



MALDIVES  
INLAND REVENUE  
AUTHORITY

MIRA M847

# GUIDE TO AUTOMATIC EXCHANGE OF INFORMATION

Version 21.1

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The information in this guide is based on laws and regulations prevailing at the time of publication. Financial Institutions can rely on this guide as to the MIRA’s interpretation of the relevant tax laws and regulations. If you do not understand anything in this guide or have queries related to your particular circumstances, call 1415 or send an email to [1415@mira.gov.mv](mailto:1415@mira.gov.mv).

## Is this guide for you?

The guide is for you, if you are a Financial Institution of the Maldives (FI). The guide would help Financial Institutions to understand:

1. who needs to register and report as a Reporting Financial Institutions (RFIs).
2. what Financial Accounts information needs to be maintained.
3. how to review Financial Accounts under the prescribed due diligence process.
4. how and when to report Financial Accounts information to Maldives Inland Revenue Authority (MIRA).

Further, the guide will set details on what MIRA will do with the reported information under Common Reporting Standard (CRS) and MIRA's obligations under the Automatic Exchange of Information (AEOI) rules.

## List of abbreviations

<b>AEOI</b>	Automatic Exchange of Information
<b>CRS</b>	Common Reporting Standard
<b>FATCA</b>	United States Foreign Account Tax Compliance Act
<b>FATF</b>	Financial Action Task Force
<b>FI</b>	Financial Institution
<b>MAAC</b>	Multilateral Convention of the Administrative Assistance in Tax Matters
<b>MCAA</b>	Multilateral Competent Authority Agreement
<b>MMA</b>	Maldives Monetary Authority
<b>MIRA</b>	Maldives Inland Revenue Authority
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>RFI</b>	Reporting Financial Institution
<b>TIEA</b>	Tax Information Exchange Agreement

## Definitions

### 1. 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 cash of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder.

### 2. 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.

### 3. Central Bank

The term “Central Bank” means an institution that is by law or government sanction the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the jurisdiction, whether or not owned in whole or in part by the jurisdiction.

### 4. Entity

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

### 5. Financial Asset

Financial asset includes a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), Insurance Contract or Annuity Contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, Insurance Contract, or Annuity

Contract. The term “Financial Asset” does not include a non-debt, direct interest in real property.

## **6. Government Entity**

The term “Governmental Entity” means the government of a jurisdiction, any political subdivision of a jurisdiction (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of a jurisdiction or of any one or more of the foregoing (each, a “Governmental Entity”). This category is comprised of the integral parts, controlled entities, and political subdivisions of a jurisdiction.

## **7. International Organisation**

The term “International Organisation” means any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organization (including a supranational organisation) (1) that is comprised primarily of governments; (2) that has in effect a headquarters or substantially similar agreement with the jurisdiction; and (3) the income of which does not inure to the benefit of private persons.

## **8. NFE**

The term “NFE” means any Entity that is not a Financial Institution. Financial Institutions are defined in [2.1 Financial Institutions \(FIs\)](#).

## **9. Participating Jurisdiction**

Participating Jurisdiction means a jurisdiction with which a double tax avoidance agreement or information exchange agreement or mutual administrative assistance agreement is in place pursuant to which Maldives will exchange Financial Accounts information. The list of jurisdictions could be found in the [link](#).<sup>1</sup>

## **10. 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.

## **11. TIN**

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

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<sup>1</sup> As of 26 August 2020.

# I. Introduction

Globalisation and the growth of the financial sector has enabled persons to hold money and assets in jurisdictions other than the persons' tax residence. Automatic Exchange of Information (AEOI) is the exchange of information mechanism where Financial Institutions are required to maintain and report Financial Account information based on the Common Reporting Standard (CRS), which is subsequently exchanged between jurisdictions on a regular basis. CRS is the global framework that contains the reporting and due diligence standard which underpins the automatic exchange of Financial Accounts information.

## I.1 How does CRS work?

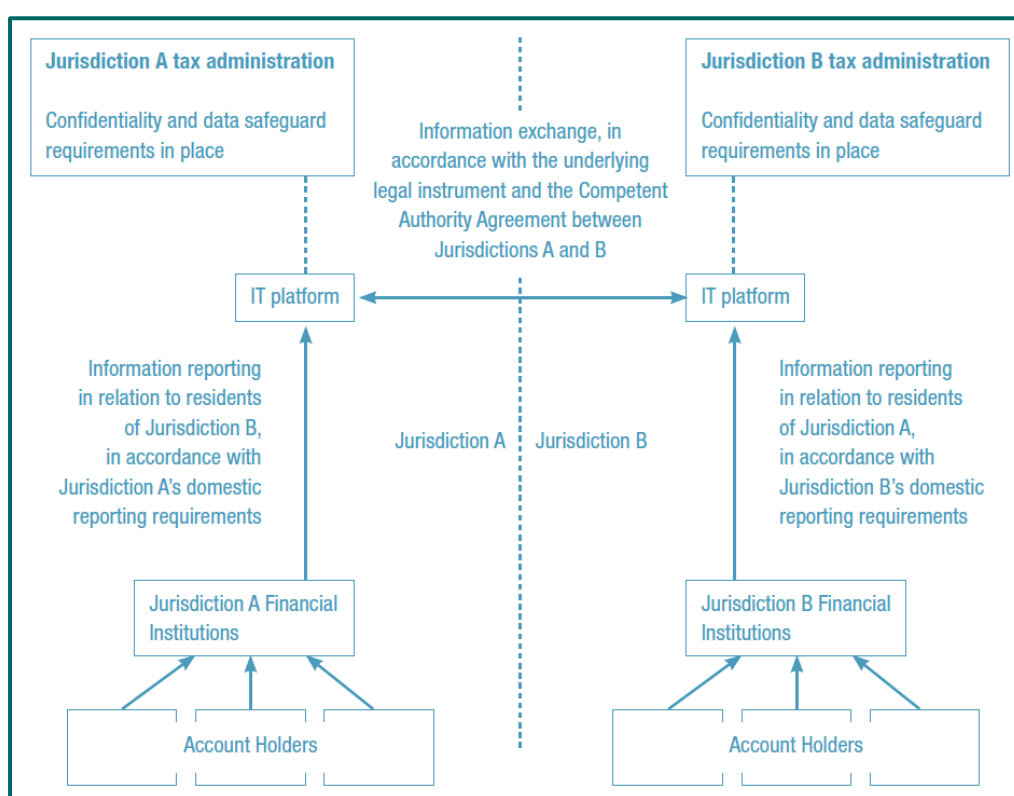


Figure 1: The reciprocal AEOI framework<sup>2</sup>

Under the CRS, Financial Institutions in the Maldives collect and report Financial Account information of foreign residents to the MIRA. The reported standardized information is subsequently exchanged with the resident country of the Account Holder. The resident country's tax administration uses such information to ensure that their residents are paying the right amount of tax on the assets and money held abroad. Similarly, MIRA will receive

<sup>2</sup> OECD (2018), Standard for Automatic Exchange of Financial Information in Tax Matters – Implementation Handbook – Second Edition, OECD, Paris, 8.

Financial Account information of Account Holders who are Maldivian residents from foreign countries, which MIRA uses to ensure tax compliance.

## 1.2 Purpose of the CRS

The CRS enhances transparency and enables tax administration to ensure residents pay taxes on money and assets held abroad, and also as a deterrent to tax evasion efforts. Access to relevant information and analytics strengthens administrative capabilities of the tax authority, which helps to mitigate and combat tax evasion and avoidance.

## 1.3 What is the legal basis for the exchange of information under CRS?

The legal basis to AEOI is of twofold. First, Tax Administration Act (Law No. 3/2010) furnishes the domestic legal authority for MIRA to collect<sup>3</sup> Financial Account information under the CRS and exchange<sup>4</sup> such information with relevant jurisdictions. Second, the international legal framework which operationalises exchange of information are The Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAAC) and the Competent Authority Agreement (MCAA). The convention provides for all forms of administrative co-operation, contains strict rules on confidentiality and proper use of information, and permits automatic exchange of information. The Competent Authority Agreement is an agreement between the competent authorities of the countries which activates and operationalises automatic exchange between the participants.

