

SAINT VINCENT AND THE GRENADINES
AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION
(COMMON REPORTING STANDARD)

REGULATIONS 2016

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SAINT VINCENT AND THE GRENADINES

STATUTORY RULES AND ORDERS

2016 NO. 30

(Gazetted 23rd December, 2016)

IN EXERCISE of the powers conferred by section 16 of the Automatic Exchange of Financial Account Information (Common Reporting Standard) Act, 2016 (No. 31 of 2016), the Minister makes the following Regulations –

AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION (COMMON REPORTING STANDARD) REGULATIONS, 2016

1. (1) These Regulations may be cited as the Automatic Exchange of Financial Account Information (Common Reporting Standard) Regulations, 2016. **Citation and commencement**

(2) These Regulations commence on the day the Automatic Exchange of Financial Account Information (Common Reporting Standard) Act 2016 commences.

2. (1) These Regulations implement Article 6 of the Convention. **Scope of Regulations**
(2) These Regulations apply to all reporting financial institutions.

3. (1) In these Regulations –

Interpretation

“Act” means the Automatic Exchange of Financial Account Information (Common Reporting Standard) Act, 2016;

“AML” means anti-money laundering;

“excluded account” means –

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

“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;

“group annuity contract” means, for the purposes of regulation 6 (7), an annuity contract under which the obligees are individuals who are affiliated through an employer, trade association, labour union, or other association or group;

“group cash value insurance contract” means, for the purposes of regulation 6 (7), 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 member’s health characteristics other than age, gender, and smoking habits of the member (or class of members) of the group;

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

“KYC” means know your customer;

“lower value account” means a pre-existing account belonging to an individual with an aggregate balance or value that does not exceed US\$ 1,000,000 as of 31 December 2016;

“new account” means a financial account maintained by a reporting financial institution and opened on or after the 1st day of January 2017, unless it is treated as a pre-existing account under paragraph (b) of the definition of pre-existing account;

“NFE” means a non-financial entity (an entity that is not a financial institution);

“non-reporting financial institution” means –

(a) a financial institution as defined in paragraph B (1) (a), (b), (d) and (e) of Section VIII of the Standard; or

(b) an entity listed in Schedule 2;

“participating jurisdiction” means a jurisdiction listed in Schedule 3;

“pre-existing account” means –

(a) a financial account maintained by a reporting financial institution as of 31 December 2016; or

(b) a financial account of an account holder, regardless of the date the 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 financial accounts referred to in paragraphs (a) and subparagraph (i), and any other financial accounts of the account holder that are treated as pre-existing accounts under this paragraph, as a single financial account for purposes of satisfying the standards of knowledge requirements set forth in paragraph A of Section VII of the Standard, and for purposes of determining the balance or value of any of the financial accounts when applying any of the account thresholds;

(iii) with respect to a financial account that is subject to AML/KYC procedures, the reporting financial institution is permitted to satisfy such

AML/KYC procedures for the financial account by relying upon the AML/KYC procedures performed for the pre-existing account described in 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;

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

“statutory body” means a corporation established by an Act, all the members of which, or all of the members of the board of management, board of directors or governing board of which, are appointed by –

- (a) an Act;
- (b) the Cabinet;
- (c) a minister;
- (d) a public officer; or
- (e) any combination of paragraphs (a) to (d).

“US\$” means United States Dollars, the official currency of the United States of America;

- (2) For the purposes of applying –

- (a) the due diligence procedures described in Sections II to VII of the Standard and regulations 5 and 6, the definition of “reportable jurisdiction” in paragraph D (4) of the Standard is to be read as follows –

“reportable jurisdiction” means a jurisdiction other than the United States of America or Saint Vincent and the Grenadines;

- (b) Section I of the Standard and regulations 7 to 11, the definition of “reportable jurisdiction” in paragraph D (4) of the Standard is to be read as follows –

“reportable jurisdiction” means a jurisdiction which is described in Schedule 4 of these Regulations.

(3) For the purposes of the definition of “exempt collective investment vehicle”, an investment entity that is regulated as a collective investment vehicle does not fail to qualify as an exempt collective investment vehicle, solely because the collective investment vehicle has issued physical shares in bearer form, provided that –

- (a) the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after 31 December 2016;
- (b) the collective investment vehicle retires all such shares upon surrender;
- (c) the collective investment vehicle performs the due diligence procedures set forth in Sections II to VII of the Standard and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and
- (d) the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed and immobilised as soon as possible, and in any event prior to 31 December 2018.

