



REPUBLIC OF VANUATU

TAX ADMINISTRATION ACT NO. 37 OF 2018

Tax Administration Regulation Order No. 154 of 2019

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TAX ADMINISTRATION ACT NO. 37 OF 2018

Tax Administration Regulation Order No. of 2019

In exercise of powers confirmed on me by section 109 of the Tax Administration Act No. 37 of 2018, I, Honourable GAETAN PIKOUNE, make the following Regulation.

PART 1 PRELIMINARY

1 Interpretation

- (1) In this Regulation, unless the contrary intention appears:

Act means the Tax Administration Act No. 37 of 2018;

proceeding means a proceeding before the Revenue Tribunal on an application for review of a reviewable decision.

- (2) A term used in this Regulation that is defined in the Act has the meaning as defined in the Act;
- (3) A term used in this Regulation for the purposes of a tax law and which is not defined in the Act or this Regulation has the meaning in that tax law.
- (4) Unless this Regulation provide otherwise, a reference in this Regulation to a period of days is a reference to a period of consecutive days.

PART 2 AGENCY TAXES

2 Agency taxes

- (1) Subject to subclause (2), the following taxes, duties, fees, or charges are agency taxes for the purposes of the Act:
 - (a) any tax, duty, fee, or charge imposed under a law enacted in Vanuatu, other than a tax law, where the tax, duty, fee, or charge is collected by the Director; and
 - (b) any stamp duty, fee, or charge imposed by the Stamp Duties Act [CAP 68].
- (2) A tax, duty, fee, or charge referred to in subclause (1) is treated as an agency tax from the date specified by the Minister, by written notice, published in the Gazette.

PART 3 TAXPAYER IDENTIFICATION NUMBERS

3 Documentary evidence of identity

- (1) For the purposes of paragraph 3(3)(b) of the Act, an application for a TIN by an individual must be accompanied by any of the following documentary evidence of identity:
 - (a) a certified copy of the personal information page of the applicant's current Vanuatu or foreign passport; or
 - (b) a certified copy of the personal information page of the applicant's current Vanuatu driver's licence; or
 - (c) a certified copy of the personal information page of the applicant's current foreign driver's licence provided it includes a photograph of the applicant; or
 - (d) a certified copy of the applicant's birth certificate with a current photo of the applicant certified as a true photograph of the applicant in accordance with the requirements specified by the Director; or
 - (e) such other evidence as the Director may specify.
- (2) In addition to a document referred to in subclause (1), an application for a TIN by an individual who is not a citizen of Vanuatu must include a certified copy of the individual's residency visa or work permit.
- (3) An application for a TIN by an incorporated company must be accompanied by a certified copy of the certificate of incorporation or registration of the company.
- (4) An application for a TIN by a limited partnership under the Partnership Act [CAP 92] must be accompanied by any document accepted by the Director as certifying the of registration of the partnership.
- (5) An application for a TIN by an unincorporated body of persons must be accompanied by a certified copy of the certificate of registration or other document evidencing the creation or formation of the body.
- (6) An application for a TIN by a trust or foundation must be accompanied by a certified copy of the deed of settlement or other document evidencing the creation or existence of the trust or foundation.

PART 3 TAXPAYER IDENTIFICATION NUMBERS

- (7) A reference in this section to a certified copy of a document includes a photocopy of the original of the document made and signed by the Director.
- (8) The original of a document to which subclause (7) applies must be provided by the applicant, or the applicant's tax representative, in person.

4 Biometric information

- (1) The Director may require an individual to submit biometrical information so as to:
- (a) ensure the proper identification of the individual; and
 - (b) counteract identity theft or fraud.
- (2) In this Regulation, **biometrical information**, in relation to an individual, means biological data to authenticate the identity of the individual, and includes any of the following:
- (a) facial recognition;
 - (b) fingerprint recognition;
 - (c) vocal recognition;
 - (d) iris or retina recognition.

5 Notification of changes

- (1) An individual who has been issued with a TIN must notify the Director, in writing, if they are leaving Vanuatu permanently and the notification must be filed with the Director at least 14 days prior to departure from Vanuatu unless the Director allows the notification to be filed within a shorter time before departure.
- (2) An individual who fails to comply with subclause (1) is liable for a penalty equal to VT10,000.

6 Additional uses of a TIN

- (1) For the purposes of paragraph 5(1)(c) of the Act, a person must provide their TIN for the purpose of making an application for, or renewal of:

PART 3 TAXPAYER IDENTIFICATION NUMBERS

- (a) a licence under the Casino Control Act [CAP 223];
 - (b) a licence under the Interactive Gaming Act No. 16 of 2000.
- (2) The requirement in subclause (1) applies from the date specified by the Minister, by written notice, published in the Gazette.

PART 4 TAX RETURNS AND OTHER DOCUMENTS

7 Declaration by taxpayer where tax agent files a document

- (1) Where a tax return, notice, application or other document of a taxpayer is to be filed with the Director by the taxpayer's registered tax agent, the taxpayer must provide the tax agent with a declaration, in writing:
 - (a) stating that the taxpayer authorises the tax agent to file the document on the taxpayer's behalf with the Director; and
 - (b) declaring that any information provided to the tax agent for the preparation of the document is true and correct.
- (2) A registered tax agent must not file a tax return, notice, application, or other document on behalf of a taxpayer before receiving the declaration referred to in subclause (1) from the taxpayer.
- (3) A registered tax agent must retain a declaration provided to the tax agent by a taxpayer for the period specified in sections 8(2) and (3) of the Act.
- (4) A registered tax agent commits an offence if the tax agent:
 - (a) files a tax return, notice, application, or other document of a taxpayer before receiving the taxpayer's declaration in relation to the document under subclause (1); or
 - (b) fails to comply with subclause (3).
- (5) A registered tax agent who commits an offence under subclause (4) is punishable on conviction by:
 - (a) for the first offence of the tax agent under subclause (4), a fine not exceeding VT100,000 or by a term of imprisonment not exceeding 3 months, or both; or
 - (b) for the second and subsequent offence, by a fine not exceeding VT500,000 or by a term of imprisonment not exceeding 6 months, or both.
- (6) The Director may cancel the tax agent registration in accordance with section 81 of the Act of a registered tax agent who commits an offence punishable under paragraph (5)(b).

PART 4 TAX RETURNS AND OTHER DOCUMENTS

8 Registered tax agent certification of tax return

- (1) For the purposes of subsection 9(7) of the Act, a registered tax agent who files a tax return on behalf of a taxpayer must make and sign a declaration on the return that:
 - (a) the taxpayer has supplied the tax agent with a declaration under Regulation 7 in relation to the return; and
 - (b) the tax agent has prepared the return in accordance with the information provided by the taxpayer; and
 - (c) the tax agent reasonably believes that the information provided by the taxpayer for the preparation of the return is accurate in all material respects.
- (2) A registered tax agent who cannot make the declaration required under subclause (1) must not file the tax return on behalf of the taxpayer.

PART 5 TAXATION ASSESSMENTS

9 Notice of a default assessment

- (1) For the purposes of subsection 14(2) of the Act, a notice of a default assessment must include the following information:
 - (a) the amount of tax and penalty (if any) assessed; and
 - (b) the amount of any late payment interest payable and the period for which the interest is calculated; and
 - (c) the tax period to which the default assessment relates; and
 - (d) the original due date for payment of the tax, and the due date for the payment of any penalty and late payment interest; and
 - (e) the manner of objecting to the default assessment.
- (2) Subject to subclause (3), the Director must allow a taxpayer served with a notice of a default assessment a period of at least 28 days from the date of service of the notice of the assessment to pay the tax, penalty, and interest payable under the assessment.
- (3) Despite subclause (2), the Director may require payment of the tax, penalty, and interest payable under a default assessment in less than 28 days where the Director has reason to believe that there is a risk to the revenue if the taxpayer were allowed 28 days for payment.

10 Notice of an advance assessment

For the purposes of subsection 15(4) of the Act, a notice of an advance assessment must include the following information:

- (a) the reasons for the advance assessment;
- (b) the amount of tax and penalty (if any) assessed; and
- (c) the tax period to which the advance assessment relates; and
- (d) the due date for payment of the tax and penalty, which may be a date before the date that the tax would otherwise be due for the tax period; and
- (e) the manner of objecting to the advance assessment.

PART 5 TAXATION ASSESSMENTS

11 Notice of an amended assessment

- (1) For the purposes of subsection 16(5) of the Act, a notice of an amended assessment must include the following information:
- (a) the reasons for the amended assessment;
 - (b) identification of the original assessment to which the amended assessment relates; and
 - (c) if there is an increase in the amount of tax payable under the amended assessment, the amount of:
 - (i) the amount of additional tax and penalty (if any) assessed; and
 - (ii) the amount of any late payment interest payable and the period for which the interest is calculated; and
 - (d) if there is a reduction in the amount of tax payable under the amended assessment, the amount of the reduced tax liability, and the amount, if any, of the reduced penalty and late payment interest liability;
 - (e) the tax period to which the amended assessment relates; and
 - (f) the original due date for payment of any tax, and the due date for the payment of any penalty and late payment interest; and
 - (g) the manner of objecting to the amended assessment.
- (2) Subject to subclause (3), the Director must allow a taxpayer served with a notice of an amended assessment a period of not less than 28 days from the date of service of the notice of the assessment to pay the tax, penalty, and interest payable under the assessment.
- (3) Despite subclause (2), the Director may require payment of the tax, penalty, and interest payable under an amended assessment in less than 28 days where the Director has reason to believe that there is a risk to the revenue if the taxpayer was allowed 28 days for payment.

PART 6 PAYMENT OF TAX

12 Tax payable in Vatu

Unless a tax law provides otherwise, tax and other amounts payable to the Director under a tax law must be paid in vatu.

13 Method of payment

- (1) If required by Director pursuant to subsection 61(2) of the Act, a taxpayer must pay tax due by electronic funds transfer in accordance with the directions of the Director.
- (2) When subclause (1) does not apply, a taxpayer may pay tax due:
 - (a) in cash or by cheque at any office of the Department; or
 - (b) by cheque sent by post to the post office box of the Department; or
 - (c) in any other manner specified by the Director.
- (3) The Director must give a receipt for tax paid.
- (4) Subject to subclause (5), a person who presents a cheque to the Director in payment of tax owing under a tax law that is not honoured by the bank on which the cheque is drawn is liable for a dishonoured cheque fee equal to VT7,500.
- (5) Subclause (4) does not apply where the bank has been in error in failing to honour the cheque.
- (6) Part 8, sections 7 and 87, and paragraphs 44(1)(a) and 45(5)(b), of the Act, apply to a dishonoured cheque fee payable by a taxpayer under subclause (4) on the basis that the fee is “tax” payable by the person.
- (7) Tax that is paid by a person by cheque is not treated as paid until the cheque has been cleared by the bank on which the cheque is drawn.
- (8) The reference to “tax” in this clause includes any amount payable to the Director under a tax law.

