

# Guidance on Common Reporting Standard (CRS)

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Exchange of Information (EOI) Unit  
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The Revenue Department of Thailand

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## Chapter 1 – Introduction

### 1.1 Scope and Target Group of this guidance

The Common Reporting Standard (CRS) is an internationally agreed standard for the automatic exchange of financial account information between jurisdictions for tax purposes, to better combat tax evasion and ensure tax compliance.

Thailand has committed to implement the CRS, with the first exchange of financial account information relating to calendar year 2022. The purpose of the Thailand CRS Local Guidance Handbook is to provide a guide on the necessary steps to take in order to implement CRS for the Financial Institutions (FIs) as it has set out some background and key CRS building blocks on the CRS framework and their CRS compliance obligations. In addition, FIs are expected to rely closely on guidance issued by the Organization for Economic Cooperation and Development (OECD), such as the commentary on the CRS (referred to as 'the OECD CRS Commentary'), the CRS Implementation Handbook (Second Edition) and the OECD's CRS-related FAQs. This guidance is developed based on the CRS guidance from various jurisdictions that have successfully implemented CRS prior to the implementation of Thailand.

### 1.2 CRS and MCAA CRS

The CRS is an internationally agreed standard for the automatic exchange of financial account information between jurisdictions for tax purposes. Endorsed by the OECD and the Global Forum for Transparency and Exchange of Information for Tax Purposes (Global Forum), the CRS is intended to detect and deter tax evasion by tax residents of jurisdictions through the use of offshore banks and other Financial Accounts. The CRS sets out the Financial Account information to be exchanged, the FIs required to report, the different types of accounts and persons covered, as well as the Account Holder due diligence procedures to be followed by FIs.

For CRS purposes, FIs can build and expand upon their existing AML / KYC and FATCA compliance processes to manage the new CRS due diligence and reporting requirements.

On 18 May 2021, the Thai cabinet approved the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (MCAA CRS). The Ministry of Finance will submit a letter to the OECD to express its intention to become a signatory. Thailand will commence the first exchange by the end of September 2023.

### 1.3 CRS Implementation in Thailand

There are rules and administrative procedures in place to ensure the effective implementation of, and compliance with, the reporting and due diligence procedures set out in the Common Reporting Standard for Thailand as per listed below and supplemented by local guidance and Common Reporting Standard.

#### List of Domestic Legislations

- Emergency Decree on Exchange of Information
- Ministerial Regulation
- Notifications of the Ministry of Finance
- Notification of Director-General

For effective implementation of the CRS, Financial Institution must comply with the domestic legislations at the time with reference to the CRS itself and the OECD's guidance contained in the CRS Commentaries and Implementation Handbook.

## 1.4 Participating Jurisdictions

Under the CRS, a Participating Jurisdiction is a jurisdiction with which an agreement is in place pursuant to which it will provide the information required on the automatic exchange of financial account information set out in the CRS and that is identified in a published list. In line with the approach outlined in the CRS Implementation Handbook, Thailand will consider all jurisdictions that have publicly and at government level committed to adopt CRS as Participating Jurisdictions. The list of Participating Jurisdictions can be found in [Appendix D: Participating Jurisdiction](#) which anticipated that the list will be updated to reflect a change in jurisdictions' commitment to and implementation of CRS.

For the term "Participating Jurisdiction Financial Institution" means:

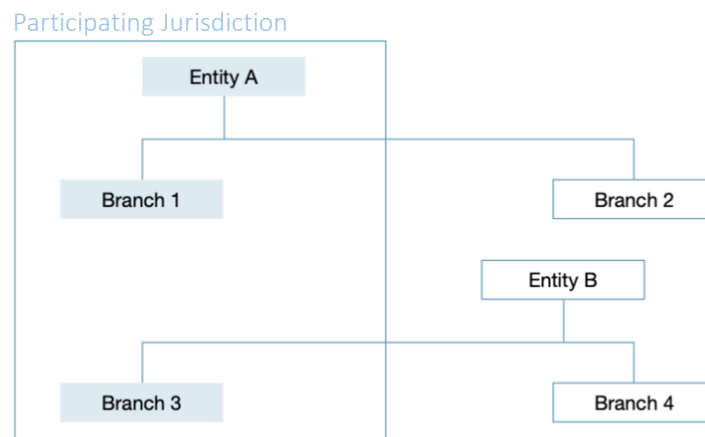
- (i) any Financial Institution that is tax resident in a Participating Jurisdiction, but excludes any branch of that Financial Institution that is located outside of that jurisdiction, and
- (ii) any branch of a Financial Institution that is not tax resident in a Participating Jurisdiction, if that branch is located in such Participating Jurisdiction.

The CRS targets Entities within a Participating Jurisdiction as those that can be most effectively compelled to report the necessary information by that jurisdiction. This is the reporting nexus.

The general rule is that Entities resident in a jurisdiction, their branches located in that jurisdiction and branches of foreign Entities that are located in that jurisdiction are included within that jurisdiction's reporting nexus, while foreign Entities, their foreign branches and foreign branches of domestic Entities are not. This is depicted in Figure 1 where, assuming all the Entities and branches are Reporting Financial Institutions, Participating Jurisdiction A will need to require Entity A, Branch 1 and Entities B, Branch 3 to report information to its tax authority.

The rules governing tax residence of CRS Participating Jurisdictions are available on OECD's [Automatic Exchange Portal](#).

Figure 1: Reporting Nexus<sup>1</sup>



<sup>1</sup> Source: OECD (2018), Standard for Automatic Exchange of Financial Information in Tax Matters - Implementation Handbook - Second Edition OECD, Paris

## Chapter 2 – Financial Institution with CRS obligations in Thailand

### 2.1 Overview of CRS Classifications for Thai Entities

The purpose of this chapter is to elaborate on the question of who have the obligation to carry out CRS due diligence and report such information. The guidance will then set out how these principles apply in practice for particular types of entities.

An entity will be a financial institution based on the activities that it carries out or how it is managed. It is important to note, for these purposes, that the CRS definition of entity covers both legal persons (for example, corporations) and legal arrangements (for example partnerships or limited partnership). This means that such legal persons and legal arrangements can be financial institutions. Individual are therefore, excluded from the definition of financial institution under CRS.

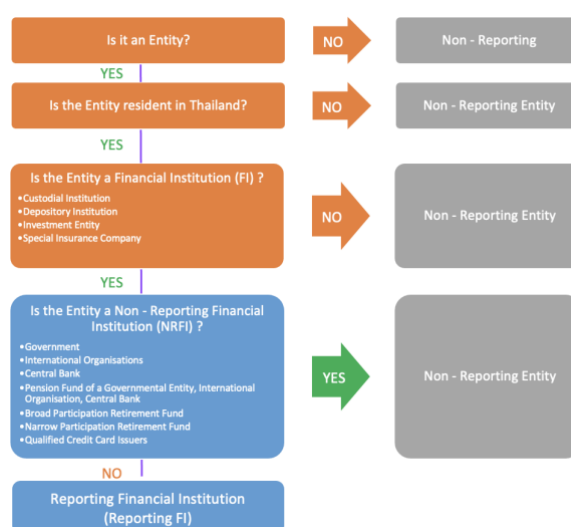
Moreover, according to CRS, the term financial institution is not limited to institution or financial institution as described by Thai laws. The scope of financial institutions required to report a comprehensive reporting regime covers not only banks but also other financial institutions such as brokers, certain collective investment vehicles and certain insurance companies.

The CRS only cover financial institutions that are resident in Thailand, nevertheless excludes any branch of that financial institution that is located outside of Thailand, and any branch of a financial institution that is not resident in Thailand, if that branch is located in Thailand. Therefore, each financial institution must determine its own **“Entity Classification”** for the purposes of the CRS Regulations.

### 2.2 Entity Classification Flow Chart

Determining the proper classification of an entity and the obligations requires an understanding of various classifications on Financial Institutions which they and their account holders, their affiliates, and others can fall under. A key aspect to implementing the reporting requirements is to ensure the correct scope of financial institutions that are required to collect and report the information. There are four-step conditions that need to be fulfilled in order to establish as shown in Figure 2.

Figure 2: The steps to identify a Reporting Financial Institution

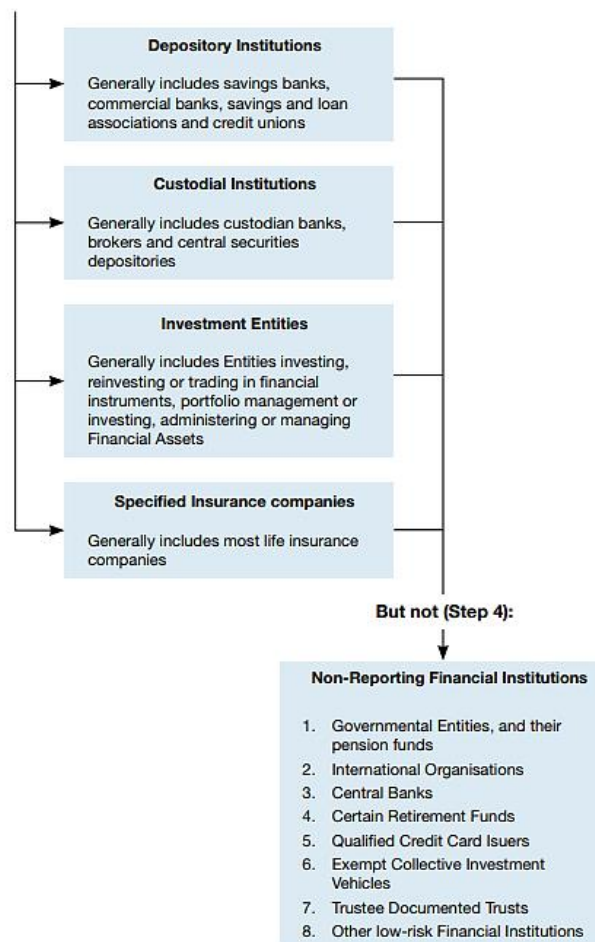


## 2.3 Reporting Financial Institution (Reporting FI)

This section will focus on CRS definition of “Reporting Financial Institution” (Reporting FI) before breaking down the definition into various categories. The term Reporting FI means any Financial Institution that is not a Non - Reporting Financial Institution (NRFI) and that has to comply with the CRS, which require the Reporting FI to provide annual reports and perform account due diligence. There are four types of financial institutions including a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company according to the CRS.