(4) For the purposes of these Regulations, the date specified in the definition “qualified credit card issuer” in paragraph B (8) of Section VIII of the Standard is 01 January 2017.

(5) Subject to sub regulations (1) to (3), a term which is defined in the Standard but not in section 2 of the Act or in these Regulations has the same meaning in these Regulations as in the Standard.

4. The Competent Authority shall at least once every calendar year publish by notice in the *Gazette* a list of participating jurisdictions and reportable jurisdictions for the purposes of the Standard.

5. (1) A reporting financial institution shall establish, maintain and document the procedures described in this regulation and in regulations 5 and 6 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

**Participating
and reportable
jurisdictions**

**Due diligence
obligations**

(b) apply the due diligence procedures as if the date specified in –

- (i) paragraph 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) paragraph 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) paragraph E (2) of Section V of the Standard were 31 December 2016.

(3) An account shall be treated as a reportable account beginning as of the date it is identified as such pursuant to the due diligence procedures described in Sections II to VII of the Standard and, unless otherwise provided, information with respect to a reportable account shall be reported annually in the calendar year following the year to which the information relates.

(4) For the purposes of these Regulations, an account with a balance or value that is negative is deemed to have a balance or value equal to nil.

(5) 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 reporting financial institution shall translate the relevant US\$ threshold amount described in the Standard or in these Regulations into the other currency by reference to the spot rate of exchange on the date for which the institution is determining the threshold amounts.

(6) For the purposes of the Standard and these Regulations, a financial account held by an individual as a partner of a partnership is deemed to be an entity account.

6. (1) A reporting financial institution may apply, for a calendar year –

**Modifications
to due
diligence
procedures**

- (a) the residence address procedure, as described in paragraph B (1) of Section III of the Standard, to a lower value account;
- (b) the due diligence procedures for a high value account, described in paragraph C of Section III of the Standard, to a lower value account; or
- (c) paragraphs A to C of Section V of the Standard to determine whether a pre-existing account belonging to an entity is subject to the due diligence procedures described in Section V of the Standard.

(2) Subject to subregulations (3) and (4), a reporting financial institution may apply, for a calendar year, the due diligence procedures for a new account, described in paragraph A of Section IV or VI of the Standard, to a pre-existing account.

(3) Where a reporting financial institution applies the due diligence procedures for a new account to a pre-existing account, the procedures described in paragraph 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.

(4) 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.

(5) A reporting financial institution may, with respect to a pre-existing account belonging to an entity, use as documentary evidence any classification in the institution's records with respect to the account holder –

- (a) that was determined based on a standardised industry coding system, that was recorded by the institution consistent with its normal business practices for purposes of AML/KYC procedures or another regulatory purposes (other than for tax purposes); and
- (b) that was implemented by the institution prior to the date used to classify the financial account as a pre-existing account,

unless the institution does not know or does not have reason to know that the classification is incorrect or unreliable.

(6) With respect to a new account opened by an entity, 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.

(7) For the purposes of regulation 5, the Standard is to be read as if paragraph B of Section VII of the Standard read as follows –

- (a) 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;
 - (b) 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;
 - (c) 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; and
 - (d) a reporting financial institution may treat a financial account that is a member's interest in a group cash value insurance contract or group annuity contract as a financial account that is not a reportable account until the date on which an amount is payable to the employee (certificate holder) or beneficiary, if the financial account that is a member's interest in a group cash value insurance contract or group annuity contract meets the following requirements –
 - (i) the group cash value insurance contract or group annuity contract is issued to an employer and covers 25 or more employees (certificate holders);
 - (ii) the employee (certificate holder) is entitled to receive any contract value related to the employee's interests and to name beneficiaries for the benefit payable upon the employee's death; and
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- (iii) the aggregate amount payable to an employee (certificate holder) or beneficiary does not exceed an amount denominated in the domestic currency of each participating jurisdiction that corresponds to US\$ 1 000 000.