Maldives has signed the MAAC and the MCAA and now awaits the completion of the domestic ratification process. With the signature of Maldives, there are 144 jurisdictions participating the MAAC.<sup>5</sup>

## 1.4 CRS under the wider approach

Maldives has adapted the 'wider approach' to the CRS due diligence and reporting. In the 'wider approach' RFI are required to review, identify and report on persons who are resident in any foreign jurisdiction(s) (i.e. jurisdictions other than Maldives). However, information would only be exchanged with jurisdiction(s) with which Maldives has an obligation to exchange information under a bilateral tax treaty or the MAAC/MCAA.

Under the conventional approach RFI are required to identify persons who are residents in a jurisdiction with which Maldives has an obligation to exchange Financial Accounts information. The wider approach is a compliance cost measure to significantly reduce costs,

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<sup>3</sup> *Tax Administration Act* (Law No. 3/2010) s 51-3.

<sup>4</sup> *Tax Administration Act* (Law No. 3/2010) s 51-2.

<sup>5</sup> As at 26 August 2021 (See [https://www.oecd.org/ctp/exchange-of-tax-information/Status\\_of\\_convention.pdf](https://www.oecd.org/ctp/exchange-of-tax-information/Status_of_convention.pdf))

because Financial Institutions would not need to perform additional due diligence each time a new jurisdiction is added to the framework.

## 1.5 Confidentiality of the information collected under CRS

Confidentiality of reported and exchanged information is of utmost importance to tax administrations. The Tax Administration Act in the Maldives, all treaties, and exchange of information instruments contain strict provisions that require information exchanged to be kept confidential and limit the persons to whom the information can be disclosed and the purposes for which the information may be used. In addition to the legal framework, all countries strengthen administrative capacity and processes in place to ensure the confidentiality of the information received and that such information is used only for the purposes specified in the instrument.

Information under the CRS is collected and exchange in a standardised format. The standardised technical reporting format make sure that information can be captured, exchanged and processed quickly and efficiently in a cost-effective manner. In addition, countries have adopted secure and compatible methods of transmission and encryption of data.

# I.6 General overview of obligations of and steps to be followed by FIs

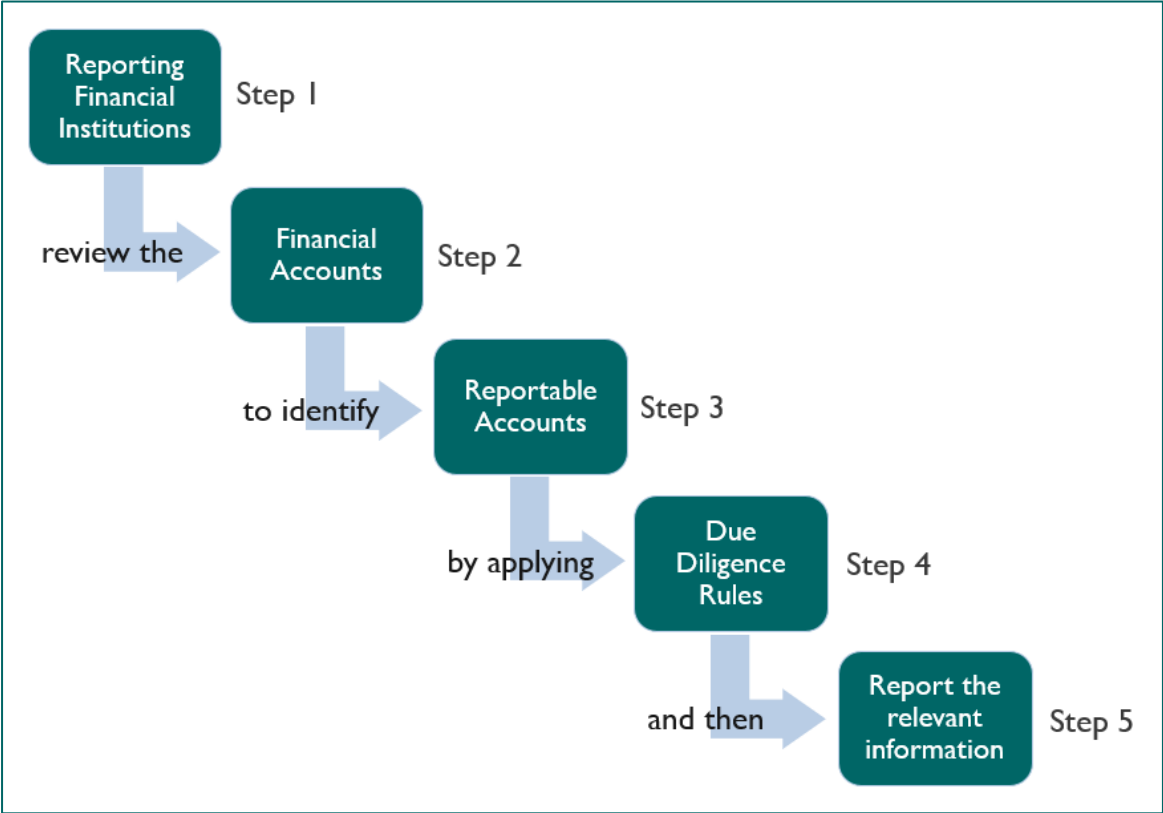


Figure 2: An overview of the obligations and steps to be followed by FIs

## 2. Reporting Financial Institutions (RFIs)

Reporting Financial Institutions (RFIs) are Financial Institutions of the Maldives that is NOT a Non-Reporting Financial Institution (See Section [2.3 Non-Reporting Financial Institutions \(NRFIs\)](#)).

RFIs are required to register, review and report Financial Accounts information under the CRS. Therefore, it is essential to identify RFIs to fulfill obligation mandated under the Tax Administration Act.

### 2.1 Financial Institutions (FIs)

The term “Financial Institution” means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company. These are the four types of Financial Institutions recognized for the purpose of CRS.

#### 2.1.1 Custodial Institution

Custodial institution is an entity that holds, as a substantial portion of its business, [Financial Assets](#) for the account of others.

For the purpose of AEOI rules, Financial Assets contribute a substantial portion of its business when 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:

- a) last three accounting periods, or
- b) the period during which the entity has been in existence.

#### 2.1.2 Depository Institution

Depository institution is an entity that accepts deposits in the ordinary course of a banking or similar business.

An entity is considered to be 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:

- a) makes personal, mortgage, industrial, or other loans or provides other extensions of credit;
- b) purchases, sells, discounts, or negotiates accounts receivable, instalment obligations, notes, drafts, checks, bills of exchange, acceptances, or other evidences of indebtedness;
- c) issues letters of credit and negotiates drafts drawn thereunder;
- d) provides trust or fiduciary services;
- e) finances foreign exchange transactions; or

- f) enters into, purchases, or disposes of finance leases or leased assets.

Depository institutions include banks registered under the Maldives Banking Act (Law Number 24/2010).

### 2.1.3 Investment Entity

The term investment entity includes two types of entities;

#### 1. Type A

Entities that primarily conduct as a business investment activities or operations on behalf of other persons. These activities include one or more of the following:

##### a. 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;

##### b. individual and collective portfolio management; or

##### c. otherwise investing, administering, or managing Financial Assets or money on behalf of other persons; or

#### 2. Type B

Entities that are managed by those Entities (i.e. entities primarily conducting business in behalf of other persons) or other Financial Institutions (i.e. Custodial institution, Depository institution and Specified Insurance Company) and if such entity's gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets.

An entity is regarded as primarily conducting relevant activities as a business or primarily attributable to relevant activities, if its gross income attributable to relevant activities equals or exceeds 50% of its total gross income during the shorter period of either:

- a) last three accounting periods, or
- b) the period during which the entity has been in existence.

### 2.1.4 Specified Insurance Company

Specified Insurance Company is an Entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to a Cash Value Insurance Contract or an Annuity Contract.

Most life insurance companies would generally be considered Specified Insurance Companies. Entities that do not issue Cash Value Insurance Contracts or Annuity Contracts nor are

obligated to make payments with respect to them, such as most non-life insurance companies, most holding companies of insurance companies, and insurance brokers, will not be Specified Insurance Companies.

