

AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION

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Automatic Exchange of Financial Account Information Act 2016

TABLE OF PROVISIONS

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Automatic Exchange of Financial Account Information Act 2016

TABLE OF AMENDMENTS

The Automatic Exchange of Financial Account Information Act 2016 No 53 was certified and commenced on 4 November 2016 (GN No 900/2016; Gaz 208/2016).

Amending Legislation	Certified	Date of Commencement
Automatic Exchange of Financial Account Information (Amendment) Act 2016	23 December 2016	23 December 2016
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Automatic Exchange of Financial Account Information (Amendment) Act 2024 No 19	26 November 2024	26 November 2024

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An Act to make provision for implementing the obligations of the Republic arising under an agreement for the implementation of the standard of automatic exchange of financial account information in tax matters.

Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Automatic Exchange of Financial Account Information Act 2016*.

2 Commencement

This Act commences upon certification by the Speaker and came into effect on 4 November 2016.

3 Definitions

(1) In this Act:

‘Agreement’ means:

- (a) the *Convention on Mutual Administrative Assistance in Tax Matters*, which provides for the exchange of information on an automatic basis as described in the Standard, signed by the Government of Nauru on 3 June 2016, as amended from time to time; or
- (b) any other agreement or arrangement between the Government of Nauru and the government of another territory which makes provisions corresponding, or substantially similar, to that made by the agreement referred to in paragraph (a);

‘authorised officer’, in relation to the exercise of a particular power under this Act, means a tax officer specifically authorised in writing, by the Secretary to exercise the power;

‘Department’ means the Department of Finance;

‘designated officer’ means, with respect to any function, the officer of the Department designated to carry out that function;

‘financial account’ has the meaning given that expression by Section VIII of the Standard;

‘information return’ means a report setting out certain information as specified by regulations which a reporting financial institution is required to file with the Secretary;

‘Jurisdiction Financial Institution’ means:

- (a) any Financial Institution that is resident in the Republic, but excludes any branch of that Financial Institution that is located outside of the Republic; and
- (b) any branch of a Financial Institution that is not resident in the Republic, if that branch is located in the Republic;

‘Minister’ means the Minister responsible for Finance;

‘regulations’ means regulations made under this Act;

‘Secretary’ means the Secretary for the Department of Finance;

‘Standard’ means the Common Reporting Standard including the Commentaries as approved by the Council of the Organisation for Economic Co-operation and Development on 15 July 2014, which contains reporting and due diligence procedures for the exchange of information on an automatic basis, as amended from time to time and for the purposes of this Act, the Standard is to be read as the definition “reporting financial institution” in subparagraph A (1) of Section VIII of the Standard; and

‘reporting financial institution’ means any Nauru Financial Institution that is not a non-reporting financial institution.

- (2) Any word or expression which has a meaning given to it by the Standard will, where it is used in this Act or the regulations and unless the contrary intention appears, have the same meaning in this Act or those regulations as it has in the Standard.

4 Agreement – force of law

The Agreement as approved and has the force of law in the Republic.

5 Inconsistent laws

In the event of any inconsistency between the provisions of this Act or the Agreement and the provisions of any other law, the provisions of this Act and the Agreement prevail to the extent of the inconsistency.

6 Information returns by financial institutions

Every reporting financial institution shall collect and report certain information in respect of certain financial accounts as specified by regulations.

7 Functions and powers of Secretary

- (1) The Secretary, subject to the general directions of the Minister, may administer and enforce compliance with the provisions of the Agreement, this Act and any regulations.
- (2) The Secretary may exercise all powers vested in him or her under the *Revenue Administration Act 2014* to administer and enforce compliance with the provisions of the Agreement, this Act and any regulations.
- (3) The Secretary may delegate, in writing, to any designated or authorised officer any power or duty conferred on the Secretary by this Act.
- (4) The Secretary or any designated officer may request information from and at all reasonable times, enter any premises or place of business of a reporting financial institution for the purposes of:
- (a) determining whether information:
- (i) included in an information return made under the regulations by the reporting financial institution is correct and complete; or
- (ii) not included in an information return was correctly not included; or
- (b) examining the procedures put in place by the reporting financial institution for the purposes of ensuring compliance with that institution’s obligations under this Act and the regulations.

