in a Reportable Jurisdiction and is therefore not a Reportable Person.

This is illustrated in Appendix 1 of this Chapter.



## 8.4.2 Identification of an Entity as a Financial Institution

To identify whether an Account Holder is a Financial Institution, the Reporting KSA Financial Institution should verify the Account Holder GIIN on the published IRS FFI list or review the other information in their possession (this includes information collected pursuant to AML/KYC procedures, industry codes or other publicly available information (see Section 8.8)).

If an entity is a Financial Institution, including a Non-Reporting Financial Institution listed, the account is not a Reportable Account, unless a change in circumstance causes the entity to cease to be a Financial Institution.

### Example 1

A Reporting KSA Financial Institution has a Preexisting Entity account holder. To determine whether this Account Holder is a Reportable Person, the Reporting KSA Financial Institution reviews the information it maintains for the Account Holder for regulatory or customer relationship purposes. For the purposes of this example, the Reporting KSA Financial Institution reviews the Account Holder AML/KYC file. The AML/KYC file states that the Account Holder is a bank and nothing in the account file contradicts that characterization. As the Account Holder is a Financial Institution, the Reporting KSA Financial Institution reviews the published IRS FFI list to see if the entity is registered as an FFI. The entity is listed on the IRS published FFI list. The Reporting KSA Financial Institution has determined the account to be a Financial Institution and the account is not a Reportable Account.

If the entity then provides the Reporting KSA Financial Institution with a self-certification claiming another CRS status in the future (e.g. Active NFE), then this should replace the status arrived at by the Reporting KSA Financial Institution by using the published IRS FFI list (assuming the self-certification is valid and reasonable).



### 8.4.3 Identification of the Entity as a Non-Financial Entity

To determine whether an entity is a Passive NFE, a self-certification from the Account Holder should be obtained to establish its status, unless the Reporting KSA Financial Institution has information in its possession or that is publicly available from which it can reasonably determine that the Account Holder is an Active NFE. An entity will be a Passive NFE if it is not an Active NFE (see Chapter 3)

To determine where the Controlling Persons of a Passive NFE are Reportable Persons, the Reporting KSA Financial Institution may rely on:

- Information collected and maintained pursuant to AML/KYC Procedures in the case of a Pre-existing Entity Account held by one or more NFEs with an account balance or value that does not exceed US\$1million; or
- A self-certification from the Account Holder or such Controlling Person in the case of a Pre-existing Entity Account held by one or more NFEs with an account balance or value that exceeds US\$1million.

If any Controlling Person of a Passive NFE is resident in a Reportable Jurisdiction, the account shall be treated as a Reportable Account, until a change in circumstance.

If the Entity is not classified as a Reportable Person (which includes Financial Institutions and certain types of Active NFEs), no reporting is required in relation to Controlling Persons, until a change in circumstance.



## Example 1

A Reporting KSA Financial Institution has a Pre-existing Entity Account Holder; the Reporting KSA Financial Institution reviews the information it maintains for the Account Holder for regulatory or customer relationship purposes. The Reporting KSA Financial Institution reviews its account files and any publicly available information (e.g. the IRS FFI list) to try to reasonably determine if the entity is a Reportable Person. The Reporting KSA Financial Institution subsequently asks the Account Holder to provide a self-certification. The Account Holder provides a self-certification stating that it is a Passive NFE and identifies three Controlling Persons that are Reportable Persons. As Controlling Persons that are Reportable Persons have been identified, the entity account shall be treated as a Reportable Account.



#### 8.4.4 Identifying the Controlling Persons of the Passive NFE

A distinction may be made between Pre-existing Entity Accounts having an aggregate balance or value exceeding an amount of USD1million and those that do not in relation to the identification of Controlling Persons.

Where the account balance or value does not exceed USD1million information collected and maintained pursuant to AML/KYC procedures maybe relied upon to determine the identification of Controlling Persons of a Passive NFE.

Where the account balance or value exceeds USD1million the Reporting KSA Financial Institution may rely on a self-certification form from either the Account Holder or the Controlling Person. If the self-certification by the Entity or the Controlling Persons show the Controlling Persons are resident in a Reportable Jurisdiction, the Controlling Persons will be reported. If not, no reporting is required until a change of circumstances.

The self-certification with respect to the Controlling Person is valid only if it satisfies the criteria outlined in Section 5.4.

The self-certification may be pre-populated by the Reporting KSA Financial Institution to include the Controlling Person's information, except for the jurisdiction(s) of residence for tax purposes, to the extent readily available in its records.

In case such self-certification is not provided, the Reporting KSA Financial Institution must rely on publicly available information or information it has in its records with respect to the Passive NFE and for each Controlling Person to determine whether it is a Reportable Person. If the Reporting KSA Financial Institution has none of such indicia in its records, then no further action is needed until there is a change of circumstances.

This is illustrated in Appendix 2 below.



### 8.4.5 Controlling Persons

Controlling Persons are defined as natural persons who exercise control over an entity. In determining control, Reporting KSA Financial Institutions should look at documentation collected for AML/KYC purposes. Control over an Entity is generally exercised by the natural person(s) who ultimately has a controlling ownership interest (by vote or value) in the Entity. Where no natural person(s) exercises control through ownership interests, the Controlling Person(s) of the Entity will be the natural person(s) who exercises control of the Entity through other means for example the natural person(s) who holds the position of senior managing official.

Where the entity is a trust, the Controlling Person will include:

- The trustees;
- The settlor;
- The protector (if any);
- The beneficiaries or class of beneficiaries; and any other natural person exercising ultimate effective control over the trust.

In the case of other legal arrangements other than a trust, this would mean persons in equivalent or similar positions. The term "Controlling Persons" must be interpreted in a manner consistent with the Financial Action Task Force.

#### Example 1

Mr. J is tax resident in the UAE (a Reportable Jurisdiction). He establishes a corporation in KSA that he wholly-owns and controls. The corporation is considered a Passive NFE. A Financial Account for the corporation is opened with a Reporting KSA Financial Institution on 1 March 2018. The corporation is not a Reportable Person by being incorporated in KSA, however, since Mr. J is a Controlling Person who is tax resident in the UAE (which is a Reportable Jurisdiction for this example), the account is a Reportable Account.



## Example 2

Same as Example 1 except that Mr. J and another individual, Mr. K each own 50% of the shares of the corporation. Mr. K resides in KSA and is a Controlling Person. The corporation and Mr. K are both residents in KSA and are therefore not Reportable Persons. However, since Mr. J is a Controlling Person who resides in a Reportable Jurisdiction (UAE), the account is a Reportable Account.





## 8.5 Timing of reviews

If the Reporting KSA Financial Institution does not apply the de Minimis threshold, all Pre-existing Entity Accounts must be reviewed (and a status must be established for such accounts) by 31 December 2018.

If the Reporting KSA Financial Institution elect to apply the threshold de Minimis, the Pre-existing Entity Accounts with an account balance or value that exceeds US\$ 250,000 at 7 September 2017 must be reviewed (and a status must be established for such accounts) by 31 December 2018.

Pre-existing Entity Accounts that are identified as reportable are only reportable from the year in which they are identified as such.

For Pre-existing Accounts being reviewed the data being considered should be that which is held at the date of the review. However, if the Reporting KSA Financial Institution has archived data from the point when the account is identified as reportable then this may also be used, provided that any subsequent changes in circumstance are included in the review process.

Where a self-certification is requested the Account Holder will be given 90 days to provide this. If not provided, a final communication should be sent stating that the Account Holder will be reported as a Reportable Account.

### Example 1

A Reporting KSA Financial Institution maintains a Financial Account held by an entity with a balance of US\$500,000 on 7 September 2017. The Reporting KSA Financial Institution applies the US\$250,000 de Minimis threshold applicable to Pre-existing Entity accounts. As the account is above the de Minimis threshold, the account must be reviewed by 31 December 2018, to determine whether it is a Reportable Account. If the account is determined to be a Reportable Account, the Reporting KSA Financial Institution is required to report the account with respect to 2018 on a prescribed information return filed with ZATCA in 2019.



## 8.6 Change of circumstances

Should there be a change of circumstances with respect to a Pre-existing Entity Account that causes the Reporting KSA 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 KSA Financial Institution should re-determine the status of the account in accordance with the procedures detailed above in Section 8.4

## 8.7 Account closures

Where a Pre-existing Entity Account closes prior to the Reporting KSA Financial Institution carrying out its due diligence procedures, then the account is still required to be reviewed. Where following the due diligence procedures the account is found to be reportable, the Reporting Financial Institution must report the information as required under Chapter 10. This will not apply to accounts that are closed on or before 6 September 2017.

Where a Reporting KSA Financial Institution cannot determine the status of the Account Holder as an Active NFE or a Financial Institution, other than non-participating professionally managed investment entity, as a self-certification is not provided, or it cannot be determined from publicly available information, the Reporting KSA Financial Institution must presume the entity is a Passive NFE. Therefore, the entity account be reportable in all jurisdictions where indicia is identified for the Controlling Person(s).



## 8.8 Information in possession/publicly available information

Where the Financial Institution has carried out the review of regulatory and customer relationship information and has indications that the Account Holder is resident in a Reportable Jurisdiction it may consider information in its possession, or which is publicly available to reasonably determine that the Account Holder is not a Reportable Person with respect to such Reportable Jurisdiction. Such information will include (but is not limited to) the following:

- Information published by an authorized government body of a jurisdiction. For example, the list of Foreign Financial Institutions published by the US tax administration;
- Information in a publicly accessible register maintained or authorized by an authorized government body of a jurisdiction;
- Information disclosed on an established securities market;
- Information previously recorded in the files of the Financial Institution;
- A publicly accessible classification based on a standardized industry coding system. This will include any coding system employed by the Reporting KSA Financial Institution, which is based on such a standardized industry coding system in accordance with the requirements of the CRS.

Where a Reporting KSA Financial Institution relies on such information it must retain a notation of the type of information reviewed and the date the review was carried out.

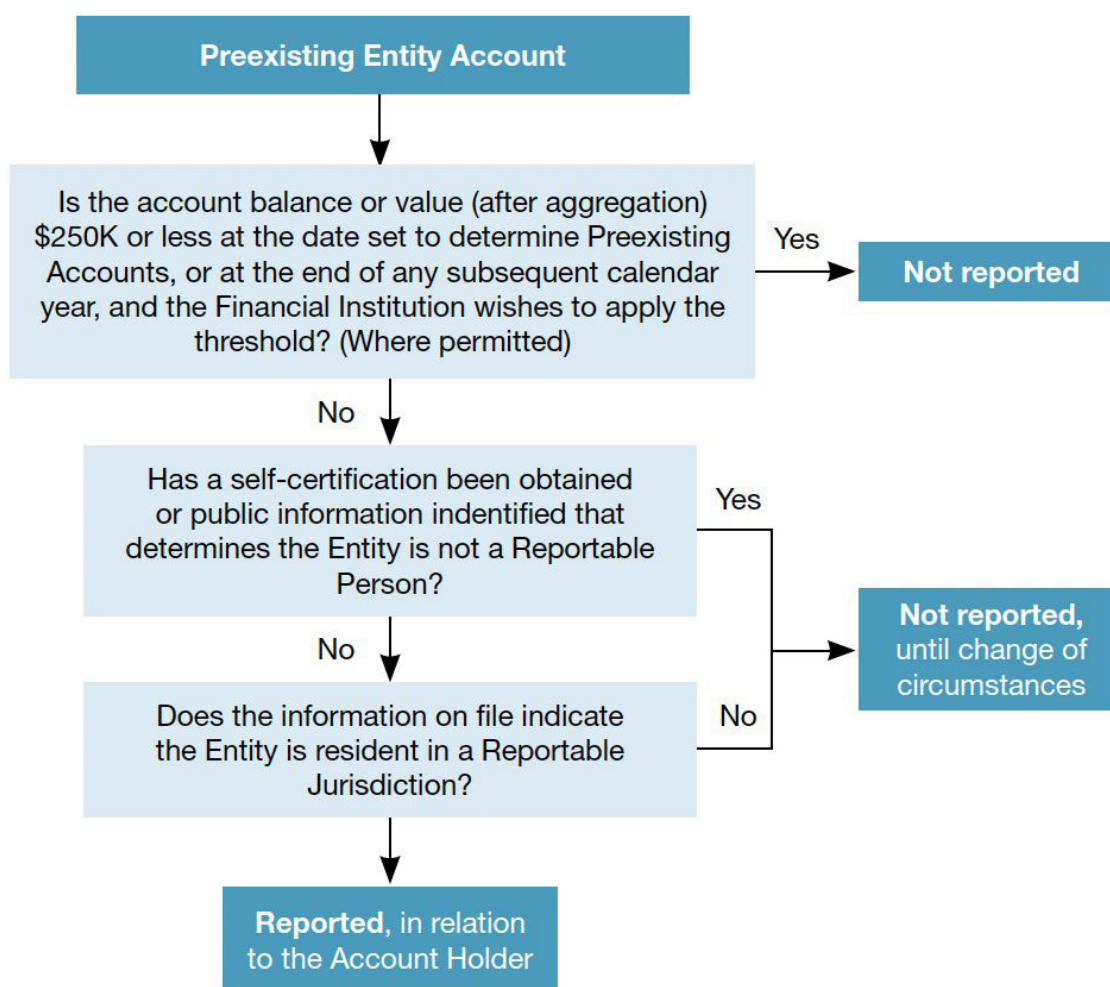
### 8.8.1 Standardized Industry Codes

A Reporting KSA Financial Institution can rely on information previously recorded in its files in addition to standardized industry codes in determining the status of an entity. For these purposes, a standardized industry code may be any coding system employed by the Reporting KSA Financial Institution. These include standard industrial classification ("SIC") and the North American industry classification system ("NAICS").