## 2.2 Financial Institution of the Maldives (MFIs)

A Financial Institution will be a Financial Institution of the Maldives if:

1. the Financial Institution is a resident of the Maldives, but excludes any branch of that Financial Institution that is located outside the Maldives; and
2. any branch located in the Maldives of a non-resident Financial Institution.

Financial Institution will be resident of the Maldives, if the Financial Institution is a tax resident in the Maldives, determined as per Section 79 (kk) of the Income Tax Act (Law Number 25/2019).

A “branch” is a unit, business, or office of a Financial Institution that is treated as a branch under the respective regulatory regime of Maldives.

All units, businesses, or offices of a Reporting Financial Institution in a single jurisdiction shall be treated as a single branch.

## 2.3 Non-Reporting Financial Institutions (NRFIs)

NRFIs are Financial Institutions that are excluded from reporting or submission of information. NRFIs means any Financial Institution that is:

- a) a Governmental Entity, International Organization or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution;
- b) a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organization or Central Bank; or a Qualified Credit Card Issuer;
- c) any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in subsections 2.3 (a) and 2.3 (b), and defined in domestic law as a Non-Reporting Financial Institution, provided that the status of such Entity as a Non-Reporting Financial Institution does not frustrate the purposes of the Common Reporting Standard;
- d) an Exempt Collective Investment Vehicle; or
- e) a Trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to this Regulation with respect to all Reportable Accounts of the trust.

### 3. Registration of Reporting Financial Institutions (RFIs)

Reporting Financial Institutions are required to register with MIRA.

RFIs at 15 March 2021 are required to apply for registration within 90 days from that date.

Financial Institutions becoming an RFI after 15 March 2021 is required to apply for registration within 90 days from the date of such determination as an RFI.

RFIs required to register under AEOI rules must submit 'Registration of Financial Institutions' (MIRA 119) form together with the relevant information and documents specified in the form.

## 4. Financial Accounts

RFI's must conduct due diligence and report Financial Account information. Once a Financial Institution is determined to be an RFI, the next step is to identify Reportable Accounts.

Financial Account means any account maintained by a Financial Institution, and includes a Depository Account, a Custodial Account, any equity or debt interest in an Investment Entity, Annuity Contracts and Cash Value Insurance Contracts.

A Financial Account does not, however include any account that is an Excluded Account. RFIs are not required to report or conduct CRS due diligence on excluded accounts. Excluded accounts include the following accounts subject to specific conditions:

- a) Retirement or pension account
- b) Non-retirement tax-favored investment/savings account
- c) Term life insurance contracts
- d) Deceased estate accounts
- e) Escrow accounts
- f) Depository accounts due to non-returned overpayments
- g) Low risk accounts

The scope of these "Excluded Accounts" is explained in pages 184 to 187 of the CRS Commentary.

Below section details the different types of Financial Accounts.

### 4.1 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.

### 4.2 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.

### 4.3 Equity and Debt interest in an Investment Entity

Any equity or debt interest account maintained in an investment entity is a Financial Account. However, it does not include any equity or debt interest in 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.

### 4.4 Annuity Contracts

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.

### 4.5 Cash Value Contracts

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.

The term “Cash Value” means the greater of

- (i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan), and
- (ii) the amount the policyholder can borrow under or with regard to the contract.

## 5. Reportable Accounts

Reportable Accounts means accounts held in an RFI by;

1. one or more Reportable Persons; or
2. a Passive NFE (see [5.3 Passive NFE](#)) with one or more Controlling Persons that is a Reportable Person;

provided that it has been identified as such pursuant to the due diligence procedures.

### 5.1 Reportable Persons

A Reportable Person is an individual or entity that is resident under the tax laws of the Reportable Jurisdiction, or an estate of a decedent that was a resident of a Reportable Jurisdiction. Any legal arrangement that has no residence for tax purposes (i.e. usually fiscally transparent entities/arrangements) shall be treated as resident in the jurisdiction in which its place of effective management is situated.

Reportable Persons does not include:

1. a corporation the stock of which is regularly traded on one or more established securities markets and any related entity;
2. [a Governmental entity](#);
3. [an International Organization](#);
4. [a Central Bank](#);
5. [a Financial Institution](#).

### 5.2 Reportable Jurisdictions

Reportable Jurisdictions means any jurisdiction other than Maldives. With Maldives adopting the wider approach under the CRS, RFIs are required to determine the residency of Account Holders and report if the Account Holder is resident in a foreign jurisdiction.

### 5.3 Passive Non-Financial Entity (NFE)

Passive NFE means;

1. any non-financial entity that are not an active NFE; or
2. Type B investment entities that is not a [Participating Jurisdiction](#) Financial Institution.

For the purpose of identifying a Passive NFE, it is essential to understand what constitute an active NFE.

An Active NFE are non-Financial Institutions that meets any of the following criteria's:

- Active, based on the type of income earned and assets held. If less than 50% of the gross income earned for the appropriate period is passive income and less than

50% of the assets held during the appropriate period is held for the purpose generating passive income;

- NFE's publicly listed in the stock exchange or NFE's related to an entity listed in a stock exchange;
- Governmental Entity, International Organization, Central Bank or an entity wholly owned by any of them;
- holding NFE that is a member of a non-financial group (generally where substantially all of the activities of the NFE consist of holding the shares of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses);
- NFE that is not yet operating a business and has no prior operating history, (a start-up NFE) but is investing capital into assets with the intent to operate a business;
- NFE's not a Financial Institution in the past five years and is in the process of liquidating or emerging from bankruptcy;
- NFE primarily engages in financing and hedging transactions (treasury services) with, or for, Related Entities that are not Financial Institutions;
- NFE's that are approved by the Commissioner General as charitable organizations;

Passive income, for the purposes of determining the NFEs using income and assets test, generally includes;

- a) dividends;
- b) interest;
- c) income equivalent to interest;
- d) 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;
- e) annuities;
- f) the excess of gains over losses from the sale or exchange of financial assets that gives rise to the passive income described previously;
- g) the excess of gains over losses from transactions (including futures, forwards, options, and similar transactions) in any financial assets;
- h) the excess of foreign currency gains over foreign currency losses;
- i) net income from swaps; or
- j) 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 into in the ordinary course of such dealer's business as such a dealer.**

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.

### 5.3.1 Controlling Persons

Controlling Persons means the natural person(s) who exercises the control over the Entity. It also includes those persons who exercise ultimate effective control over an entity. Control means the circumstance where a person or any of its associates (first person) can be directly or indirectly required by another person (second person) to act in accordance with the directions of the second person. In which case the second person shall be treated as controlling the first person.

#### 5.3.1.1 Controlling Persons for a company

Controlling Persons in relation to a company is either;

1. a person or any persons controlling such person who holds the majority share capital of the company or majority of the issued share capital of the company or possesses the majority of voting rights of the company, or hold the right to possess the majority of voting rights of the company; or
2. a person or any persons controlling such person that manages the operations of the company or may directly or indirectly manage the operations of the company or holds the right to directly or indirectly manage the operations of the company; or
3. a person that derives or obtains the right to derive the majority of the distributed income of the company based on the number of shares of the company's capital issued to such person, irrespective of any interest of such person in the company in respect of any loans that may have been issued to the company by such person; or
4. a person that acquires or obtains the right to acquire the majority of the capital of the company upon the dissolution of the company or in the event of any such occurrence.

#### 5.3.1.2 Controlling Person for a partnership

Controlling Person in relation to a partnership is the person or any of its associates directly or indirectly possessing the majority of the voting rights with respect to decision making of the partnership or holds directly or indirectly an interest of more than 50% (fifty percent) of the capital of the partnership. In which case the person shall be treated as controlling the partnership.

#### 5.3.1.2 Controlling Person for a trust

For a trust, the term Controlling Persons 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. For other legal arrangements the person(s) in equivalent or similar positions.

Where no natural person(s) exercises control through ownership interests, the Controlling Person(s) of the entity will be the natural person(s) who exercise 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.

Entity means a legal person or a legal arrangement, such as a company, organization, cooperative society, partnership or trust.