8 Confidentiality

- (1) The *Banking Act 1975* or any other law relating to confidentiality does not apply to the disclosure of information by a reporting financial institution to the Secretary that is required to be included in an information return filed under this Act or the regulations.
- (2) A person, who currently has an official duty or who formerly had an official duty in the administration or enforcement of this Act or the regulations, shall keep confidential any information received from a reporting financial institution under this Act or the regulations.
- (3) Notwithstanding subsection (2), information may be disclosed as may be necessary for the purpose of the administration or enforcement of the Agreement, this Act or the regulations.
- (4) A person, who discloses or divulges any information or produces any document relating to the information received from a reporting financial institution under this Act or the regulations in contravention of subsection (2) commits an offence and is liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years.

9 Penalties

- (1) A person who, without reasonable excuse, fails to comply with a duty or obligation imposed by this Act or the regulations is liable to a penalty of \$100 for each such failure, and the product obtained when \$100 is multiplied by the number of days, not exceeding \$10,000, during which the failure continues.
- (2) A reporting financial institution that fails to file an information return as and when required under this Act or the regulations is liable to a penalty of \$1,000 for each such failure.
- (3) A person who makes a false statement or omission in respect of any information required to be included on an information return, under this Act or the regulations is liable to a penalty of \$1,000 unless in the case of information required in respect of another person, a reasonable effort was made by the person to obtain the information from the other person.
- (4) A reporting financial institution that fails to file an information return in the manner required under this Act or the regulations is liable to a penalty of \$1,000 for each such failure.
- (5) A person who fails to comply with the requirements of Section 7(4) is liable to a penalty of \$1,000 for each such failure.

10 Liabilities to penalties

- (1) Liability to a penalty under Section 9 does not arise if the person satisfies the Secretary or authorised officers that there is a reasonable excuse for the failure.
- (2) For the purposes of this Act, neither of the following is a reasonable excuse:
 - (a) that there is an insufficiency of funds to do something; or
 - (b) that a person relies upon another person to do something.

- (3) Where a person had a reasonable excuse for a failure but the excuse has ceased, the person is to be treated as having continued to have the excuse, if the failure is remedied without unreasonable delay after the excuse ceased.
- (4) Where a requirement or penalty is imposed on a corporation, trust, partnership, joint venture or other form of legal relationship or arrangement under this Act, the requirement shall be met or the penalty paid, in the case of:
 - (a) a corporation, by a director or shareholder;
 - (b) a trust, by the trustees of the trust;
 - (c) a partnership, by the partners of the partnership;
 - (d) a joint venture, by the members of the joint venture; or
 - (e) any other form of legal relationship or arrangement by the persons in such relationship or arrangement, severally or jointly.

[subs (4) insrt Act 19 of 2024 s 4, opn 26 Nov 2024]

11 Assessment of penalties

- (1) Where a person becomes liable to a penalty under Section 9, the Secretary shall:
 - (a) assess the penalty; and
 - (b) notify the person of the assessment.
- (2) An assessment of a penalty under Section 9, shall be made within a period of 12 months beginning from the date on which:
 - (a) the person became liable to the penalty; or
 - (b) the inaccuracy first came to the attention of the Secretary.

12 Application of Revenue Administration Act 2014 to appeals and objections

- (1) A person may appeal or object to an assessment under this Act.
- (2) The provisions of Part 8 of the *Revenue Administration Act 2014* apply in relation to appeals and objections to an assessment under this Act.

13 Enforcement of penalties

- (1) A penalty under this Act shall be paid to the Department within 30 days following:
 - (a) the date on which notification under Section 11 is provided in respect of the penalty; or
 - (b) the date on which an appeal or objection against a penalty assessment is finally determined or withdrawn.
- (2) Where any amount in respect of a penalty is not paid by the due date described in subsection (1), interest on the amount owing shall be charged computed for the period during which that amount is outstanding.
- (3) The rate of interest charged under subsection (2) is 15% per annum.