PART 6 PAYMENT OF TAX

14 Application of payment

- (1) Where a taxpayer makes a payment that is less than the total amount of tax, penalty, late payment interest, and any other amount due by the taxpayer, the amount paid is applied in the following order:
 - (a) first in payment of the tax liability;
 - (b) then is applied in payment of penalty;
 - (c) then in payment of late payment interest;
 - (d) then the balance remaining, if any, is applied against any other amounts owing by the taxpayer under a tax law.
- (2) Where a taxpayer has more than one tax liability at the time a payment is made, the payment is applied against the tax liabilities in the order in which the liabilities arose.
- (3) In this Regulation:
 - (a) “tax” means tax imposed under a tax law and includes the business licence fee imposed under the Business Licence Act; and
 - (b) “other amount” includes amounts treated as “tax” under the Act or this Regulation.

15 Prescribed rate of late payment interest

- (1) For the purposes of section 33 of the Act, the rate of late payment interest is 20% per annum.
- (2) The Minister may prescribe a different rate for the purposes of section 33 of the Act by Order published in the Gazette.
- (3) An Order made under subsection (2) must be published on the website of the Department.

16 Closure notice

For the purposes of section 37 of the Act, a closure notice must:

- (a) specify the name of the owner or occupier of the premises; and

PART 6 PAYMENT OF TAX

(b) specify the name of the business being conducted from the premises; and

(c) specify the address of the premises; and

(d) state the following:

“Premises Closed Temporarily for not Complying with Tax Obligations by Order of the Director of the Department of Customs and Inland Revenue under Section 37 of the Tax Administration Act”.

PART 7 TAX CLEARANCE

17 Tax clearance certificate required

- (1) For the purposes of section 51 of the Act, a tax clearance certificate is required for the following:
 - (a) approval of a tender by the Central Tenders Board; and
 - (b) an application for registration as a tax agent or customs broker; and
 - (c) an application for a book-keeper's licence; and
 - (d) an application for a licence or authorisation to undertake any activity in Vanuatu.

- (2) For the purposes of section 51 of the Act, the relevant authority is:
 - (a) where paragraph (1)(a) applies, the Central Tenders Board; and
 - (b) where paragraphs (1)(b) and (c) apply, the Department of Customs and Inland Revenue; and
 - (c) where paragraph (1)(d) applies, the Government department or agency responsible for issuing the licence.

PART 8 FORMS AND DOCUMENTS

18 Manner of filing documents

- (1) For the purposes of subsection 59(1) of the Act and except as provided for under a tax law, a person must file a tax return, application, notice, statement, or other document with the Director in the following manner:
 - (a) where subsection 61(2) of the Act applies, by electronic transmission in accordance with the directions of the Director; or
 - (b) in any other case, by personal delivery or post to an office of the Department.
- (2) A document that is filed electronically is treated as properly signed if it includes the electronic signature of the person required to sign the document.
- (3) A person who lodges a document by electronic transmission with the electronic signature of another person who has not consented to the inclusion of his or her signature commits an offence and is punishable on conviction by a fine not exceeding VT1,000,000 or by imprisonment for a term not exceeding 12 months, or both.
- (4) In this Regulation, “**electronic signature**”, in relation to a person, means the unique identification, in electronic format, approved by the Director as the person's electronic signature.

19 Manual processing fee

For the purposes of subsection 61(7) of the Act, the manual processing fee is VT12,000.

PART 9 ADMINISTRATION OF THE TAX LAWS

20 Prescribed oath or affirmation of office

- (1) For the purposes of subsections 65(2) and (3) of the Act, the prescribed oath of office is specified in the Schedule.
- (2) For the purposes of subsection 65(2) and (3) of the Act, the prescribed affirmation of office is specified in the Schedule.

21 Key performance indicators for the Department

For the purposes of subsection 65(8), the key performance indicators for the Department are:

- (a) the meeting of revenue targets; and
- (b) the reduction in the level of, and growth in, debts owed by taxpayers; and
- (c) the making of VAT refunds within required timelines; and
- (d) the effective Implementation of new revenue measures; and
- (e) providing quality and timely advice to Government on revenue administration and compliance issues as required; and
- (f) compliance with any other indicator considered appropriate by the Director that is included in Department's strategic or other management plan.

22 Annual Report

For the purposes of subsection 68(2), the Annual Report of the Department for a financial year must include the following:

- (a) a summary of the operations of the Department during the year, including an outline of the organisational structure of the Department, and the basis of allocation of funds to key functions; and
- (b) a report on the performance of the Department for the year taking account of the key performance indicators specified in Regulation 21 and including:

PART 9 ADMINISTRATION OF THE TAX LAWS

- (i) the registration of taxpayers by reference to revenue type and taxpayer group; and
 - (ii) revenue collections during the year by reference to revenue type and taxpayer group; and
 - (iii) outstanding taxes, interest, and penalties at the end of the year by reference to revenue type, taxpayer group, and age of debt; and
 - (iv) the filing of tax returns during the year by reference to revenue type and taxpayer group; and
 - (v) compliance activity undertaken during the year by reference to revenue type and taxpayer group, including details of the number and type of audits and inspections, and tax, interest, and penalty assessments raised and amounts collected; and
 - (vi) the level of compliance by taxpayers during the year with record-keeping requirements; and
 - (vii) the issuing of taxpayer identification numbers during the year; and
 - (viii) any other matters the Director considers appropriate to be dealt with in the report; and
- (c) an outline of the governance structures in place in the Department, including measures to prevent fraud; and
 - (d) a statement on the Department's personnel practices relating to the management and development of taxation officers and employees; and
 - (e) the financial statements of the Department for the year; and
 - (f) any other matters required by the Minister to be dealt with in the report.

PART 10 REVENUE TRIBUNAL

Division 1 Members of the Revenue Tribunal

23 Basis of appointment of member

A member, other than the Chairperson, may be appointed as either a full-time or part-time member.

24 Remuneration and allowances

- (1) A member, other than the Chairperson, must be paid such remuneration as is determined by the Public Service Commission.
- (2) A member must be paid such allowances as determined by the Public Service Commission.

25 Outside employment or business activity

- (1) A full-time member of the Revenue Tribunal must not engage in paid employment or business activity outside the duties of his or her office without the Chairperson's written approval.
- (2) A part-time member must notify the Chairperson, in writing, prior to undertaking any paid employment or business activity.
- (3) A part-time member of the Revenue Tribunal must not engage in any paid employment or business activity that, in the Chairperson's opinion, conflicts or may conflict with the proper performance of his or her duties as member of the Tribunal.

26 Leave of absence

- (1) A full-time member has such leave entitlements that are determined by the Public Service Commission.
- (2) The Chairperson may grant a full-time or part-time member leave of absence on such terms and conditions that the Chairperson determines.

Division 2 Constitution of Revenue Tribunal

27 Constitution of Revenue Tribunal for a proceeding

- (1) A proceeding before the Revenue Tribunal may be constituted by 1 or 3 members at the discretion of the Chairperson.

PART 10 REVENUE TRIBUNAL

- (2) The Chairperson may give written directions as to:
- (a) the member or members who are to constitute the Tribunal for a particular proceeding; and
 - (b) where there is more than one member, the member who is to preside over the proceeding if the Chairperson is not a member of the Tribunal for the proceeding.
- (3) At any time before the commencement of the hearing of a proceeding, the powers of the Tribunal, for the purposes of the proceeding, may be exercised by the Chairperson or the presiding member for the proceeding under paragraph (2)(b).

28 Reconstitution of Revenue Tribunal for a proceeding

- (1) The Chairperson may revoke a direction under subclause 27(2) for a proceeding and give another direction if, at any time before the Tribunal determines the proceeding, the member, or one of the members, who constitutes the Tribunal for the purposes of the proceeding:
- (a) ceases to be a member of the Tribunal; or
 - (b) is for any reason unavailable; or
 - (c) is directed by the Chairperson not to take part in the proceeding because of a conflict of interest under subsection 72(3) of the Act.
- (2) If subclause (1) applies after the hearing of a proceeding has commenced:
- (a) the proceeding is to be continued by the Tribunal as reconstituted in accordance with the directions of the Chairperson; and
 - (b) the reconstituted Tribunal must have regard to any record of the proceeding before the Tribunal as previously constituted (including a record of any evidence taken in the proceeding).

Division 3 Application for Review of Reviewable Decision

29 Application fee

- (1) For the purpose of paragraph 71(2)(c) of the Act, the fee for an application to the Revenue Tribunal for review of a reviewable decision is:

PART 10 REVENUE TRIBUNAL

- (a) where the application involves an amount of tax in dispute of VT1,000,000 or more, VT10,000; or
 - (b) for any other application, VT5,000.
- (2) Where the Registrar determines, having regard to an applicant's income, expenditures, assets, or liabilities, that the payment of the applicable fee referred to in subclause (1) would cause financial hardship to the applicant, the fee is VT1,000.
- (3) The fee must be paid electronically or at the Secretariat of the Revenue Tribunal.

30 Powers of Director after application filed

- (1) After an application for review of a reviewable decision has been filed with the Revenue Tribunal, the decision can be altered only by the Tribunal on review unless the parties to the proceeding, and the Tribunal, consent to the Director making an alteration to the decision.
- (2) A reference in subclause (1) to an alteration of a decision is a reference to:
- (a) the variation of the decision; or
 - (b) the setting aside of the decision; or
 - (c) the setting aside of the decision and the making of a decision in substitution for the decision set aside.

Division 4 Hearings

31 Place of hearing

The hearings of the Revenue Tribunal are to take place at a location to be designated by the Chairperson of the Tribunal.

32 Representation before the Revenue Tribunal

A party to a proceeding before the Revenue Tribunal may appear in person or may be represented by a legal practitioner under the Legal Practitioners Act [CAP 119] or a registered tax agent.

33 Filing of documents by the Director

- (1) The Director must, within 28 days of being served with a copy of an application to the Revenue Tribunal for review of a reviewable decision, or within such further time as the Tribunal may allow, file with the Tribunal 2 copies of:
 - (a) the notice of the reviewable decision to which the application relates; and
 - (b) a statement setting out the reasons for the decision if these are not set out in the notice referred to in paragraph (a); and
 - (c) all other documents relevant to the Tribunal's review of the decision.
- (2) If the Tribunal is not satisfied with a statement filed under paragraph (1)(b), the Tribunal may, by written notice, require the Director to file, within the time specified in the notice, a further statement.
- (3) If the Tribunal is of the opinion that other documents may be relevant to the Tribunal's review of a reviewable decision, the Tribunal may, by written notice, require the Director to file with the Tribunal, within the time specified in the notice, the documents specified in the notice.
- (4) The Director must serve a copy of any statement or document filed under subclause (1) or (3) on the applicant within 7 days of filing the statement or document with the Revenue Tribunal.