## 6. Due Diligence

Under the CRS regime RFI's are required to conduct due diligence on accounts opened at the institutions. The purpose of the due diligence is to identify Reportable Accounts. This reportable status is determined by identifying whether the Account Holder is a reportable person, or has a Controlling Person who is a reportable person in the case of a Passive NFEs. Therefore, a crucial requirement of the due diligence process is to identify the Account Holder and determine the residency of the Account Holder.

RFI's will need to use different due diligence procedures to review the accounts based on account opening date, type of Account Holder and value of the account. This guide will outline the detailed due diligence procedures that RFI's need to undertake for four different type of Financial Accounts;

- Pre-existing Individual Accounts
- New Individual Accounts
- Pre-existing Entity Accounts
- New Entity Accounts

### 6.1 Account Holder

Account Holder means the person listed or identified as the holder of the Financial Account by the Financial Institution that maintains the account.

#### 6.1.1 Accounts held by an agent

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 CRS, and such other person is treated as holding the account. For these purposes, a RFI may rely on information in its possession (including information collected pursuant to AML/KYC Procedures), based on which it can reasonably determine whether a person is acting for the benefit or account of another person.

#### Example 1: Custodian account

Ahmed opened a saving account (Custodial Account) on behalf of his niece, Mariyam. Since, Ahmed opened the account on behalf of Mariyam, RFI is required to determine whether Ahmed is acting on behalf of Mariyam, and as it is so, in this case Mariyam would be the Account Holder for the purpose of CRS.

## 6.1.2 Joint Accounts

With respect to a jointly held account, each joint holder is treated as an Account Holder for purposes of determining whether the account is a Reportable Account. Thus, an account is a Reportable Account if any of the Account Holders is a Reportable Person or a Passive NFE with one or more Controlling Persons who are Reportable Persons. When more than one Reportable Person is a joint holder, each Reportable Person is treated as an Account Holder.

### Example 2: Joint account

Fathimath, a Reportable Person, holds a Depository Account in a RFI. The account is jointly held with Aminath, an individual who is not a Reportable Person. Because one of the joint holders is a Reportable Person, the account is a Reportable Account.

### Example 3: Joint account

Richard and David, both Reportable Persons, hold a Depository Account in a Reporting Financial Institution. The account is a Reportable Account and both Richard and David are treated as Account Holders of the account.

## 6.1.3 Cash Value Insurance Contract or an Annuity Contract

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 (i.e. when obligation to pay an amount under the contract becomes fixed), each person entitled to receive a payment under the contract is treated as an Account Holder.

## 6.2 Due Diligence for Pre-existing Individual Accounts

Pre-existing individual accounts are accounts maintained at an RFI as of 31 December 2020 and held by one or more individuals. There are two different review process based in the value of pre-existing individual accounts.

### a) Lower Value Accounts

These are pre-existing individual accounts with an aggregate balance or value as of 31 December 2020 that does not exceed USD 1,000,000 (One Million Dollars).

## **b) High Value Accounts**

These are pre-existing individual accounts with an aggregate balance or value that exceeds USD 1,000,000 (One Million Dollars) as of 31 December 2020 or at the end of each subsequent reporting period (i.e. 31 December).

Once an account becomes a High Value Account, it maintains such status until the date of closure and, therefore, can no longer be considered a Lower Value Account.

### **6.2.1 Accounts not required to be reviewed, identified or reported**

A pre-existing individual account that is a Cash Value Insurance Contract or an Annuity Contract is not required to be reviewed, identified or reported, provided the RFI is effectively prevented by law from selling such Contract to residents of a Reportable Jurisdiction.

### **6.2.2 Due diligence for Lower Value Individual Accounts**

This section contains the two procedures that apply with respect to low value accounts of pre-existing individual accounts. Residence address test and the electronic record search is used to determine the tax residency of the Account Holder.

#### **6.2.2.1 Residence Address Test**

Under this test, an RFI must have policies and procedures in place to verify the residence address based on Documentary Evidence. Based on this Documentary Evidence, the RFI may treat the individual Account Holder as being a resident for tax purposes of the jurisdiction in which the address is located for purposes of determining whether such individual Account Holder is a Reportable Person.

For purposes of determining whether an individual Account Holder is a Reportable Person, the RFI may treat such individual as being a resident for tax purposes of the jurisdiction in which an address is located if:

- a) the RFI has in its records a residence address for the individual Account Holder; and
- b) such residence address is current; and
- c) such residence address is based on Documentary Evidence.

The first requirement is that the RFI has in its records a residence address for the individual Account Holder. 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.

Second, the address must be current. The current address is the most recent address that was recorded by the RFI in relation to the Account Holder. 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). However, a residence address associated with an account (other than an annuity contract) classified as a dormant account be considered current, even though mail was returned as undeliverable during the dormancy period.

Third, this determination must be based on solid Documentary Evidence. Documentary Evidence for this purpose include certification of residence issued by a government body or any other identification document issued by government (such as Driver’s license, Identity Card, Social Security Card etc.). RFIs must have policies and procedures in place to ensure the current residency of the Account Holder is determined based on this Documentary Evidence. In cases where such document does not contain address, the procedure to determine residency must be based on recent documentation issued by an authorized government body or a utility company (such as electricity, water or internet bills).

Where RFI chooses to apply the residence address test, RFI must consistently apply to each Lower Value Account or identifiable group of accounts in the RFI. For instance, all accounts opened in a particular branch of the RFI.

In cases where RFI has relied on residence address test and later found it to be incorrect or unreliable, the RFI must obtain a new Documentary Evidence to establish the residency of the Account Holder. New documents must be obtained by the later of the last day of the reporting period or 90 days following the discovery of such change in circumstances. If new Documentary Evidence is not obtained by such date, RFI must apply the Electronic Record Search procedure.

#### Example 4: Residence address test

RFI has policies and procedures in place pursuant to which it has collected a copy of the driver’s license of all of the Account Holders of its pre-existing individual accounts 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. The RFI may treat such Account Holders as being resident for tax purposes of the jurisdiction in which such address is located.

### 6.2.2.2 *Electronic Record Search*

If the RFI was not able to establish residence based on the Residence Address Test or choose not to apply the Residence Address Test, RFIs must use the Electronic Record Search method to establish the residence of the Account Holder of low value pre-existing accounts of individuals. In this procedure, residence is determined by reviewing the electronically searchable information (i.e. internal databases) for relevant indicators which points to the

residence of the Account Holder. Electronically searchable information means information that RFI maintains in its tax reporting files, customer master files or similar files that is stored in the form of an electronic data base.

In this regard the Account Holder is regarded as a resident of a foreign jurisdiction if any of the following indicators apply;

- a) the Account Holder is identified as a resident of a foreign jurisdiction;
- b) current mailing or residence address (including a post office box) in a foreign jurisdiction;
- c) one or more telephone numbers in a foreign jurisdiction and no telephone number in Maldives;
- d) standing instructions (other than with respect to a depository account) to transfer funds to an account maintained in a foreign jurisdiction;
- e) currently effective power of attorney or signatory authority granted to a person with an address in a foreign jurisdiction; or
- f) a “hold mail” instruction or “in-care-of” address in a foreign jurisdiction if the RFI does not have any other address on file for the Account Holder.

#### **Effect of only a “hold mail” instruction or “in-care-of” address is discovered**

If only indicator (f) in above section is discovered in the electronic search, the RFI must apply a paper record search (see [6.2.3.2 Paper Record Search](#)) or seek to obtain self-certification or Documentary Evidence for the purpose establishing residency. If Paper Record Search fails to add a further indicator to confirm residency status and unable to obtain self-certification or Documentary Evidence, then RFI must report such accounts as undocumented accounts.

#### **Effect of more than one indicator apply**

Due to a change in circumstances that results in one or more indicia being associated with the account, then the RFI must treat the Account Holder as a resident for tax purposes of each foreign jurisdiction for which an indicium is identified, unless it elects to apply one of the exceptions below with respect to that account.

#### **Exceptions if more than one indicators apply**

An RFI is not required to treat an Account Holder as a resident of a foreign jurisdiction if;

- a) If any of the indicators from (a) to (d) applies, and if the RFI obtains, or has previously reviewed and maintains a record of:
  - i. a self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such a foreign jurisdiction; and
  - ii. Documentary Evidence establishing the Account Holder’s residence for tax purposes other than such foreign jurisdiction.