There are four types of Reporting FIs under the CRS are shown in Figure 3.

Figure 3: Various Categories of Reporting FIs<sup>2</sup>



### 2.3.1 Custodial Institutions

The term Custodial Institution means any Entity that holds a *substantial portion* of its business, financial assets for the account of others. Investment dealers, custodian banks, brokerages, trust companies and central securities

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



depositories, would generally be considered custodial institutions. Entities that do not hold financial assets for the account of others, such as insurance brokers, will not be custodial institutions.

In this context, a **substantial portion** means at least 20% (equal to 20% and above) of the entity's gross income is attributable to holding *financial assets* and providing *related financial services* in the shorter of the three-year period ending immediately before the reportable period in which its status as a custodial institution is to be determined; or the period in which the entity has been in existence.

The term **Financial Assets** is generally intended to encompass any asset that may be held in an account maintained by a Financial Institution. This includes a security (for example, a share of stock in a corporation; beneficial ownership interest in 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. However, financial assets do not include a non-debt direct interest in real property or a commodity that is a physical good, such as wheat.

Negotiable debt instruments that are traded on a regulated market or over-the-counter market and distributed and held through Financial Institutions, and shares or units in a real estate investment trust, would generally be considered Financial Assets.

The term **related financial services** are any ancillary services that are directly related to the holding of assets by an institution on behalf of others, such as fees for custody, account maintenance or providing financial advice. Income from such services can include: custody, account maintenance, and transfer fees; commissions and fees earned from executing and pricing securities transactions with respect to financial assets held in custody; income earned from extending credit to customers with respect to financial assets held in custody (or acquired through such extension of credit); income earned on the bid-ask spread of financial assets held in custody; fees for providing financial advice with respect to financial assets held in (or potentially to be held in) custody by the entity; and for clearance and settlement services.

### 2.3.2 Depository Institutions

The term Depository Institution means any Entity that accepts deposits in the ordinary course of a *banking or similar business*. Generally, savings banks, commercial banks, savings and loan associations, and credit unions would generally be considered Depository Institutions. However, whether an Entity conducts a banking or similar business is determined based upon the character of the actual activities of such Entity. An entity is considered to be engaged in a banking or similar business if, in the ordinary course of its business with customers, the entity accepts deposits or other similar investments of funds and regularly engages in one or more of the following activities:

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

An Entity is not considered to be engaged in a banking or similar business if the Entity solely accepts deposits from persons as a collateral or security pursuant to a sale or lease of property or pursuant to a similar financing arrangement between such Entity and the person holding the deposit with the Entity.

### 2.3.3 Investment Entity

The term Investment Entity can be determined using two different sets of criteria. If an entity meets either of these characteristics then it will generally be **Type A in business investment entities** or **Type B managed investment entities**.

#### 2.3.3.1 Type A “in business investment entity”

An entity primarily conducts one or more of the following activities as a business or operations for or on behalf of a customer.

The activities (specified investment activities) that will bring the entity within the definition are:

- 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.
- individual and collective portfolio management; or
- otherwise investing, administering, or managing funds or money on behalf of other persons.

Such activities or operations do not include rendering non-binding investment advice to a customer.

An entity is treated as “in business investment entity” or “primarily conducting as a business” by conducting one or more of these specified investment activities for customers when at least half of its gross income (50% or more) is derived from such specified investment activities during the shorter of its last three fiscal periods preceding the year in which the determination is made, or the period since the entity has been in existence.

#### 2.3.3.2 Type B “managed investment entity”

An entity that is professionally and virtually managed by another financial institution will be a “managed investment entity” if

- it derives its income “primarily” (at least half of its gross income – 50% or more) over the specified period from investing, reinvesting, or trading in financial assets; and
- it is managed by another financial institution (other than a managed investment entity).

An entity will be regarded as “managed” by another financial institution (that performs specified investment activities for it) where that financial institution has discretionary authority to manage the entity's assets (either in whole or in part).

Furthermore, if a financial institution merely provides advice to an entity, this will not be sufficient by itself to mean that the financial institution manages the entity. It is the discretionary authority to manage the entity's assets (either in whole or in part) that is crucial.

An entity may be managed by a mix of other entities and individuals. If any of the persons involved in the management of the entity is a financial institution the entity will be regarded as managed by that financial institution. The residence of the financial institution manager is not relevant in this case. This part of the definition of “managed investment entity” simply requires that the manager is a financial institution (i.e., it does not specify where that institution needs to be resident).

### 2.3.4 Specified Insurance Companies

CRS defines the term Specified Insurance Company as 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**.

In this context, insurance company refer to an entity that is regulated as an insurance business under the laws, regulations, or practices of Thailand where the gross income of which (for example, gross premiums and gross investment income) arising from insurance, reinsurance, and annuity contracts for the immediately preceding period exceeds 50% of total gross income for such period; or the aggregate value of the assets of which associated with insurance, reinsurance and annuity contracts at any time during the immediately preceding period exceeds 50% of total assets at any time during that period.

Most life insurance companies would generally be considered specified insurance companies. However, insurance companies that provide only non - life insurance or term life insurance, and reinsurance companies that provide only indemnity reinsurance contracts, are not specified insurance companies instead are treated nonfinancial entities. Moreover, the holding company itself will be a specified insurance company only if it issues or is obligated to make payments with respect to cash value insurance contracts or annuity contracts.

There are two key issues that feed into what comprises a specified insurance company, constituted by the terms "cash value insurance contract" and "annuity contract".

#### ***Definition of "Cash value insurance contract"***

The term "cash value insurance contract" refers to an insurance contract that has a cash value.

#### ***Definition of "Insurance Contract"***

The CRS defines the term "insurance contract" as meaning 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.

#### ***Definition of "Cash Value"***

The CRS defines cash value as the greater of the amount that the policyholder is entitled to receive on the termination or surrender of the policy or contract without reduction for any surrender charge or loans outstanding against the policy. For example, when the policyholder receives an annual statement of the value of the policy that will be the cash value in that year; and the amount the policyholder can borrow against according to the policy but **does not include** an amount payable:

- solely by reason of the death of an individual insured under a life insurance contract;
- 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;
- 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;
- as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an Insurance Contract under which the only benefits payable is for a personal injury or sickness benefit, or other benefit providing indemnification of an economic loss incurred upon the occurrence of an event insured against; or
- 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.

Note that the policyholder does not need to have pledged the account as collateral for borrowing for this second test to apply. It is the amount that the policyholder could expect to borrow against the cash value insurance contract if they chose to use it as collateral for a loan.

### **Investment-linked insurance contracts**

An "investment-linked insurance contract" means an insurance contract under which benefits, premiums, or the period of coverage are adjusted to reflect the investment return or market value of assets associated with the contract.

### **Insurance wrapper products**

Insurance wrapper products, such as private placement life insurance contracts, are generally considered to be cash value insurance contracts. An "insurance wrapper product" usually includes an insurance contract, the assets of which are:

- held in an account maintained by a financial institution; and
- managed in accordance with a personalised investment strategy or under the control or influence of the policyholder, owner, or beneficiary of the contract.

### ***Definition of " Annuity Contract "***

The term "Annuity Contract" is defined in the CRS to mean 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.

An insurance advisor, agent, or broker entity that sells cash value insurance contracts or annuity contracts on behalf of an insurance company (and is part of the payment chain) will not be classified as a specified insurance company unless they are obligated to make payments under the terms of a cash value insurance contract or an annuity contract.

### **2.4 Non - Reporting Financial Institution (NRFI)**

Financial institution is either a Reporting FI or a Non-Reporting Financial Institution (NRFI). The distinction is important because only Reporting FI need to provide annual reports and perform account due diligence whereas NRFI does not obligated to do so.

A Financial institution that meets these requirements is deemed a NRFI for example:

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

### 2.4.1 Governmental Entity

Governmental Entity include but are not limited to the following: a governmental entity, wholly owned agency or any entity that's partially or wholly owned by the government. In this case, no portion of its income benefits any private person, except if this income were paid as part of government policy, and the entity doesn't otherwise engage in commercial activity

This category is comprised of the integral parts, controlled entities, and political subdivisions of a jurisdiction (which, for the avoidance of doubt, includes a state, province, county, or municipality).

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:

- the Entity is wholly owned and controlled by one or more Governmental Entities directly or through one or more controlled entities;
- the Entity's net earnings are credited to its own account or to the accounts of one or more Governmental Entities, with no portion of its income inuring to the benefit of any private person; and
- the Entity's assets vest in one or more Governmental Entities upon dissolution.

c) Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental programme, and the programme 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.

### 2.4.2 International Organisations

The term International Organisation refer to any international organisation or wholly owned agency or instrumentality thereof. It 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 (Arrangements substantially similar to headquarters arrangements include, for example, arrangements that entitle the organisation's offices or establishments in the jurisdiction (e.g. a subdivision, or a local or regional office) to privileges and immunities.

### 2.4.3 Central Bank

The term Central Bank refers to an institution that is by law or government sanction is the principal authority, other than the government of the jurisdiction itself, in issuing instruments intended to circulate as currency. Central banks may be separate from the government of Thailand and not owned in whole or in part by Thailand.

### 2.4.4. Pension Fund of a Governmental Entity, International Organisation, Central Bank

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.