Industry code means a code that is part of a coding system used by the Reporting KSA Financial Institution to classify Account Holders by business type.



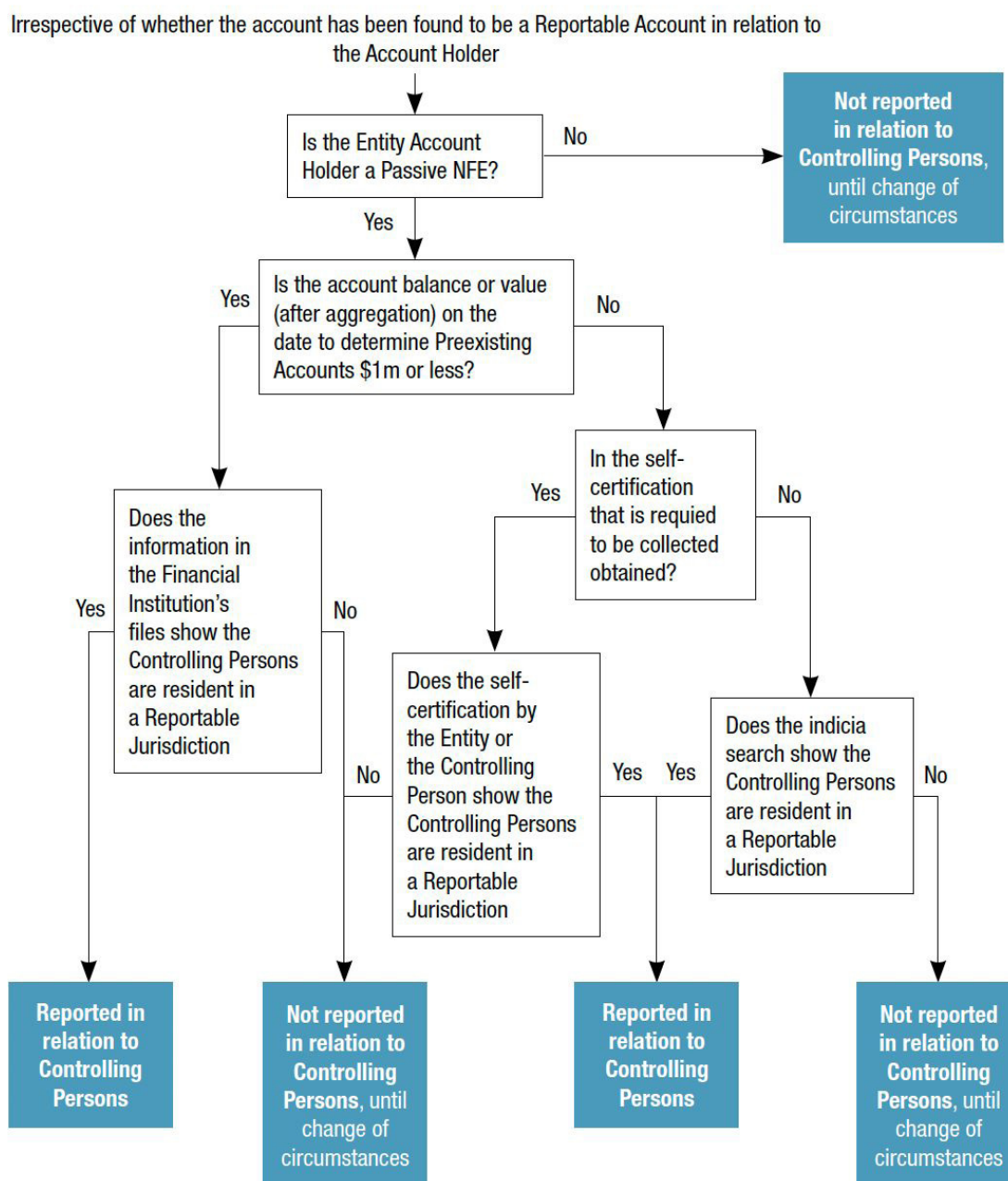
## Appendix 1 - Due diligence procedure for Preexisting Entity Accounts<sup>1</sup>



<sup>1</sup>Standard for Automatic Exchange of Financial Account Information in Tax Matters - Implementation Handbook - Second Edition - Page 85.



## Appendix 2 - Due diligence procedure in relation to Controlling Persons of Passive NFEs<sup>1</sup>



<sup>1</sup>Standard for Automatic Exchange of Financial Account Information in Tax Matters - Implementation Handbook - Second Edition - Page 87.



## 9. New Entity Accounts

### 9.1 Due diligence of new Entity Account Holders

#### 9.1.1 Introduction

Any Financial Account opened by an entity (excluding sole proprietorships) on or after 8 September 2017 must be classified as a New Entity Account.

The due diligence procedures for New Entity Accounts require that a valid self-certification form must be obtained from the Account Holder (see Chapter 5 on Overarching Due Diligence for further details of the self-certification form collection) unless it can be reasonably determined that the Account Holder is not a Reportable Person, based on information in its possession or that is publicly available (see below in Section 9.2)

If the self-certification form establishes that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, then the Reporting KSA Financial Institution must treat the account as a Reportable Account, until a change of circumstances occurs. With respect to Entity Account Holders, Reporting KSA Financial Institutions must determine:

- whether a New Entity Account is held by one or more entities that are Reportable Persons; and
- whether a New Entity Account is held by one or more entities that are Passive NFEs with one or more Controlling Persons who are Reportable Persons.

The wider approach has been applied in KSA which states that Reporting KSA Financial Institutions are permitted to identify the country in which an entity is tax resident irrespective of which country that is.

This section contains the due diligence procedures for New Entity Accounts and provides for the collection of a self-certification form (and confirmation of its reasonableness).



### 9.1.2 New account opening for Pre-existing entity Account Holders

An entity may have a pre-existing account (i.e. an account opened on or before 7 September 2017) with the Reporting KSA Financial Institution and may subsequently open a new account with the same Financial Institution on or after 8 September 2017. In such a case, there is no need to re-document the Account Holder, if the Reporting KSA Financial Institution can confirm:

- The appropriate due diligence requirements have been carried out, or are in the process of being carried out, for the first account;
- The opening of the new account does not require the provision of new, additional or amended customer information;
- With respect to a Financial Account subject to AML/KYC procedures, the Reporting KSA Financial Institution is permitted to satisfy those procedures for the new account by relying on the procedures performed about the pre-existing account; and
- The Reporting KSA Financial Institution computerized systems can link the new account held by the Account Holder and allow the account balances or values to be aggregated.

This means that the standards of knowledge to be applied, the change of circumstances rules and aggregation requirements will apply to all accounts held by the Account Holder.

Where the Reporting KSA Financial Institution has reason to know that the Account Holder's status is inaccurate in relation to one account, it is considered to know that same concern exists about other accounts held by the Account Holder. In such cases, since the KSA Reporting Financial Institution knows, or has reason to know, that the original self-certification form is incorrect or unreliable, it cannot rely on the original self-certification form and must obtain a valid self-certification form that establishes the residence(s) for tax purposes of the Account Holder.



## Example

An entity holds an account. The entity opens a new account at the same Reporting KSA Financial Institution and the new account does not require the provision of new, additional or amended customer information. The Reporting KSA Financial Institution can link the new account to the pre-existing account by the Tax Identification Number ("TIN"). The new account can therefore be treated as a continuation of the first account and therefore a self-certification form is not required to be collected from the Account Holder.

A Reporting KSA Financial Institution cannot rely upon the US\$250,000 monetary thresholds for Pre-existing entity accounts to exempt New entity accounts from due diligence and reporting requirements under the CRS.

Please note this section also applies to "account transfers" where an Account Holder closes the pre-existing account and replaces it with a new account.





## 9.2 Reportable Persons

The Reporting KSA Financial Institution must determine whether the entity is a Reportable Person. A Reportable Person is an entity that is resident in a Reportable 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.

A Reportable Person does not include entity Account Holders with the following CRS classifications:

- a corporation the stock of which is regularly traded on one or more established securities markets;
- any corporation that is a Related Entity of a corporation outlined in the point immediately above;
- a Governmental Entity;
- an International Organization;
- a Central Bank; or
- a Financial Institution (excluding a professionally Managed Investment Entity in a non-CRS Participating Jurisdiction).

To determine whether an entity is a Reportable Person, the KSA Reporting Financial Institution is required to complete the following upon account opening;

- obtain a self-certification form that allows the KSA Reporting Financial Institution to determine the Account Holder's residence(s) for tax purposes and the CRS legal entity classification; and
- confirm the reasonableness of such self-certification form, based on the information obtained by the KSA Reporting Financial Institution about the opening of the account, including any documentation pursuant to AML/KYC procedures.



An exception from the requirement to obtain a self-certification form is where the KSA Reporting Financial Institution can reasonably determine that the Account Holder is not a Reportable Person, based on information in its possession or that is publicly available.

The Reporting KSA Financial Institution must not know or have reason to know that the self-certification form or information other information gathered about account opening and AML/KYC procedures, is incorrect or unreliable - if the self-certification form fails the reasonableness test, a new valid self-certification form must be obtained. Reporting KSA Financial Institutions are not, however, expected to carry out an independent legal analysis of relevant tax laws to confirm the reasonableness of a self-certification form. See Chapter 5 Section 5.4 for examples of applying the reasonableness test.

This process is summarized in Appendix 1 of this chapter.



### 9.3 Collection of a self-certification form

It is expected that the Reporting KSA Financial Institution will maintain account opening processes that facilitate the collection of a self-certification form at the time of the account opening, whether that process is done face-to-face, online or by telephone. The account opening process must allow the Reporting KSA Financial Institution to determine the Account Holder's residence(s) for tax purposes and the Reporting KSA Financial Institution must confirm the reasonableness of such self-certification form based on the information obtained about the opening of the account, including any documentation collected pursuant to AML/KYC procedures.

For the self-certification form to be valid, the Standard sets out that it must be signed (or otherwise positively affirmed, by a person authorized to sign on behalf of the Entity, be dated, and must include the Account Holder's: name; address; jurisdiction(s) of residence for tax purposes and TIN(s).

If an account is jointly held by an individual and an entity, then both the individual and entity new account due diligence requirements (see Chapter 7 for new individual account requirements) in relation to that account must be applied.

There is an exception to the requirement to obtain a self-certification form where the Reporting KSA Financial Institution can reasonably determine, based on information in its possession or that is publicly available (such as information published by an authorized government body or standardized industry coding system), that the Account Holder is not a Reportable Person (see Section 9.2 of this chapter).



### 9.3.1 Timing of collection of a self-certification form

The self-certification form must be collected from the Account Holder before the account is opened. There may however be circumstances where it is not possible or practical to obtain a self-certification form on 'day one' of the account opening process, it is however expected that such circumstances are reasonably rare and should not ordinarily occur.

In such circumstances, the self-certification form should be obtained as soon as possible and in any case within a period of 90 days after the Reporting KSA Financial Institution has knowledge that a new account has come into existence. This must be in sufficient time for the account to be reported, where the Account Holder is a Reportable Person, for the period in which the Reporting KSA Financial Institution identifies the account. Reporting KSA Financial Institutions must make proper endeavors to obtain the self-certification form in these circumstances. Reporting KSA Financial institutions likely to be affected by these circumstances must have processes and procedures in place to ensure that self-certification forms are sought from such Account Holders.