13A Application of Revenue Administration Act 2014

- (1) Notwithstanding Section 7(2), the *Revenue Administration Act 2014* is subject to this Act and applicable only for the purposes of the administration of this Act.

- (2) For the avoidance of doubt, Sections 9(4) and 13(3) prevail over any equivalent provision in the *Revenue Administration Act 2014* or in any other Act.

[s 13A insrt Act 57 of 2016 s 4, opn 23 Dec 2016]

14 Anti-avoidance

Where a person enters into an agreement, understanding or arrangement or engages in a practice, for which the main purpose or result can reasonably be considered to be the avoidance of an obligation under this Act, of that person or of another person, this Act shall apply as if that person had not entered into such agreement, understanding or arrangement or engaged in such practice.

[s 14 subst Act 19 of 2024 s 5, opn 26 Nov 2024]

15 Regulations

The Minister may make any regulations that are necessary for giving effect to any of the provisions of the Agreement or this Act, including:

- (a) requiring a reporting financial institution to file an information return on certain financial accounts held, managed or administered by that reporting financial institution;
- (b) determining the date by which an information return shall be filed with the Secretary;
- (c) prescribing the manner in which an information return is to be filed;
- (d) specifying the information to be reported in an information return in relation to certain financial accounts and, where different information is to be reported for different years, specifying the information to be reported for each of those years;
- (e) requiring reporting financial institutions to identify certain financial accounts;
- (f) specifying the records and documents that shall be examined or the procedures to obtain records and documents by the reporting financial institution to enable the institution to identify certain financial accounts;
- (g) specifying the records and documents used to identify certain financial accounts that shall be retained by the reporting financial institution;
- (h) setting out the conditions under which a reporting financial institution may appoint a third party as its agent to carry out the duties and obligations imposed on it by the regulations;
- (i) in relation to any of the matters specified in the preceding paragraphs, determining the manner of keeping records and setting the period for the retention of records so kept;
- (j) enabling the authorisation of designated or authorised officers requiring the production of books, records or other documents and the provision of information in relation to financial accounts within such time as may be specified in the regulations, and
- (k) generally, to carry out the purposes and provisions of the Agreement or this Act.

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Automatic Exchange of Financial Account Information Regulations 2017

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Title</i>
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2	Commencement
3	Definitions
4	Due diligence requirements
5	Modification of the due diligence requirements of the Standard
6	Reporting obligations
7	Electronic return system
8	Records
9	Inspection of books, etc and provision of information and assistance
10	Non-resident reporting financial institution's representative or agent
11	Use of service providers
	SCHEDULE 1 — Excluded Accounts
	SCHEDULE 2 — Non-reporting Financial Institutions
	SCHEDULE 3 — Participating Jurisdictions
	SCHEDULE 4 — Reportable Jurisdictions

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Automatic Exchange of Financial Account Information Regulations 2017

TABLE OF AMENDMENTS

The Automatic Exchange of Financial Account Information Regulations 2017 SL 2 were notified and commenced on 27 January 2017 (GN No 52/2017; Gaz 16/2017).

Amending Legislation	Notified	Date of Commencement
Automatic Exchange of Financial Account Information (Amendment) Regulations 2017	2 August 2017	2 August 2017
Automatic Exchange of Financial Account Information (Amendment) Regulations No 2 2017	16 November 2017	16 November 2017
Automatic Exchange of Financial Account Information (Amendment) Regulations 2018	15 January 2018	15 January 2018
Automatic Exchange of Financial Account Information (Amendment) Regulations No 2 2018	25 May 2018	25 May 2018
Automatic Exchange of Financial Account Information (Amendment) No 3 Regulations 2018	23 October 2018	23 October 2018
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Automatic Exchange of Financial Account Information (Amendment) Regulation 2024 SL 30	25 November 2024	25 November 2024

[The next page is 812,101]

The Cabinet makes the following regulations under Section 15 of the *Automatic Exchange of Financial Account Information Act 2016*:

1 Citation

These Regulations may be cited as the *Automatic Exchange of Financial Account Information Regulations 2017*.