- b) If indicator (e) applies, then if the RFI obtains, or has previously reviewed and maintains a record of:
- i. a self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such foreign jurisdiction; or
  - ii. Documentary Evidence establishing the Account Holder's residence for tax purposes other than such a foreign jurisdiction.

### **Effect of no indicators being associated with an account**

If none of the indicia listed above are discovered in the electronic record search, then no further review is required until there is a change in circumstances that results in one or more indicia being associated with the account, or the account becomes a High Value Account. However, the RFI must report the such account as an undocumented account until such account ceases to be undocumented.

If one or more indicia being applied due to change in circumstances, then apply the same due diligence procedure as described in this section.

If the account becomes a High Value Account, then apply the enhanced due diligence procedures (see [6.2.3 Due Diligence for High Value Individual Accounts](#)).

### **Monitoring of low value individual accounts**

After 2020, RFIs must monitor balance of lower value pre-existing individuals accounts as of the last day of each subsequent calendar year.

This is to identify whether such accounts meet the requirement of a High Value Account. If the account is determined to be a High Value Account at the last day of the calendar year, RFI must;

- Review; complete the enhanced review procedure for High Value Accounts (See [6.2.3 Due Diligence for High Value Individual Accounts](#)). This review must be completed by the end of the following year in which the account becomes a High Value Account.
- Report; if the account is found to be reportable, then report the required information about such an account for the year it was determined to be a Reportable Account and for subsequent years until the Account Holder ceases to be a reportable person.

## **6.2.3 Due Diligence for High Value Individual Accounts**

This section will provide the detailed procedure for enhanced due diligence of pre-existing higher value individual accounts. Enhanced due diligence procedure includes electronic record search, the paper record search or the relationship manager inquiry.

### *6.2.3.1 Electronic Record Search*

Under this procedure, similar to Lower Value Accounts, residence is determined by reviewing the electronically searchable information as described in [6.2.2.2 Electronic Record Search](#).

### *6.2.3.2 Paper Record Search*

Paper record search procedure is required when electronically searchable databases does not include fields for indicators required in the electronic record search method, and does not capture all of the information described in those fields. For instance, this is where a field such as telephone number might be there but may be left blank in search of Account Holder.

Where RFI is required to carry paper record search, this procedure must be carried to the extent required information on the Account Holder is not covered by the electronic record search. For example, electronic record search might not find one of the indicators, in such cases, paper search is required to find only such missing information.

When the RFI is required to perform the paper record search with respect to a High Value Account, it must also review the current customer master file, and to the extent not contained in the current customer master file, the following documents associated with the account and obtained by the Financial Institution within the last five years:

- a) the most recent Documentary Evidence collected with respect to the account;
- b) the most recent account opening contract or documentation;
- c) the most recent documentation obtained by the RFI pursuant to AML/KYC Procedures or for other regulatory purposes;
- d) any power of attorney or signature authority forms currently in effect; and
- e) any standing instructions (other than with respect to a Depository Account) to transfer funds currently in effect.

The purpose is to identify the any of the missing indicators in the electronic record search.

#### **Exception for performing paper record search**

An RFI is not required to perform the paper record search to the extent the RFI's electronically searchable information includes the following:

- a) the Account Holder's residence status;
- b) the Account Holder's residence address and mailing address currently on file with the RFI;
- c) the Account Holder's telephone number(s) currently on file, if any, with the RFI;
- d) in the case of Financial Accounts other than Depository Accounts, whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the RFI or another FI);

- e) whether there is a current “in-care-of” address or “hold mail” instruction for the Account Holder; and
- f) whether there is any power of attorney or signatory authority for the account.

### **6.2.3.3 Relationship Manager Inquiry**

In addition to the electronic and paper record searches described above, the RFI must treat as a Reportable Account, any High Value Account assigned to a relationship manager (including any Financial Accounts aggregated with that High Value Account), and the relationship manager has actual knowledge that the Account Holder is a Reportable Person.

The standard of knowledge test applicable to a relationship manager could be operationalised through regular (e.g. yearly) instructions and training by a Financial Institution to all of its employees that could be considered relationship managers. This could include the Financial Institution maintaining a record of a response made by each relationship manager stating that they are aware of their obligations and the channels to communicate any reason to know that an Account Holder for which they manage the relationship is a reportable person. These communications could then be centrally processed by the Financial Institution in the manner required by the standard.

A relationship manager is an employee or officer of the RFI who has been assigned responsibility for specific Account Holders on an on-going basis. A relationship manager would provide advice to Account Holders regarding their accounts as well as recommending and arranging for the provision of financial products, services and other related assistance.

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 should be the person that is ultimately charged with managing the Account Holder’s affairs at the RFI. They include key client/customer managers, account managers etc.

In addition to meeting the definition of the relationship manager, employee or officer will be a relationship manager with respect to an account if the account has an aggregate balance or value of more than USD 1,000,000. Thus, these two criteria’s must be tested in order to determine whether employee or an officer is a relationship manager for this purpose.

An RFI must implement procedures to ensure that a relationship manager identifies any change in circumstances of an account.

### **Effect of no indicators being associated with an account**

If the enhanced due diligence procedures yield no indicators for a High Value Account and the account is not identified as held by a reportable person under the relationship manager inquiry, no further action, with respect to review, is required until there is a change in circumstances that results in one or more indicators being associated with the account.

However, the account must be reported as an undocumented account until such account ceases to be undocumented.

### **Effect of more than one indicator apply**

Due to a change in circumstances that results in one or more indicia being associated with the account, then the RFI must treat the Account Holder as a resident for tax purposes of each foreign jurisdiction for which an indicium is identified, unless it elects to apply one of the exceptions (as described in [6.2.2.2 Electronic Record Search](#) ) with respect to that account.

### **Effect of only a “hold mail” instruction or “in-care-of” address is discovered**

If only indicator (f) (see [56.2.2.2 Electronic Record Search](#)) is discovered in the electronic search, the RFI must apply a paper record search (see [6.2.3.2 Paper Record Search](#)) or seek to obtain self-certification or Documentary Evidence for the purpose establishing residency. If paper record search fails to add a further indicator to confirm residency status and unable to obtain self-certification or Documentary Evidence, then RFI must report such accounts as undocumented accounts.

### **Additional procedures for High Value Accounts**

Once an RFI applies the enhanced review procedures to a High Value Account, the RFI is not required to re-apply such procedures, other than the relationship manager inquiry, to the same High Value Account in any subsequent year, unless the account is undocumented, in which case the RFI should re-apply them annually until such account ceases to be undocumented.

## **6.2.4 When to complete due diligence of pre-existing individual accounts**

The initial review of pre-existing individuals accounts (i.e. both low value and High Value Accounts), under the CRS regime must be completed by 31 December 2021.

## **6.2.5 Continuous reporting of Reportable Accounts**

Once identified as a Reportable Account under this section, Reportable Accounts maintain reportable status until the date it ceases to be a Reportable Account, either because the Account Holder cease to be a reportable person or the account becomes an excluded account, account is closed or account is transferred in its entirety.

## 6.3 Due Diligence for New Individual Accounts

New individual accounts are Financial Accounts maintained by an RFI opened on or after 1 January 2021 and held by one or more individuals. This section of the guide provides the due diligence procedure for such accounts and provides for the self-certification process.

Upon opening of a new individual account, the RFI must:

- obtain a self-certification, which allows the RFI 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 RFI in connection with the opening of the account.

If the self-certification establishes that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, the RFI must treat the account as a Reportable Account.

The self-certification would often be part of the account opening documentation. An RFI should not materially progress the account opening process without obtaining a valid self-certification.

### 6.3.1 Requirements for Validity of Self-Certification

With respect to New Individual Accounts, a self-certification is valid only if it is signed (or otherwise positively affirmed) by the Account Holder, it is dated at the latest at the date of receipt, and it contains the Account Holder's:

- a) name;
- b) residence address;
- c) jurisdiction(s) of residence for tax purposes;
- d) Taxpayer Identification Number (TIN) with respect to each Reportable Jurisdiction; and
- e) date of birth.