34 Hearing dispensed with

- (1) Subclause (2) applies where:
 - (a) it appears to the Tribunal that the issues for determination on the review of a reviewable decision can be adequately determined without a hearing; and
 - (b) the parties to the proceeding consent to the review being determined without a hearing.
- (2) Where subclause (1) applies, the Revenue Tribunal may review the reviewable decision by considering the documents or other material filed with, or provided to, the Tribunal and make a decision without holding a hearing.

PART 10 REVENUE TRIBUNAL

35 Public hearing

- (1) Subject to subclause (2), the hearing of a proceeding before the Revenue Tribunal must be held in public.
- (2) The Tribunal may, by order:
 - (a) direct that a hearing or part of a hearing is to take place in private; and
 - (b) give directions in relation to the persons who may be present at a private hearing.

Division 5 Procedural Powers of Revenue Tribunal

36 Powers of Tribunal

- (1) The Revenue Tribunal has power to do the following:
 - (a) take evidence on oath or affirmation;
 - (b) commence or continue the hearing in relation to a proceeding in the absence of a party who has had reasonable notice of the hearing;
 - (c) adjourn the proceeding from time to time.
- (2) The presiding member at the hearing of a proceeding before the Revenue Tribunal may:
 - (a) require a person appearing before the Tribunal at that hearing to give evidence on oath or affirmation; and
 - (b) administer an oath or affirmation.

37 Power to summon person to give evidence or produce documents

- (1) The presiding member for a proceeding before the Revenue Tribunal may summon a person to do either or both the following:
 - (a) appear before the Tribunal to give evidence at a hearing of the proceeding;
 - (b) produce any document relating to the proceeding as specified in the summons.

PART 10 REVENUE TRIBUNAL

- (2) A summons under subclause (1) must:
- (a) state the time and place for compliance with the summons; and
 - (b) be served personally on the person summonsed.
- (3) A person summonsed to appear as a witness before the Revenue Tribunal is entitled to be paid fees at such rates as are allowable for witnesses in the Supreme Court and are to be paid in such manner as the Tribunal may direct.

38 Division of opinion

If the members constituting the Revenue Tribunal for a proceeding are divided in opinion as to the decision to be made on any question, the question is to be decided according to the opinion of the majority provided that in the event of a tie, the presiding member has the casting vote.

39 Discontinuance, dismissal, or reinstatement of an application

- (1) Subject to clause 40, an applicant may discontinue or withdraw their application for review of a reviewable decision at any time by filing written notice with the Secretariat of the Tribunal and the Tribunal must dismiss the application.
- (2) If an applicant fails to appear in person, or be represented, at a hearing of a proceeding, the Tribunal may dismiss the application.
- (3) The presiding member for a proceeding may dismiss an application to the Revenue Tribunal where the applicant fails to do the following within a reasonable time:
- (a) proceed with the application; or
 - (b) comply with a direction of the Tribunal in relation to the application.
- (4) If the Tribunal has dismissed an application under subclause (2) or (3), the applicant may, within 28 days after receiving notification that the application has been dismissed, apply to the Tribunal for reinstatement of the application.
- (5) If an application has been made under subclause (4), the Tribunal may decide to:
- (a) reinstate the application with directions or

PART 10 REVENUE TRIBUNAL

- (b) refuse the application providing the applicant with reasons for the refusal.

40 Agreement as to decision

- (1) This Regulation applies where, at any stage in a proceeding before the Revenue Tribunal, the parties agree in writing as to the terms of the decision of the Tribunal in the proceeding, or in a part of the proceeding or on a matter arising out of the proceeding.
- (2) If subclause (1) applies and the agreement reached is as to the terms of the decision of the Revenue Tribunal in the proceeding, the Tribunal may make a decision in accordance with those terms.
- (3) If subclause (1) applies and the agreement reached relates to a part of the proceeding or a matter arising out of the proceeding, the Tribunal may, in its decision in the proceeding, give effect to the terms of the agreement.

41 Power to remit decision to Director

- (1) The Revenue Tribunal may, at any stage in a proceeding, remit the reviewable decision to which the proceeding relates to the Director for reconsideration in accordance with the directions of the Tribunal.
- (2) Where subclause (1) applies, the Director must reconsider the reviewable decision and may make a decision to:
 - (a) affirm the reviewable decision; or
 - (b) vary the reviewable decision; or
 - (c) set aside the reviewable decision and make a new decision.
- (3) Where the Director varies or sets aside a reviewable decision under subclause (2), the decision as varied or the new decision is taken to be the reviewable decision that is the subject of the application for review before the Revenue Tribunal and the applicant may either proceed with, or withdraw, the application.

42 Correction

- (1) The Revenue Tribunal may alter the text of a decision or statement of reasons if, after it has made a decision, it is satisfied that there is an error

PART 10 REVENUE TRIBUNAL

in the text of the decision or in the written statement of reasons for the decision.

- (2) The altered text under subclause (1) is treated as the decision or statement of reasons of the Tribunal.
- (3) The reference in this clause to an error in the text of a decision or statement of reasons includes:
 - (a) a typographical or clerical error; or
 - (b) an inconsistency between the decision and the statement of reasons.

43 Costs

The Revenue Tribunal may award such costs as it considers fair and reasonable.

Division 6 Documentation

44 Filing documents with Revenue Tribunal

Any document required by the Act or this Regulation to be filed with the Revenue Tribunal must be filed electronically or at the Secretariat of the Tribunal.

45 Address for service of documents

- (1) An applicant for review of a reviewable decision must provide the Registrar of the Revenue Tribunal with written notice of the applicant's address for service of any documents relating to the review.
- (2) If required by the Revenue Tribunal, the applicant's address for service must include both an electronic address and an address for manual service of documents.

46 Service of documents

- (1) Subject to subclause (2), any notice, statement, or other document relating to a proceeding before the Revenue Tribunal that is required to be served on a person is treated as properly served on the person:
 - (a) where the person is the applicant, when served personally on the applicant or the applicant's representative, or left or sent by registered post to the person's address for service under clause 45;

PART 10 REVENUE TRIBUNAL

- (b) where the person is the Director, when left or sent by registered post to the office of the Department that issued the decision that is the subject of the application; or
 - (c) for any other person, when served personally on the person or sent by registered post to the person's last known address.
- (2) The Chairperson may require that a notice, statement, or other document referred to in subclause (1) is served on a person electronically to the person's electronic address for service under subclause 45(2).

PART 11 TAX AGENT REGISTRATION

47 Application fee for tax agent registration

(1) For the purposes of subsection 76(2) of the Act, the fee for an application for tax agent registration is:

- (a) for an individual, VT25,000; or
- (b) for any other person, VT50,000.

(2) For the purposes of subsection 78(2) of the Act, the fee for an application for renewal of tax agent registration is:

- (a) for an individual, VT20,000; or
- (b) for any other person, VT40,000.

48 Fit and proper person to provide tax agent services

(1) Subject to subclause (2) and (3), an individual is a fit and proper person to provide tax agent services if the individual:

- (a) has a tertiary or similar qualification in taxation, accounting, business, law, or another similar discipline; and
- (b) has at least 3 year's full-time experience in the previous 5 years in Vanuatu:
 - (i) in providing tax agent services under the supervision of a registered tax agent; or
 - (ii) as a taxation officer providing tax administration services; and
- (c) is of good character as determined under clause 49.

(2) Despite paragraph (1)(a), the Director may, within the first 12 months after the commencement of this Part, register an individual as a tax agent even though the individual does not have a relevant qualification, provided the individual:

- (a) has significant experience providing tax agent services to large taxpayers prior to the commencement of this Part; and

PART 11. TAX AGENT REGISTRATION

- (b) is providing tax agent services to large taxpayers at the commencement of this Part
- (3) Paragraph (1)(a) does not apply in determining whether to renew the registration of a person registered under paragraph (2).
- (4) The Director may regard an individual as satisfying paragraph (1)(b) if the individual has experience in another jurisdiction that is equivalent to that specified in paragraph (1)(b).
- (5) For an application made in the first 5 years after commencement of this Part, Subparagraph (1)(b) is satisfied where the individual has provided tax agent services or tax administration services during the period specified in that Subparagraph.
- (6) In this Regulation, "tax administration services" means any of the following:
 - (a) the review or audit of tax returns filed by taxpayers;
 - (b) the review of notices of objection filed by taxpayers;
 - (c) providing advice on the application of tax laws;
 - (d) representing the Department in dealings with taxpayers in relation to the tax laws.

49 Persons of good character

An individual is of good character unless the individual:

- (a) is an undischarged bankrupt; or
- (b) has been found guilty of misconduct by a professional body within 10 years prior to lodging the application for tax agent registration; or
- (c) has been liable for penalty under paragraph 85(1)(a), 88(2)(a), or 89(2)(a) of the Act, or liable for a similar penalty under the Value Added Tax Act [CAP 247] or Customs legislation within 10 years prior to lodging the application for tax agent registration; or
- (d) has been convicted of an offence under a tax law or an offence relating to bribery or dishonesty within 10 years prior to lodging the application for tax agent registration;

PART 11 TAX AGENT REGISTRATION

- (e) has been dismissed from a leadership position under section 41 of the Leadership Code Act [CAP. 240] within 10 years prior to lodging the application for tax agent registration; or
- (f) has an unsatisfactory tax compliance record.

50 Nomination of partners and employees

- (1) An application for tax agent registration by a partnership must include the nomination of at least one partner or employee who is a registered tax agent under subsection 77(1) of the Act.
- (2) An application for tax agent registration by a company must include the nomination of at least one employee who is a registered tax agent under subsection 77(1) of the Act.
- (3) If the Director registers a partnership or company as a tax agent, the notice of registration must include the name of the nominated partner or employee.
- (4) A partnership or company registered as a tax agent may, at any time, nominate an additional or substitute partner or employee who is a registered tax agent under subsection 77(1) of the Act.
- (5) If the Director is satisfied that a partner or employee nominated under subclause (4) is a registered tax agent, the Director must serve the partnership or company with a revised notice of registration that includes:
 - (a) the name of the additional partner or employee; or
 - (b) the name of the substitute partner or employee and omits the name of the partner or employee that they have replaced.
- (6) In this Regulation, “partner”, in relation to a partnership, includes a key person of the partnership.

51 Additional time to consider application for tax agent registration

- (1) For the purposes of subsection 77(7) of the Act, the Director may take an additional 28 days to determine an application for tax agent registration so as to confirm the qualifications of, and carry out background checks in relation to, the applicant.

PART 11 TAX AGENT REGISTRATION

- (2) For the purposes of subsection 78(5) of the Act, the Director may take an additional 14 days to determine an application for renewal of tax agent registration so as to carry out background checks in relation to the applicant.