#### 2.4.5 Broad Participation Retirement Fund

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 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 four requirements listed below;
  - i) **the fund is tax-favoured**; 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) **most contributions are received from sponsoring employers**; the fund receives at least 50% of its total contributions from the sponsoring employers, other than transfers of assets from other plans described in Broad Participation Retirement Fund, Narrow Participation Retirement Fund Pension Fund of a Governmental Entity, International Organisation or Central Bank of this Chapter or retirement and pension account described in [Exclude Account in Chapter 3](#).
  - iii) **distributions or withdrawals are only allowed upon the occurrence of specified events**; 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 2.4.1 - 2.4.5 of this Chapter or retirement and pension accounts described in [Exclude Account in Chapter 3](#) or penalties apply to distributions or withdrawals made before such specified events; or
  - iv) **contributions by employees are limited by amount**; 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 THB 1,500,000 annually, applying the rules set forth in [Section 5.2.7 Account Aggregation and 5.2.8 Currency Translation Rule](#)

#### 2.4.6 Narrow Participation Retirement Fund

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 all requirements listed from a) – e) are satisfied.

- 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 are limited by reference to earned income and compensation of the employee, respectively;
- d) participants that are not residents of Thailand in which the fund is established are not entitled to more than 20% of the fund's assets; and
- e) the fund is subject to government regulation and provides information reporting to the tax authorities.

#### 2.4.7 Qualified Credit Card Issuers

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) the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of THB 1,500,000 or to ensure that any customer overpayment in excess of THB 1,500,000 is refunded to the customer within 60 days, in each case applying the rules set [Section 5.2.7 Account Aggregation and 5.2.8 Currency Translation Rule](#). For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.

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

#### 2.4.8 Trust

(Under the development of provision)

### 2.5 Non-Financial Entity (NFE)

The CRS refers to Non-Financial Entities by their acronym, NFEs. It is essentially any Entity that is not a Financial Institution. There are two types of NFEs: Passive NFEs or Active NFEs. The distinction is important since a Reporting FI is required to apply a higher standard of due diligence to financial accounts held by a passive NFE reflecting the greater tax evasion risks account pose.

The general rule is that a Passive NFE is an NFE that is not an Active NFE. The definition of Active NFE essentially excludes Entities that primarily receive passive income or primarily hold assets that produce passive income (such as dividends, interest, capital gains, rents etc.), and includes Entities that are publicly traded (or related to a publicly traded Entity), Governmental Entities, International Organisations, Central Banks, or a holding NFEs of nonfinancial groups. Exception to this is category (b) Investment Entities that are not Participating Jurisdiction Financial Institutions, which are always treated as Passive NFEs.

The following section discuss the definition of the NFE types in more detail.

#### 2.5.1 Active NFEs

NFE that meets any of the following criteria is an Active NFE:

- a) **Active NFEs by reason of income and assets;** Less than 50% of the NFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets (that produce or are held for the production of passive income).

Passive income would generally be considered to include the portion of gross income that consists of:

- 1) dividends;
- 2) interest;
- 3) income equivalent to interest;
- 4) rents and royalties, other than rents and royalties derived in the active conduct of a business conducted, at least in part, by employees of the NFE;
- 5) annuities;
- 6) the excess of gains over losses from the sale or exchange of Financial Assets that gives rise to the passive income described previously;
- 7) the excess of gains over losses from transactions (including futures, forwards, options, and similar transactions) in any Financial Assets;
- 8) the excess of foreign currency gains over foreign currency losses;

- 9) net income from swaps;
- 10) amounts received under Cash Value Insurance Contracts.

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

- b) **publicly traded NFEs;** 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. Where stock is regularly traded refer to the fact that there is a meaningful volume of trading with respect to the stock on an on-going basis.
- 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) **holding NFEs that are members of a nonfinancial group;** 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.

Where the term substantially all means 80% or more and covers also a combination of holding stock of and providing finance and services to one or more subsidiaries. And the term subsidiary means any entity whose outstanding stock is either directly or indirectly held (in whole or in part) by the NFE

If, however, the NFE's holding or group finance activities constitute less than 80% of its activities but the NFE receives also active income (i.e., income that is not passive income) otherwise, it qualifies for the Active NFE status, provided that the total sum of activities meets the substantially all definition.

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

Nevertheless, 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) **start-up NFEs;** 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) **NFEs that are liquidating or emerging from bankruptcy;** The NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution.
- g) **treasury centres that are members of a nonfinancial group;** 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
- 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;

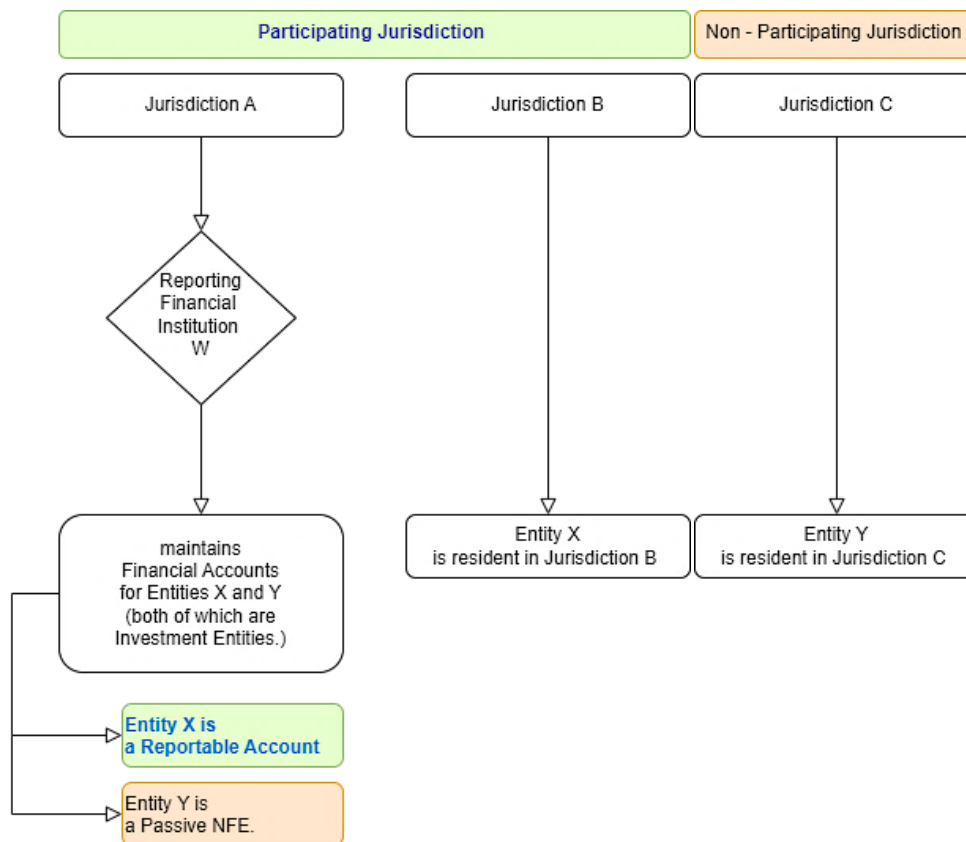


- iii. it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
- iv. the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit 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.

### 2.5.2 Passive NFEs

In principle, a Passive NFE means any NFE that is not an Active NFE or an Investment Entity that is not a Participating Jurisdiction Financial Institution (i.e., an Investment Entity that is a resident in a non-Participating Jurisdiction). Reporting FIs are required to look-through that type of Investment Entity, as illustrated by the following example:

**Example:** Jurisdiction A has a reciprocal agreement on the automatic exchange of financial account information in place with Jurisdiction B, but has no agreement in place with Jurisdiction C. W, a Jurisdiction A Reporting FI, maintains Financial Accounts for Entities X and Y, both of which are Investment Entities, however, Entity X is resident in Jurisdiction B and Entity Y is resident in Jurisdiction C. From the perspective of W, Entity X is a Participating Jurisdiction Financial Institution and Entity Y is not a Participating Jurisdiction Financial Institution. As a result, W must treat Entity Y as a Passive NFE.



## Chapter 3 – Financial Account

### 3.1 Overview of Financial Account

This guidance now provides a high-level outline of the various types of financial accounts that the CRS has specified. This will assist Reporting FIs maintaining such accounts to determine what accounts they need to carry out due diligence on. Reporting FIs to need to carry out due diligence on the financial accounts they maintain to identify accounts held (and/or, in the case of passive non-financial entities, controlled) by relevant foreign tax residents in order to determine which accounts must be reported. Hence, to be a financial account, the account must be maintained by a financial institution.

This then raises the following questions:

- when will a Reporting FIs maintain a financial account
- what constitutes a financial account; and

*The term Financial Account means an account maintained by a Financial Institution which includes:*

- custodial accounts
- depository accounts;
- equity and debt interest in certain financial institutions
- annuity contracts or cash value insurance contracts;

A Reporting FI can maintain more than one type of financial account. For example, a depository institution can maintain a custodial account as well as a depository account.

In general, an account would be considered to be maintained by a Reporting FI as follows:

- in the case of a Custodial Account, by the Financial Institution that holds custody over the assets in the account (including a Financial Institution that holds assets in street name for an Account Holder in such institution).
- in case of a Depository Account, by the Financial Institution that is obligated to make payments with respect to the account (excluding an agent of a Financial Institution regardless of whether such agent is a Financial Institution).
- in the case of any equity or debt interest in a Financial Institution that constitutes a Financial Account, by such Financial Institution.
- in the case of a Cash Value Insurance Contract or an Annuity Contract, by the Financial Institution that is obligated to make payments with respect to the contract.

The term Financial Account, does not include any account that is an Excluded Account and is, thus, not subject to the due diligence procedures that apply for purposes of identifying Reportable Accounts among Financial Accounts. The following section then further clarifies the definition of different categories of financial account and circumstances generally considered in determining whether Reporting FIs maintain those accounts.

#### 3.1.1 Custodial Account

The term Custodial Account means an account (other than an Insurance Contract or Annuity Contract) that holds one or more Financial Assets for the benefit of another person. A custodial account is maintained by the financial institution that holds custody over the assets in the account including a financial institution that holds assets in nominee name for an account holder. (i.e., in the broker's name for an account holder in such institution.)