A person authorized to sign a self-certification generally includes an executor of an estate, any equivalent of the former title, and any other person that has been provided written authorization by the Account Holder to sign documentation on such person's behalf.

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.

A self-certification remains valid until there is a change of circumstances that causes the RFI to know, or have reason to know, that the original self-certification is incorrect or unreliable.

When that is the case, the RFI cannot rely on the original self-certification and must obtain either;

- i. a valid self-certification that establishes the residence(s) for tax purposes of the Account Holder, or
- ii. a reasonable explanation and documentation.

RFIs must have procedure in place to identify any change that constitutes a change in circumstances and notify person providing a self-certification.

### *6.3.1.1 How does a self-certification becomes invalid?*

A self-certification becomes invalid on the date that the RFI holding the self-certification knows or has reason to know that circumstances affecting the correctness of the self-certification have changed. However, RFI may treat a person as having self-certification validity for the earlier of 90 calendar days from the date of the change in circumstance or the date the validity of the certification is confirmed or the date new certification is obtained.

In cases of invalidity of self-certification, RFI 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 as a result of the change in circumstances.

Generally, an individual will only have one jurisdiction of residence. However, an individual may be resident for tax purposes in two or more jurisdictions.

### *6.3.1.2 Curing self-certification errors*

RFIs may treat a self-certification as valid, notwithstanding that the self-certification contains an inconsequential error (insignificant error which does not affect the validity of self-certification), if the RFI has sufficient documentation on file to supplement the information missing from the self-certification due to the error. In such case, the documentation relied upon to cure the inconsequential error must be conclusive.

### *6.3.1.3 Use of self-certification provided by an existing Account Holder on a new account*

In general, a RFI with which a customer may open an account must obtain a self-certification on an account-by-account basis. However, an RFI may rely upon the self-certification furnished by a customer for another account if the RFI has no reason to believe the self-certification is invalid.

## 6.3.2 Reasonableness of self-certification

The second part of the due diligence process under this section is to ensure reasonableness of the self-certification obtained at account opening.

An RFI is considered to have confirmed the “reasonableness” of a self-certification if, in the course of account opening procedures and upon review of the information obtained in connection with the opening of the account (including any documentation collected pursuant to AML/KYC Procedures), it does not know or have reason to know that the self-certification is incorrect or unreliable.

RFIs are not expected to carry out an independent legal analysis of relevant tax laws to confirm the reasonableness of a self-certification.

### Example 5: Reasonableness test

An RFI obtains a self-certification from the Account Holder upon account opening. The residence address contained in the self-certification is not in the jurisdiction in which the Account Holder claims to be resident for tax purposes. Because of the conflicting information, the self-certification fails the reasonableness test.

If an RFI later determines that a self-certification is incorrect or unreliable, it must obtain another valid self-certification. Alternatively, it must obtain a reasonable explanation and appropriate documentation that supports the accuracy of the original self-certification. The RFI must retain a copy or notation of such explanation and documentation.

## 6.4 Due Diligence of Pre-existing Entity Accounts

Pre-existing entity accounts are accounts maintained at an RFI as of 31 December 2020 and held by an entity (i.e. non-individuals).

### 6.4.1 Entity accounts subject to review

RFIs are required complete the review of pre-existing entity accounts with an aggregate account balance or value that exceeds USD 250,000 or subsequently exceeds the threshold at the end of a calendar year.

### 6.4.2 Entity accounts required to be reported

Entity accounts maintained by an RFI by as of 31 December 2020 are required to be reported if such accounts are held by;

- i. one or more entities that are reportable persons; or
- ii. a Passive NFE with one or more Controlling Persons that is a Reportable Person;

For detailed information on Reportable Accounts please refer to the Section [5. Reportable Accounts](#).

### 6.4.3 Review Procedure for Pre-existing Entity Accounts

RFI must apply the following review procedures to determine whether the account is held by one or more entities that are reportable persons. RFI must also establish whether an account is held by Passive NFEs with one or more Controlling Persons who are Reportable Persons.

#### *6.4.3.1 Determine whether account holding entity is a reportable person*

RFI must review information maintained for regulatory or customer relationship purposes (including information collected for AML/KYC purposes) to determine whether the Account Holder (could be one or more than one entity) is resident of a foreign jurisdiction. Such information indicating that the Account Holder is a resident in a foreign jurisdiction includes (but not limited to):

- Most taxable entities; a place of incorporation or organization in a foreign jurisdiction.
- Fiscally transparent entities; an address in a foreign jurisdiction.
- Trusts; an address of one or more trustees is in a foreign jurisdiction.

The existence of a permanent establishment (including a branch) in a foreign 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 entity is a resident in a foreign jurisdiction, then RFI must treat the account as a Reportable Account.

#### **Change in reportable status**

The reportable status changes if the RFI 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. The RFI should retain a notation of the type of information reviewed and the date reviewed, if such information is relied on to exclude the account.

“Publicly available” information includes information published by an authorized government body (for example, a government or an agency thereof, or a municipality) of a jurisdiction. Example: Registry of business published by the Ministry of Economic Development or Capital Market Development Authority.

### **Validity of a self-certification to determine entity's residence**

With respect to Pre-existing Entity Accounts, a self-certification is valid only if it is signed (or otherwise positively affirmed) by the person with authority to sign for the Account Holder, it is dated at the latest at the date of receipt, and it contains the Account Holder's:

- a) name;
- b) address;
- c) jurisdiction(s) of residence for tax purposes; and
- d) TIN with respect to each Reportable Jurisdiction.

A person with authority to sign a self-certification generally includes an officer or director of a corporation, a partner of a partnership, a trustee of a trust, any equivalent of the former titles, and any other person that has been provided written authorization by the Account Holder to sign documentation on such person's behalf.

With regard to curing invalid self-certifications please refer to section [6.3.2 Curing self-certification errors](#).

### **6.4.3.2 Review procedure for Controlling Persons of a Passive NFE**

With respect to an Account Holder of a Pre-existing Entity Account (including an Entity that is a Reportable Person), the RFI must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons who are Reportable Persons. The following guideline must be followed to determine whether a Passive NFE's Controlling Persons are reportable persons.

#### **Step 1: Determine whether Account Holder is a Passive NFE**

For the purposes of determining whether the entity is a Passive NFE, the RFI must request a self-certification unless it has information in its possession or that is publicly available to reasonably determine the status of the Account Holder.

The self-certification to establish the Account Holder's status must comply with the requirements for the validity of self-certification with respect to Pre-existing Entity Accounts as provided in [Validity of a self-certification to determine entity's residence](#). RFIs that cannot determine the status of the Account Holder as an Active NFE or a Financial Institution other than non-participating professionally managed investment entity must presume that it is a Passive NFE.

#### **Step 2: Determine the Controlling Persons of the Account Holder**

To identify the Controlling Persons, the RFI may rely on information collected and maintained in line with AML/KYC procedures. If the Passive NFE is a legal person (for example, a company), a natural person is treated as a Controlling Person if they meet the AML/KYC threshold for ultimate beneficial ownership. If no natural person meets

the threshold, the Controlling Person will be the person who holds the position of senior managing official for the entity.

If a Controlling Person of the Passive NFE is itself an entity, the RFI will need to identify the natural persons that control that entity (and so on, if there is a chain of entities, until the ultimate natural persons with control are determined). For more information on Controlling Persons, see [5.3.1 Controlling Persons](#).

### Step 3: Determining whether Controlling Person of a Passive NFE is reportable person

If the pre-existing entity account balance or value does not exceed USD 1,000,000, the RFI may also rely on information collected and maintained in line with AML/KYC procedures to determine if any of the Controlling Persons are Reportable Persons.

In the case of a Pre-existing Entity Account with an account balance or value that exceeds USD 1,000,000, RFI must collect a self-certification from either the Account Holder or the Controlling Person, which may be provided in the same self-certification as the one provided by the Account Holder to certify its own status.