### 9.3.2 Timing of validation of a self-certification form

The Reporting KSA Financial Institution should endeavor to collect and validate self-certification forms prior to account opening. Where a self-certification form is obtained at account opening but validation of the self-certification form cannot be completed because it is a 'day two' process undertaken by a back-office function, the self-certification form should be validated within a period of 90 days from the opening of the account. Validation of a self-certification form involves the Reporting KSA Financial Institution performing the validity (completeness) and reasonableness (based on the information obtained about the opening of the account, including any documentation collected pursuant to AML/KYC procedures) tests on the self-certification form to ensure the form meets the minimum acceptable requirements under the CRS.



When the self-certification form cannot be validated (e.g. the self-certification form is missing the TIN, or the form has not been positively affirmed by the Account Holder), a new self-certification form should be requested and validated within a period of 90 days from the opening of the account.

Where the Reporting KSA Financial Institution is unable to obtain a valid self-certification form within 90 days of opening the account, and there are no indicia of residence in any jurisdiction, then the account is not reportable under the CRS. However, if there are indicia of residence in a Reportable, then the account is reportable under the CRS.

Refer to the Overarching Due Diligence chapter for details on the format of the self-certification form and validity checks that are required to be performed on self-certification forms collected from entities.



### 9.3.3 Determining whether Account Holder is a Reportable Person

A Reporting KSA Financial Institution must first determine whether the Account Holder is a Reportable Person. Once this has been determined, the Reporting KSA Financial Institution must determine whether, for certain Account Holders (e.g. Passive NFEs), whether the entity is also controlled by a Reportable Person.

A Reporting KSA Financial Institution can, either via a self-certification form or reasonably determine based on information in its possession, or information that is publicly available, determine that the Account Holder is not a Reportable Person. For example, where such information shows that the entity is a corporation that is publicly traded, or a Governmental Entity.

If the Reporting KSA Financial Institution reasonably determines based on information in its possession, or information that is publicly available, that the Account Holder is not a Reportable Person, then no further information is required from the Account Holder, until a change in circumstance occurs. It will be considered that the account is not a Reportable Account.

In all other cases, the Reporting KSA Financial Institution must determine whether the entity is a tax resident in a Reportable Jurisdiction and its CRS legal entity classification by obtaining a self-certification form and confirming the reasonableness of such self-certification form based on the information obtained by the Reporting KSA Financial Institution about the opening of the account, including information collected according to the AML/KYC procedures.

If the self-certification form indicates that the entity Account Holder is tax resident in a Reportable Jurisdiction, the account must be treated as a Reportable Account unless the KSA Reporting Financial Institution reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person. For example, such information can show that the entity is a Depository Institution or is a Government Entity.



### 9.3.4 Determining whether Account Holder tax residency is reasonable

It is possible for an entity Account Holder to be tax resident in more than one jurisdiction. Generally, an entity will be resident for tax purposes in a jurisdiction if, under the laws of that jurisdiction (including tax conventions), it pays or should be paying tax therein because of its place or management or incorporation, or any other criterion of a similar nature, and not only from sources in that jurisdiction. Dual resident entities may rely on tiebreaker rules contained in tax conventions (if applicable) to solve cases of double residence for determining their residence for tax purposes.

Where an entity such as a partnership, limited liability partnership or similar legal arrangement has no residence for tax purposes it shall be treated as resident in the jurisdiction in which its place of effective management is situated or, in the case of a trust, the jurisdiction(s) in which the trustee(s) is/are resident.

If the entity certifies it has no tax residency, the Reporting KSA Financial Institution can rely on the address of the principal office of the entity to determine the tax residence of the Account Holder.

If reasonable efforts (example included in the Glossary) to obtain self-certification form fail, the Reporting KSA Financial Institution is to treat the account as a reportable account for each reportable jurisdiction in which the Account Holder appears to be a tax resident. Information that gives such an appearance includes:

- an address in a reportable jurisdiction;
- a place of incorporation or organization in a reportable jurisdiction; or
- where the entity is a trust, an address of one or more of the trustees is in a reportable jurisdiction.



Participating Jurisdictions, including KSA, are expected to help taxpayers determine, and provide them with information with respect to, their residence(s) for tax purposes. That may be done, for example, through the various service channels used for providing information or guidance to taxpayers on the application of tax laws (e.g. phone, walk-in offices, internet).

The following examples illustrate how an entity Account Holder residence for tax purposes may be determined:

### Example 1

A company is incorporated in Jurisdiction A and has its place of effective management in Jurisdiction B. Under the laws of Jurisdiction, A, residence for tax purposes is determined by reference to place of incorporation. The same applies under the laws of Jurisdiction B. Thus, the company is resident only in Jurisdiction A.

### Example 2

Same facts as Example 1, except that, under the laws of Jurisdiction B, residence for tax purposes is determined by reference to place of effective management. Thus, the company is resident in both Jurisdictions A and B.

### Example 3

Same facts as Example 1, except that, under the laws of Jurisdiction A and B, residence for tax purposes is determined by reference to place of effective management. Thus, the company is resident only in Jurisdiction B.

### Example 4

Same facts as Example 1, except that, under the laws of Jurisdiction A, residence for tax purposes is determined by reference to place of effective management and, under the laws of Jurisdiction B, residence for tax purposes is determined by reference to place of incorporation. Thus, the company is not resident in either Jurisdiction A or B.





### 9.3.5 Use of Standardized Industry Codes

A Reporting KSA Financial Institution can reasonably determine based on information in its possession, or information that is publicly available, determine that the Account Holder is not a Reportable Person. Standardised Industry Codes may be useful to assist with a reasonable determination of whether an Account Holder is a Reportable Person.

In the context of a New Entity Account, the account opening process presents a Reporting KSA Financial Institution with the opportunity to obtain the information necessary to determine the status of an Account Holder without having to refer to a standardized industry code, which presumably would have been assigned on the basis of the same or similar information for New Entity Accounts. Therefore, the coding systems themselves are not thought to be particularly useful.



## 9.4 Passive NFE and Controlling Person(s)

Reporting KSA Financial Institutions must determine whether a new entity Account Holder is a Passive NFE in a Reportable Jurisdiction. If so, the Passive NFE is a Reportable Person irrespective of whether the Controlling Persons are Reportable Person(s).

In addition, Reporting KSA Financial Institutions must determine whether a new entity Account Holder is a Passive NFE with one or more Controlling Persons who are Reportable Persons. If so, the account must be treated as a Reportable Account. In making this determination, the Reporting KSA Financial Institution must follow the guidance below but may do so in the order most appropriate under the circumstances.

### 9.4.1 Determining whether the Account Holder is a Passive NFE

A Reporting KSA Financial Institution should obtain a self-certification form from the Account Holder to establish its status, or instead as an exception, may use:

- information in its possession (such as information collected pursuant to AML/KYC procedures); or
- information that is publicly available based upon which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution.

If the Reporting KSA Financial Institution is unable to obtain a self-certification form from an entity Account Holder or a Controlling Person, the KSA Financial Institution must rely on indicia that it has in its records to determine whether a Controlling Person is a Reportable Person (see Section 6.1.6 for indicia). If the Reporting KSA Financial Institution has no such indicia in its records, no further action is required until there is a change in circumstances that results in one or more indicia with respect to the Controlling Person.

A Professionally Managed Investment Entity resident in a Non-Participating Jurisdiction is treated as a Passive NFE, notwithstanding that it would be treated as a Reporting KSA Financial Institution if it were resident in a Participating Jurisdiction (this ensures that it is not possible for Controlling Persons to avoid reporting by setting up such entities in Non-Participating Jurisdictions).



### 9.4.2 Determining Controlling Persons

For the purposes of determining the Controlling Persons of an Account Holder, a Financial Institution may rely on information collected and maintained pursuant to AML/KYC procedures.

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(is) or class(is) 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.

#### Example 1

In the case of a corporation, a person is considered a Controlling Person of a corporation if they directly or indirectly own or control 25% or more of the corporation. However, where no natural person is identified as exercising control of the corporation, a director or senior official of the corporation is to be treated as the Controlling Person of the corporation.



## Example 2

In the case of a trust, the Controlling Person include its settlors, trustees, protectors (if any), beneficiaries or class of beneficiaries, and any other natural persons exercising ultimate effective control over the trust.

If the settlor, trustee, protector or beneficiary of a trust is an entity, then for the purposes of determining the trust's Controlling Persons, one must look through the chain of control or ownership of any such entity to identify the natural persons exercising ultimate effective control over the entity and, when required, report them as Controlling Persons of the trust.

## Example 3

In the case of a legal arrangement other than a trust, Controlling Persons are persons in equivalent or similar positions.

### 9.4.3 Determining Controlling Person as a Reportable Person

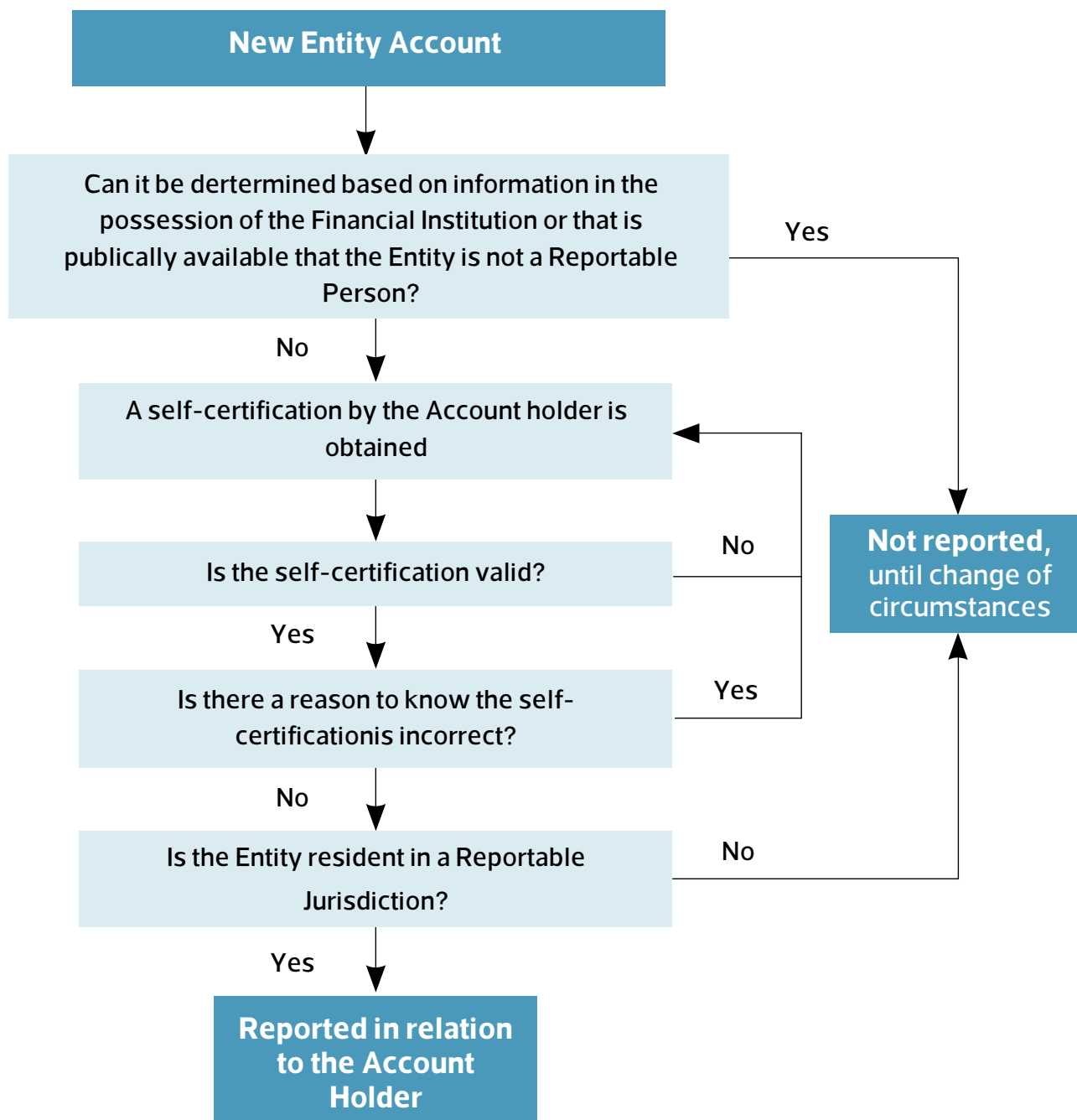
For the purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, the KSA Financial Institution may only rely on a self-certification form from either the entity Account Holder or the Controlling Person.