2 Commencement

These Regulations commence on the day they are notified in the Gazette.

3 Definitions

(1) In these Regulations:

‘Act’ means the *Automatic Exchange of Financial Account Information Act 2016*;

‘dormant account’:

(a) means an account other than an annuity contract where:

(i) the account holder has not initiated a transaction with regard to the account or any other account held by the account holder with the reporting financial institution in the previous 3 years;

(ii) the account holder has not communicated with the reporting financial institution regarding the account or any other account held by the account holder with the reporting financial institution in the previous 6 years;

(iii) the annual balance of the account does not exceed US\$1,000;

(iv) the account is treated as a dormant account under the reporting financial institution’s normal operating procedures, provided that such procedures contain substantially similar requirements to those in subparagraphs (i), (ii), (iii) and (v) of this definition of dormant account;

(v) in the case of a cash value insurance contract, the reporting financial institution has not communicated with the account holder regarding the account or any other account held by the account holder with the reporting financial institution in the previous 6 years;

(b) an account ceases to be a dormant account when:

(i) the account holder initiates a transaction with regard to the account or any other account held by the account holder with the reporting financial institution;

(ii) the account holder communicates with the reporting financial institution that maintains such account regarding the account or any other account held by the account holder with the reporting financial institution; or

(iii) the account ceases to be a dormant account under the reporting financial institution’s normal operating procedures;

[def subst SL 1 of 2018 reg 4, opn 15 Jan 2018]

‘excluded account’ means:

- (a) an account as defined in subparagraph C (17)(a) to (f) of Section VIII of the Standard; or
- (b) an account listed as an excluded account in Schedule 1 of these Regulations;

'high value account' means a pre-existing individual account with an aggregate balance or value that exceeds US\$1,000,000 as of 31 December 2016 or 31 December of any subsequent year;

'lower value account' means a pre-existing individual account, which is not a high value account, with an aggregate balance or value as of 31 December 2016, that does not exceed US\$1,000,000;

'Nauru financial institution' means a Jurisdiction Financial Institution as defined in and for the purposes of the Act;

'new account' means a financial account maintained by a reporting financial institution opened on or after 1 January 2017, unless it is treated as a pre-existing account under paragraph (b) of the definition of 'pre-existing account' in these Regulations;

'non-reporting financial institution' means:

- (a) a financial institution as defined in subparagraphs B (1)(a), (b), (d) and (e) of Section VIII of the Standard;
- (b) an entity listed as a non-reporting financial institution in Schedule 2 of these Regulations;

'participating jurisdiction' means a jurisdiction which is listed in Schedule 3 of these Regulations;

'pre-existing account' means:

- (a) a financial account maintained by a reporting financial institution as of 31 December 2016; or
- (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 paragraph (a);
 - (ii) the reporting financial institution (and, as applicable, the related entity within the same jurisdiction as the reporting financial institution) treats both of the aforementioned financial accounts, and any other financial accounts of the account holder that are treated as pre-existing accounts under this paragraph (b), as a single financial account for the purposes of satisfying the standards of knowledge requirements set forth in paragraph A of Section VII of the Standard, and for the 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 paragraph (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 Standard;

'reportable account' has the meaning given to it by the Standard;

'standardised industry coding system' means a coding system used to classify establishments by business type for purposes other than tax purposes; and

'US\$' means United States Dollars, the official currency of the United States of America.