The self-certification with respect to the Controlling Person is valid only if it is signed (or otherwise positively affirmed) by the Controlling Person or a person with authority to sign for the Account Holder or the Controlling Person, it is dated at the latest at the date of receipt, and it contains each Controlling Person's:

- a) name;
- b) address;
- c) jurisdiction(s) of residence for tax purposes;
- d) TIN with respect to each Reportable Jurisdiction; and
- e) date of birth.

The requirements for the validity of self-certifications with respect to New Individual Accounts are applicable for the validity of self-certifications for determining whether a Controlling Person of a Passive NFE is a Reportable Person (See [6.3.1 Requirements for Validity of Self-Certification](#)).

The same is applicable with respect to curing self-certification errors, the requirement to obtain self-certifications on an account-by-account basis, and documentation collected by other persons (See [6.3.2 Curing self-certification errors](#) and [6.3.4 Reasonableness of self-certification](#))

If a self-certification is required but is not received after reasonable efforts to obtain it, the RFI must then rely on an electronic record search for indicia to determine whether any Controlling Persons are Reportable Persons. The electronic record search is that as described in section [6.2.2.2 Electronic Record Search](#). If no indicia are present, no further action is required until there is a change in circumstances that results in foreign tax residence indicia for a Controlling Person linked to the account.

## 6.4.4 Additional Procedures Applicable to Pre-existing Entity Accounts

If there is a change of circumstances with respect to a pre-existing entity account that causes the RFI to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the RFI must re-determine the status of the account in accordance with the procedures set forth in [6.4.3 Review Procedure for Pre-existing Entity Accounts](#).

## 6.4.5 When to complete due diligence of pre-existing entity accounts

Review of Pre-existing Entity Accounts with an aggregate account balance or value that exceeds USD 250,000 as of 31 December 2020 must be completed by 31 December 2021.

However, the guidance in this section remains relevant for any pre-existing entity account that subsequently becomes in scope through the balance exceeding the relevant threshold for the first time. For accounts that exceeds USD 250,000 as of 31 December of a subsequent year, review must be completed within the calendar year following the year in which the account balance or value exceeds USD 250,000.

## 6.5 Due Diligence for New Entity Accounts

The section covers the review procedure for new entity accounts. New entity accounts are accounts maintained by an RFI opened on or after 1 January 2021 and held by one or more entities. All new entity accounts must be reviewed for CRS purpose.

### 6.5.1 Review Procedure for New Entity Accounts

RFI must apply the following review procedures to determine whether the account is held by one or more entities that are Reportable Persons. RFI must also establish whether an account is held by Passive NFEs with one or more Controlling Persons who are Reportable Persons.

#### 6.5.1.1 Determine whether entity is a reportable person

If any of the entity is a Reportable Person, then the account must be treated as a Reportable Account.

To determine whether account holding entity(s) is a reportable persons RFI must;

- obtain a self-certification, which allows the RFI 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 RFI in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures.

If the self-certification establishes that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, the RFI must treat the account as a Reportable Account. However, this may change if RFI 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 (e.g. a corporation that is publicly traded or a Governmental Entity).

Generally, an entity will only have one jurisdiction of residence. However, an entity may be resident for tax purposes in two or more jurisdictions. 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 .

The self-certification would often be part of the account opening documentation. An RFI should not materially progress the account opening process without obtaining a valid self-certification.

A self-certification is not required where the RFI reasonably determines, based on information in its possession or publicly available, that the Account Holder is clearly not a Reportable Person.

### **Validity of self-certification used to determine entities residency**

With respect to New Entity Accounts, a self-certification is valid only if it complies with the requirements for the validity of self-certifications for Pre-existing Entity Accounts (see [Validity of self-certification used to determine entities residency](#)). The same is applicable with respect to curing self-certification errors, the requirement to obtain self-certifications on an account-by-account basis, and documentation collected by other persons.

### **Reasonableness of self-certification**

Once self-certification is obtained, RFI must ensure the reasonableness of such self-certification based on the information obtained in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures.

An RFI is considered to have confirmed the “reasonableness” of a self-certification if, in the course of account opening procedures and upon review of the information obtained in connection with the opening of the account (including any documentation collected pursuant to AML/KYC Procedures), it does not know or have reason to know that the self-certification is incorrect or unreliable.

In the case a self-certification that fails the reasonableness test, it is expected that the RFI would obtain a valid self-certification in the course of the account opening procedures.

### 6.5.1.2 Review procedure for Controlling Persons of Passive NFE

If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. The following guideline must be followed to determine whether a Passive NFE's Controlling Persons are reportable persons.

#### Step 1: Determine whether Account Holder is a Passive NFE

For the purposes of determining whether the entity is a Passive NFE, the RFI must request a self-certification unless it has information in its possession or that is publicly available to reasonably determine the status of the Account Holder. RFI may rely on information collected and maintained pursuant to AML/KYC Procedures.

#### Step 2: Determine the Controlling Persons of the Account Holder

To identify the Controlling Persons of the Account Holder (i.e. Passive NFE), the RFI may rely on information collected and maintained in line with AML/KYC procedures consistent with FATF Recommendation 10, on customer due diligence and Recommendation 25, transparency and beneficial ownership of legal arrangements. For more information on Controlling Person see [5.3.1 Controlling Persons](#).

#### Step 3: Determining whether Controlling Person of a Passive NFE is reportable person

For the purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, an RFI may only rely on a self-certification from either the Account Holder or the Controlling Person.

### 6.5.2 Additional Procedures Applicable to New Entity Accounts

If there is a change of circumstances with respect to a new entity account that causes the RFI to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the RFI must re-determine the status of the account in accordance with the procedures set forth in [56.5.1 Review Procedure for New Entity Accounts](#).

## 6.6 Special Due Diligence Rules

This Section contains special due diligence rules that RFIs are required to apply in addition to the general due diligence requirements and to any specific due diligence procedures applicable to the accounts maintained by them.

### 6.6.1 Reliance on self-certification and Documentary Evidence

RFI may not rely on a self-certification or Documentary Evidence if the RFI knows (i.e. has actual knowledge) or has reason to know that the self-certification or Documentary Evidence is incorrect or unreliable.

An RFI has reason to know that a self-certification or Documentary Evidence is unreliable or incorrect if its knowledge of relevant facts or statements contained in the self-certification or other documentation, including the knowledge of the relevant relationship managers, is such that a reasonably prudent person in the position of the RFI would question the claim being made.

An RFI also has reason to know that a self-certification or Documentary Evidence is unreliable or incorrect if there is information in the documentation or in the RFI's account files that conflicts with the person's claim regarding its status.

### 6.6.2 Alternative due diligence procedures for cash value insurance and annuity contracts

An RFI may presume that an individual beneficiary (other than the owner) of a Cash Value Insurance Contract or an Annuity Contract receiving a death benefit is not a Reportable Person and may treat such Financial Account as other than a Reportable Account unless the RFI has actual knowledge, or reason to know, that the beneficiary is a Reportable Person. An RFI has reason to know that a beneficiary of a Cash Value Insurance Contract or an Annuity Contract is a Reportable Person if the information collected by the RFI and associated with the beneficiary contains indicia as described in [6.2.2.2 Electronic Record Search](#).

### 6.6.3 Account balance aggregation and currency rules

There are various account balance or value thresholds to determine the due diligence procedures applicable to the account and for other purposes in the CRS framework. This section provides the account balance aggregation rules to determine the balance or value of the account.

#### 6.6.3.1 Account balance aggregation rule for individual and entity accounts

Identical rules apply to aggregation for individual accounts and entity accounts.

An RFI is required to aggregate all Financial Accounts maintained by Account Holder or by a related entity, but only to the extent that the Financial Institution's computerized systems link the Financial Accounts by reference to a data element such as client number or foreign TIN, and allow account balances or values to be aggregated.

Each joint holder of a Financial Account must be attributed the entire balance or value of the account for purposes of applying the aggregation requirements.

#### 6.6.3.2 Special aggregation rule applicable to relationship managers

In determining the aggregate balance or value of a pre-existing High Value Account, a Financial Institution is also required to aggregate all accounts held by that person which a relationship manager knows, or has reason to know, are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by that person.