PART 12 EXCHANGE OF INFORMATION AND INTERNATIONAL TAX COOPERATION

52 International tax cooperation

- (1) The Schedules listed in subclause (2) provide for the implementation of Vanuatu's commitments to the Global Forum on Transparency and Exchange of Information for tax purposes and facilitates in the implementation of the mutual administrative assistance agreements to which Vanuatu is a party.
- (2) For the purposes of subclause (1):
 - (a) Schedule 2 sets out automatic exchange of information obligations under the Common Reporting Standard; and
 - (b) Schedule 3 sets out the obligations of certain entities to file Country-by-Country Reports with the Director.

PART 13 MISCELLANEOUS
PART 13 MISCELLANEOUS

53 Commencement

- (1) Subject to subclauses (2), (3), and (4), this Regulation commence on 1 January 2020.
- (2) Part 3 commences on the date the Regulations are published in the Gazette.
- (3) Part 11 commences on 1 April 2020
- (4) Subclause 53(2) and Schedule 3 commence on a date to be prescribed by Order by the Minister of Finance and Economic Management and apply to financial years as specified in the Order.

Made at Port Vila this 20th day of December, 2019.


Honourable GAETAN PIKOUNE
Minister of Finance and Economic Management



SCHEDULE 1

PRESCRIBED OATH OR AFFIRMATION OF OFFICE

1. For the purposes of subclause 20(1), the prescribed oath of office is:

“I,, do swear that I will faithfully and honestly perform the duties which devolve upon me under the tax laws and that I will regard and deal with all documents and information relating to any person and all confidential instructions in respect of the administration of the tax laws, which may come into my possession or to my knowledge in the course of my official duty, as secret, and that I will not reveal any such document or information to any person, nor permit any person to have any access to such document, save in the circumstances in which I am permitted to do so under the Tax Administration Act. So help me God.

(Signed).....

Made and subscribed before me this day of
20.....

.....
Magistrate/Justice of the Peace/Commissioner for Oaths.”

2. For the purposes of subclause 20(2), the prescribed affirmation of office is:

“I,, do solemnly and sincerely promise and declare that I will faithfully and honestly perform the duties which devolve upon me under the tax laws and that I will regard and deal with all documents and information relating to any person and all confidential instructions in respect of the administration of the tax laws, which may come into my possession or to my knowledge in the course of my official duty, as secret, and that I will not reveal any such document or information to any person, nor permit any person to have any access to such document, save in the circumstances in which I am permitted to do so under the Tax Administration Act.

(Signed).....

Made and subscribed before me this day of
20.....

.....
Magistrate/Justice of the Peace/Commissioner for Oaths”

SCHEDULE 2

AUTOMATIC EXCHANGE OF INFORMATION: APPLIED COMMON REPORTING STANDARD

PART 1 APPLICATION OF THE APPLIED REPORTING STANDARDS

1 Interpretation

(1) In this Schedule, unless the contrary intention appears:

“AML/KYC Procedures” means the customer due diligence procedures of a Reporting Financial Institution pursuant to the Anti-Money Laundering and Counter Terrorism Financing Act No.13 of 2014;

“Applied Common Reporting Standard” or “Applied CRS” means the Common Reporting Standard incorporating allowed modifications under the CRS and the related Commentaries, as is set out in this Schedule.

“Common Reporting Standard” or “CRS” means the Common Reporting Standard, including the related Commentaries, approved by the Council of the Organisation for Economic Co-operation and Development on 15 July 2014, which contain reporting and due diligence procedures for the automatic exchange of financial account information, as amended from time to time.

“Financial Action Task Force Recommendations” means the International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation, published by the Financial Action Task Force (FATF), 2012 as updated from time to time.

“MCAA” means the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information.

“reporting period” means the calendar year ending on 31 December.

(2). A word or expression used in this Schedule and defined in the

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AUTOMATIC EXCHANGE OF INFORMATION: APPLIED COMMON REPORTING
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Applied Common Reporting Standard in Schedule 2, but not in this Schedule, has the meaning given in the Applied Common Reporting Standard.

- (3). This Regulation and the Applied Common Reporting Standard in Part 2 of Schedule 2 are to be read and applied in accordance with the Commentaries on the Common Reporting Standard.

2 General provisions

- (1) An account listed in Part 3 of Schedule 2 as an Excluded Account is not a Financial Account for the purposes of this Schedule.
- (2) For the purposes of this Schedule, a Reporting Financial Institution is to treat an account balance with a negative balance as having a nil balance.

3 Documentary Evidence of Pre-existing Entity Account

- (1) Subject to subclause (2), a Reporting Financial Institution may use as Documentary Evidence any classification in the Reporting Financial Institution's records with respect to the Account Holder of a pre-existing entity account that was—
- (a) determined based on a standardised industry coding system; and
- (b) recorded by the Reporting Financial Institution consistent with its normal business practices for purposes of AML/KYC Procedures or another regulatory purposes (other than for tax purposes); and
- (c) implemented by the Reporting Financial Institution prior to 30 June 2017.
- (2) Subclause (1) applies only:
- (a) in respect to pre-existing entity accounts; and
- (b) where the Reporting Financial Institution does not know or does not have reason to know that such classification is incorrect or unreliable.
- (3) For the purposes of this clause “standardised industry coding system” means a coding system used to classify establishments by

business type for purposes other than tax purposes.

4 Requirement to Establish, Maintain and Apply Policies and Procedures

- (1) Subject to subclause (1), a Reporting Financial Institution must establish, maintain and effectively apply policies and procedures to identify reportable accounts maintained by that Reporting Financial Institution at any time during a reporting period.
- (2) The policies and procedures established under subclause (1) must identify reportable accounts maintained by the Reporting Financial Institution by applying the due diligence procedures set out in the Applied Common Reporting Standard.

5 Notification of Reporting Requirements

- (1) A Reporting Financial Institution that has a reporting obligation under this Schedule must notify the Competent Authority that they have a reporting obligation no later than 30 March of the first calendar year in which the Reporting Financial Institution is required to comply with reporting obligations under this Schedule.
- (2) Notification provided to the Competent Authority under subclause (1) must include:
 - (a) the name of the Reporting Financial Institution; and
 - (b) the categorisation of the Reporting Financial Institution as determined by the Applied Common Reporting Standard; and
 - (c) the full name, address, designation and contact details of the individual authorised by the Reporting Financial Institution to be the principal point of contact for the purposes of compliance with this Schedule and the Applied Common Reporting Standard.
- (3) A Reporting Financial Institution must notify the Competent Authority immediately of any change to the information provided under subclause (2) within 14 days of such change.
- (4) A Reporting Financial Institution must satisfy the requirements of subclause (1) to (3) electronically, in a form and manner approved

by the Competent Authority.

6 Reporting obligation

- (1) A Reporting Financial Institution must, in respect of the reporting period commencing on or after 1 January 2017 and each subsequent reporting period, file with the Competent Authority an information return setting out the information required to be reported under the Applied Common Reporting Standard, in relation to each Reportable Account maintained by the Reporting Financial Institution at any time during a reporting period.

If a Reporting Financial Institution applies the due diligence procedures set out in the Applied Common Reporting Standard for a reporting period and no account is identified as a Reportable Account, the institution must file an information return which provides that the institution maintains no reportable accounts in respect of that reporting period.

- (2) An information return, required to be filed by this Schedule, must be submitted on or before 31 May of the year following the reporting period to which the return relates or such other time as authorised by the Competent Authority.

7 Electronic Returns system

An information return, required to be filed by clause 6, must be filed electronically using such technology as may be approved or provided by the Competent Authority, and in such form as the Competent Authority requires.

8 Appointment of Third Parties to Provide Services

- (1) A Reporting Financial Institution may appoint a third party as its agent to carry out the duties and obligations imposed by this Schedule.
- (2) Where a third party is appointed by a Reporting Financial Institution, in accordance with subclause (1),
- (a) the institution must, at all times, have access to and be able to produce, where so requested by the Competent Authority, the records and documentary evidence used to identify and report on reportable accounts; and

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- (c) the institution is responsible for any failure of that third party to carry out the obligations of the Reporting Financial Institution under this Schedule despite the fact that:
 - (i) the actions were the actions of that third party; or
 - (ii) the failure to act was the failure of that third party.

9 Record Keeping – Applied Common reporting Standard

- (1) A Reporting Financial Institution must keep records that the institution obtains or creates for the purposes of complying with the Applied Common Reporting Standard, including self-certifications, records of documentary evidence, and the steps undertaken and any evidence relied upon for the performance of the due diligence procedures.
- (2) Subject to subclause (3) a person that is required to create, obtain or keep records in the manner required under this clause must retain those records in accordance with Section 8 of the Tax Administration Act.
- (3) For the purposes of the application of section 8 of the Tax Administration Act to records described in subsection (1), the period of 5 years referred to in paragraph 8(2)(d) is a reference to a period of 5 years following.
 - (a) in the case of self-certification - the last day on which a related financial account is open; and
 - (b) in any other case - the end of the last reporting period in respect of which the record is relevant.

10 Anti-Avoidance

- (1) If a person enters into any arrangement or engages in a practice, the main purpose or one of the main purposes of which can reasonably be considered to be to avoid any obligation under this Schedule, the Schedule applies as if the person has not entered into the arrangement or engaged in the practice.
- (2) A Non Reporting Financial Institution ceases to be a Non

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Reporting Financial Institution if it fails to meet the requirements set out under Section VII B of the Applied Common Reporting Standard.

- (3) An Excluded Account ceases to be an Excluded Account if it fails to meet the requirements set out under:
 - (a) Section VIII(C)(16) of the Applied Common Reporting Standard; or
 - (b) Part 3 of Schedule 2.

11 Competent Authority Use and Dissemination of Information

The Competent Authority must provide information obtained from Reportable Financial Institutions pursuant to this Schedule in respect of reportable accounts to other jurisdictions in accordance with the requirements of the MCAA or other applicable Competent Authority Agreements.