The CRS does not consider any intermediate entities e.g. another Reporting Financial Institution, in the ownership chain as it is irrelevant for this purpose and therefore, the Controlling Person must be identified by the Reporting KSA Financial Institution.

This is summarized in Appendix 2.



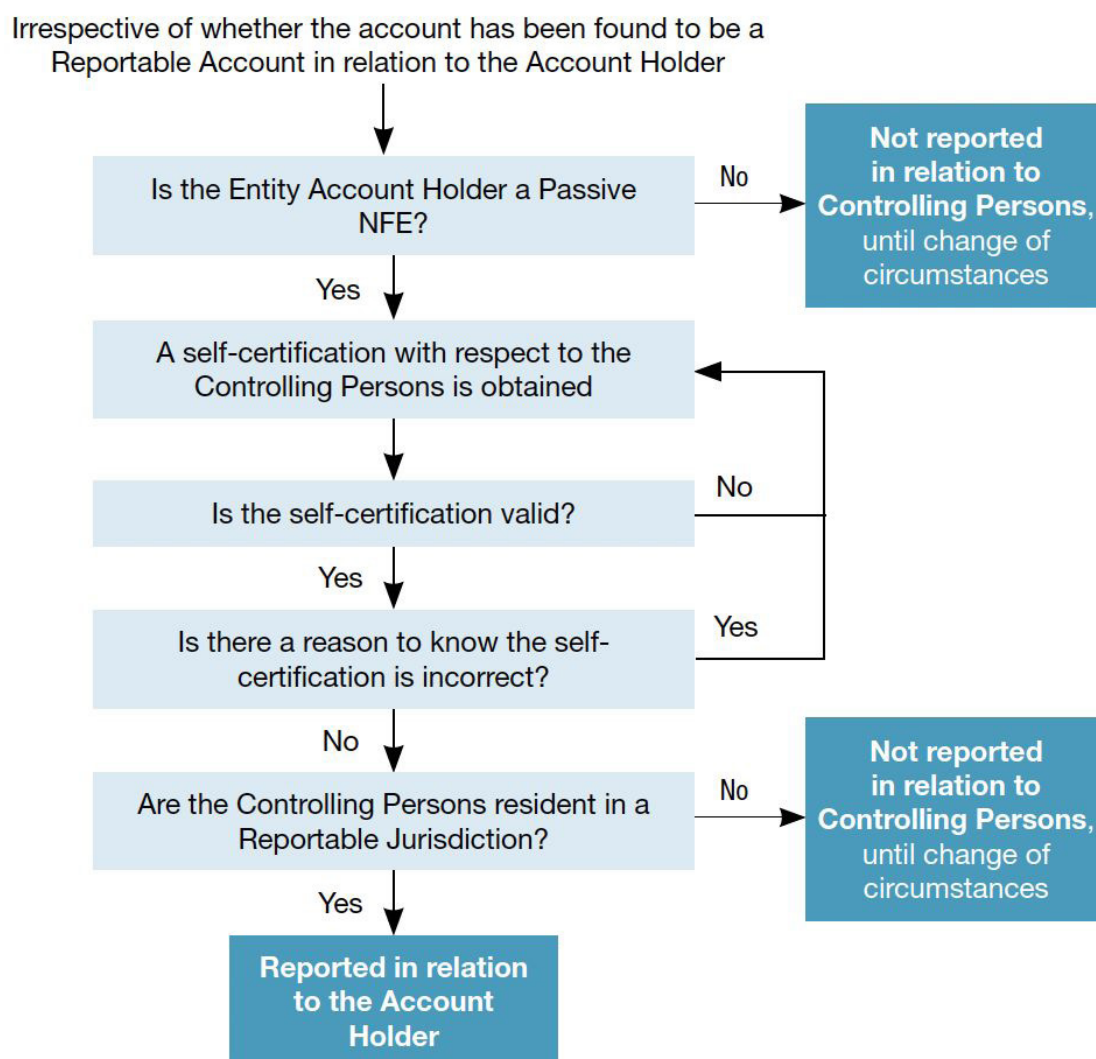
## Appendix 1 - Due diligence procedure for New Entity Accounts<sup>1</sup>



<sup>1</sup>Standard for Automatic Exchange of Financial Account Information in Tax Matters - Implementation Handbook - Second Edition - Page 91.



## Appendix 2 - Due diligence procedure in respect of Controlling Persons for New Entity Accounts<sup>1</sup>



<sup>1</sup>Standard for Automatic Exchange of Financial Account Information in Tax Matters - Implementation Handbook - Second Edition - Page 94.



## 10. Reporting

Once a Reporting KSA Financial Institution has applied the due diligence procedures in respect of the Financial Accounts it holds and has identified Reportable Accounts, it must then report certain information regarding those Reportable Accounts to ZATCA (the KSA Competent Authority).

If no Reportable Accounts are identified then the Reporting KSA Financial Institution must file a nil return to ZATCA via the CRS reporting portal (See Section 10.3.8 for details on nil returns) declaring it has no Reportable Accounts for that calendar year or reporting period.

### 10.1. CRS Reportable Account

A CRS Reportable Account is a Financial Account held by one or more Reportable Persons i.e. an individual or an entity resident in a Reportable Jurisdiction other than categories not considered Reportable Persons, or by a Passive NFE (including a professionally managed Investment Entity resident in a non-participating jurisdiction) of which one or more Controlling Persons are a Reportable Person. Accounts held by Controlling Persons tax resident in non-participating jurisdictions are not considered Reportable Accounts (see Chapter 9 Section 9.2 for definition for Reportable Person).



## 10.2. CRS Reporting Period

### 10.2.1. General Rule

A CRS Reporting Period is a defined duration in time during which a Financial Account must be treated as a CRS Reportable Account.

An account is treated as a Reportable Account as of the date it is identified as such. This is based on the status of the Account Holder determined pursuant to the applicable due diligence procedures consistent with CRS and as outlined in the applicable Chapters of these Guidance Notes.

Information with respect to a Reportable Account must be reported annually in the calendar year following the year to which the information relates.

This means that the Financial Accounts held by a Reportable Person during a given calendar year (or appropriate reporting period<sup>1)</sup> but that is no longer a Reportable Person on 31 December of the same calendar year (or at the end of the reporting period) do not qualify as Reportable Accounts.

Income and proceeds are reportable over the full calendar year unless another appropriate CRS Reportable period would apply in function of the Reportable status of the account.

### 10.2.2. Exceptions to the general rule

In case a Reportable Account is closed during the calendar year (or appropriate reporting period), information with respect to that account (including the closure of that account) must be reported with respect to (part of) the calendar year (or reporting period) of the closure.

I.e. when an account is closed the Reporting KSA Financial Institution must report the fact of the closure but is not required to report the balance or value of the account at closure. Any amounts paid or credited to the account in the reporting period up to the date of closure remain reportable however. (See Section 10.3.9).

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<sup>(1)</sup> Alternative reporting period for Saudi Arabia defined in Article (5) paragraph 2 of the Administrative Rules and Procedures for the Implementation of the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information and the enclosure of the Common Standard on Reporting and Due Diligence for Financial Account Information





### Example 1

An account is opened on 12 September 2017 and becomes a Reportable Account on 15 September 2017. The account ceases to be a Reportable Account on 25 October 2017. As the account ceased to be a Reportable Account before 31 December 2017 it is not required to be reported in 2018 (with respect to the calendar year 2017) or afterwards, until a change in circumstance occurs and it again becomes a Reportable Account.

### Example 2

A Reportable Account is opened on 9 September 2017. However, on 17 December 2017, the Account Holder closes the account. As the account was a Reportable Account between 9 September 2017 and 17 December 2017 and was closed in calendar year 2017, information with respect to that account (including the closure of that account) must be reported in 2018 with respect to the part of calendar year 2017 between 9 September 2017 and 17 December 2017. In this instance, the Reporting KSA Financial Institution must report zero as the account balance or the value and must indicate that the account is closed.

### Example 3

On 1 July 2018, a Reporting KSA Financial Institution identifies a Pre-existing Lower Value Account as a Reportable Account. As the account was identified as a Reportable Account during calendar year 2018, information with respect to that Reportable Account must be reported in 2019 with respect to the full calendar year 2018 and on an annual basis thereafter or until a CIC occurs (see Section [6.1.13] ). This is because Financial Accounts must be reported from the moment they have been identified as such.



## 10.3. Information required to be reported

### 10.3.1. Summary

#	CRS Indicia			
1	Name			
2	Residence Address (or mailing address if different or no residence address available)			
3	Jurisdiction (s) of Residence for tax purposes			
4	Foreign TIN with respect to each Reportable Jurisdiction of residence for tax purposes (if available)			
5	Date of Birth*			
6	Place of Birth*			
7	Account Number (or functional equivalent in the absence of an account number)			
8	Account balance or value			
* (in the case of Individual Account Holders and for each Controlling Person that is a Reportable Person for Entity Account Holders)				
#	Information to be reported by type of Financial Account	Type of Financial Account		
		Custodial Account	Depository Account	Other Accounts
1	Total gross amount of interest paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period)	Applicable	Applicable	N/A
2	Total gross amount of dividends paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period)	Applicable	N/A	N/A



3	Total gross amount of other income generated with respect to assets held in the account paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period)	Applicable	N/A	N/A
4	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 KSA 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	N/A	N/A	Applicable
5	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 KSA Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder	Applicable	N/A	N/A



Other Financial Accounts	
6	<p>Cash Value Insurance Contracts (not including pure term life reinsurance or property and casualty insurance)</p>
	<p>If the account is still in existence at the end of the year the following information must be reported each year:</p> <ul style="list-style-type: none"><li>• The annual amount reported to the policyholder as the «surrender value” of the account; or</li><li>• The “surrender value” calculated by the Specified Insurance Company as at 31 December; and</li><li>• Any partial surrenders taken throughout the policy year.</li></ul> <p>If the Cash Value Insurance Contract is no longer in existence at the end of the year, follow procedures outlined in Section 10.2.2. on account closures.</p> <p><b>Note:</b> - For the total gross amounts paid or credited to the account, this includes all amounts paid or credited to the account and not just those amounts paid or credited by the Reporting KSA Financial Institution that maintains the account.</p>
7	Annuities
	<p>Purchased Life Annuities (PLA) - as KSA PLA do not have a cash/surrender value, there is no account balance to report. A Specified Insurance Company will only be required to report the amount paid out or credited to the policy holder.</p>
8	Deferred Annuities
	<p>In KSA, deferred annuities normally have two stages:</p> <ul style="list-style-type: none"><li>• The accumulation phase where the product is similar to a Cash Value Insurance Contract and should be treated as such for reporting as set out above in Section 10.3.1 - ‘Other Financial Accounts’ #6) ; and</li><li>• The pay-out phase where the annuity becomes a PLA and should be treated as such for reporting as set out above in Section 10.3.1 - ‘Other Financial Accounts’ #7)</li></ul> <p>When a deferred annuity is ending its accumulation phase, some contracts provide the option for the account holder to take the surrender value of contract, instead of converting the account into a PLA; this is the amount that should be reported.</p>



### 10.3.2. Information on the Reporting KSA Financial Institution

Each Reporting KSA Financial Institution must identify itself to ZATCA by providing its name, address, Company Registration Number, TIN<sup>2</sup> and where available and applicable (i.e. not mandatory) Global Legal Entity Identifier (GLEI).

### 10.3.3. Individual that is a Reportable Person

In relation to each Reportable Person that is the holder of a Reportable Account the information to be reported is:

- Name of the Reportable Person;
- Residence Address of the Reportable Person;
- Date of birth<sup>3</sup> of the Reportable Person;
- Place of birth<sup>4</sup> of the Reportable Person;
- Jurisdiction(s) of Tax Residence of the Reportable Person for each Reportable Jurisdiction; and
- TIN or functional equivalent\* (where applicable) for each Reportable Jurisdiction.
- \*refer Section 10.3.5.4 - TIN for details on what constitutes a functional equivalent.

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(2) As per "Information on Tax Identification numbers", the TIN is issued by the General Authority for Zakat and Tax (ZATCA) to all taxpayers and withholding entities (such as government ministries, agencies and departments).