When a financial institution is acting as a broker and simply executing trading instructions, or is receiving and transmitting such instructions to another person, the financial institution is not required to treat the facilities established for the purposes of executing a trading instruction, or of receiving and transmitting such instructions,

as a financial account. The financial institution acting as custodian will be responsible for performing due diligence procedures and reporting where necessary.

### 3.1.2 Depository Account

A depository account is maintained by a financial institution if it is obligated to make payments with respect to the account even if an agent performs administrative functions in connection with the account on behalf of the institution. The agent, itself, is not considered to be maintaining the account regardless of whether such agent is a financial institution.

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.

### 3.1.3 Equity or debt interest in an FI that's an Investment Entity

Where a debt interest would cover amounts loaned to a financial institution and securities and bonds that are not equity interests or depository accounts, the term equity interest means a capital or profits interest. Any equity or debt interest in an investment entity that is a financial account is treated as being maintained by that financial institution.

Any equity or debt interest in an Investment Entity is considered a Financial Account. However, equity or debt interests in an Entity that is an Investment Entity solely because it is an investment advisor, or an investment manager, are not Financial Accounts. Thus, equity or debt interests that would generally be considered Financial Accounts include equity or debt interests in an Investment Entity (i) that is a professionally managed investment entity, or (ii) that functions or holds itself out as a collective investment vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leveraged buyout fund, or any similar investment vehicle established with an investment strategy of investing, reinvesting, or trading in Financial Assets.

However, the definition of Financial Account does not include any equity or debt interest in an entity that is an investment entity solely because it (i) renders investment advice to, and acts on behalf of, or (ii) manages portfolios for, and acts on behalf of, a customer for the purpose of investing, managing, or administering financial assets deposited in the name of the customer with a financial institution other than that entity.

### 3.1.4 Annuity contract or Cash value insurance contract

Annuity contracts and Cash value insurance contract will generally be financial accounts. The definition of the terms is previously outlined in section 2.3.4.

An annuity contract or a cash value insurance contract is maintained by the financial institution that is obligated to make payments with respect to the contract.

However, certain Annuity Contracts is not a financial account if it is a non-investment linked, non-transferable immediate life annuity issued to an individual monetising a pension or disability benefit provided under an excluded account. Pension or disability benefits include retirement or death benefits, respectively.

## 3.2 Prescription of Excluded Financial Accounts.

As noted above, Reporting FIs need to carry out due diligence on financial accounts they maintain. However, a financial account does not include an account that is an excluded account. The CRS explicitly defines excluded account that meet specified criteria as following:

- Retirement and Pension Accounts;
- Non-Retirement tax-favoured investment/savings accounts;
- Term Life Insurance Contracts
- Accounts of Deceased Persons / Estate accounts;
- Intermediary Accounts (Escrow Accounts)
- Depository Accounts due to Not-returned Overpayments
- Account Excluded from Financial Accounts

The full details and criteria of the excluded account can be found on [Appendix A: Definition of Excluded Account](#).

## Chapter 4 – Account Holder

### 4.1 Identification of Account Holder's Tax Residence

As noted above, Reporting FIs will need to carry out due diligence on their financial accounts to identify accounts **held** (and/or, in certain circumstances, **controlled**) by relevant reportable jurisdiction tax resident. Reporting FIs will then need to report annually to TRD the prescribed identity and financial account information about the reportable accounts they have identified.

There are three important building blocks that need to be highlighted at this point in the guidance:

- who is an account holder?
- when is it necessary to identify the controlling persons of an account holder?
- who will be the controlling persons of an account holder?

CRS defines the term **Account Holder** as the person listed or identified as the holder of a Financial Account by the FI that maintains 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.

Therefore, the **general rule** is that a Reporting FI should treat a person as an account holder if that person is listed or identified as holding the account (including both persons for joint accounts).

**The definition of account holder also contains a trace-through rule** that applies where a person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of the CRS, and such other person is treated as holding the account. For these purposes, a Reporting FI may rely on information in its possession (including information collected pursuant to AML/KYC Procedures), based on which it can reasonably determine whether a person is acting for the benefit or account of another person. Thus, for example, if a partnership is listed as the holder or owner of a Financial Account, the partnership is the Account Holder, rather than the partners in the partnership.

**Example 1:** Reporting FI 1 maintains an account listed in ABC's name. Reporting FI 1 determines based on the information in its possession that ABC holds account for himself, as opposed to holding the account for the benefit or account of someone else. Reporting FI 1 correctly determines that ABC is the account holder.

**Example 2:** Reporting FI 2 maintains an account listed in XYZ's name. XYZ holds the account as nominee for RST. XYZ informs Reporting FI 2 of this nominee relationship when he opens the account. Reporting FI 2 applies the trace through rule in the definition of account holder and correctly determines that the account is held by RST.

**Example 3:** Reporting FI 3 maintains an account held by financial institution MNO. Financial institution MNO is a custodial institution that holds fund as custodian for various investors. Reporting FI 3 correctly determines that financial institution MNO is the account holder. **Reporting FI 3 is not required to apply the trace through rule in the definition of account holder.** (They are not required to look through financial institution MNO.) This is because the person listed as holding the account is a financial institution. Reporting FI generally does not need to trace through a financial institution account holder (such as financial institution MNO) because that institution will be doing its own due diligence. This is intended to avoid duplication and minimise compliance costs. Accordingly, under this example Reporting FI 3 correctly determines that financial institution MNO is the account holder.

## 4.2 Reportable Person

The term **Reportable Person** means a Reportable Jurisdiction Person other than:

- a) a corporation the stock of which is regularly traded on one or more established securities markets;
- b) any corporation that is a Related Entity of a corporation described in clause (i);
- c) a Governmental Entity;
- d) an International Organisation;
- e) a Central Bank; or
- f) a Financial Institution. (which will itself be subject to the rules and obligations contained in the CRS)

The term **Reportable Jurisdiction Person** means an individual or Entity that is resident in Reportable Jurisdiction which can be found [Appendix E: Reportable Jurisdictions](#) . The list will be updated to reflect a change in jurisdictions' commitment to and implementation of CRS.

Alternatively, Reporting FIs can put in place the necessary procedures and systems to establish the tax residence(s) of all their Account Holders, instead of only for Account Holders that are tax residents of jurisdictions with which Thailand has a CAA to exchange Financial Account information. Reporting FIs will apply the Wider Approach when conducting CRS due diligence so that there is no need to repeatedly review the same accounts to re-establish whether the Financial Accounts they maintain are Reportable Accounts each time Thailand enters into a new exchange relationship with a jurisdiction.

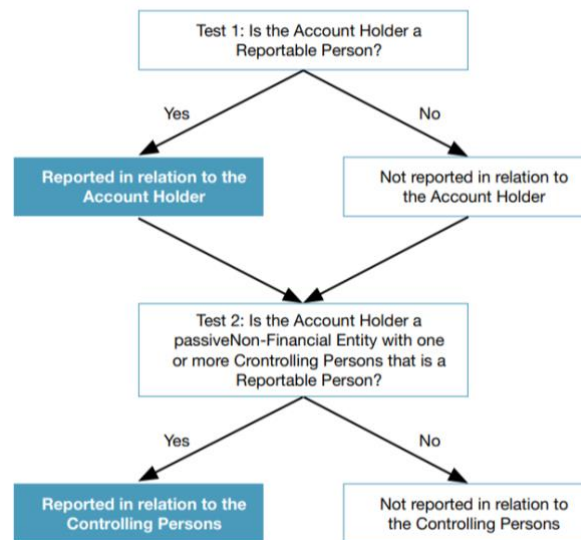
## 4.3 Reportable Account

A Reporting FI must maintain arrangements to establish the tax residencies of:

- (i) the Account Holder of each Financial Account; and
- (ii) where the Account Holder is a Passive NFE, each Controlling Person of the Passive NFE.

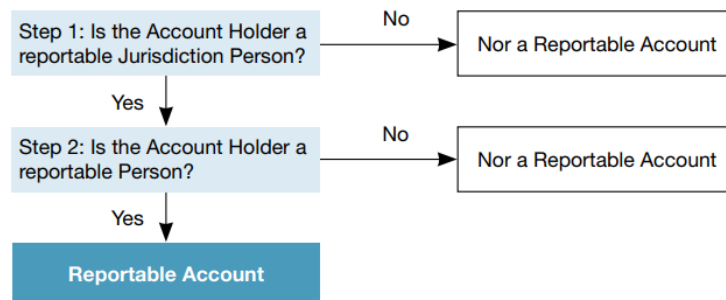
In addition, a Reporting FI must maintain arrangements to identify whether a Financial Account is a Reportable Account. The term **Reportable Account** is defined as an account held by one or more Reportable Persons or by a Passive Non-Financial Entity with one or more Controlling Persons that is a Reportable Person. Establishing this requires two tests, as set out in Figure 4

Figure 4: Two Test to determine Reportable Account<sup>3</sup>



The first test establishes whether a Financial Account is a Reportable Account by virtue of the Account Holder. This test can be broken down into two further steps, as shown in Figure 5.

Figure 5: Reportable account by virtue of the Account Holder<sup>4</sup>



In the first instance, a reporting FI must check whether a Financial Account they maintain is held by person/entity who is resident (or where their effective management is if they do not have a tax residence) in a jurisdiction on the published list. The following step is to determine whether the Account Holder is a Reportable Person. The Reportable Jurisdiction Person will then be a Reportable Person unless specifically excluded from being such.

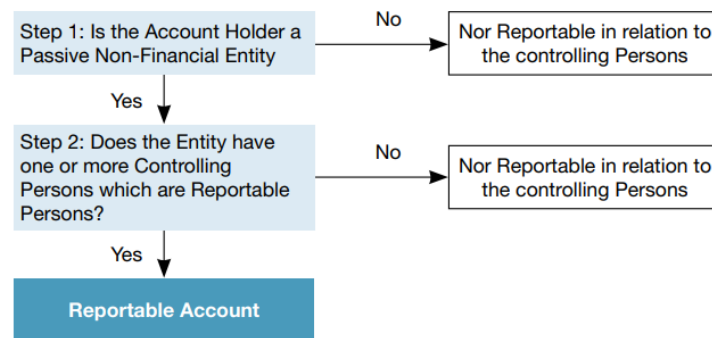
Regardless of whether the Financial Account is a Reportable Account by virtue of the Account Holder, there is then a second test in relation to the Controlling Persons of certain Entity Account Holders. This may mean that additional information is required to be reported in relation to an already Reportable Account or that a previously Non-Reportable Account becomes a Reportable Account by virtue of the Controlling Persons.