PART 2. APPLIED COMMON REPORTING STANDARD

Section I: General Reporting Requirements

- A. Subject to paragraph C through E, each Reporting Financial Institution must report the following information with respect to each Reportable Account of such Reporting Financial Institution:
1. details of the Account Holder including but not limited to the following:
 - (a) in the case of any Entity that is an Account Holder and that, after application of the due diligence procedures under Sections V, VI and VII, is identified as having one or more Controlling Persons that is a Reportable Person – the name, address, jurisdiction(s) of residence and TIN(s) of the Entity and the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth of each Reportable Person; or
 - (b) in the case of a Reportable Person(s) that is an Account holder of the Account - the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth (in the case of an individual) of the Reportable Person(s); and
 2. the account number (or functional equivalent in the absence of an account number); and
 3. the name and identifying number (if any) of the Reporting Financial Institution; and
 4. the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value):
 - (a) as of the end of the reporting period; or
 - (b) if the account was closed during such reporting period, the closure of the account; and

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5. in the case of any Custodial Account -
 - (a) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the reporting period; and
 - (b) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder; and
 6. in the case of any Depository Account - the total gross amount of interest paid or credited to the account during the reporting period; and
 7. in the case of any account not described in subparagraph A(5) or (6) - the total gross amount paid or credited to the Account Holder with respect to the account during the reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the reporting period.
- B. The information reported must identify the currency in which each amount is denominated.
- C. Despite subparagraph A(1), with respect to each Reportable Account that is a Pre-existing Account, the TIN(s) or date of birth is not required to be reported if such TIN(s) or date of birth is not:
1. in the records of the Reporting Financial Institution; and
 2. otherwise required to be collected by such Reporting Financial Institution under domestic law.
- D. A Reporting Financial Institution under paragraph C must use

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reasonable efforts 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

- E. Despite subparagraph A(1), the TIN is not required to be reported if
- (i) a TIN is not issued by the relevant Reportable Jurisdiction; or
 - (ii) the domestic law of the relevant Reportable Jurisdiction does not require the collection of the TIN issued by such Reportable Jurisdiction.
- F. Despite subparagraph A(1), the place of birth is not required to be reported unless the Reporting Financial Institution is otherwise required to obtain and report it under domestic law and it is available in the electronically searchable data maintained by the Reporting Financial Institution.

Section II: General Due Diligence Requirements

- A. An account is treated as a Reportable Account beginning as of the date it is identified as such pursuant to the due diligence procedures in Sections II through VII and, unless otherwise provided, information with respect to a Reportable Account must be reported annually in the calendar year following the year to which the information relates.
- B. The balance or value of an account is determined as of the last day of reporting period.
- C. Where a balance or value threshold is to be determined as of the last day of a calendar year, the relevant balance or value must be determined as of the last day of the reporting period that ends with or within that calendar year.
- D. A Reporting Financial Institution may apply the due diligence procedures for –
- 1. New Accounts to all Pre-existing Accounts or with respect to any clearly identified group of Pre-existing Accounts, but the rules otherwise applicable to such Pre-existing Accounts continue to apply; and

2. High Value Accounts to all Lower Value Accounts or with respect to any clearly identified group of Lower Value Accounts.

Section III: Due Diligence for Pre-existing Individual Accounts

The following procedures apply for purposes of identifying Reportable Accounts among Pre-existing Individual Accounts.

A. 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 Reporting Financial Institution is effectively prevented by law from selling such Contract to residents of a Reportable Jurisdiction.

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

1. **Residence Address.** If the Reporting Financial Institution has in its records a current residence address for the individual Account Holder based on Documentary Evidence, the Reporting Financial Institution may treat the individual Account Holder as being a resident for tax purposes of the jurisdiction in which the address is located for purposes of determining whether such individual Account Holder is a Reportable Person.
2. **Electronic Record Search.** If the Reporting Financial Institution does not rely on a current residence address for the individual Account Holder based on Documentary Evidence as set forth in subparagraph B(1), the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the following indicia and apply subparagraph B(3) through (6):
 - (a) identification of the Account Holder as a resident of a Reportable Jurisdiction;
 - (b) current mailing or residence address (including a post office box) in a Reportable Jurisdiction;

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- (c) one or more telephone numbers in a Reportable Jurisdiction and no telephone number in the jurisdiction of the Reporting Financial Institution;
 - (d) standing instructions (other than with respect to a Depository Account) to transfer funds to an account maintained in a Reportable Jurisdiction;
 - (e) currently effective power of attorney or signatory authority granted to a person with an address in a Reportable Jurisdiction; or
 - (f) a “hold mail” instruction or “in-care-of” address in a Reportable Jurisdiction if the Reporting Financial Institution does not have any other address on file for the Account Holder.
3. If none of the indicia listed in subparagraph B(2) are discovered in the electronic search, then no further action is required until there is a change in circumstances that results in one or more indicia being associated with the account, or the account becomes a High Value Account.
4. If any of the indicia listed in subparagraph B(2)(a) through (e) are discovered in the electronic search, or if there is a change in circumstances that results in one or more indicia being associated with the account, then the Reporting Financial Institution must treat the Account Holder as a resident for tax purposes of each Reportable Jurisdiction for which an indicium is identified, unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.
5. If a “hold mail” instruction or “in-care-of” address is discovered in the electronic search and no other address and none of the other indicia listed in subparagraph B(2)(a) through (e) are identified for the Account Holder, the Reporting Financial Institution must, in the order most appropriate to the circumstances, apply the paper record search described in subparagraph C(2), or seek to obtain from the Account Holder a self-certification or Documentary

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Evidence to establish the residence(s) for tax purposes of such Account Holder. If the paper search fails to establish an indicium and the attempt to obtain the self-certification or Documentary Evidence is not successful, the Reporting Financial Institution must report the account as an undocumented account.

6. Notwithstanding a finding of indicia under subparagraph B(2), a Reporting Financial Institution is not required to treat an Account Holder as a resident of a Reportable Jurisdiction if:
 - (a) the Account Holder information contains a current mailing or residence address in the Reportable Jurisdiction, one or more telephone numbers in the Reportable Jurisdiction (and no telephone number in the jurisdiction of the Reporting Financial Institution) or standing instructions (with respect to Financial Accounts other than Depository Accounts) to transfer funds to an account maintained in a Reportable Jurisdiction, the Reporting Financial Institution obtains, or has previously reviewed and maintains a record of:
 - (i) a self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction; and
 - (ii) Documentary Evidence establishing the Account Holder's non-reportable status.
 - (b) the Account Holder information contains a currently effective power of attorney or signatory authority granted to a person with an address in the Reportable Jurisdiction, the Reporting Financial Institution obtains, or has previously reviewed and maintains a record of:
 - (i) a self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such

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Reportable Jurisdiction;

or

- (ii) Documentary Evidence establishing the Account Holder's non-reportable status.

C. Enhanced Review Procedures for High Value Accounts.

The following enhanced review procedures apply with respect to High Value Accounts.

1. **Electronic Record Search.** With respect to High Value Accounts, the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the indicia described in subparagraph B(2).
2. **Paper Record Search.** If the Reporting Financial Institution's electronically searchable databases include fields for, and capture all of the information described in, subparagraph C(3), then a further paper record search is not required. If the electronic databases do not capture all of this information, then with respect to a High Value Account, the Reporting Financial Institution must also review the current customer master file and, to the extent not contained in the current customer master file, the following documents associated with the account and obtained by the Reporting Financial Institution within the last five years for any of the indicia described in subparagraph B(2):
 - (a) the most recent Documentary Evidence collected with respect to the account;
 - (b) the most recent account opening contract or documentation;
 - (c) the most recent documentation obtained by the Reporting Financial Institution pursuant to AML/KYC Procedures or for other regulatory purposes;

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- (d) any power of attorney or signature authority forms currently in effect; and
 - (e) any standing instructions (other than with respect to a Depository Account) to transfer funds currently in effect.
3. **Exception To The Extent Databases Contain Sufficient information.** A Reporting Financial Institution is not required to perform the paper record search described in subparagraph C(2) to the extent the Reporting Financial Institution's electronically searchable information includes the following:
- (a) the Account Holder's residence status;
 - (b) the Account Holder's residence address and mailing address currently on file with the Reporting Financial Institution;
 - (c) the Account Holder's telephone number(s) currently on file, if any, with the Reporting Financial Institution;
 - (d) in the case of Financial Accounts other than Depository Accounts, whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the Reporting Financial Institution or another Financial Institution);
 - (e) whether there is a current "in-care-of" address or "hold mail" instruction for the Account Holder; and
 - (f) whether there is any power of attorney or signatory authority for the account.
4. **Relationship Manager Inquiry for Actual Knowledge.** In addition to the electronic and paper record searches described above, the Reporting Financial Institution must

treat as a Reportable Account any High Value Account assigned to a relationship manager (including any Financial Accounts aggregated with that High Value Account) if the relationship manager has actual knowledge that the Account Holder is a Reportable Person.

5. Effect of Finding Indicia.

- (a) If none of the indicia listed in subparagraph B(2) are discovered in the enhanced review of High Value Accounts described above, and the account is not identified as held by a Reportable Person in subparagraph C(4), then further action is not required until there is a change in circumstances that results in one or more indicia being associated with the account.
- (b) If any of the indicia listed in subparagraph B(2)(a) through (e) are discovered in the enhanced review of High Value Accounts described above, or if there is a subsequent change in circumstances that results in one or more indicia being associated with the account, then the Reporting Financial Institution must treat the account as a Reportable Account with respect to each Reportable Jurisdiction for which an indicium is identified unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.
- (c) If a “hold mail” instruction or “in-care-of” address is discovered in the enhanced review of High Value Accounts described above, and no other address and none of the other indicia listed in subparagraph B(2)(a) through (e) are identified for the Account Holder, the Reporting Financial

Institution must obtain from such Account Holder a self- certification or Documentary Evidence to establish the residence(s) for tax purposes of the Account Holder. If the Reporting Financial Institution cannot obtain such self- certification or Documentary Evidence, it must report the account

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as an undocumented account.

6. If a Pre-existing Individual Account is not a High Value Account as of 30 June 2017, but becomes a High Value Account as of the last day of a subsequent calendar year, the Reporting Financial Institution must complete the enhanced review procedures described in paragraph C with respect to such account within the calendar year following the year in which the account becomes a High Value Account. If based on this review such account is identified as a Reportable Account, the Reporting Financial Institution must report the required information about such account with respect to the year in which it is identified as a Reportable Account and subsequent years on an annual basis, unless the Account Holder ceases to be a Reportable Person.
7. Once a Reporting Financial Institution applies the enhanced review procedures described in paragraph C to a High Value Account, the Reporting Financial Institution is not required to re-apply such procedures, other than the relationship manager inquiry described in subparagraph C(4), to the same High Value Account in any subsequent year unless the account is undocumented where the Reporting Financial Institution should re-apply them annually until such account ceases to be undocumented.
8. If there is a change of circumstances with respect to a High Value Account that results in one or more indicia described in subparagraph B(2) being associated with the account, then the Reporting Financial Institution must treat the account as a Reportable Account with respect to each Reportable Jurisdiction for which an indicium is identified unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.
9. A Reporting Financial Institution must implement procedures to ensure that a relationship manager identifies any change in circumstances of an account. For example, if a relationship manager is notified that the Account Holder has a new mailing address in a Reportable Jurisdiction, the Reporting Financial Institution is required to treat the new

address as a change in circumstances and, if it elects to apply subparagraph B(6), is required to obtain the appropriate documentation from the Account Holder.