(3) For pre-existing individual accounts, the date of birth is not required to be reported if the date of birth is not in the records of the Reporting Financial Institution and is not otherwise required to be collected by the Reporting KSA Financial Institution under domestic law. However, as per the minimum standards outlined in the local KSA AML law, it is mandatory to collect the date of birth for accounts of individual customers.

(4) For both Preexisting and New Accounts: the place of birth is not required to be reported unless the Reporting KSA 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. However, as per the minimum standards outlined in the local KSA AML law, it is mandatory to collect the place of birth for accounts of individual customers.



#### **10.3.4. Entity that is a Passive NFE (including professionally managed Investment Entity resident in a non-participating jurisdiction)**

In relation to an Entity that is an Account Holder and a Reportable Person, the information to be reported is:

- Name of the legal entity;
- Residence address of the legal entity;
- TIN of the entity or functional equivalent\*; and
- Jurisdiction of Tax Residence of the Reportable Person for each Reportable Jurisdiction.

\*refer to Section 10.3.5.4- TIN for details on what constitutes a functional equivalent.

#### **10.3.5. Controlling Persons of Passive NFE (including professionally managed Investment Entity resident in a non-participating jurisdiction) that are Reportable Persons**

In respect to the Controlling Persons the below information must be reported:

- Name of the Controlling Person;
- Type of Controlling Person;
- Address of the Controlling Person;
- Date of birth<sup>5</sup> of the Controlling Person;
- Place of birth<sup>6</sup> of the Controlling Person;
- Jurisdiction(s) of tax residence of the Controlling Person for each Reportable Jurisdiction and
- TIN(s) or functional equivalent\* (where applicable), for each Reportable Jurisdiction.

\*refer Section 10.3.5.4- TIN for details on what constitutes a functional equivalent.

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(5) For pre-existing individual accounts, the date of birth is not required to be reported if date of birth is not in the records of the Reporting Financial Institution and is not otherwise required to be collected by the Reporting KSA Financial Institution under domestic law. However, as per the minimum standards outlined in the local KSA AML law, it is mandatory to collect the date of birth for accounts of individual customers.

(6) for both Preexisting and New Accounts: the place of birth is not required to be reported unless the Reporting KSA Financial Institution is otherwise required to obtain and report it under domestic law and it is available in the electronically



Apart from the Reportable Person information mentioned in Sections 9.2 the following information regarding the Reportable Account should also be reported:

- The Account Number (or functional equivalent in the absence of an account number);
- 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;
- Depending on the type of account, information in relation to certain types of income and gross proceeds; and
- Explanation of information required to be reported.

#### 10.3.5.1. Name

The CRS schema requires the completion of the data elements for the first name and last name. If an individual's legal name is a mononym or single name, the first name data element should be completed as "NFN" (No First Name) and the last name field should be completed with the Account Holder's mononym.

#### 10.3.5.2. Address

The address to be reported with respect to an account held by a Reportable Person is the latest residence address recorded by the Reporting KSA Financial Institution for the Account Holder. If no residence address is associated with the Account Holder, the address to be reported must be the mailing address that the Reporting KSA Financial Institution has on file.

In the case of an account held by an Entity that is identified as having one or more Controlling Person(s) that is a Reportable Person, the address to be reported is the address of the Entity and the address of each Controlling Person of such Entity that is a Reportable Person.

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searchable data maintained by the Reporting Financial Institution. However, as per the minimum standards outlined in the local KSA AML law, it is mandatory to collect the date of birth for accounts of individual customers.

(7) Alternative reporting period for Saudi Arabia defined in Article (5) paragraph 2 of the Administrative Rules and Procedures for the Implementation of the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information and the enclosure of the Common Standard on Reporting and Due Diligence for Financial Account Information.



### 10.3.5.3. Jurisdiction of Tax Residence

The jurisdiction of tax residence to be reported is the jurisdiction of tax residence identified by the Reporting KSA Financial Institution for the Reportable Person at the end of the relevant calendar year (or other appropriate reporting period<sup>7</sup>). In the case of a Reportable Person that is identified as having more than one jurisdiction of tax residence, the jurisdictions of tax residence to be reported are all the jurisdictions of tax residence identified by the Reporting KSA Financial Institution for the Reportable Person with respect to the relevant calendar year (or other appropriate reporting period).

The OECD Automatic Exchange Portal provides an overview of the tax residency rules<sup>8</sup> applicable in jurisdictions that are committed to automatically exchanging information under the CRS, as provided to the OECD Secretariat by those jurisdictions.

Note: Where an individual is a tax resident in KSA<sup>9</sup> or non-CRS Reportable Jurisdiction , and a CRS Reportable Jurisdiction, the Reporting KSA Financial Institution shall report the individual's tax residency using only the country code of the Reportable Jurisdiction.

### 10.3.5.4. Taxpayer Identification Number (TIN)

Where it has been established that an Account Holder is a Reportable Person or a Controlling Person of a Passive NFE (including a professionally managed Investment Entity resident in a non-participating jurisdiction) who is a Reportable Person, a Reporting KSA Financial Institution is required to obtain a TIN assigned to the Account Holder (if a TIN is issued to all Account Holders in the jurisdiction of the Account Holder) by its jurisdiction of residence and date of birth.

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(8) <http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/taxresidency/#d.en.347760>

(9) <https://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/SaudiArabia-Residency.pdf>





For Pre-existing Individual Accounts that are Reportable Accounts, the TIN or date of birth need only be provided if it is in the records of the Reporting Financial Institution or are otherwise required to be collected by such Reporting Financial Institution under domestic law (e.g. AML/KYC procedures). However, a Reporting KSA 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.

For all New Accounts that are identified as Reportable Accounts, the Reporting KSA Financial Institution must obtain a self-certification from each Reportable person that includes a TIN of each Reportable Person. Controlling Persons of a Passive NFE that are Reportable Persons may provide a TIN and date of birth, either a self-certification provided by the Controlling Persons or a self-certification provided by the Passive NFE.

No TIN must be obtained if a TIN is not issued by the relevant Reportable Jurisdiction or if the Reportable Jurisdiction does not require the TIN to be reported. The OECD guidance pertaining to TINs for Reportable Jurisdictions is available via the following link; <http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/>.

In the instances where a TIN is issued by the relevant Reportable Jurisdiction and is provided by the Account Holder then this must be reported.

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(10) Value Added Tax - Implementing Regulations, Jan 12th, 2018 -- <https://www.vat.gov.sa/sites/default/files/2018-01/20180125.pdf>



#### 10.3.5.4.1. Saudi Arabian TIN

In KSA, a TIN is issued by ZATCA, to all taxpayers (i.e. for individuals and entities that meet the requirements and are considered 'taxable persons' under local KSA law<sup>10</sup>) and withholding entities (such as government ministries, agencies and departments).

The TIN is found on the Tax, Zakat, excise tax or Value Added Tax (VAT) Certificates and invoices and in correspondence between ZATCA and taxpayers or on any type of documents issued by ZATCA to taxpayers.

The KSA TIN Structure is as follows:

- The (first digit) is the GCC Member State;
- The (next eight digits) is a serial number; and
- The next digit is a check digit.

See Section 5.8 for further information on KSA TINs.

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(11) A TIN is considered not to be issued by a Reportable Jurisdiction (i) where the jurisdiction does not issue a Taxpayer Identification Number nor a functional equivalent in the absence of a Taxpayer Identification Number (see paragraph 148 of the Commentary on Section VIII), or (ii) where the jurisdiction has not issued a TIN to a particular individual or Entity

(12) The "records" of a Reporting Financial Institution include the customer master file and electronically searchable information. A "customer master file" includes the primary files of a Reporting Financial Institution for maintaining Account Holder information, such as information used for contacting Account Holders and for satisfying AML/KYC Procedures.

(13) "Reasonable efforts" means genuine attempts to acquire the TIN and date of birth of the Account Holder of a Reportable Account. Such efforts must be made, at least once a year, during the period between the identification of the Pre-existing Account as a Reportable Account and the end of the second calendar year following the year of that identification. Examples of reasonable efforts include contacting the Account Holder via Mail, in-person or by phone, including a request made as part of other documentation or electronically by facsimile or by email; and reviewing electronically searchable information maintained by a Related Entity of the Reporting KSA Financial Institution. Reasonable efforts do not necessarily require closing, blocking, or transferring the account, nor conditioning or otherwise limiting its use.



#### 10.3.5.4.2. Foreign TIN

A foreign TIN or its functional equivalent is a unique combination of letters or numbers, assigned by a jurisdiction to an individual or entity and used to identify the individual or entity for purposes of administering the tax law of that jurisdiction.

The foreign TIN to be reported with respect to an account is the TIN assigned to the Account Holder by its jurisdiction of tax residence (i.e. not by a jurisdiction of source). In the case of a Reportable Person that is identified as having more than one jurisdiction of tax residence, the TIN to be reported is the Account Holder's TIN with respect to each reportable jurisdiction.

For both Pre-existing and New Accounts, a TIN is not required to be reported if either (a) a TIN is not issued<sup>11</sup> by the Reportable Jurisdiction; or (b) the Reportable Jurisdiction does not require the TIN to be collected and as a consequence, a TIN is not required to be reported.

For Pre-existing Individual Accounts that are Reportable Accounts, the TIN need only be provided if it exists in the records<sup>12</sup> of the Reporting KSA Financial Institution or is otherwise required to be collected by such Reporting Financial Institution under domestic law (e.g., AML/KYC procedures). However, a Reporting KSA Financial Institution is required to use reasonable efforts<sup>13</sup> to obtain the TIN(s) and date of birth with respect to Pre-existing Accounts by the end of the second calendar year following the year in which such accounts were identified as Reportable Accounts.

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(14) <http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/>

(15) The "records" of a Reporting Financial Institution include the customer master file and electronically searchable information. A "customer master file" includes the primary files of a Reporting Financial Institution for maintaining Account Holder information, such as information used for contacting Account Holders and for satisfying AML/KYC Procedures.

(16) As per the Rules governing anti-money laundering & combating terrorist financing", third Update 2012 published by the Saudi Arabian Monetary Authority (SAMA).



Where for a New Account the proposed Account Holder fails to provide a TIN or evidence of non-Reportable status before the deadline communicated by the Reporting KSA Financial Institution, the account should be treated as a Reportable Account if there are indicia of residence in a Reportable Jurisdiction other than KSA. If however, there are no indicia of residence in any Reportable Jurisdiction based on current KYC information then the Account is not reportable under CRS.

There is no requirement for a Reporting KSA Financial Institution to verify that the TIN provided is correct. A Reporting KSA Financial Institution will not be held accountable where information supplied by an Individual proves to be inaccurate and the Reporting KSA Financial Institution had no reason to know if the information is incorrect.

The OECD Automatic Exchange Portal provides an overview of the jurisdiction-specific domestic rules<sup>14</sup> governing the issuance, structure, use and validity of TIN or their functional equivalents applicable in jurisdictions that are committed to automatically exchanging information under the CRS, as provided to the OECD Secretariat by those jurisdictions.

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(17) "Reasonable efforts" means genuine attempts to acquire the TIN and date of birth of the Account Holder of a Reportable Account. Such efforts must be made, at least once a year, during the period between the identification of the Pre-existing Account as a Reportable Account and the end of the second calendar year following the year of that identification. Examples of reasonable efforts include contacting the Account Holder via mail, in-person or by phone, including a request made as part of other documentation or electronically by facsimile or by email; and reviewing electronically searchable information maintained by a Related Entity of the Reporting KSA Financial Institution. Reasonable efforts do not necessarily require closing, blocking, or transferring the account, nor conditioning or otherwise limiting its use.

(18) As per the Rules governing anti-money laundering & combating terrorist financing", third Update 2012 published by the Saudi Arabian Monetary Authority (SAMA).



#### **10.3.5.5 Date of Birth of Account Holders or Controlling Persons**

The date of birth of a Reportable Person that is an Account Holder (or a person identified as a Controlling Person) must be reported.

As per CRS, for Pre-existing Individual Accounts that are Reportable Accounts, the date of birth need only be reported if it exists in the records<sup>15</sup> of the Reporting KSA Financial Institution or are otherwise required to be collected by such Reporting Financial Institution under domestic law (e.g., AML/KYC procedures).

However, as per the minimum standards outlined in the local KSA AML law<sup>16</sup>, it is mandatory to collect the date of birth for accounts of individual customers.

A Reporting KSA Financial Institution is required to use reasonable efforts<sup>17</sup> to obtain the TIN(s) and date of birth with respect to Pre-existing Accounts by the end of the second calendar year following the year in which such accounts were identified as Reportable Accounts.