This second test can also be broken down into two steps, as shown in Figure 6.

<sup>3</sup> OECD (2018), Standard for Automatic Exchange of Financial Information in Tax Matters - Implementation Handbook - Second Edition OECD, Paris

<sup>4</sup> OECD (2018), Standard for Automatic Exchange of Financial Information in Tax Matters - Implementation Handbook - Second Edition OECD, Paris

Figure 6: Reportable Account by virtue of the Controlling Person<sup>5</sup>



The steps begin with determining whether the Account Holder is a Passive Non-Financial Entity. Then the Reporting FI determines if the Entity has one or more Controlling Persons which are Reportable Persons. If the Entity Account Holder is a Passive NFE, the Reporting FI must look-through the Entity to identify its Controlling Persons. If the Controlling Persons are Reportable Persons, then information in relation to the Financial Account must be reported, including details of the Account Holder and each reportable Controlling Person.

[Section 2.5 Non-Financial Entity \(NFEs\)](#) explains the definition of the term and Chapter 6 to Chapter 9 of this guidance outlines the detailed due diligence rules a Reporting FI must follow to determine whether the Entity Account Holder is a Passive NFE, setting out the procedures both for pre-existing Accounts and New Accounts.

The term Controlling Persons corresponds to the term beneficial owner as described in the Financial Action Task Force Recommendations (FATF), in Recommendation 10 and the corresponding Interpretive Guidance.

**For an Entity that is a legal person**, the term Controlling Persons means the natural person(s) who exercises control over the Entity, generally natural person(s) with a controlling ownership interest in the Entity. Determining a controlling ownership interest will depend on the ownership structure of the Entity. The control over the Entity may be exercised by direct ownership (or shareholding) or through indirect ownership (or shareholding) of one or more intermediate Entities and it may be based on a threshold (e.g. any person owning more than a certain percentage of the company (e.g. 25%)).

For example, Controlling Persons may include any natural person that holds directly or indirectly (e.g. through a chain of entities) more than 25 percent of the shares or voting rights of an Entity as a beneficial owner. To the extent there is doubt that the person with the controlling ownership interest is the beneficial owner or where no natural person that exerts control through ownership interests can be identified, the Controlling Person of the Entity is the natural person (if any) that is exercising control of the Entity through other means.

Where no Controlling Persons can be identified by applying the two steps above, the Reporting FI should identify the natural person(s) who holds the position of senior managing official in the Entity as the Controlling Person.

As an example, an Individual A may own 20 percent interest in Entity B and, although held in the name of Individual C, pursuant to a contractual agreement, Individual A also controls 10 percent of the voting shares in Entity B. In such instance, Individual A should meet the definition of Controlling Person.

In practical terms, the test to determine the Controlling Persons of an Entity needs to be carried out at the level of each Entity in the chain of ownership, in accordance with the rules applicable under FATF. FATF Recommendations do not require the determination of beneficial ownership if an Entity is (or is a majority owned subsidiary of) a company that is listed on a stock exchange and is subject to market regulation and to disclosure

<sup>5</sup> OECD (2018), Standard for Automatic Exchange of Financial Information in Tax Matters - Implementation Handbook - Second Edition OECD, Paris



requirements (either by stock exchange rules or through law or enforceable means) to ensure adequate transparency of beneficial ownership. Further, FATF Recommendations do not require determination of beneficial ownership of a controlling interest that is held by an Entity described in the preceding sentence. Thus, in such cases, it is accepted that a Reporting FI will not be able to determine the Controlling Persons for CRS purposes.

**In the case of a partnership and similar arrangements,** Controlling Person means, consistent with beneficial owner as described in the FATF Recommendations, any natural person who exercises control through direct or indirect ownership of the capital or profits of the partnership, voting rights in the partnership, or who otherwise exercise control over the management of the partnership or similar arrangement.

With respect to a jointly held account, each joint holder is treated as an Account Holder for purposes of determining whether the account is a Reportable Account. Thus, an account is a Reportable Account if any of the Account Holders is a Reportable Person or a Passive NFE with one or more Controlling Persons who are Reportable Persons. When more than one Reportable Person is a joint holder, each Reportable Person is treated as an Account Holder and is attributed the entire balance of the jointly held account, including for purposes of applying the aggregation rules set forth in [Section 5.2.7 Account Aggregation and 5.2.8 Currency Translation Rule](#)

**Example 1 (Account held by agent):** NYX holds a power of attorney from UBC, a Reportable Person, that authorises NYC to open, hold, and make deposits and withdrawals with respect to a Depository Account on behalf of UBC. The balance of the account for the calendar year is THB 3,000,000. NYX is listed as the holder of the Depository Account at a Reporting FI, but because NYX holds the account as an agent for the benefit of UBC, NYX is not ultimately entitled to the funds in the account. Because the Depository Account is treated as held by UBC, a Reportable Person, the account is a Reportable Account.

**Example 2 (Jointly held accounts):** UBC, a Reportable Person, holds a Depository Account in a Reporting FI. The balance of the account for the calendar year is THB 3,000,000. The account is jointly held with ANT, an individual who is not a Reportable Person. Because one of the joint holders is a Reportable Person, the account is a Reportable Account.

**Example 3 (Jointly held accounts):** UBC and QRS, both Reportable Persons, hold a Depository Account in a Reporting FI. The balance of the account for the calendar year is THB 3,000,000. The account is a Reportable Account and both UBC and QRS are treated as Account Holders of the account.

## Chapter 5 – CRS General Rules and Requirement

### 5.1 Important Terminology

#### **AML/KYC Procedures**

The term AML/KYC Procedures means the customer due diligence procedures of a Reporting FI pursuant to the anti-money laundering or similar requirements to which such Reporting FI is subject (e.g. know your customer provisions). These procedures include identifying and verifying the identity of the customer (including the beneficial owners of the customer), understanding the nature and purpose of the account, and on-going monitoring.

#### **Related Entity**

An entity is considered to be related to another entity if one entity controls the other or the two entities are under common control (the related entity group). For this purpose, control includes direct or indirect ownership of more than 50% of the vote and value in an Entity.

#### **Established securities market**

The term established securities market means an exchange that is officially recognised and supervised by a governmental authority in which the market is located and that has a meaningful annual value of shares traded on the exchange for example The Stock Exchange of Thailand (SET).

### 5.2 General Rules for Due Diligence Procedure

Reporting FIs must comply with verification and due diligence procedures with the accounts they maintain. This is the case regardless of whether the financial institution is subject to other regulatory requirements, such as having to complete due diligence related to AML/KYC. The required procedures are, in many respects, determined by whether a particular account is:

- an individual or an entity account;
- a pre-existing or a new account; or
- a lower value or a high value account.

Due diligence is required to identify reportable accounts. Reporting FIs are required to take certain actions, such as collecting information and/or reviewing information in their possession to determine whether to treat an account as a reportable account.

These requirements result in a reporting FIs having to:

- (i) search for certain indicia linked to an account holder and/or
- (ii) request that account holders self-certify their residence status.

An account is treated as a reportable account from the date it is identified as such pursuant to the due diligence procedures. Once an account has been identified as a reportable account, the information relating to that account is required to be reported for the current and all subsequent years unless the account ceases to be a reportable account.

An account would no longer be a reportable account when:

- the account holder ceases to be a reportable person;
- the account is closed or transferred to another reporting FIs in its entirety;
- the account becomes an excluded account; or
- the Reporting FI becomes a non-reporting FIs.

A Reporting FI can be asked to clarify the rules for determining the residence status of a reportable person. Depending on the situation, these rules can be complex, and Reporting FIs are not expected to provide information on all aspects of tax residency. It is the responsibility of account holders to determine where they are resident for tax purposes.

This chapter only discusses certain common concepts that support the due diligence and identification processes that are covered in more detail in the following chapter. The table below provides an overview of the classification of accounts for CRS purposes and the corresponding sections in this guidance that describe the applicable due diligence procedures:

Relevant Dates	Classification	Due Diligence Procedures	
		Individual	Entity
Accounts maintained by Reporting FI as of 31 December 2022	Pre - Existing Accounts (1)	Chapter 6	Chapter 8
Accounts opened and maintained by Reporting FI during 01 January 2023 - 15 August 2023	Pre - Existing Accounts (2)		
Accounts opened on or after - 16 August 2023	New Accounts	Chapter 7	Chapter 9

A Reporting FI may apply the due diligence procedures for New Accounts to Pre-existing Accounts and apply the due diligence procedures for High Value Accounts to Lower Value Accounts as a matter of Reporting FI.

#### 5.2.1 Limits on reasons to know

For purposes of determining whether a Reporting FI that maintains a Pre-existing Entity Account has reason to know that the status applied to the Entity is unreliable or incorrect, the Reporting FI is only required to review information contradicting the status claimed if such information is contained in the current customer master file, the most recent self-certification and Documentary Evidence for the person, the most recent account opening contract, and the most recent documentation obtained by the Reporting FI for purposes of AML/KYC Procedures or for other regulatory purposes.

A Reporting FI that maintains multiple accounts for a single person will have reason to know that a status for the person is inaccurate based on account information for another account held by the person only to the extent that the accounts are either required to be aggregated under account aggregation rules or otherwise treated as a single account for purposes of satisfying the standards of knowledge.