- D. Review of Pre-existing High Value Individual Accounts must be completed by 31 December 2017 and the review of Lower Value Individual Accounts must be completed by 31 December 2018.
- E. Any Pre-existing Individual Account that has been identified as a Reportable Account under this Section must be treated as a Reportable Account in all subsequent years, unless the Account Holder ceases to be a Reportable Person.

Section IV: Due Diligence for New Individual Accounts

The following procedures apply for purposes of identifying Reportable Accounts among New Individual Accounts.

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

Section V: Due Diligence for Pre-existing Entity Accounts

The following procedures apply for purposes of identifying reportable accounts among Pre-existing Entity Accounts.

- A. **Entity Accounts Not Required to Be Reviewed, Identified or Reported.** Unless the Reporting Financial Institution elects otherwise, either with respect to all Pre-existing Entity Accounts or, separately, with respect to any clearly identified group of such accounts, a Pre-existing Entity Account with an aggregate account balance or value that does not exceed USD 250 000 as of 30 June 2017, is not required to be reviewed, identified, or reported as a Reportable Account until the aggregate account balance or value exceeds USD 250 000 as of the last day of any subsequent calendar year.
- B. **Entity Accounts Subject to Review.** A Pre-existing Entity Account that has an aggregate account balance or value that exceeds USD 250 000 as of 30 June 2017, and a Pre-existing Entity Account that does not exceed USD 250 000 as of 30 June 2017 but the aggregate account balance or value of which exceeds USD 250 000 as of the last day of any subsequent calendar year, must be reviewed in accordance with the procedures set forth in paragraph D.
- C. **Entity Accounts With Respect to Which Reporting Is Required.** With respect to Pre-existing Entity Accounts described in paragraph B, only accounts that are held by one or more Entities that are Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons, shall be treated as reportable accounts.
- D. **Review Procedures for Identifying Entity Accounts With Respect to Which Reporting Is Required.** For Pre-existing Entity Accounts described in paragraph B, a Reporting Financial Institution must apply the following review procedures to determine whether the account is held by one or more Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons:
- E. **Determine Whether the Entity Is a Reportable Person.**
1. Review information maintained for regulatory or customer

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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 organisation, or an address in a Reportable Jurisdiction.

2. If the information indicates that the Account Holder is resident in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account unless it 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.
3. **Determine Whether the Entity is a Passive NFE with One or More Controlling Persons Who Are Reportable Persons.** With respect to an Account Holder of a Pre-existing Entity Account (including an Entity that is a Reportable Person), the Reporting Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons who are Reportable Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. In making these determinations the Reporting Financial Institution must follow the guidance in subparagraph D(2)(a) through (c) in the order most appropriate under the circumstances.
 - (a) **Determining whether the Account Holder is a Passive NFE.** For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Financial Institution must obtain a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial

Institution.

- (b) **Determining the Controlling Persons of an Account Holder.** For the purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/ KYC Procedures.
- (c) **Determining whether a Controlling Person of a Passive NFE is a Reportable Person.** For the purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Financial Institution may rely on:
 - (i) 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 aggregate account balance or value that does not exceed USD 1 000 000; or
 - (ii) a self-certification from the Account Holder or such Controlling Person of the jurisdiction(s) in which the Controlling Person is resident for tax purposes

F Timing of Review and Additional Procedures Applicable to Pre-existing Entity Accounts.

Review of Pre-existing Entity Accounts with an aggregate account balance or value that exceeds USD 250 000 as of 30 June 2017 must be completed by 31 December 2018.

1. Review of Pre-existing Entity Accounts with an aggregate account balance or value that does not exceed USD 250 000 as of 30 June 2017, but exceeds USD 250 000 as of 31 December of a subsequent year, must be completed within the calendar year following the year in which the aggregate account balance or value exceeds USD 250 000.
2. If there is a change of circumstances with respect to a Pre-existing Entity Account that causes the Reporting Financial

Institution to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the Reporting Financial Institution must re-determine the status of the account in accordance with the procedures set forth in paragraph D.

Section VI: Due Diligence for New Entity Accounts

The following procedures apply for purposes of identifying Reportable Accounts among New Entity Accounts.

- A **Review Procedures for Identifying Entity Accounts With Respect to Which Reporting Is Required.** For New Entity Accounts, a Reporting Financial Institution must apply the following review procedures to determine whether the account is held by one or more Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons:
1. **Determine Whether the Entity Is a Reportable Person.**
 - (a) Obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Financial Institution to determine the Account Holder's residence(s) for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/ KYC Procedures. If the Entity certifies that it has no residence for tax purposes, the Reporting Financial Institution may rely on the address of the principal office of the Entity to determine the residence of the Account Holder.
 - (b) If the self-certification indicates that the Account Holder is resident in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account unless it reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person with respect to such Reportable Jurisdiction.
 - 2 **Determine Whether the Entity is a Passive NFE with One**

or More Controlling Persons Who Are Reportable Persons. With respect to an Account Holder of a New Entity Account (including an Entity that is a Reportable Person), the Reporting Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons who are Reportable Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. In making these determinations the Reporting Financial Institution must follow the guidance in subparagraph A(2)(a) through (c) in the order most appropriate under the circumstances.

- (a) **Determining whether the Account Holder is a Passive NFE.** For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Financial Institution must rely on a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.
- (b) **Determining the Controlling Persons of an Account Holder.** For purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/ KYC Procedures.
- (c) **Determining whether a Controlling Person of a Passive NFE is a Reportable Person.** For purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Financial Institution may rely on a self-certification from the Account Holder or such Controlling Person.

Section VII: Special Due Diligence Rules

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

- A **Reliance on Self-Certifications and Documentary Evidence.** A Reporting Financial Institution may not rely on a self-certification or Documentary Evidence if the Reporting Financial Institution knows or has reason to know that the self-certification or Documentary Evidence is incorrect or unreliable.
- B **Alternative Procedures for Financial Accounts held by Individual Beneficiaries of a Cash Value Insurance Contract or an Annuity Contract and for a Group Cash Value Insurance Contract or Group Annuity Contract.** A Reporting Financial Institution may presume that an individual beneficiary (other than the owner) of a Cash Value Insurance Contract or an Annuity Contract receiving a death benefit is not a Reportable Person and may treat such Financial Account as other than a Reportable Account unless the Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person. A Reporting Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract or an Annuity Contract is a Reportable Person if the information collected by the Reporting Financial Institution and associated with the beneficiary contains indicia as described in paragraph B of Section III. If a Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person, the Reporting Financial Institution must follow the procedures in paragraph B of Section III.

A Reporting Financial Institution may treat a Financial Account that is a member's interest in a Group Cash Value Insurance Contract or Group Annuity Contract as a Financial Account that is not a Reportable Account until the date on which an amount is payable to the employee/certificate holder or beneficiary, if the Financial Account that is a member's interest in a Group Cash Value Insurance Contract or Group Annuity Contract meets the following requirements:

- (a) the Group Cash Value Insurance Contract or Group Annuity Contract is issued to an employer and covers 25 or more employees/certificate holders;

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- (b) the employee/certificate holders are entitled to receive any contract value related to their interests and to name beneficiaries for the benefit payable upon the employee's death; and
- (c) the aggregate amount payable to any employee/certificate holder or beneficiary does not exceed USD 1 000 000.

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

The term "Group Annuity Contract" means an Annuity Contract under which the obligees are individuals who are affiliated through an employer, trade association, labour union, or other association or group.

C. Account Balance Aggregation and Currency Rules.

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

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Accounts that are maintained by the Reporting Financial Institution, or by a Related Entity, but only to the extent that the Reporting Financial Institution's computerised systems link the Financial Accounts by reference to a data element such as client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this subparagraph.

3. **Special Aggregation Rule Applicable to Relationship Managers.** For purposes of determining the aggregate balance or value of Financial Accounts held by a person to determine whether a Financial Account is a High Value Account, a Reporting Financial Institution is also required, in the case of any Financial Accounts that a relationship manager knows, or has reason to know, are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person, to aggregate all such accounts.
4. **Amounts Read to Include Equivalent in Other Currencies.** All dollar amounts are in US dollars and shall be read to include equivalent amounts in other currencies, calculated by reference to –
 - (a) the spot rate of exchange on the date for which the Reporting Financial Institution is determining the amount in the other currency; or
 - (b) if the Minister has prescribed the method for determining the appropriate rate of exchange, that method.

Section VIII: Defined Terms

The following terms have the meanings set forth below:

A. Reporting Financial Institution

1. The term “**Reporting Financial Institution**” means any Participating Jurisdiction Financial Institution that is not a Non-Reporting Financial Institution.

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2. The term “**Participating Jurisdiction Financial Institution**” means (i) any Financial Institution that is resident in a Participating Jurisdiction, but excludes any branch of that Financial Institution that is located outside such Participating Jurisdiction, and (ii) any branch of a Financial Institution that is not resident in a Participating Jurisdiction, if that branch is located in such Participating Jurisdiction.
3. The term “**Financial Institution**” means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.
4. The term “**Custodial Institution**” means any Entity that holds, as a substantial portion of its business, Financial Assets for the account of others. An Entity holds Financial Assets for the account of others as a substantial portion of its business if the Entity’s gross income attributable to the holding of Financial Assets and related financial services equals or exceeds 20% of the Entity’s gross income during the shorter of: (i) the three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or (ii) the period during which the Entity has been in existence.
5. The term “**Depository Institution**” means any Entity that accepts deposits in the ordinary course of a banking or similar business.
6. The term “**Investment Entity**” means any Entity:
 - (a) that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
 - (i) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;

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- (ii) individual and collective portfolio management;
or
 - (iii) otherwise investing, administering, or
managing Financial Assets or money on
behalf of other
persons; or
- (b) the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in subparagraph A(6)(a). An Entity is treated as primarily conducting as a business one or more of the activities described in subparagraph A(6)(a), or an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of subparagraph A(6)(b), if the Entity's gross income attributable to the relevant activities equals or exceeds 50% of the Entity's gross income during the shorter of: (i) the three-year period ending on 31 December of the year preceding the year in which the determination is made; or (ii) the period during which the Entity has been in existence. The term "Investment Entity" does not include an Entity that is an Active NFE because it meets any of the criteria in subparagraph D(9)(d) through (g).

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

- (7) The term "**Financial Asset**" includes a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps,

basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), Insurance Contract or Annuity Contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, Insurance Contract, or Annuity Contract. The term "Financial Asset" does not include a non-debt, direct interest in real property.

- (8) The term "**Specified Insurance Company**" means any Entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.

B. Non Reporting Financial Institution

- I. The term "**Non Reporting Financial Institution**" means any Financial Institution that is:
- (a) a Governmental Entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution;
 - (b) a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organisation or Central Bank; or a Qualified Credit Card Issuer;
 - (c) any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in subparagraph B(1)(a) and (b), and is defined in this Schedule 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

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(e) a trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to Section I with respect to all reportable accounts of the trust.