7. (1) A reporting financial institution shall, in respect of the calendar year 2017 and every following calendar year, file with the Competent Authority an information return setting out the information described in paragraphs A and B of Section I of the Standard, subject to paragraphs C to E in Section I of the Standard, in relation to every financial account identified as a reportable account that is maintained by the institution at any time during a calendar year.

**Reporting
obligation**

(2) If a reporting financial institution applies the due diligence procedures described in regulation 5 for a calendar year and no account is identified as a reportable account, the institution shall file an information return which provides that the institution maintains no such reportable accounts in respect of that year.

(3) An information return, required to be filed by this section, shall be submitted electronically in accordance with regulation 8 on or before 31st May of the year following the calendar year to which the return relates.

8. An information return, required to be filed by regulation 7, shall be filed electronically using such technology as may be approved or provided by the Competent Authority, and in such form as the Competent Authority may require.

**Electronic
return system**

9. (1) A 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.

Records

(2) A 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) A 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 Competent Authority.

(4) A 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 six years following –

- (a) in the case of a self-certification, the last day on which a related financial account is open; and
- (b) in any other case, the end of the last calendar year in respect of which the record is relevant.

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

10. (1) A designated officer may, by notice in writing, require a financial institution to provide the officer within such time, not being less than 14 days, as may be set out in the notice, with the information prescribed by subregulation (2) (a) and (b) which the officer may reasonably require for any purpose relating to the administration or enforcement of these Regulations.

(2) A designated officer may require a financial institution –

- (a) to produce books, records or other documentation;
- (b) to provide information, explanations and particulars; and
- (c) to give all assistance which the officer may reasonably require for the administration or enforcement of these Regulations.

(3) A designated 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.

**S e r v i c e
providers**

11. (1) A reporting financial institution may appoint a third party as its agent to carry out the duties and obligations imposed on it by these Regulations.

(2) Where a third party is appointed by a reporting financial institution in accordance with subsection (1) –

- (a) the institution shall, 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
- (b) the institution is responsible for any failure of that third party to carry out the obligations of the institution and sections 7 (4) and 10 of the Act shall apply to the institution notwithstanding that –
 - (i) the actions were the actions of that third party; or

- (ii) the failure to act was the failure by that third party to act.

12. (1) The Minister may issue guidance for the purpose of providing practical guidance in respect of any provision of, and in connection with the administration of, these Regulations. **Guidance**

(2) The guidance –

- (a) shall come into force on a date prescribed by the Minister;
- (b) may be revoked or revised; and
- (c) shall be published in the *Gazette* and in such other manner as the Minister thinks appropriate.

SCHEDULE 1*(regulation 3)***EXCLUDED ACCOUNTS**

- (1) A dormant account (other than an annuity contract) with a balance that does not exceed US\$1,000 is an excluded account.
- (2) An account is a dormant account if –
 - (a) the account holder has not initiated a transaction with regard to the account or any other account held by the account holder with the reporting financial institution in the previous three years;
 - (b) the account holder has not communicated with the reporting financial institution regarding the account or any other account held by the account holder with the reporting financial institution in the previous six years;
 - (c) the account is treated as a dormant account under the reporting financial institutions normal operating procedures; and
 - (d) in the case of a cash value insurance contract, the reporting financial institution has not communicated with the account holder that holds such account regarding the account or any other account held by the account holder with the reporting financial institution in the previous six years.

SCHEDULE 2*(regulation 3)***NON-REPORTING FINANCIAL INSTITUTIONS**

For the purposes of the Standard, the following are non-reporting financial institutions –

1. a statutory body;
 2. the Eastern Caribbean Central Bank;
 3. an embassy;
 4. a pension fund of a statutory body;
 5. a friendly society; and
 6. a non-profit organization.
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SCHEDULE 3*(regulation 4)***PARTICIPATING JURISDICTIONS**

For the purposes of the Standard, the following are participating jurisdictions –

1. Albania
2. Andorra
3. Anguilla
4. Argentina
5. Aruba
6. Australia
7. Austria
8. Barbados
9. Belgium
10. Belize
11. Bermuda
12. Brazil
13. British Virgin Islands
14. Bulgaria
15. Burkina Faso
16. Cameroon
17. Canada
18. Cayman Islands
19. Chile
20. China (People's Republic of)
21. Colombia
22. Cook Islands
23. Costa Rica
24. Croatia
25. Curacao
26. Cyprus
27. Czech Republic
28. Denmark
29. Dominica
30. Dominican Republic
31. El Salvador