- (2) A term used in these Regulations has the same meaning as in the Act.
- (3) A reference to the Standard or a provision of it, is to be construed as a reference to the Standard or provision of it as amended from time to time.
- (4) For the purposes of these Regulations, the dates specified in the definition of "Exempt Collective Investment vehicle" in subparagraph B(9) of Section VIII of the Standard are:
 - (a) 1 January 2017 in the case of subparagraph B(9)(a); and
 - (b) 14 April 2017 in the case of subparagraph B(9)(d).
- (5) For the purposes of these Regulations, the Standard is to be read as if the definition of "Related Entity" in subparagraph E(4) of Section VIII of the Standard read as follows:

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.
- (6) For the purposes of these Regulations, the date specified in the definition of "Qualified Credit Card Issuer" in subparagraph B(8) of Section VIII of the Standard is 1 January 2017.
- (7) For the purposes of applying:
 - (a) Regulations 4 and 5 and the due diligence procedures described in Sections II to VII of the Standard, the definition of "Reportable Jurisdiction" in subparagraph D(4) of Section VIII of the Standard is to be read as follows:

"The term "Reportable Jurisdiction" means any jurisdiction other than the United States of America or the Republic;"
 - (b) Regulations 6 and 7 and Section I of the Standard, the definition "Reportable Jurisdiction" in subparagraph D(4) of Section VIII of the Standard is to be read as follows:

"The term "Reportable Jurisdiction" means any jurisdiction which is listed in Schedule 4 of these Regulations."

4 Due diligence requirements

- (1) A reporting financial institution shall establish, maintain and document procedures that are designed to identify reportable accounts maintained by the institution.

- (2) A reporting financial institution shall:
 - (a) identify reportable accounts maintained by the institution by applying the due diligence procedures described in Sections II to VII of the Standard; and
 - (b) apply due diligence procedures as if the date specified in:
 - (i) subparagraph C (6) of Section III of the Standard were 31 December 2016;
 - (ii) paragraph D of Section III of the Standard were 31 December 2017 in respect of High Value Accounts and 31 December 2018 in respect of Lower Value Accounts;
 - (iii) paragraph A of Section V of the Standard were 31 December 2016;
 - (iv) paragraph B of Section V of the Standard were 31 December 2016 in both the first and second instances;
 - (v) subparagraph E (1) of Section V of the Standard were 31 December 2016 in the first instance and 31 December 2018 in the second instance; and
 - (vi) subparagraph E (2) of Section V of the Standard were 31 December 2016.

[subreg (2) subst SL 15 of 2017 reg 4, opn 2 Aug 2017; SL 27 of 2017 reg 4, opn 16 Nov 2017]

- (3) For the purposes of these Regulations, an account balance that has a negative value is treated as having a nil value.
- (4) In determining the balance or value of an account denominated in a currency (other than US\$) for the purposes of the Standard and these Regulations, the institution shall translate the relevant US\$ threshold amount into the other currency by reference to the spot rate of exchange on the date for which the institution is determining the threshold amounts.
- (5) For the purposes of these Regulations, an account held by an individual as a partner of a partnership is treated as an entity account and is not treated as an individual account.

5 Modification of the due diligence requirements of the Standard

- (1) A reporting financial institution may apply:
 - (a) the residence address procedure, as described in sub-paragraph B(1) of Section III of the Standard, to a lower value account;
 - (b) the due diligence procedures for new accounts, described in paragraph A of Section IV or VI of the Standard, to pre-existing accounts, subject to subsections (2) and (3); and
 - (c) the due diligence procedures for high value accounts, described in paragraph C of Section III of the Standard, to lower value accounts.
- (2) Where a reporting financial institution applies the due diligence procedures for a new account to a pre-existing account, the procedures described in subparagraph B(1) of Section III and paragraphs C of Section I, A of Section III and A of Section V of the Standard shall apply to the new account.
- (3) A reporting financial institution may not apply the due diligence procedures for a new account to a pre-existing account unless the institution applies the procedures to all pre-existing accounts it maintains or a clearly identifiable group of pre-existing accounts.
- (4) A reporting financial institution may, with respect to a pre-existing entity

account, use as documentary evidence any classification in the institution's records with respect to the account holder that was determined based on a standardised industry coding system, that was recorded by the institution consistent with its normal business practices for the purposes of AML/KYC procedures or another regulatory purpose (other than for tax purposes) and that was implemented by the institution prior to the date used to classify the financial account as a pre-existing account, provided that the institution does not know or does not have reason to know that such classification is incorrect or unreliable.