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

(a) An “integral part” of a jurisdiction means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of a jurisdiction. The net earnings of the governing authority must be credited to its own account or to other accounts of the jurisdiction, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity.

(b) A controlled entity means an Entity that is separate in form from the jurisdiction or that otherwise constitutes a separate juridical entity, provided that:

(i) the Entity is wholly owned and controlled by one or more Governmental Entities directly or through one or more controlled entities;

(ii) the Entity’s net earnings are credited to its own account or to the accounts of one or more Governmental Entities, with no portion of its income inuring to the benefit of any private person; and

(iii) the Entity’s assets vest in one or more Governmental Entities upon

dissolution.

- (c) Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental 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 income is derived from the use of a governmental entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons.
3. The term “**International Organisation**” means any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation (including a supranational organisation) (1) that is comprised primarily of governments; (2) that has in effect a headquarters or substantially similar agreement with the jurisdiction; and (3) the income of which does not inure to the benefit of private persons.
4. The term “**Central Bank**” means an institution that is by law or government sanction the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the jurisdiction, whether or not owned in whole or in part by the jurisdiction.
5. The term “**Broad Participation Retirement Fund**” means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that the fund:
- (a) does not have a single beneficiary with a right to

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more than five per cent of the fund's assets;

- (b) is subject to government Regulation and provides information reporting to the tax authorities; and
- (c) satisfies at least one of the following requirements:
 - (i) the fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;
 - (ii) the fund receives at least 50% of its total contributions (other than transfers of assets from other plans described in subparagraph B(5) through (7) or from retirement and pension accounts described in subparagraph C(17)(a)) from the sponsoring employers;
 - (iii) distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death (except rollover distributions to other retirement funds described in subparagraph B(5) through (7) or retirement and pension accounts described in subparagraph C(17)(a)), or penalties apply to distributions or withdrawals made before such specified events; or
 - (iv) contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed USD 50 000 annually, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

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6. The term **“Narrow Participation Retirement Fund”** means a fund established to provide retirement, disability, or death benefits to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that:
- (a) the fund has fewer than 50 participants;
 - (b) the fund is sponsored by one or more employers that are not Investment Entities or Passive NFEs;
 - (c) the employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described in subparagraph C(17)(a)) are limited by reference to earned income and compensation of the employee, respectively;
 - (d) participants that are not residents of the jurisdiction in which the fund is established are not entitled to more than 20% of the fund’s assets; and the fund is subject to government Regulation and provides information reporting to the tax authorities.
7. The term **“Pension Fund of a Governmental Entity, International Organisation or Central Bank”** means a fund established by a Governmental Entity, International Organisation or Central Bank to provide retirement, disability, or death benefits to beneficiaries or participants that are current or former employees (or persons designated by such employees), or that are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services performed for the Governmental Entity, International Organisation or Central Bank.
8. The term **“Qualified Credit Card Issuer”** means a Financial Institution satisfying the following requirements:
- (a) the Financial Institution is a Financial Institution

solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and

- (b) beginning on or before 1 January 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 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.
9. The term “Exempt Collective Investment Vehicle” means an Investment Entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through individuals or Entities that are not Reportable Persons, except a Passive NFE with Controlling Persons who are Reportable Persons.

C. Financial Account

1. The term “**Financial Account**” means an account maintained by a Financial Institution, and includes a Depository Account, a Custodial Account and:
- (a) in the case of an Investment Entity, any equity or debt interest in the Financial Institution. Notwithstanding the foregoing, the term “Financial Account” does not include any equity or debt interest in an Entity that is an Investment Entity solely because it (i) renders investment advice to, and acts on behalf of, or (ii) manages portfolios for, and acts on behalf of, a customer for the purpose of investing, managing, or administering Financial Assets deposited in the name of the customer with a

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Financial Institution other than such Entity;

- (b) in the case of a Financial Institution not described in subparagraph C(1)(a), any equity or debt interest in the Financial Institution, if the class of interests was established with a purpose of avoiding reporting in accordance with Section I; and
- (c) any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a noninvestment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an Excluded Account.

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

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

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Reportable Person will be treated as being a beneficiary of a trust if such Reportable Person has the right to receive directly or indirectly (for example, through a nominee) a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust.

5. The term “**Insurance Contract**” means a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.
6. The term “**Annuity Contract**” means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, Regulation, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.
7. The term “**Cash Value Insurance Contract**” means an Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value.
8. The term “**Cash Value**” means the greater of (i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan), and (ii) the amount the policyholder can borrow under or with regard to the contract. Notwithstanding the foregoing, the term “Cash Value” does not include an amount payable under an Insurance Contract:
 - (a) solely by reason of the death of an individual insured under a life insurance contract;
 - (b) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;

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- (c) as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an Insurance Contract (other than an investment-linked life insurance or annuity contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;
 - (d) as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an Insurance Contract under which the only benefits payable are described in subparagraph C(8)(b); or
 - (e) as a return of an advance premium or premium deposit for an Insurance Contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract.
9. The term “Pre-existing Account” means
- (a) a Financial Account maintained by a Reporting Financial Institution as of the 30 June 2017.
 - (b) any Financial Account of an Account Holder, regardless of the date such Financial Account was opened, if:
 - (i) the Account Holder also holds with the Reporting Financial Institution (or with a Related Entity within the same jurisdiction as the Reporting Financial Institution) a Financial Account that is a Pre-existing Account under subparagraph C(9)(a);
 - (ii) the Reporting Financial Institution (and, as applicable, the Related Entity within the same jurisdiction as the Reporting Financial Institution) treats both of the aforementioned

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Financial Accounts, and any other Financial Accounts of the Account Holder that are treated as Pre-existing Accounts under this subparagraph C(9)(b), as a single Financial Account for purposes of satisfying the standards of knowledge requirements set forth in paragraph A of Section VII, and for purposes of determining the balance or value of any of the Financial Accounts when applying any of the account thresholds:

- (iii) with respect to a Financial Account that is subject to AML/KYC Procedures, the Reporting Financial Institution is permitted to satisfy such AML/KYC Procedures for the Financial Account by relying upon the AML/KYC Procedures performed for the Pre-existing Account described in subparagraph C(9)(a); and
 - (iv) the opening of the Financial Account does not require the provision of new, additional or amended customer information by the Account Holder other than for purposes of the Applied Common Reporting Standard.
10. The term “**New Account**” means a Financial Account maintained by a Reporting Financial Institution opened after 30 June 2017.
11. The term “**Pre-existing Individual Account**” means a Pre-existing Account held by one or more individuals.
12. The term “**New Individual Account**” means a New Account held by one or more individuals.
13. The term “**Pre-existing Entity Account**” means a Pre-existing Account held by one or more Entities.

The term “**Lower Value Account**” means a Pre-existing Individual Account with an aggregate balance or value as

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of 30 June 2017 that does not exceed USD 1 000 000.

14. 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 30 June 2017 or 31 December of any subsequent year.
15. The term “**New Entity Account**” means a New Account held by one or more Entities.
16. The term “**Excluded Account**” means any of the following accounts:
 - (a) a retirement or pension account that satisfies the following requirements:
 - (i) the account is subject to Regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits (including disability or death benefits);
 - (ii) the account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
 - (iii) information reporting is required to the tax authorities with respect to the account;
 - (iv) withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and
 - (v) either (i) annual contributions are limited to USD 50 000 or less, or (ii) there is a

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maximum lifetime contribution limit to the account of USD 1 000 000 or less, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

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

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

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

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

- (c) a life insurance contract with a coverage period that will end before the insured individual attains age 90, provided that the contract satisfies the following requirements:
 - (i) periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age 90, whichever is shorter;
 - (ii) the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;
 - (iii) the amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and

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- (iv) the contract is not held by a transferee for value.
- (d) an account that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate.
- (e) an account established in connection with any of the following:
 - (i) a court order or judgment.
 - (ii) a sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:
 - a. the account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a Financial Asset that is deposited in the account in connection with the sale, exchange, or lease of the property;
 - b. 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;
 - c. 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

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- surrendered, or the lease terminates;
- d. the account is not a margin or similar account established in connection with a sale or exchange of a Financial Asset; and
 - e. the account is not associated with an account described in subparagraph C(17)(f).
- (iii) an obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time.
 - (iv) an obligation of a Financial Institution solely to facilitate the payment of taxes at a later time.
- (f) a Depository Account that satisfies the following requirements:
- (i) the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and
 - (ii) beginning on or before 30 June 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 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does

include credit balances resulting from merchandise returns.

- (g) any other account that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the accounts described in subparagraph C(17)(a) through (f), and is included in the list of Excluded Accounts referred to in Part 3 of this Schedule as an Excluded Account, provided that the status of such account as an Excluded Account does not frustrate the purposes of the Common Reporting Standard.

D Reportable Account

1. The term “**Reportable Account**” means an account held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person, provided it has been identified as such pursuant to the due diligence procedures described in Sections II through VII.
2. The term “**Reportable Person**” means a Reportable Jurisdiction Person other than: (i) a corporation the stock of which is regularly traded on one or more established securities markets; (ii) any corporation that is a Related Entity of a corporation described in clause (i); (iii) a Governmental Entity; (iv) an International Organisation; (v) a Central Bank; or (vi) a Financial Institution.
3. The term “**Reportable Jurisdiction Person**” means an individual or Entity that is resident in a Reportable Jurisdiction under the tax laws of such jurisdiction, or an estate of a decedent that was a resident of a Reportable Jurisdiction. For this purpose, an Entity such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated.
4. The term “**Reportable Jurisdiction**” means any jurisdiction other than Vanuatu or the United States of America.

5. The term “**Participating Jurisdiction**” means a jurisdiction with which Vanuatu has (or may have in the future) an agreement in place pursuant to Vanuatu will provide the information specified in Section I, and which –
- (a) In the case of the MCAA, is identified in a published list and updated by the OECD from time to time; and
 - (b) In the case of an Agreement between Vanuatu and another jurisdiction not referred to in subparagraph (a), is identified in a list that is published and updated from time to time by the Competent Authority.
6. The term “**Controlling Persons**” means the natural persons who exercise control over an Entity. In the case of a trust, such term means the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term “Controlling Persons” must be interpreted in a manner consistent with the Financial Action Task Force Recommendations.
7. The term “**NFE**” means any Entity that is not a Financial Institution.
8. The term “**Passive NFE**” means any: (i) NFE that is not an Active NFE; or (ii) an Investment Entity described in subparagraph A(6)(b) that is not a Participating Jurisdiction Financial Institution.
9. The term “**Active NFE**” means any NFE that meets any of the following criteria:
- (a) less than 50% of the NFE’s gross income for the preceding reporting period is passive income and less than 50% of the assets held by the NFE during the preceding reporting period are assets that produce or are held for the production of passive income;

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- (b) the stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
- (c) the NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
- (d) substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
- (e) the NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE;
- (f) the NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is

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reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution;

- (g) the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or
- (h) the NFE meets all of the following requirements:
 - (i) it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
 - (ii) it is exempt from income tax in its jurisdiction of residence;
 - (iii) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - (iv) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to

the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and

- (v) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision thereof.