#### **10.3.5.6. Place of birth of the Account Holder or Controlling Person**

As per CRS, the place of birth is not required to be reported for both Pre-existing and New Accounts 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 KSA Financial Institution.

However, as per the minimum standards outlined in the local KSA AML law<sup>18</sup>, it is mandatory to collect the place of birth for accounts of individual customers.



#### **10.3.5.7. Account number or functional equivalent**

The account number to be reported with respect to an account is the identifying number assigned by the Reporting KSA Financial Institution which is used to identify the account within the Financial Institution, or if no such number is assigned to the account, a functional equivalent (i.e. a unique serial number or other number that distinguishes the account from other accounts maintained by the Financial Institution). A contract or policy number would generally be considered to be a functional equivalent of an account number.

As an exception, if the Reportable Account does not have any form of identifying number or code then what should be reported is a description sufficient for the Reporting KSA Financial Institution to identify the Reportable Account held by the named Account Holder in the future.



#### 10.3.5.8. Account balance or value

The account balance or value as of the end of the relevant calendar year must be reported together with the currency in which the balance or value is denominated. If the Reporting KSA Financial Institution however has established a practice for the periodic valuation of accounts other than at the end of the calendar year in the case of Custodial Accounts and other accounts (excluding Depository Accounts), the Reporting KSA Financial Institution may use that period of 12 months ending with the date (or, if more than one, the latest date) in the calendar year on which the Institution values accounts of that description (instead of by reference to the calendar year). The following should be noted:

- The balance or valuation of a Financial Account is the balance or value calculated by the Reporting KSA Financial Institution for purposes of reporting to the Account Holder;
- In respect of a Cash Value Insurance Contract or an Annuity Contract, the account balance or value is the cash value or surrender value of the account. Jurisdictions are free to maintain reporting of that information instead of requiring reporting of the balance or value of the account as of the end of the calendar year or other appropriate reporting period, which can be done by the following provision:

the [highest] average [monthly] account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) during 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;

- The balance or value of an Equity Interest is the value calculated by the Reporting KSA Financial Institution for the purpose that requires the most frequent determination of value, and the balance or value of a Debt Interest is its principal amount; and
- The balance or value of the account is not to be reduced by any liabilities or obligations incurred by an Account Holder with respect to the account or any of the assets held in the account and is not to be reduced by any fees, surrender charges (for insurance and annuity contracts), penalties or other charges for which the Account Holder may be liable upon terminating, transferring, surrendering, liquidating or withdrawing cash from the account.



- For immediate annuities (that is, annuities under which annuity payments have begun), it is appreciated that there is often no on-going account balance or value reported to the Account Holder because the account holder has used the value that had been accumulated to purchase the right to a series of future payments. A Reporting KSA Financial Institution can report the balance or value of such an account as nil if it is not performing surrender value calculations and is not reporting a value to the Account Holder.

When it is not possible to value an account at the end of a particular year, the normal valuation point for the account that falls within the particular year that is nearest to 31 December is to be used.

### Example 1

For a reportable insurance product that is valued at the anniversary date of the opening of the policy, opened for example on 3 June 2018, the product will be valued on 2 June 2019. The 2 June 2019 value will be reported for the 2019 calendar year to ZATCA in 2020.

#### 10.3.5.9. Account balance attribution

##### 10.3.5.9.1. Joint Accounts

Where a Financial Account is jointly held, the balance or value in the account is to be attributed in full to all joint holders of the account.

### Example 1

When a joint account has a balance or value of US\$ 100,000 and one of the individual Account Holders is a Reportable Person, the amount to be attributed to the Reportable Person is US\$ 100,000 account balance/value. A report is made for the Reportable Person; no report is made for the other Account Holder.

If both Account Holders are Reportable Persons, each is attributed the US\$ 100,000 and reports are made for both.

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(19 ) Refer Section 5.9 - 'Acceptable Documentary Evidence' in Chapter 5 - Overarching Due Diligence, for details on the criteria to be considered an acceptable form of Documentary Evidence.





### 10.3.5.9.2. Other instances

The attribution of the entire balance or value of the account is also applicable with respect to the below:

- For an account held by a Passive NFE (including a professionally managed Investment Entity resident in a non-participating jurisdiction) with more than one Controlling Person that is a Reportable Person, each Controlling Person is attributed the entire balance or value of the account held by the Passive NFE (including a professionally managed Investment Entity resident in a non-participating jurisdiction), as well as the entire amounts paid or credited to the account;
- For an account held by an Account Holder that is a Reportable Person and is identified as having more than one jurisdiction of residence, the entire balance or value of the account, as well as the entire amount paid or credited to the account, must be reported with respect to each jurisdiction of residence of the Account Holder;
- For an account held by a Passive NFE (including a professionally managed Investment Entity resident in a non-participating jurisdiction) with a Controlling Person that is a Reportable Person and is identified as having more than one jurisdiction of residence, the entire balance or value of the account held by the Passive NFE (including a professionally managed Investment Entity resident in a non-participating jurisdiction), as well as the entire amount paid or credited to the account, must be reported with respect to each jurisdiction of residence of the Controlling Person; and
- For an account held by a Passive NFE (including a professionally managed Investment Entity resident in a non-participating jurisdiction) that is a Reportable Person with a Controlling Person that is a Reportable Person, the entire balance or value of the account held by the Passive NFE (including a professionally managed Investment Entity resident in a non-participating jurisdiction), as well as the entire amount paid or credited to the account, must be reported with respect to both the Passive NFE and the Controlling Person.



#### 10.3.5.10. Undocumented Accounts

An undocumented account generally arises when a Reporting KSA Financial Institution is unable to obtain information from an Account Holder in respect of a preexisting individual account (see Glossary for definition of undocumented account).

An undocumented Pre-existing Individual account may qualify as a Reportable Account. The curing for such account must be done through collection of a self-certification form or Documentary Evidence<sup>19</sup> If the self-certification form is not received by the time of reporting, the account remains an undocumented account and must be reported as an undocumented account.

If the account is treated as an undocumented account and there are no indicia other than a hold mail instruction, the KSA must be used as the residency country code as no address is available. If the account is treated as an undocumented account and there are no indicia other than a care of address in a reportable jurisdiction, the reportable jurisdiction must be used as the residency country code.

An undocumented account must continue to be reported for subsequent years until its status is resolved via a self-certification form obtained from the Account Holder (and any associated curing documentation that meets the conditions of acceptable Documentary Evidence).

#### Example 1

An account was opened on 1 July 2017 and was identified as a Reportable Account based on pre-existing account due diligence procedures. The Reporting KSA Financial Institution was unable to obtain any curing documentation until 28 October 2017. In such an instance, this account will have been classified as undocumented only until 28 October 2017, as the curing documentation was obtained after that date and prior to 31 December 2017. In this case, this account will be reported in 2018, in respect of calendar year 2017, based on self-certification form and associated documentary evidence and therefore not treated as undocumented in respect of calendar year 2017.



#### **10.3.5.11. Zero or negative account balances**

Even if the account balance or value is equal to "0" or is negative, such an account is still a Reportable Account.\

In case of a negative account balance, the amount to be reported is "0".

#### **10.3.5.12. Financial Institution in the process of being liquidated**

If a Reportable Account is closed due to the liquidation or winding up of the Reporting Financial Institution, information with respect to such account remains annually reportable until the date of closure of the Financial Account by the Reporting KSA Financial Institution in the framework of the liquidation or the winding-up.



### 10.3.6. Currency conversion

The information must be reported in the currency in which the account is denominated and the information reported must identify the currency in which each amount is denominated. In the case of an account denominated in more than one currency, the Reporting KSA Financial Institution may elect to report the information in a currency in which the account is denominated and is required to identify the currency in which the account is reported.

### 10.3.7. Change of Controlling Persons

All Controlling Persons should be reported only if they are still Controlling Persons on the last day of the Reportable Year or on the day of the account closure when the account is closed during the year.

#### Example 1

In case there are two Controlling Persons that are Reportable Persons at the beginning of the year and one of them sells all his shares to the other one in the course of the reporting period, the selling Controlling Person will not have to be reported as Controlling Person on the account of the Passive NFE.

If at the time the Passive NFE is no longer held by any Reportable Controlling Person on 31 December or at the last day of the relevant reporting year, then for that reporting year and any subsequent year the relevant Controlling Persons of the Passive NFE are no longer reportable.



### **10.3.8. Nil Return**

A Reporting KSA Financial Institution that does not maintain any Reportable Accounts for a particular calendar year is still required to file a nil information return for that year with ZATCA.

If a Reporting KSA Financial Institution has applied the CRS due diligence requirements in a calendar year while no Reportable Account has been identified, it should submit a report to ZATCA indicating that it does not have a Reportable Account for that year.

As per Article 6(5) of the 'Administrative Rules and Procedures for applying the Multi-Lateral Agreement' published CRS Regulations, the filing of nil returns by Reporting KSA Financial Institutions is mandatory. A Reporting KSA Financial Institutions should submit nil returns via the ZATCA CRS Electronic Portal.



### 10.3.9. Account closures

In practice, account closing procedures differ between institutions and between different products and accounts. A Reporting KSA Financial Institution can use any reasonable and consistently applied approach to determining when an account is closed.

In the case of an account closure, the Reporting KSA Financial Institution should not report the account balance or value before or at closure, but must report that the account was closed. In determining when an account is "closed", reference must be made to the applicable law in the KSA. If the applicable law does not address closure of accounts, an account will be closed according to the normal operating procedures of the Reporting KSA Financial Institution that are consistently applied for all accounts maintained by such institution. For example, an equity or debt interest in a Reporting KSA Financial Institution would generally be closed upon termination, transfer, surrender, redemption, cancellation, or liquidation. An account with a balance or value equal to zero or that is negative will not be a closed account solely because of such balance or value.

Other than in the context of an account closure, the requirement to report an account for a year is based on the status of the Account Holder at the end of that year. As such, if an Account Holder ceases to be a Reportable Person prior to the end of the year, the accounts held by that Account Holder are not Reportable Accounts for that year. In the case of an account closure, the requirement to report the account for the year in which the account was closed is based on the status of the account holder at the time of closure.



### 10.3.10. Specification of certain data elements

#### 10.3.10.1. Entity Account holder type

Reporting KSA Financial institutions must report the Entity Account Holder type about a Reportable Account using the following data elements:

- CRS101 - Passive NFE with one of more Controlling Persons who are Reportable Persons;
- CRS102 - CRS Reportable Person; or
- CRS103 - Passive NFE that is a CRS Reportable Person.

An account held by a Passive NFE with one or more Controlling Persons who are Reportable Persons must be reported using CRS101. In addition, where the Passive NFE is a Reportable Person with one or more Controlling Persons who are Reportable Persons, it suffices that the account be reported using CRS101.

An entity account held by a Reportable Person that must be reported using CRS102 is limited to an Active NFE that is a Reportable Person.

An account held by a Passive NFE that is a reportable person with no Controlling Persons who are Reportable Persons, must be reported using CRS103.

#### Example 1

A Reportable KSA Financial Institution maintains an account for a Passive NFE that is tax resident in KSA. The entity has a Controlling Person who is a tax resident in a Reportable Jurisdiction. Since the Passive NFE is controlled by a person that resides in a reportable jurisdiction, the account must be reported using CRS101.



### Example 2

A Reportable KSA Financial Institution maintains an account for a Passive NFE that is tax resident in Germany. The entity is controlled by two Controlling Persons who are both tax resident in Reportable Jurisdictions. Since the Passive NFE is controlled by persons who reside in reportable jurisdictions, the account must be reported using CRS101.

### Example 3

A Reportable KSA Financial Institution maintains an account for a charitable organization that is tax resident in a Reportable Jurisdiction. The entity is considered an Active NFE. Since the Active NFE is a Reportable Person, the account must be reported using CRS102.

### Example 4

A Reportable KSA Financial Institution maintains an account for a Passive NFE that is tax resident in a Reportable Jurisdiction. The entity is controlled by a KSA resident and a U.S. resident. Since no Controlling Persons reside in a reportable jurisdiction, the entity account will be reported using CRS103.