- (5) With respect to new entity accounts, for the purposes of determining whether a controlling person of a passive NFE is a reportable person, a reporting financial institution may only rely on a self-certification from either the account holder or the controlling person.
- (6) For the purposes of regulation 4, the Standard is to be read as if paragraph B of Section VII of the Standard read as follows:

'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 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 shall 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;
- (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 an amount denominated in the domestic currency of each Member State that corresponds to US\$1,000,000.

The term “Group Cash Value Insurance Contract” means a Cash Value Insurance Contract that:

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

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

6 Reporting obligations

- (1) A reporting financial institution shall, in respect of the first reporting year and every following calendar year, file an information return with the Secretary setting out the information required to be reported under the Standard in relation to every reportable account that is maintained by the institution at any time during the calendar year in question.
- (2) The first reporting year for any reportable account is the calendar year 2017.
- (3) The information required to be reported in relation to a reportable account is set out in paragraphs A and B of Section I of the Standard, subject to paragraphs C to E of Section I of the Standard.
- (4) The return shall be submitted electronically in accordance with Regulation 7 on or before 31 May of the year following the calendar year to which the return relates.
- (5) For the purposes of the information required to be reported under the Standard:
 - (a) references to the balance or value of an account include a nil balance or value; and
 - (b) references to paying an amount include crediting an amount.
- (6) A reporting financial institution shall, in respect of the first reporting year and every following calendar year, file an information return with the Secretary indicating that it has no reportable accounts to report in respect of such year, if it has not identified any reportable accounts after applying the due diligence procedures described in Sections II to VII of the Standard.

7 Electronic return system

- (1) The return under Regulation 6 shall be made electronically using an electronic return system.
- (2) The form and manner of an electronic return system may be specified in specific or general directions given by the Secretary.
- (3) A return that is not made in accordance with subregulations (1) and (2) is treated as not having been made.
- (4) An electronic return system shall incorporate an electronic validation process.

- (5) Unless the contrary is proved:
 - (a) the use of an electronic return system is presumed to have resulted in the making of the return only if this has been successfully recorded as such by the relevant electronic validation process;
 - (b) the time of making the return is presumed to be the time recorded as such by the relevant electronic validation process; and
 - (c) the person delivering the return is presumed to be the person identified as such by any relevant feature of the electronic return system.
- (6) A return made on behalf of a reporting financial institution is taken to have been made by that institution, unless the institution proves that the return was made without the institution's authority.

8 Records

- (1) Every reporting financial institution shall keep records that the institution obtains or creates for the purpose of complying with these Regulations, including self-certifications and records of documentary evidence.
- (2) Every reporting financial institution required by these Regulations to keep records that does so electronically shall retain them in an electronically readable format for the retention period referred to in subregulation (4).
- (3) Every reporting financial institution that obtains or creates records, as required under these Regulations, in a language other than English shall, upon request, provide an English translation to the Secretary for Finance.
- (4) Every reporting financial institution that is required to keep, obtain or create records under these Regulations shall retain those records for a period of at least 6 years following the end of the last calendar year in respect of which the record is relevant.

[subreg (4) subst SL 1 of 2018 reg 5, opn 15 Jan 2018; subst SL 14 of 2018 reg 4, opn 25 May 2018]

9 Inspection of books, etc and provision of information and assistance

- (1) A designated officer or authorised officer may, by notice in writing, require a financial institution to give the officer within such time, not being less than 14 days, as may be provided by the notice, with such information, including copies of any relevant books, records or other documents, as the officer may reasonably require for any purpose relating to the administration or enforcement of these Regulations.
- (2) A designated officer or authorised officer may require a financial institution to produce books, records or other documentation, to provide information, explanations and particulars, and to give all assistance which the officer may reasonably require relating to the administration or enforcement of these Regulations.
- (3) A designated or authorised officer may make extracts from or copies of all or any part of the books, records or other documents or other material made available to the officer or require that copies of books, records or other documents be made available to the officer for any purpose relating to the administration or enforcement of these Regulations.