A Reporting FI does not know or have reason to know that a Self-certification or Documentary Evidence is unreliable or incorrect solely because of a change of address in the same jurisdiction as that of the previous address. In addition, a Reporting FI does not know or have reason to know that a self-certification or Documentary Evidence is unreliable or incorrect solely because it discovers any of the indicia listed in Chapter 6 and such indicia conflicts with the self-certification or Documentary Evidence.

The following examples illustrate the application of the limits on the standards of knowledge:

**Example 1:** Bank 1, a Reporting FI maintains a Depository Account for P, an individual Account Holder. The Depository Account is a Pre-existing Account and Bank 1 has relied on the address in its records for P, as supported by his passport and a utility bill collected upon opening of the account, to determine that P is resident for tax purposes in jurisdiction X (application of the residence address test). Five years later, P provides a power of attorney to his sister, who lives in jurisdiction Y, to operate his account. The fact that P has provided such power of attorney is not sufficient to give Bank 1 reason to know that the Documentary Evidence relied upon to treat P as a resident of jurisdiction X is unreliable or incorrect.

**Example 2:** Insurance company 2, a Reporting FI, has entered into a Cash Value Insurance Contract with Q. Since the contract is a New Individual Account, Insurance company 2 has obtained a self-certification from Q and confirmed its reasonableness on the basis of the AML/KYC documentation collected from Q. The self-certification

confirms that Q is resident for tax purposes in jurisdiction V. Two years after Insurance company 2 entered into the contract with Q, Q provides a telephone number in jurisdiction W to Insurance company 2. Although Insurance company 2 did not previously have any telephone number in its records for Q, the sole receipt of a telephone number in jurisdiction W, does not constitute a reason to know that the original self-certification is unreliable or incorrect.

### 5.2.2 Change in Circumstances

A change in circumstances includes any change that results in the addition of information relevant to an account holder's status or otherwise conflicts with such account holder's status. In addition, a change in circumstances includes any change or addition of information to the account or to any account associated with such account if such change or addition affects the status of the account holder, such as an address not in the account holder's actual or purported jurisdiction of tax residence.

A change in circumstances is only relevant if the new information affects the residence status of the account holder. For example, a person who has been identified as reportable to the United Kingdom provides the Reporting FI with details of a change of address to a property in France. This is information that reveals that there has been a change in circumstances that may affect the residency status of the account holder. On the other hand, if the new address had also been in the United Kingdom the reportable status established earlier would not be affected and no further action would be required on the part of the Reporting FI other than changing the address in its records.

If a Reporting FI has relied on the residence address test to determine an account holder's tax residency and there is a change in circumstances that causes them to know or have reason to know that the documentary evidence (or other documentation relied on) is incorrect or unreliable, they are required to carry out other alternative due diligence on the account to determine its status.

**Example 1:** I, a bank that is a Reporting FI, has relied on the residence address test to treat an individual Account Holder, P, as a resident of Reportable Jurisdiction X. Five years later, P communicates to I that he has moved to jurisdiction y, which is also a Reportable Jurisdiction, and provides his new address. I obtains from P a self-certification and new Documentary Evidence confirming that he is resident for tax purposes in jurisdiction y. I must treat P as a resident of Reportable Jurisdiction y.

**Example 2:** The facts are the same as in Example 1, except that I does not obtain a self-certification from P. I must apply the electronic record search procedure described in [Chapter 6](#) and, as a result, treat P as a resident of, at least, jurisdiction y (based on the new address provided by the Account Holder).

### 5.2.3 Tax Identification Numbers (TINs)

**In case where a Reporting FI does not have the TIN for pre-existing Account in its records.** The Reporting FI is required to use reasonable efforts to obtain the TIN for such account by the end of the second calendar year following the year in which such accounts were identified as Reportable Accounts, unless exceptions listed in [Table 1 of Section 10.2](#) are met.

Reasonable efforts mean genuine attempts to acquire the TIN of the Account Holder of a Reportable Account. Such efforts must be made, at least once a year, during the period between the identification of the pre-existing Account as a Reportable Account and the end of the second calendar year following the year of that identification and should continue to be made after the second calendar year if the TIN and date of birth are not acquired by then.

Examples of reasonable efforts include contacting the Account Holder (e.g., by mail, in-person or by phone), including a request made as part of other documentation or electronically (e.g., by facsimile or by e-mail); and reviewing electronically searchable information maintained by a Related Entity of the Reporting FI, in accordance with the [Section 5.2.7 Account Aggregation](#) and [5.2.8 Currency Translation Rule](#)

Reasonable efforts do not necessarily require closing, blocking, or transferring the account, nor conditioning or otherwise limiting its use, but such measures can be taken to urge Account Holders, especially those that did not respond to the Reporting FI's initial request, to provide the TIN information to the Reporting FI.

**For New Accounts**, a TIN is required to be reported unless exceptions listed in [Table 1 of Section 10.2](#) are met.

Information with respect to the issuance, structure, use and validity of TINs issued by CRS Participating Jurisdictions are available at the [OECD Automatic Exchange Portal](#). Although Reporting FIs do not need to confirm the format and other specifications of a TIN with the information provided on the Portal, Reporting FIs are encouraged to do so in order to enhance the quality of information collected and reduce the effort associated with any follow up concerning the reporting of an incorrect TIN.

#### 5.2.4 Acceptable Documentary Evidence

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

While a Reporting FI may rely on Documentary Evidence unless it knows or has reason to know that it is incorrect or unreliable, it is expected to give preference to a piece of Documentary Evidence that is more recent, or more specific, than another piece of Documentary Evidence.

Standard of knowledge applicable to a self-certification or Documentary Evidence provides that a Reporting FI may not rely on a self-certification or Documentary Evidence if the Reporting FI knows (i.e., has actual knowledge) or has reason to know that the self-certification or Documentary Evidence is incorrect or unreliable.

A Reporting FI has reason to know that a self-certification or Documentary Evidence is unreliable or incorrect if its knowledge of relevant facts or statements contained in the self-certification or other documentation, including the knowledge of the relevant relationship managers is such that a reasonably prudent person in the position of the Reporting FI would question the claim being made. A Reporting FI also has reason to know that a self-certification or Documentary Evidence is unreliable or incorrect if there is information in the documentation or in the Reporting FI account files that conflicts with the person's claim regarding its status.

#### *Standards of knowledge applicable to Self-certifications*

A Reporting FI has reason to know that a Self-certification provided by a person is unreliable or incorrect if the self-certification is incomplete with respect to any item on the self-certification that is relevant to the claims made by the person, the self-certification contains any information that is inconsistent with the person's claim, or the Reporting FI has other account information that is inconsistent with the person's claim. A Reporting FI that relies on a service provider to review and maintain a self-certification is considered to know or have reason to know the facts within the knowledge of the service provider.

### *Standards of knowledge applicable to Documentary Evidence*

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

A Reporting FI is not obliged to rely upon an audited financial statement to establish that an account holder meets a certain asset threshold. However, if a Reporting FI elects to do so, it has reason to know that the status claimed is unreliable or incorrect only if the total assets shown on the audited financial statement for the account holder are not within the permissible thresholds, or the notes or footnotes to the financial statement indicate that the account holder is not eligible for the status claimed. If a Reporting FI elects to rely upon an audited financial statement to establish that the account holder is an Active NFE, it will be required to review the balance sheet and income statement to determine whether the account holder meets the income and asset thresholds and the notes or footnotes of the financial statement for an indication that the account holder is a FI. If a Reporting FI elects to rely upon an audited financial statement to establish a status for an account holder that does not require the account holder to meet an asset or income threshold, it will be required to review only the notes or footnotes to the financial statement to determine whether the financial statement supports the claim of status. If a Reporting FI does not elect to rely upon an audited financial statement to establish the status of the account holder (for example, because it has other documentation that establishes the account holder's status), the Reporting FI is not required to independently evaluate the financial statement solely because it also has collected the audited financial statement in the course of its account opening or other procedures.

A Reporting FI is not obliged to rely upon organisational documents to establish that an Entity has a particular status. However, if a Reporting FI elects to do so, it will only be required to review the document to the extent needed to establish that the requirements applicable to the particular status are met, and that the document was executed, but will not be required to review the remainder of the document.

#### 5.2.5 Documentation collected by other persons

Reporting FI may use service providers to fulfil their reporting and due diligence obligations. When that is the case, a Reporting FI may use the documentation collected by service providers (e.g., data providers, financial advisors, insurance agents), subject to the conditions described in domestic law. The reporting and due diligence obligations remain, however, the responsibility of the Reporting Financial Institution.

A Reporting FI can rely on documentation collected by an agent (including an insurance advisor, a banking consultant, a fund advisor for mutual funds, pooled funds, hedge funds, or a private equity group) of the Reporting FI. The agent can retain the documentation as part of an information system maintained for one or more Reporting FIs provided that, under the system, any Reporting FI on behalf of which the agent retains documentation can easily access the data regarding the nature of the documentation, the information contained in the documentation (including a copy of the documentation itself) and its validity, and must allow such Reporting FI to easily transmit data, either directly into an electronic system or by providing such information to the agent, regarding any facts of which it becomes aware that can affect the reliability of the documentation.

Where the agent retains the documentation as part of an information system maintained on behalf of multiple Reporting FIs, an account will only be a new account to the extent that it is a new account to the agent as the status of a financial account as a new account is determined by reference to whether it is new to the agent (for example, a fund manager), and not by whether it is new to the Reporting FI (for example, a fund managed by the fund manager).

The Reporting FI must be able to establish, to the extent applicable, how and when it has transmitted data regarding any facts of which it became aware that can affect the reliability of the documentation and must be

able to establish that any data it has transmitted has been processed and appropriate due diligence has been exercised regarding the validity of the documentation. The agent must have a system in effect to ensure that any information it receives regarding facts that affect the reliability of the documentation or the status assigned to the customer are provided to all Reporting FIs for which the agent retains the documentation.

For example, where a fund manager acts as agent on behalf of the fund in respect of all general administrative functions on behalf of the fund, including account opening, documentation and due diligence procedures, the fund will be considered to have transmitted all data regarding any facts of which it became aware that can affect the reliability of the documentation and to have established that any data it has transmitted has been processed.