#### 10.3.10.2. Controlling Person type

Reporting KSA Financial institutions must report the Controlling Person type about the Reportable Account using the following data elements:

- CRS801 = Direct owner of a corporation or other legal person;
- CRS802 = Indirect owner of a corporation or other legal person (through an intermediary);
- CRS803 = Director or senior official of a corporation or other legal person;
- CRS804 = Settlor of a trust;
- CRS805 = Trustee of a trust;
- CRS806 = Protector of a trust;
- CRS807 = Beneficiary of a trust;





- CRS808 = Other controlling person of a trust;
- CRS809 = Equivalent to a settlor of a legal arrangement other than a trust (e.g. partnership);
- CRS810 = Equivalent to a trustee of a legal arrangement other than a trust (e.g. partnership);
- CRS811 = Equivalent to a protector of a legal arrangement other than a trust (e.g. partnership);
- CRS812 = Equivalent to a beneficiary of a legal arrangement other than a trust (e.g. partnership); or
- CRS813 = Other controlling person of a legal arrangement other than a trust (e.g. partnership).

This data element allows the identification of the type of each Controlling Person. For preexisting entity accounts, where the information is not in the records of the Reporting KSA Financial Institution, and is not otherwise required to be collected by the Reporting KSA Financial Institution under local law, it suffices that the Reporting KSA Financial Institution use «Other Controlling Person of a legal arrangement other than a trust» in the case of other legal arrangement such as a partnership as the option.



#### **10.4. Format and Transmission**

A CRS Portal is in place to allow reporting to ZATCA. Reporting KSA Financial Institutions may submit their CRS returns to ZATCA by uploading the data onto the portal using the CRS XML submission schema on the ZATCA website. Reporting KSA Financial Institutions with few or no Reportable Accounts may manually enter their Reportable Accounts through the use of a form based system.

#### **10.5. Penalties**

Penalties for non-compliance of these regulations are detailed in the Special Regulations for Addressing Failures to Report Information for Tax Purposes in Accordance with the Provisions of Conventions to which the Kingdom of Saudi Arabia is a Party ("Special Regulations"), and outlined in Chapter 12, which will be applicable where a Reporting KSA Financial Institution fails to provide the required information and/or where it provides inaccurate information.



## 11. Compliance

### 11.1. Compliance, monitoring and enforcement

The Ministry of Finance will be responsible for implementing the CRS legislation in the Kingdom of Saudi Arabia (KSA) in relation to the agreement signed between KSA and the KSA exchange partner jurisdictions with respect to exchange relationships between jurisdictions based on the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC) and Multilateral Competent Authority Agreement.

ZATCA is the designated Competent Authority for the KSA and will facilitate the transmission of the relevant reportable information on behalf of Reporting KSA Financial Institutions.

The Saudi Central Bank (SAMA) and Capital Market Authority (CMA) will be the responsible authorities for the administration of the CRS in relation to their licensees. Under CRS, Reporting KSA Financial Institutions will be required to have procedures and systems in place to ensure that Reportable Accounts are identified, the relevant information is collected and the information is then reported to ZATCA for exchange with those jurisdictions that the KSA has agreed to send information to.

ZATCA will serve as the intermediary between SAMA and CMA and the partner jurisdictions for cases of non-compliance by the FIs authorized by them. ZATCA will engage in discussions with appropriate partner jurisdiction officials should concerns be raised in relation to the reporting of a Reporting KSA Financial Institution, which may include notifications where such jurisdiction has reason to believe that an error could have led to incorrect or incomplete information reporting or there is non-compliance with due diligence and reporting requirements.



## 11.2. Effective implementation

In line with the requirements set out in Section IX of the CRS (including associated Commentary) of the CRS jurisdictions should supplement their compliance framework to ensure compliance with CRS and with an effective anti-avoidance rule. This should be designed to prevent persons from adopting practices intended to circumvent the CRS due diligence and reporting procedures. Accordingly, a Reporting KSA Financial Institution must have rules and administrative procedures in place to ensure effective implementation of, and compliance with, the reporting and due diligence procedures set out in CRS including:

1. establishing policies and procedures requiring KSA Reporting Financial Institution 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;
2. effective internal controls, provisions and escalation policies within the Reporting KSA FI to address non-compliance;
3. defining policies to prevent staff from adopting practices intended to circumvent the reporting and due diligence procedures;
4. Establish procedures to ensure compliance with the reporting and due diligence procedures including the following:
  - review of their financial accounts to identify accounts held (and/or, in certain circumstances, controlled) by relevant foreign tax residents;
  - collection of prescribed identity and financial account information about such persons (and accounts);
  - reporting of this information annually to ZATCA to enable ZATCA to exchange this information with the Account Holder's jurisdiction(s) of tax residence if KSA has an AEOI agreement to provide this information to that jurisdiction (or those jurisdictions); and
  - Reporting of prescribed information annually to ZATCA about certain individual accounts that the CRS refers to as being "undocumented accounts" where the Reporting KSA Financial institution has not been able to identify the person's tax residency.



### 11.3. Record Keeping

In addition to CRS due diligence and reporting obligations, Reporting KSA FI should keep records of the steps they have taken and the evidence they have relied upon for the performance of their CRS obligations.

A Reporting KSA Financial Institution shall retain for a period of not less than five years any book, document or other record, including any information stored by electronic means, which relates to the information required to be reported to ZATCA under the CRS. For the avoidance of doubt, this five year period shall commence after the end of the period within which the KSA Reporting Financial Institution must report the information required to be reported to ZATCA.

### 11.4. Minor Errors

If there are administrative or minor errors that may have led to incorrect or incomplete information reporting or resulted in other infringements, the partner jurisdiction may contact ZATCA. ZATCA will then contact SAMA or CMA who will attempt to resolve the matter with the Reporting KSA Financial Institution regulated by them. If necessary, SAMA and CMA will apply KSA law where appropriate to ensure compliance.

Examples of minor errors could include:

1. Data fields missing or incomplete;
2. Data that has been corrupted;
3. Use of an incompatible format.

Where this leads to the information having to be resubmitted, the revised return will have to be submitted via ZATCA.

Continual and repeated administrative or minor errors could be considered as significant non-compliance where they continually and repeatedly disrupt and prevent transfer of the information.



Where a Reporting KSA Financial Institution has a concern that an enquiry from the partner jurisdiction extends beyond an enquiry on the quality or format of the data and potentially presents difficulties in respect of their obligations under relevant KSA data protection law or any other applicable regulations in place e.g. Banking Control Law, Capital Market Law then they should contact SAMA or CMA as appropriate.

For more specific enquiries, for instance regarding a specific individual or entity, the partner Competent Authority will contact ZATCA, who will then contact SAMA or CMA to contact the relevant KSA Reporting Financial Institution. However, ZATCA will contact the concerned KSA Reporting Financial Institution directly in case the issue is only related to quality of data submitted to ZATCA at the time of reporting.

A notified Competent Authority should provide a response or update as soon as possible, and no later than 90 calendar days if having received notice from the other Competent Authority. If the issue has not been resolved, the Competent Authority should provide the other Competent Authority with updates every 90 days.

A notified Reporting KSA FI has 30 of days to respond to a request from ZATCA or SAMA or the CMA on a query.



## 11.5. Significant Non-Compliance

Significant non-compliance may be determined from either a KSA or a partner jurisdiction perspective.

In such an event, the relevant Competent Authority will notify ZATCA regarding the circumstances. If contacted, ZATCA will contact SAMA or CMA to resolve the matter. SAMA or CMA may contact the Reporting KSA Financial Institution and apply the KSA law (including relevant penalties as outlined in the Special Regulations for CRS) where appropriate.

SAMA or CMA will engage with the Reporting KSA Financial Institution to:

- discuss the areas of non-compliance;
- discuss remedies/solution to prevent future non-compliance; and
- agree measures and a timetable to resolve its significant non-compliance.

SAMA or CMA will inform ZATCA of the outcome of these discussions.

Where ZATCA is notified of, or identifies, significant non-compliance of a Reporting KSA Financial Institution by SAMA and/or CMA, they may apply any relevant penalties under the implementing legislation.

The following are examples of what would be regarded as significant non-compliance:

- Repeated failure to file a return or repeated late filing;
- Ongoing or repeated failure to register, supply accurate information or establish appropriate governance or due diligence processes;
- The intentional provision of substantially incorrect information;
- The deliberate or negligent omission of required information; or
- Otherwise active assistance to reportable persons in avoiding reporting obligations.

Reporting KSA Financial Institutions should be able to designate a responsible person that should seek to understand how a business intends to meet its obligations under the legislation and the systems and process that it has put in place. The responsible person(s) should be able to call on support from ZATCA/SAMA/CMA to help them to understand and address any issues identified.



## 11.6. Anti-Avoidance

The Administrative Rules and Procedures for the Implementation of the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information and the enclosure of the Common Standard on Reporting and Due Diligence for Financial Account Information, ratified by Royal Decree n° M/125 of 1/12/1438 H., corresponding to 23/8/2017 ("Administrative Rules") Article 10 includes an anti-avoidance measure which is aimed at arrangements taken by or on behalf of any person to avoid the obligations placed upon them by the CRS.

It is intended that <arrangements> will be interpreted widely and the effect of the rule is that the Administrative Rules will apply as if the arrangements had not been entered.

Examples of such 'arrangements' are:

- Splitting up accounts to avoid classification as a High-Value account;
- Advising account holders to close, transfer, or withdraw from their accounts to avoid re-reporting;
- Advising a customer to maintain an account with a Related Entity in a Non-Participating Jurisdiction while offering to provide services and retain customer relations as if the account was maintained by the Reporting Financial Institution itself;
- Intentional failures to disclose a known CRS reportable accounts;
- Advising account holders to remove CRS indicia from their account information;
- Facilitating the manipulation of year-end amounts such as account balances or values to avoid reporting or being reported on;
- Individuals or entities parking balances from other Reportable Accounts with Qualified Credit Card Issuers for a short period at the end of the year to avoid reporting;
- Repeated failure to file a return or repeated late filing;
- Ongoing or repeated failure to register, supply accurate information or establish appropriate governance or due diligence processes;





- The intentional provision of substantially incorrect information;
- The deliberate or negligent omission of required information;
- Deliberately not creating any electronic records (so that an electronic search will not yield any results);
- Maintains computerised systems artificially disassociated (to avoid the account aggregation rules); or
- Proven systematic errors in relation to IT systems failures

Reporting KSA Financial Institutions should ensure employees are educated on CRS and no policy exists within the institution to help with the avoidance of CRS.

A Reporting KSA Financial Institution will be responsible for information it knows or has reason to know. However, where any non-compliance or similar event is established to be the act of an individual and the Reporting KSA Financial Institution has made all necessary arrangements to avoid such non-compliances, such FI shall not be held responsible for these acts.

A Reporting KSA Financial Institution will be responsible for implementation of adequate internal procedures to ensure compliance with CRS requirements. The Reporting KSA Financial Institution may be subject to a periodic regulatory audit or review to verify compliance, which may be performed as part of a regular tax audit or as a separate inquiry or review, arising from other situations where audits/reviews would be conducted which would include for instance an increase in undocumented accounts.



## 12. Fines and Penalties

### 12.1. Introduction

Fines and penalties have been introduced as outlined in the Special Regulations or Addressing Failures to Report Information for Tax Purposes in Accordance with the Provisions of Conventions to which the Kingdom of Saudi Arabia is a Party or as defined under applicable local laws, to assist with achieving CRS compliance and to address non-compliance. CRS obligations and responsibilities cover:

- KSA Financial Institutions; and
- Account Holders (and other persons connected with accounts - such as intermediaries that hold funds for other persons and Controlling Persons).

### 12.2. Penalties Regime - Financial Institutions

Any penalties shall be applied in line with those defined by the Special Regulations. The CRS penalties regime is separate from any other potential penalties that may be enforced by the SAMA, CMA and ZATCA, as applicable.

Reporting KSA Financial Institutions that fail to undertake their due diligence obligations, fail to report the requisite information, report inaccurate or false information, or breach their record keeping obligations, may be subject to penalties.

There may be mitigating circumstances? a Reporting KSA Financial Institution may present as a defense in front of the judicial competent office in accordance with applicable laws which may be considered in the application? of any penalties:

That the failure was due to circumstances beyond the Reporting KSA Financial Institution's control; and

- Evidence that the Reporting KSA Financial Institution made reasonable efforts to meet its CRS requirements (including making reasonable efforts to correct any failure).