10 Non-resident reporting financial institution's representative or agent

- (1) Where a reporting financial institution is not a resident in the Republic, the obligations of the institution under these Regulations are to be treated as if they were also the obligations of any the Republic representative or agent of the institution.
- (2) For the purposes of this Regulation:
 - (a) a reporting financial institution which is a partnership is resident in the Republic if the control and management of the business of the partnership as a reporting financial institution takes place there; and
 - (b) a reporting financial institution which is not a partnership is resident in the Republic if it is resident in the Republic for tax purposes.

11 Use of service providers

A reporting financial institution may use a service provider to undertake the due diligence requirements under Regulations 4 and 5 and, the reporting obligations under Regulations 6 and 7, but in such cases those obligations continue to be the obligations of the institution.

[The next page is 812,301]

SCHEDULE 1
Excluded Accounts

For the purposes of the Standard and these Regulations, the following are excluded accounts:

- dormant accounts.

812,301

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[The next page is 812,501]

SCHEDULE 2
Non-reporting Financial Institutions

[Sch 2 subst SL 23 of 2018 reg 3, opn 23 Oct 2018]

For the purposes of the Standard and these Regulations, the following are non-reporting financial institutions:

- Nauru Bendigo Bank Agency.

[The next page is 812,701]

SCHEDULE 3
Participating Jurisdictions

[Sch 3 subst SL 15 of 2017 reg 5, opn 2 Aug 2017; SL 27 of 2017 reg 5, opn 16 Nov 2017; SL 1 of 2018 reg 6, opn 15 Jan 2018; am SL 30 of 2024 reg 4, opn 25 Nov 2024]

For the purpose of the Standard, the following are participating jurisdictions:

Andorra, Anguilla, Antigua and Barbuda, Argentina, Aruba, Australia, Austria, Azerbaijan, The Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda, Brazil, British Virgin Islands, Brunei Darussalam, Bulgaria, Canada, Cayman Islands, Chile, China, Colombia, Cook Islands, Costa Rica, Croatia, Curacao, Cyprus, Czech Republic, Denmark, Dominica, Estonia, Faroe Islands, Finland, France, Germany, Ghana, Gibraltar, Greece, Greenland, Grenada, Guernsey, Hungary, Iceland, India, Indonesia, Ireland, Isle of Man, Israel, Italy, Japan, Jersey, Korea, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Macao (China), Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Monaco, Montserrat, Netherlands, New Zealand, Niue, Norway, Pakistan, Panama, Poland, Portugal, Qatar, Romania, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Seychelles, Singapore, Saint Maarten, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Turks and Caicos Islands, United Arab Emirates, United Kingdom, Uruguay, Vanuatu.

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SCHEDULE 4
Reportable Jurisdictions

[Sch 4 subst SL 1 of 2018 reg 7, opn 15 Jan 2018; am SL 30 of 2024 reg 5, opn 25 Nov 2024]

For the purposes of applying regulations 6 and 7, the following are reportable jurisdictions:

Andorra, Anguilla, Antigua and Barbuda, Argentina, Aruba, Australia, Austria, Azerbaijan, The Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda, Brazil, British Virgin Islands, Brunei Darussalam, Bulgaria, Canada, Cayman Islands, Chile, China (Peoples Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curacao, Cyprus, Czech Republic, Denmark, Dominica, Estonia, Faroe Islands, Finland, France, Germany, Ghana, Gibraltar, Greece, Greenland, Grenada, Guernsey, Hungary, Iceland, India, Indonesia, Ireland, Isle of Man, Israel, Italy, Japan, Jersey, Korea, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Macao (China), Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Monaco, Montserrat, Netherlands, New Zealand, Niue, Norway, Pakistan, Panama, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Seychelles, Singapore, Saint Maarten, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Turks and Caicos Islands, United Arab Emirates, United Kingdom, Uruguay, Vanuatu.

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