E Miscellaneous

1. The term "**Account Holder**" means the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of the Applied Common Reporting Standard, and such other person is treated as holding the account. In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder.
2. The term "**AML/KYC Procedures**" means the customer due diligence procedures of a Reporting Financial Institution pursuant to the Anti Money Laundering and Counter Terrorism Financing Act (No.13) of 2014, as amended from time to time.

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3. The term “**Entity**” means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation.
4. An Entity is a “**Related Entity**” of another Entity if (a) either Entity controls the other Entity; (b) the two Entities are under common control; or (c) the two Entities are Investment Entities described in subparagraph A(6)(b), are under common management, and such management fulfils the due diligence obligations of such Investment Entities. For this purpose control includes direct or indirect ownership of more than 50% of the vote and value in an Entity.
5. The term “**TIN**” means Taxpayer Identification Number (or functional equivalent in the absence of a Taxpayer Identification Number).
6. The term “**Documentary Evidence**” includes any of the following:
 - (a) a certificate of residence issued by an authorised government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the payee claims to be a resident.
 - (b) with respect to an individual, any valid identification issued by an authorised government body (for example, a government or agency thereof, or a municipality), that includes the individual’s name and is typically used for identification purposes.
 - (c) with respect to an Entity, any official documentation issued by an authorised government body (for example, a government or agency thereof, or a municipality) that includes the name of the Entity and either the address of its principal office in the jurisdiction in which it claims to be a resident or the jurisdiction in which the Entity was incorporated or organized.

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- (e) any audited financial statement, third-party credit report, bankruptcy filing, or securities regulator's report.

PART 3 EXCLUDED ACCOUNTS

The following are Excluded Accounts:

Account Held by an Estate. An account maintained in Vanuatu that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate.

Escrow Accounts. An account maintained in Vanuatu established in connection with any of the following:

1. A court order or judgment.
2. A sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:
 - (a) The account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a financial asset that is deposited in the account in connection with the sale, exchange, or lease of the property;
 - (b) 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;
 - (c) 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;
 - (d) The account is not a margin or similar account established in connection with a sale or exchange of a financial asset; and
 - (e) The account is not associated with a credit card account.
3. An obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time.
4. An obligation of a Financial Institution solely to facilitate the payment of taxes at a later time.

SCHEDULE 3

AUTOMATIC EXCHANGE OF INFORMATION: COUNTRY-BY-COUNTRY REPORTING

(Regulation 52)

1. Interpretation

In this Schedule:

“globally significant group”, in relation to a financial year, means a group of entities that satisfies the following conditions:

- (a) the group includes:
 - (i) at least two or more entities that are resident in different jurisdictions; or
 - (ii) an entity that is a resident of one jurisdiction with a permanent establishment that is subject to tax in another jurisdiction; and
- (b) the group:
 - (i) is consolidated for financial accounting purposes according to accounting standards applied by the ultimate parent entity of the group; or
 - (ii) where Subparagraph (i) does not apply, would be required to be consolidated if equity interests in any of the members of the group were traded on a stock exchange; and
- (c) the annual global turnover of the group for the previous financial year exceeds 100 billion Vatu;

“member”, in relation to a globally significant group, means:

- (a) an entity that is:
 - (i) included in the consolidated financial statements of the globally significant group or would be so include if equity interest in the entity were traded on a stock exchange; or
 - (ii) excluded from the consolidated financial statements of the group solely by reason of size or materiality; or

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AUTOMATIC EXCHANGE OF INFORMATION: COUNTRY-BY-COUNTRY REPORTING

- (b) a permanent establishment of an entity referred to in paragraph (a) where the entity prepares a separate financial statement for the permanent establishment for financial, regulatory, or tax reporting, or internal management control, purposes;

“qualifying competent authority agreement” means an agreement:

- (a) between the Vanuatu competent authority and the competent authority of another jurisdiction or jurisdictions; and
- (b) that requires the automatic exchange of country-by-country reports referred to in clause 3;

“surrogate parent entity” means an entity that is a member of a globally significant group that has been appointed by the group to file the country-by-country report in that entity’s jurisdiction of residence, on behalf of the group, where the parent entity is not obliged to file the report in its jurisdiction of residence; and

“ultimate parent entity” means a member of a globally significant group where:

- (a) the member owns, directly or indirectly, a sufficient interest in one or more other members of the group such that it is required to prepare consolidated financial accounts in its jurisdiction of residence or, would be required to do so, if equity interests in the entity were traded on a stock exchange in its jurisdiction of residence; and
- (b) there is no other member of the group that owns, directly or indirectly, an interest referred to in Subparagraph (a) in the first-mentioned member of the group.

2 Obligation to file a country-by-country report

(1) A resident entity must file a country-by-country report for a financial year with the Vanuatu Competent Authority where the resident entity:

- (a) is the ultimate parent entity of a globally significant group for the year; or
- (b) is the surrogate parent entity of a globally significant group for the year; or
- (c) is a member of a globally significant group and both the following conditions are satisfied:
 - (i) the ultimate parent entity of the group is not required to file a country-by-country report in its jurisdiction of residence for the year; and

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AUTOMATIC EXCHANGE OF INFORMATION: COUNTRY-BY-COUNTRY REPORTING

- (ii) the group has not appointed a member of the group as the surrogate parent entity of the group for the year; or
 - (d) is a member of a globally significant group to which none of the preceding paragraphs applies and either of the following applies:
 - (i) there is a mutual administrative assistance agreement in place between Vanuatu and the jurisdiction of residence of the ultimate parent entity of the group but no qualifying competent authority agreement; or
 - (ii) there is a qualifying competent authority agreement in place between Vanuatu and the jurisdiction of residence of the parent entity but that jurisdiction has systematically failed to comply with the agreement.
- (2) A resident entity must notify the Vanuatu Competent Authority, in the approved form, if they are an entity to which paragraph (1)(b) or (c) applies for a financial year.
- (3) A resident entity must file a notification under subclause (2) by the end of the financial year to which the notification relates.
- (4) The Vanuatu Competent Authority must notify a resident entity that they are subject to Subparagraph (1)(d)(ii) for a financial year by the end of that year.
- (5) Where there is more than one resident entity of a globally significant group to which paragraph (1)(c) or (d) applies for a financial year, the group may notify the Vanuatu Competent Authority that one such resident entity is designated to file the country-by-country report as required under subclause (1) for that year.
- (6) A notification under subclause (5) for a financial year must be in the approved form and filed with the Vanuatu Competent Authority prior to the due date for filing the country-by-country report for the year.
- (7) If the resident entity designated by a globally significant group to file a country by country report for a financial year under subclause (5) fails to file the report by the due date, the Vanuatu Competent Authority can require any other resident entity of the group that satisfies paragraph (1)(c) or (d) to file the report by the date notified in writing by the Vanuatu Competent Authority.
- (8) For the purposes of Subparagraph (1)(d)(ii), a jurisdiction is considered to have systematically failed to comply with a qualifying competent authority agreement if the jurisdiction has:
 - (a) suspended automatic exchange of information under the agreement with Vanuatu other than a suspension that is in accordance with the agreement; or

SCHEDULE 3

AUTOMATIC EXCHANGE OF INFORMATION: COUNTRY-BY-COUNTRY REPORTING

- (b) persistently failed to automatically exchange with Vanuatu country-by-country reports lodged with the jurisdiction by globally significant groups with members in Vanuatu.

3 Country-by-country report

(1) A country-by-country report for a tax year to be filed by a resident entity under clause 2 for a globally significant group must contain the following information:

- (a) aggregate information relating to the revenue, profit or loss before income tax, income tax accrued, stated capital, accumulated earnings, number of employees, and tangible assets (other than cash or cash equivalents) for each jurisdiction in which the group operates; and
- (b) an identification of each member of the group setting out:
 - (i) the jurisdiction of tax residence of each member;
 - (ii) if different from the jurisdiction of tax residence under Subparagraph (i), the jurisdiction under whose laws the member is incorporated, created, settled, or formed;
 - (iii) the nature of the main business or businesses of the member.

(2) The country-by-country report must be filed in a form identical to, and applying the definitions and instructions contained in the standard template set out in Annex III to Chapter V of the OECD Transfer Pricing Guidelines and include any other matters as required by the Director.

4 Due date for filing country-by-country report

(1) Subject to subclause (2), a country-by-country report for a financial year must be filed by a resident entity with the Vanuatu Competent Authority within 12 months after the end of the financial year.

(2) Where the financial accounting year of a globally significant group differs from the financial year, the report may be filed by reference to the group's financial accounting year.

5 Use of country-by-country report

(1) The Director must use a country-by-country report filed under clause 4 for the following purposes:

- (a) assessing high-level transfer pricing risks and other base erosion and profit shifting risks in Vanuatu;
- (b) assessing the risk of non-compliance by the globally significant group with Vanuatu's transfer pricing laws;

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AUTOMATIC EXCHANGE OF INFORMATION: COUNTRY-BY-COUNTRY REPORTING

(c) economic and statistical analysis

(2) The Director must not base transfer pricing adjustments solely on information contained in a country-by-country report.

6 Confidentiality

The Director must preserve the confidentiality of information contained in a country-by-country report received by the Director either from a resident entity under clause 2 or under a qualifying competent authority to the same extent as required under the Multilateral Convention on Mutual Administrative Assistance in tax Matters.

7 Additional reporting obligations

(1) A resident entity required to file a country-by-country report under paragraph 2 must, in addition to filing the country-by-country report for a financial year, file the following:

(a) a statement relating to the global operations and activities, and transfer pricing policies, of the entity and, if the entity is a member of a globally significant group, the other members of the group, in accordance with Annex I to Chapter V of the Guidance on Transfer Pricing Documentation and Country-by-country Reporting of the OECD and the G20; and

(b) a statement relating to the entity's operations, activities, dealings, and transactions in accordance with Annex II to Chapter V of the Guidance on Transfer Pricing Documentation and Country-by-country Reporting of the OECD and the G20.

(2) The statements required to be filed under paragraph 1 for a financial year must be filed by the same date as the country-by-country report is due to be filed for the year.

8 Offence

A resident entity that fails to comply with paragraph 2 or 7 is liable for an administrative penalty commits an offence and is punishable on conviction by a fine not exceeding VT50,000,000 or a term of imprisonment of not more than 2 years or both.