- The expression “reasonable efforts” is not explicitly defined in the CRS or domestic tax legislation. Generally, “reasonable” is what is fair, proper or appropriate in the circumstances. The “reasonableness” concept can also be found in the CRS due diligence procedures as well as being a familiar legal concept. For example, in the CRS a Reporting KSA Financial Institution:
  - cannot rely on documentary evidence or a self-certification that it has reason to know is incorrect or unreliable<sup>(20)</sup>;
  - must undertake a “reasonableness” review of all new account self-certifications<sup>21</sup>; and (needs to improve)
  - must make reasonable efforts to obtain TINs (or functional equivalent) and date of birth information for pre-existing accounts (i.e. of relevant foreign tax residents that hold or control such accounts) within two years of the end of the reporting period when an account is identified as being held or controlled by a Reportable Person. The CRS Commentary provides guidance of what is “reasonable” in this context<sup>22</sup>.

More simply, “reasonable effort” should be assessed in terms of what a prudent Reporting KSA Financial Institution would consider appropriate in the same or similar circumstances.

An assessment of whether a Reporting KSA Financial Institution has made “reasonable efforts” will depend on the consequences such as the nature of the failure/error (including whether reasonable procedures were in place) and how difficult it would be to rectify the error.

What may constitute “reasonable efforts” may also depend on the type of account:

In the case of pre-existing accounts for instance, “reasonable efforts” means genuine attempts to acquire the TIN and date of birth of the Account Holder of a Reportable Account.

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(20) OECD Standard for Automatic Exchange of Financial Account Information in Tax Matters, Second Edition, CRS Commentary p. 149-152

(21) OECD Standard for Automatic Exchange of Financial Account Information in Tax Matters, Second Edition, CRS Commentary p. 133

(22) OECD Standard for Automatic Exchange of Financial Account Information in Tax Matters, Second Edition, CRS Commentary p. 102-104



Such efforts must be made, at least once a year, during the period between the identification of the Preexisting Account as a Reportable Account and the end of the second calendar year following the year of that identification.

Examples of reasonable efforts include contacting the Account Holder (e.g. by mail, in-person or by phone or electronically (e.g. by facsimile or by e-mail)), or by a request made as part of other documentation AND by electronically (e.g. by facsimile or by e-mail); and reviewing electronically searchable information maintained by a Related Entity of the Reporting Financial Institution, in accordance with the aggregation principles set forth in paragraph C of Section VII of the CRS.

However, reasonable efforts do not necessarily require closing, blocking, or transferring the account, nor conditioning or otherwise limiting its use as these actions are not explicitly defined in the CRS or domestic law.

For new account due diligence, the Commentary details more stringent requirements. For example, that valid self-certifications be obtained for all new accounts.



### 12.3. Penalties for failure to meet CRS requirements

The CRS is concerned with Reporting KSA Financial Institutions obtaining and (where relevant) reporting “financial account” information. In this context, a “failure” would generally be an error that relates to the failure to carry out sufficient due diligence or reporting in relation to a reportable account.

The following principles are relevant when determining what constitutes a “failure” in this regard:

- If a KSA Reporting Financial Institution fails to carry out due diligence on a particular account and, as a result of that error, does not report the account, essentially, a result of the due diligence failure;
- If a KSA Reporting Financial Institution fails to obtain a self-certification for a new account, subject to the “reasonable efforts” defense being applied;
- If a KSA Reporting Financial Institution signs or otherwise positively affirms a false self-certification;
- If a KSA Reporting Financial Institution fails to keep records of the due diligence procedures performed under the Regulations, or fails to keep them for a period of six (6) years pursuant to the requirements of the Regulations;
- If a KSA Reporting Financial Institution fails to report the information required to be reported in terms of these Regulations; or
- If a KSA Reporting Financial Institution fails to report the information required to be reported in terms of these Regulations in a complete, accurate or timely manner.

The nature and extent of penalties applicable in the case of a Reporting KSA FI failing to meet its CRS obligations, will be based on those mentioned in the Special Regulations for CRS and any applicable local laws in KSA (e.g. Banking law).



## 12.4. Penalties for a lack of reasonable care

The concept of “reasonable care” as applied under KSA law should be applied. What will amount to taking reasonable care will be dependent upon the facts and circumstances of each case. As a general guide, it will be determined in the context of the degree of caution and concern which a prudent Reporting KSA Financial Institution would use in similar circumstances.

A Reporting KSA Financial Institution that knowingly does not comply with its CRS obligations could (depending on the circumstances) be liable for a penalty for the following types of offences:

- Knowingly not keeping documents required to be kept by local law(s);
- Knowingly not providing information to ZATCA when required to do so by local law(s).  
This is subject to a defence that can apply if the Reporting KSA Financial Institution does not have the information in its knowledge, possession, or control; or
- Knowingly providing altered, false, incomplete or misleading information to ZATCA in respect of its CRS obligations.



## 12.5. Penalties Regime - Information Providers

As noted above, Reporting KSA Financial Institutions have obligations to undertake due diligence on their accounts to identify accounts held (and/or, in the case of Passive NFEs, Controlling Person(s)) by relevant foreign tax residents, to collect prescribed information about such persons, and to report prescribed identity and financial account information about those persons (and accounts) to ZATCA. Reporting KSA Financial Institutions are potentially subject to penalties if they do not comply with these obligations.

As part of this due diligence process, a Reporting KSA Financial Institution may (depending on the type of account) be required to take the following steps to identify relevant foreign tax residents:

- Request self-certifications and other information from Account Holders (including a Passive NFE Account Holder about its status or the status of its Controlling Person (s)) - i.e. about whether such Account Holders/Controlling Persons are relevant foreign tax residents;
- Request and obtain information from a person acting on behalf of an Account Holder (e.g. intermediary or nominee that is not the Account Holder) about the Account Holder and (if the Account Holder is a Passive NFE) the Account Holder's Controlling Person(s) - i.e. about whether such Account Holders/Controlling Person are relevant foreign tax residents; and
- Request a self-certification form and other information from a Controlling Person of a Passive NFE - i.e. about whether the Controlling Person is a Reportable Person.

The Reporting KSA Financial Institution will request this information so it can determine whether the account is held (or controlled) by a relevant foreign tax resident and obtain information about such accounts that it may need to report.

If an information provider does not comply with these requirements, they can be subject to a penalty (subject to various defenses, outlined below) for the following offences:



- Providing false information, other than a self-certification, relating to the information provider or to another person or entity;
- Signing or otherwise affirming a false self-certification for the information provider;
- Providing a false self-certification for another person or entity;
- Failing to provide information, other than a self-certification, relating to the information provider within a reasonable time after receiving a request for the information;
- Failing to sign, or otherwise affirm, and provide a self-certification related to the information provider within a reasonable time after receiving a request;
- Failing to provide information, other than a self-certification, relating to another person or entity within a reasonable time after receiving a request;
- Failing to provide a self-certification relating to another person or entity within a reasonable time after receiving a request obliging the self-certification to be provided; and
- After providing a person or entity with a self-certification or other information, failing to inform the person or entity of a material change in the circumstances relating to the self-certification or information within a reasonable time after becoming aware of the change.
- The above penalties are subject to the following defenses:
  - A “no fault” defense where the information is within the control of the information provider, but where the information provider is not at fault; and
  - A “reasonable efforts” defense where the information relates to another person or entity and is not within the control of the information provider (e.g. an intermediary acting on behalf of an Account Holder) and the information provider has made reasonable efforts to obtain and provide the information.





## 12.6. Penalties Regime - Financial Penalties

As stated in the Special Regulations, those who violate these provisions may be subject to the following financial penalties:

Contravention	
Failure to file the tax report by the specified report submission deadline	SAR. 500 for each day of delay, after the prescribed period, up to a maximum of SAR. 15,000.
Each violation associated with failure to provide the tax information return as required and in the form specified for each convention under CRS	SAR 5,000
Making a false statement or omission in respect of any information required to be included on an information return related to each convention, unless such information relates to a third person and it is proved that making a false statement or omission was not deliberate	SAR 5,000
Each instance of failure to file an information return in the manner prescribed for each convention under CRS	SAR 3,000
Non-compliance with or refraining from cooperating with the Competent Authority official while performing his work and exercising his authorities in accordance with CRS	SAR 3,000



## 13. Glossary

Term	Definition
Account Holder	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.
AML/KYC Procedures	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.
Annuity Contract	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.
Cash Value	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.



	<ul style="list-style-type: none"> <li>a. solely by reason of the death of an individual insured under a life insurance contract;</li> <li>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;</li> <li>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;</li> <li>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</li> <li>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.</li> </ul>
Cash Value Insurance Contract	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.
Control	"Control" over an Entity is generally exercised by the natural person(s) who ultimately has a controlling ownership interest in the Entity. A "control ownership interest" depends on the ownership structure of the legal person and is usually identified based on a threshold applying a risk-based approach (e.g. any person(s) owning more than a certain percentage of the legal person, such as 25%). where no natural person(s) exercises control through ownership interests, the Controlling Person(s) of the Entity will be the natural person(s) who exercises control of the Entity through other means. where no natural person(s) is identified as exercising control of the Entity, the Controlling Person(s) of the Entity will be the natural person(s) who holds the position of senior managing official."



Controlling Persons	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.
Custodial Account	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.
Depository Account	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.
Entity	The term "Entity" means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation.
Equity Interest	The term "Equity Interest" means, in the case of a partnership that is a Financial Institution, either a capital or a 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.
Established Securities Market	An "established securities market" means an exchange that is officially recognised and supervised by a governmental authority in which the market is located and that has a meaningful annual value of shares traded on the exchange.



Excluded Account	For detailed explanation refer to Section VIII - Defined terms - page 53-56 of CRS - Standard for Automatic Exchange of Financial Account Information in Tax Matters, Second Edition.
Financial Account	<p>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;</p> <p>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</p> <p>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.</p> <p>The term "Financial Account" does not include any account that is an Excluded Account.</p>
High Value Account	The term "High Value Account" means a Pre-existing Individual Account with an aggregate balance or value that exceeds USD 1 000 000 as of 07 September 2017 or 31 December of any subsequent year.
Insurance Contract	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.
Lower Value Account	The term "Lower Value Account" means a Pre-existing Individual Account with an aggregate balance or value as of 07 September 2017 that does not exceed USD 1 000 000.



Participating Jurisdiction	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.
Pre-existing Account	The term "Pre-existing Account" means a Financial Account maintained by a Reporting Financial Institution as of 07 September 2017
Pre-existing Entity Account	The term "Pre-existing Entity Account" means a Pre-existing Account held by one or more Entities.
Pre-existing Individual Account	The term "Pre-existing Individual Account" means a Pre-existing Account held by one or more individuals.
Reasonable Effort	Reasonable efforts include contacting the account holder (e.g., by mail, in-person or by phone), including a request made as part of other documentation or electronically (e.g., by facsimile or by e-mail), and reviewing electronically searchable information maintained by a related entity of the reporting financial institution. However, reasonable efforts do not necessarily require closing, blocking, or transferring the account, nor conditioning or otherwise limiting its use. Notwithstanding the foregoing, reasonable efforts can continue to be made after the abovementioned period.
Related Entity	An Entity is a "Related Entity" of another Entity if either Entity controls the other Entity, or the two Entities are under common control. For this purpose control includes direct or indirect ownership of more than 50% of the vote and value in an Entity.
Reportable Account	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 of Commentaries on the CRS in Standards for Automatic Exchange of Financial Account Information in Tax Matters (Second Edition)
Reportable Jurisdiction	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 of Commentaries on the CRS in Standards for Automatic Exchange of Financial Account Information in Tax Matters (Second Edition), and  (ii) which is identified in a published list.



Reportable Jurisdiction Person	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.
Reportable Person	<p>The term “Reportable Person” means a Reportable Jurisdiction Person other than:</p> <ul style="list-style-type: none"> <li>i. a corporation the stock of which is regularly traded on one or more established securities markets;</li> <li>ii. any corporation that is a Related Entity of a corporation described in clause (i);</li> <li>iii. a Governmental Entity;</li> <li>iv. an International Organisation;</li> <li>v. a Central Bank; or</li> <li>vi. a Financial Institution.</li> </ul>
The Standard	The Standard for Automatic Exchange of Financial Information in Tax Matters issued by the Organisation for Economic Co-operation and Development (OECD)
TIN	The term “TIN” means Taxpayer Identification Number (or functional equivalent in the absence of a Taxpayer Identification Number).
Undocumented Account	An “undocumented account” generally arises when a Reporting Financial Institution is unable to obtain information from an Account Holder in respect of a Preexisting Account (see paragraphs 28-29, 45 and 48 of the Commentary on Section III of the Common Reporting Standard, Second Edition). This could either be the result of inadequate procedures being implemented by a Reporting Financial Institution to obtain the necessary information or the Account Holder is non-compliant.



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