An investment fund can rely on documentation collected by a fund manager as agent for the fund. Further, a fund manager can retain the documentation as part of an information system maintained for multiple Reporting FIs as long as all the Reporting FI for which the fund manager retains the documentation can easily access the data and information related to the documentation, update the data for facts that can affect the reliability of the documentation and establish how and when data has been transmitted to the fund manager. This will allow a fund manager to document the customer once and use this information for all financial accounts maintained for the customer by the funds that the fund manager manages therefore avoiding duplicative effort of documenting the account holder each time it buys units in a different fund managed by the same manager.

#### 5.2.6 Requirement for Self-Certification Form

A self-certification is a declaration by the account holder that provides the account holder's identification details, tax residency, and any other information that may reasonably be required by the reporting FI to fulfil its due diligence and reporting obligations.

The self-certification can be provided in several forms but for it to be valid, the CRS sets out that it may be signed or otherwise positively affirmed i.e., involving some level of active input or confirmation by the Account Holder, be dated, and the self-certification must contain sufficient account holder's information;

- Name
- Residence address
- Jurisdiction of residence for tax purposes
- Foreign TIN with respect to each jurisdiction
- Date of birth

The self-certification may be pre-populated by the Reporting FI to include the Account Holder's information, except for the jurisdiction(s) of residence for tax purposes, to the extent already available in its records.

Example of Self - Certification Form can be found in Annex B.

The format of self-certification forms are not prescribed by the CRS, and as such a reporting FI can develop their own forms with affirmation that their forms appropriately capture all the proper attestations and information required.

Generally, a self-certification is required upon opening a new account. It can also apply to a pre-existing account and when there is a change in circumstances to an existing account. For more information on when a self-certification is required for a pre-existing account, new account and when there is a change in circumstances, see Chapters 6 to 9 of this guidance.

#### *Confirming the Reasonableness of Self-Certifications*

A self-certification or documentary evidence cannot be relied upon if a Reporting FI knows or has reason to know that it is incorrect or unreliable.

In assessing whether reliance can be placed on a self-certification, a reporting FI must consider other information that it has obtained concerning the account holder and its controlling persons where required (in the case of an entity account) in connection with the account opening, including any documentation obtained for purposes of the AML/KYC procedures and any information that an account holder voluntarily provides to it.

A reporting FI must also confirm the reasonableness of the self-certification based on information it obtains in connection with the opening of the account, including any documentation obtained for the AML/KYC procedures. However, Reporting FI are not expected to carry out an independent legal analysis of relevant tax laws to confirm the reasonableness of a self-certification.

#### *OECD Risks Analysis*

#### **(Under the development of provision)**

The following examples illustrate the application of the “reasonableness”

**Example 1:** A Reporting FI obtains a self- certification from the Account Holder upon account opening. The jurisdiction of the residence address contained in the self-certification conflicts with that contained in the documentation collected pursuant to AML/KYC Procedures. Because of the conflicting information, the self-certification is incorrect or unreliable and, as a consequence, it fails the reasonableness test.

**Example 2:** A Reporting FI obtains a self- certification from the Account Holder upon account opening. The residence address contained in the self-certification is not in the jurisdiction in which the Account Holder claims to be resident for tax purposes. Because of the conflicting information, the self-certification fails the reasonableness test. In the case of a self - certification that would otherwise fail the reasonableness test, it is expected that in the course of the account opening procedures the Reporting Financial Institution would obtain either

- i)* a valid self-certification, or
- ii)* a reasonable explanation and documentation (as appropriate) supporting the reasonableness of the self-certification (and retain a copy or a notation of such explanation and documentation).

Examples of such “reasonable explanation” include a statement by the individual that he or she (1) is a student at an educational institution in the relevant jurisdiction and holds the appropriate visa (if applicable); (2) is a teacher, trainee, or intern at an educational institution in the relevant jurisdiction or a participant in an educational or cultural exchange visitor program, and holds the appropriate visa (if applicable); (3) is a foreign individual assigned to a diplomatic post or a position in a consulate or embassy in the relevant jurisdiction; or (4) is a frontier worker or employee working on a truck or train travelling between jurisdictions. The following example illustrates the application of this paragraph: A Reporting Financial Institution obtains a self-certification for the Account Holder upon account opening. The jurisdiction of residence for tax purposes contained in the self-certification conflicts with the residence address contained in the documentation collected pursuant to AML/KYC Procedures. The Account Holder explains that she is a diplomat from a particular jurisdiction and that, as a consequence, she is resident in such jurisdiction; she also presents her diplomatic passport. Because the Reporting Financial Institution obtained a reasonable explanation and documentation supporting the reasonableness of the self-certification, the self-certification passes the reasonableness test.

#### 5.2.7 Account Aggregation Rule

This section contains the account aggregation rules that Reporting FIs must follow for purposes of determining the aggregate balance or value of Financial Accounts.

There are rules listed for account aggregation where the rule applicable to Financial Accounts held by an individual and an Entity are identical. There is a special aggregation rule, in addition to the other account aggregation rules, applicable to relationship managers to determine whether a Financial Account is a High Value Account.



## Aggregation of Individual or Entity Accounts

The rules provide that:

- a Reporting FI is required to aggregate (or take into account) all Financial Accounts maintained by the Reporting FI, or by a Related Entity, but only to the extent that the Reporting FI'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.

If the system can link accounts by a common identifier but does not provide details of the balance or value of the accounts, a Reporting FI is not required to undertake the aggregation requirements. When a system can link accounts by a data element and details of the balances are provided (for example, the system is able to display all balances of a suite of accounts held by an individual), the system will be considered to allow the account balances to be aggregated if the system can perform the aggregation. There is no requirement to aggregate separate account balances linked to an account holder if the system does not aggregate them and cannot be made to do so with minor modifications carried out at modest expense.

The following examples illustrate the application of the account aggregation rules:

**Example 1 (Reporting FI not required to aggregate accounts):** An Entity, U, holds a depository account with AP, a commercial bank that is a Reporting FI. The balance in U's account at the end of year 1 is THB 4,800,000. U also holds another depository account with AP, with a THB 4,950,000 balance at the end of year 1. AP's retail banking businesses share computerised information management systems, but U's accounts are not associated with one another in the shared computerised information system. Because the accounts are not associated in AP's system, AP is not required to aggregate the accounts and both accounts are eligible for the exception as neither account exceeds the THB 7,500,000 threshold.

**Example 2: (Reporting FI required to aggregate accounts):** Same facts as Example 1, except that both of U's depository accounts are associated with U and with one another by reference to AP's internal identification number. The system shows the account balances for both accounts, and such balances may be electronically aggregated, though the system does not show a combined balance for the accounts. In determining whether such accounts meet the exception for accounts with an aggregate balance or value of THB 7,500,000 or less, AP is required to aggregate the account balances of all depository accounts under the account aggregation rules. Under those rules, U is treated as holding depository accounts with AP with an aggregate balance of THB 9,750,000. Accordingly, neither account is eligible for the exception, because the accounts, when aggregated, exceed the THB 7,500,000 threshold.

**Example 3: (Aggregation rules for joint accounts maintained by a Reporting FI):** In Year 1, an individual, U, holds a custodial account that is a pre-existing account at custodial institution SH, a Reporting FI. The balance in U's SH custodial account at the end of Year 1 is THB 21,000,000. U also holds a joint custodial account that is a pre-existing account with her sister, A, with another custodial institution, SH2. The balance in the joint account at the end of Year 1 is also THB 21,000,000. SH and SH2 are Related Entities and share computerised information management systems. Both U's custodial account at SH and U and A's custodial account at SH2 are associated with U and with one another by reference to SH's internal identification number and the system allows the balances to be aggregated. In determining whether such accounts meet the definition of High Value Account, SH is required to aggregate the account balances of accounts held in whole or in part by the same account holder under the account aggregation rules. Under those rules, U is treated as having financial accounts with SH and SH2, each with an aggregate balance of THB 42,000,000. Accordingly, both of U's accounts are High Value Accounts. A is only treated as having a financial account with SH2 with a balance of THB 21,000,000 since she is not an Account Holder of U's custodial account at SH. Accordingly, A's account is a Lower Value Account.

### Special Aggregation Rule Applicable to Relationship Managers

By virtue of this rule, a Reporting FI is required, in addition to the other account aggregation rules, to aggregate all Financial Accounts that a relationship manager knows, or has reason to know, are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person. This requirement includes aggregating all accounts that the relationship manager has associated with one another through a name, relationship code, customer identification number, TIN, or similar indicator, or that the relationship manager would typically associate with each other under the procedures of the Reporting FI (or the department, division, or unit with which the relationship manager is associated).

The following additional examples illustrate the application of the special aggregation rule applicable to relationship managers:

**Example 1 (Accounts held by a Passive NFE and by one of its Controlling Person):** A Passive NFE, T, holds a depository account with A, a commercial bank that is a Reporting Financial Institution. One of T's Controlling Persons, N, also holds a depository account with A. Both accounts are associated with N and with one another by reference to A's internal identification number. In addition, A has assigned a relationship manager to N. Because the accounts are associated in A's system and by a relationship manager, A is required to aggregate the accounts.

**Example 2 (Accounts held by different Passive NFEs with a common Controlling Person):** Same facts as Example 1. In addition, another Passive NFE, I, holds a depository account with A. N is also one of I's Controlling Persons. I's account is not associated with N nor with T's and N's accounts by reference to A's internal identification number. Because the accounts are associated by a relationship manager, A is required to aggregate the accounts.

#### 5.2.8 Currency Translation Rule

Where accounts are denominated in any currency other than Thai Baht (THB), the amount of such account must be converted to THB, using a published buying spot rate determined as at the reporting date. The method of conversion must be applied consistently.