### *6.6.3.3 Currency rule*

According to this rule, for the purpose of CRS, all dollar amounts are in United States dollars (USD) and shall be read to include equivalent amounts in other currencies. To determine the USD amount, amount in other currencies must be translated to USD using a rate within  $\pm 2\%$  of the rate published by the Maldives Monetary Authority (MMA) on the relevant date.

## 7. Reporting

Once accounts are determined to be Reportable Accounts then the Financial Institution must report information in relation to that account to MIRA. RFIs are required to report the information on an annual basis.

### 7.1 Information to be reported

Broadly, three categories of information are required to be reported by the RFIs.

1. Identification information  
These are the information concerning the identification of the Account Holder.
2. Account information  
The information to identify the account and the Financial Institution where the account is held.
3. Financial information  
The information in relation to the activity taking place in the account and the account balance.

#### 7.1.1 Identification information

##### Information required to be reported in relation to:

- Individual and Entity Account Holders that are Reportable Persons,
- Entities with Controlling Persons that are Reportable Persons and,
- the Controlling Persons themselves.

Information	Description
Name	The full name of the Account Holder.
Address	The address recorded for the Account Holder pursuant to the due diligence procedures. For individuals this will be the current residence address (or the mailing address if no current residence address is held).
Jurisdiction(s) of residence	For Pre-existing Accounts this will be based on the residence address test or the indicia search (or a self-certification if obtained) and for New Accounts this will be based on a self-certification.

TIN(s)	<p>The TIN to be reported with respect to an account is the TIN assigned to the Account Holder by its jurisdiction of residence.</p> <p>The TIN is not required to be reported with respect to Pre-existing Accounts if (i) it is not in the records of the Reporting Financial Institution, and (ii) there is not otherwise a requirement for the TIN to be collected by the Reporting Financial Institution.</p> <p>RFIs are required to use to reasonable efforts to obtain the TIN (or functionally equivalent) for pre-existing accounts.</p>
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**Additional information required to be reported in relation to Individuals/ Controlling Persons only**

Information	Description
Date of birth	<p>The date of birth is not required to be reported with respect to Pre-existing Accounts if (i) it is not in the records of the Reporting Financial Institution, and (ii) there is not otherwise a requirement for the date of birth to be collected by the Reporting Financial Institution.</p> <p>RFIs are required to use to reasonable efforts to obtain the TIN (or functionally equivalent) for pre-existing accounts.</p>
Place of birth	<p>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 Financial Institution.</p>

## 7.1.2 Account information

### Information required with respect to all Reportable Accounts

Information	Description
Account number (or functionally equivalent)	The identifying number of the account or, if no such number is assigned to the account, a functional equivalent (i.e. a unique serial number, contract number or policy number, or other number).
Account number type and the status of the account	<p>The option to include the information about the account number as an enumeration. (Example: International Bank Account Number (IBAN)).</p> <p>The current status is to identify whether the account is closed or not.</p>
The name, TIN, country of residence and address of the Reporting Financial Institution	<p>The Reporting Financial Institution must report its full legal name, TIN, country of residence and address to allow Participating Jurisdictions to easily identify the source of the information reported and subsequently exchanged.</p> <p>For RFI of the Maldives, TIN is the unique identification number issued by MIRA and country of residence is Maldives.</p>

### 7.1.3 Financial information

### Information required with respect to all Reportable Accounts

Information	Description
The account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) or, if the account was closed during the reporting period, the closure of the account.	<p>An account with a balance or value that is negative must be reported as having an account balance or value equal to zero.</p> <p>In general, the balance or value of a Financial Account is the balance or value calculated by the Financial Institution for purposes of reporting to the Account Holder. In the case of an equity or debt interest in a Financial Institution, the balance or value of an Equity Interest is the value calculated by the Financial Institution for the purpose that requires the most</p>

	<p>frequent determination of value, and the balance or value of a debt interest is its principal amount.</p> <p>In the case of an account closure, the Reporting Financial Institution must only report that the account was closed.</p> <p>Where jurisdictions already require Financial Institutions to report the average balance or value of the account they are free to maintain reporting of that information instead of requiring reporting of the balance or value of the account.</p>
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### Information required with respect to Depository Accounts only

Information	Description
The total gross amount of interest paid or credited to the account.	Total interest paid or credited aggregated at the final day of the reporting period.

### Information required with respect to Custodial Accounts only

Information	Description
The total gross amount of interest paid or credited to the account.	Total interest paid or credited aggregated at the final day of the reporting period.
The total gross number of dividends paid or credited to the account.	Total dividends paid or credited aggregated at the final day of the reporting period.
The total gross amount of other income generated with respect to the assets held in the account paid or credited to the account.	The term 'other income' means any amount considered income under the laws of the jurisdiction where the account is maintained, other than any amount considered interest, dividends, or gross proceeds or capital gains from the sale or redemption of Financial Assets.

The total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account.	The term 'sale or redemption' means any sale or redemption of Financial Assets.
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### Information required with respect to Other Accounts only (i.e. not Depository or Custodial Accounts)

Information	Description
The total gross amount paid or credited to the Account Holder with respect to the account with respect to which the Reporting Financial Institution is the obligor or debtor.	Such 'gross amount' includes, for example, the aggregate amount of: any redemption payments made (in whole or part) to the Account Holder; and any payments made to the Account Holder under a Cash Value Insurance Contract or an Annuity Contract even if such payments are not considered Cash Value.

## 7.2 How to file CRS Report?

RFIs are required to submit the CRS report on an annual basis (i.e. for every calendar year). The prescribed information must be submitted online in the CRS XML Schema format.

This submission format will be considered as submitting MIRA 922 form. The method of submission will be communicated by MIRA at a later date.

## 7.3 When to file CRS Report?

CRS Report must be submitted before 31 July of the subsequent year.

The first reportable calendar year for the CRS purpose is the year 2021 (i.e. 1 January 2021 to 31 December 2021, for which the first reporting deadline would be 31 July 2022).

## 8. Record-keeping Requirements

RFIs will also (in addition to their other CRS due diligence and reporting obligations) be required to keep records of the steps they have taken and the evidence they have relied upon for the performance of their CRS obligations. This includes a specific requirement for the RFIs to keep a record of any failure to obtain a required self-certification.

All relevant records must be kept as per the record-keeping requirements prescribed in the Chapter 3 of the Tax Administration Regulation.

## 9. Compliance reviews

MIRA will perform compliance reviews on RFIs to ensure adherence with standards and procedures under the CRS. MIRA's officers would periodically verify the due diligence and reporting procedures of the RFI. Additionally, MIRA would confirm the status of the non-reporting Financial Institutions and accounts excluded as a low risk by the RFIs. This review may be performed as part of a regular tax audit or as a separate inquiry or review.

Undocumented accounts are a concern area where we would follow up with the RFIs. Accounts could be undocumented as a result of inadequate procedures being implemented by the RFI to obtain the necessary information or the Account Holder is non-compliant. In the case of a small number of undocumented accounts, a simple inquiry to the RFI would be completed by MIRA. However, if such an RFI reports a larger than average number of undocumented accounts in any one year or the number of undocumented accounts reported continues to increase, a full audit of the RFI's due diligence procedures would be appropriate. In such a case, where possible and where feasible, it may be appropriate for MIRA to advise the MMA.

## 10. Penalties

Financial Institutions must register, review, report and maintain relevant records. Failing to meet the obligation is an offence, for which the entity would be subject to the penalty regime under the Tax Administration Act.

Penalty would be charged for delay in registration of Financial Institution with MIRA as provided in [3. Registration of Financial Institutions](#). Late registration fine of MVR 50 per day will be charged until the RFI applies for registration.

Penalties will apply for the failure to submit CRS Report, incorrect reporting and having inadequate procedures or practice in place effecting the integrity of the information being reported. A penalty fine of MVR 50 per day will be charged for each day of delay or submission of incorrect information from the date required to file the report.

## For support and assistance

Entities can email MIRA at [internationaltaxation@mira.gov.mv](mailto:internationaltaxation@mira.gov.mv) for further clarifications.

Please refer the CRS and the accompanied commentary further supplementing this guide. All of the OECD guidance is available on the OECD's [website](#). A set of [FAQs](#) is also available on MIRA's website.

FOR QUERIES



1415



1415@mira.gov.mv

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