32. Estonia
 33. Faroe Islands
 34. Finland
 35. France
 36. Gabon
 37. Georgia
 38. Germany
 39. Ghana
 40. Gibraltar
 41. Greece
 42. Greenland
 43. Grenada
 44. Guatemala
 45. Guernsey
 46. Hungary
 47. Iceland
 48. India
 49. Indonesia
 50. Ireland
 51. Isle of Man
 52. Israel
 53. Italy
 54. Jamaica
 55. Japan
 56. Jersey
 57. Kazakhstan
 58. Kenya
 59. Korea (South)
 60. Kuwait
 61. Latvia
 62. Liechtenstein
 63. Lithuania
 64. Luxembourg
 65. Malaysia
 66. Malta
 67. Mauritius
 68. Mexico
 69. Monaco
 70. Montserrat
-

71. Morocco
72. Nauru
73. Netherlands
74. New Zealand
75. Nigeria
76. Niue
77. Norway
78. Pakistan
79. Panama
80. Philippines
81. Poland
82. Portugal
83. Romania
84. Russia
85. Russia
86. Saint Kitts and Nevis
87. Samoa
88. San Marino
89. Saudi Arabia
90. Senegal
91. Seychelles
92. Singapore
93. Sint Maarten
94. Slovak republic
95. Slovenia
96. South Africa
97. Spain
98. Sweden
99. Switzerland
100. Tunisia
101. Turkey
102. Turks and Caicos Islands
103. Uganda
104. Ukraine
105. United Kingdom
106. Uruguay

SCHEDULE 4*(regulation 2)***REPORTABLE JURISDICTIONS**

For the purposes of regulation 3 (2) (b), the following are reportable jurisdictions –

1. Albania
 2. Andorra
 3. Anguilla
 4. Aruba
 5. Argentina
 6. Australia
 7. Austria
 8. Barbados
 9. Belgium
 10. Belize
 11. Bermuda
 12. Brazil
 13. British Virgin Islands
 14. Bulgaria
 15. Burkina Faso
 16. Cameroon
 17. Canada
 18. Cayman Islands
 19. Chile
 20. China (People's Republic of)
 21. Colombia
 22. Cook Islands
 23. Costa Rica
 24. Croatia
 25. Curacao
 26. Cyprus
 27. Czech Republic
 28. Denmark
 29. Dominica
 30. Dominican Republic
 31. El Salvador
 32. Estonia
 33. Faroe Islands
 34. Finland
 35. France
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36. Gabon
37. Georgia
38. Germany
39. Ghana
40. Gibraltar
41. Greece
42. Greenland
43. Grenada
44. Guatemala
45. Guernsey
46. Hungary
47. Iceland
48. India
49. Indonesia
50. Ireland
51. Isle of Man
52. Israel
53. Italy
54. Jamaica
55. Japan
56. Jersey
57. Kazakhstan
58. Kenya
59. Korea (South)
60. Kuwait
61. Latvia
62. Liechtenstein
63. Lithuania
64. Luxembourg
65. Malaysia
66. Malta
67. Mauritius
68. Mexico
69. Monaco
70. Montserrat
71. Morocco
72. Nauru
73. Netherlands
74. New Zealand
75. Nigeria

76. Niue
77. Norway
78. Pakistan
79. Panama
80. Philippines
81. Poland
82. Portugal
83. Romania
84. Russia
85. Russia
86. Saint Kitts and Nevis
87. Samoa
88. San Marino
89. Saudi Arabia
90. Senegal
91. Seychelles
92. Singapore
93. Sint Maarten
94. Slovak republic
95. Slovenia
96. South Africa
97. Spain
98. Sweden
99. Switzerland
100. Tunisia
101. Turkey
102. Turks and Caicos Islands
103. Uganda
104. Ukraine
105. United Kingdom
106. Uruguay

Made this 16th day of December, 2016.

DR. THE HON. RALPH GONSALVES

Prime Minister, Minister of Finance
National Security, Legal Affairs and
Grenadines Affairs

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