#### 5.2.9 Service Providers

CRS due diligence and reporting obligations must be performed by the Reporting FI. However, the Reporting FI can rely on one or more third-party service providers to meet its obligations on behalf of the Reporting FI, in order to identify and report on the Reportable Accounts maintained such the Reporting FI. Nevertheless, the Reporting FI remains responsible for the due diligence and reporting obligations that the third-party service provider carries out on behalf of the Reporting FI.

**Example 1:** A Reporting FI can use a transfer agent to meet its due diligence obligations. However, in the event of any irregularities or failure to meet the legislative requirements, the Reporting FI will be held liable.

**Example 2:** A Reporting FI can use a third-party service provider to file information. The third-party service provider is required to use its transmitter number and must include the Reporting FI's business number on the information return. A third-party service provider can use its own registrar access code. However, in the event of any irregularities or failure to meet the legislative requirements, the Reporting FI will be held liable.

#### 5.2.10 Mergers or Bulk Acquisitions of Accounts

A Reporting FI acquires an account from a predecessor or transferor in a merger or bulk acquisition of accounts for value would generally be permitted to rely upon valid documentation (or copies of valid documentation) collected by the predecessor or transferor. In addition, a Reporting Financial Institution that acquires an account in a merger or bulk acquisition of accounts for value from another Reporting Financial Institution that has completed all the due diligence required with respect to the accounts transferred, would generally be permitted to also rely upon the predecessor's or transferor's determination of status of an Account Holder until the acquirer knows, or has reason to know, that the status is inaccurate or a change in circumstances occurs.

### 5.3 The CRS and FATCA

An explicit objective when designing the CRS was to build on FATCA, and more specifically the FATCA IGA, as by maximising consistency with the FATCA IGA reporting FIs could leverage on the investments they have already made for FATCA. This was to ensure that a new international standard could be created, which would deliver the most effective tool to tackle cross-border tax evasion, while minimising costs for governments and Reporting FIs.

While a large proportion of the CRS precisely mirrors the FATCA IGA, there are also areas of difference. These differences are due to: the removal of US specificities (such as the use of citizenship as an indicia of tax residence and the references to US domestic law found in the FATCA IGA); or where certain approaches are less suited to the multilateral context of the Standard, as opposed to the bilateral context of the FATCA IGA.

Many of these differences do not in fact require jurisdictions to take a different approach when implementing the two systems, further facilitated by the possibility in the Model 1 FATCA IGA for which Reporting FI are allowed to apply the rules contained in the US FATCA Regulations as an alternative. However, certain of these areas, as well as those where a unified approach is not possible, are highlighted in [Appendix C: Comparison between the CRS and FATCA](#) of this guidance.

## Chapter 6 - Due Diligence for Pre-existing Individual Accounts

If a Reporting FI maintains a financial account held by an individual, it must determine whether it is a reportable account. Doing so requires assessing whether a particular individual account has to be reviewed given that certain exemptions exist, as explained in previous chapter. If an individual account has to be reviewed, the Reporting FI must perform specific procedures to determine whether the account holder is resident in a reportable jurisdiction. When the Reporting FI determines that the account holder is resident in a reportable jurisdiction, reporting obligations to the TRD will exist in connection with the account.

### 6.1 Definition of Pre-existing Individual Accounts

A pre-existing individual account is an account maintained by a Reporting FI on December 31, 2022 or account opened and maintained by Reporting FI during 01 January 2023 to 15 August 2023.

Pre-existing individual accounts fall into one of two categories. These are:

- lower value accounts; and
- high value accounts.

However, a Reporting FI is not required to review a pre-existing individual account that were closed before 31 December, 2022 provided that certain conditions are met and cash value insurance contracts and annuity contracts if they are effectively prohibited by law from selling the contract to relevant reportable jurisdiction tax residents. Therefore, the type of due diligence procedures that the Reporting FIs will need to carry out on pre-existing individual accounts will depend on whether:

- the account is a lower value-account: With a balance or value of THB 30,000,000 or less as of 31 December 2022 or account opened and maintained by Reporting FI during 01 January 2023 to 15 August 2023.
- the account is a high value account: With a balance or value that exceeds THB 30,000,000 as of 31 December 2022 or account opened and maintained by Reporting FI during 01 January 2023 to 15 August 2023 or any subsequent 31 December 2023 and 31 December 2024. As explained further below, Reporting FIs need to carry out enhanced due diligence for such high-value accounts.

### 6.2 Evidence of Steps to be taken by FIs

#### 6.2.1 Lower Value Accounts:

##### *CRS due diligence procedures for lower-value pre-existing individual accounts*

The first steps for a Reporting FI to perform due diligence in connection with a pre-existing lower value individual account method is referred to as the residence address test. Reporting FIs can choose to adopt a residence address test as a proxy for determining whether the account holder is a relevant reportable jurisdiction tax resident. Alternatively, the second method is referred to as the electronic record search. Reporting FIs can choose to rely on indicia test (searching for indicators that the account holder is a reportable jurisdiction tax resident) as a proxy for determining whether the account holder is a reportable jurisdiction tax resident.

##### *Residence Address Test*

To apply the residence address test, a Reporting FI must have in its records the account holder's current residence address and it must have been recorded based on documentary evidence. If this is the case, it can 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 the individual account is a reportable person.

### Current residence address

A residence address is considered to be current where it is the most recent residence address that was recorded by the Reporting FI with respect to the account holder. Such a residence address is not considered to be current if it has been used for mailing purposes and mail has been returned undeliverable other than due to an error and the account is flagged to that effect.

Where the Reporting FI has recorded two or more mailing or residence addresses with respect to the account holder and one of such addresses is that of a service provider of the account holder (e.g., external asset manager, investment advisor, or attorney), the Reporting FI should not treat the service provider's address as the residence of the account holder. Where the account is a dormant account the mailing or residence address attached to the account can be considered as current during the period of dormancy.

An account can be indicated as Dormant if it meets all of the following conditions:

- 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 FI in the previous three years;
- the Account Holder has not communicated with the Reporting FI with regard to that account or any other account held by the Account Holder in the previous six years; and
- Where the account is a Cash Value Insurance Contract, the Reporting FI that maintains the account has not, in the previous six years, communicated with the Account Holder regarding the account or any other account held by the Account Holder with the FI.

### Acceptable documentary evidence

The residence address test can only be used by a Reporting FI in connection with a particular account if the current address of the account holder in the Reporting FI's records is known to have been based on documentary evidence. This requirement is satisfied if the Reporting FI's policies and procedures used to record the current address offer assurances that the address is either the same address or in the same jurisdiction, as the documentary evidence (if any) relied upon at the time the address was recorded or last verified.

The type of documentary evidence that is most likely to be relevant in the context of the residential address test is a valid identification issued by an authorised government body, that includes the individual's name and is typically used for identification purposes.

Commentaries on the Common Reporting Standard provide a useful summary of the circumstances when a Reporting FI can rely on such documentary evidence when applying the residence address test as follows:

- the circumstances when documentary evidence can be relied upon;
- the circumstances when documentary evidence can be supplemented by other documentation and information and relied upon; and
- the prescribed circumstances when a concessionary approach can be adopted for accounts opened at a time where there were no AML/KYC requirements and the Reporting FI, therefore, did not review any documentary evidence in the initial on-boarding process. The commentary explicitly states that such an approach can only be adopted in certain exceptional circumstances (see pages 113-114 of the CRS commentary).

The following examples illustrate the application of Reporting FI's policies and procedures with respect to residence address test.

**Example 1 (Government issued identity card):** M, a bank that is a Reporting FI has policies and procedures in place, pursuant to which it has collected a copy of the identity card of all its Pre-existing Individual Accounts and pursuant to which it ensures that the current residence address in its records for those accounts is in the same jurisdiction

as the address on their identity card. M may treat such Account Holders as being resident for tax purposes of the jurisdiction in which such address is located.

**Example 2 (Passport and utility bill):** M has account opening procedures in place pursuant to which it relies on the Account Holder's passport to confirm the identity of the Account Holder and on recent utility bills to verify their residence address, as recorded in M's systems. M may treat its Pre-existing Individual Account Holders as being resident for tax purposes of the jurisdiction recorded in its systems.

**Example 3 (Utility bill with reporting obligations):** H, a bank that is a Reporting FI, has a number of accounts opened prior to 1990 that has been grandfathered from the application of AML/KYC Procedures and the related rules on materiality and risk have not required re-documenting the accounts. H has in its records a current residence address for these accounts that is supported by utility bills collected upon account opening. Such address is also the same address as that periodically reported by H with respect to those accounts under its non-CRS tax reporting obligations. Because H's records do not contain any Documentary Evidence associated with these accounts and H is not required to collect it under AML/KYC Procedures, and the current residence address in H's records is the same as that on the most recent documentation collected by H and as that reported by H under its non-CRS tax reporting obligations, H may treat its Account Holders as being resident for tax purposes of the jurisdiction in which such address is situated.

Where a Reporting FI applies the residence address test, it must apply the test with respect to all lower value account or clearly identified group of such accounts. If the Reporting FI cannot apply the residence address test it must review the electronic records search for any indicia.

If there is a change in circumstances that causes the Reporting FI to know or have reason to know that the original Documentary Evidence is incorrect or unreliable, the Reporting FI must, by the later of the last day of the relevant calendar year or other appropriate reporting period, or 90 calendar days following the notice or discovery of such change in circumstances, obtain a self-certification and new Documentary Evidence to establish the residence(s) for tax purposes of the Account Holder. If the Reporting Financial Institution cannot obtain the self-certification and new Documentary Evidence by such date, the Reporting Financial Institution must apply the electronic record search procedure.

#### *Electronic record searches (Indicia)*

A Reporting FI cannot rely on or is not able to apply the residential address test (or is not able to apply that test) will need to determine the account holder's tax residence by reviewing its electronic records for relevant indicia (indicators) that the account holder is a reportable jurisdiction tax resident. Under the electronic record search method, a Reporting FI must review its electronically searchable data for any of the following indicia:

- a. Identification of the account holder as a resident in a reportable jurisdiction;
- b. A current mailing or residence address (including a P.O. Box) in a reportable jurisdiction;
- c. One or more telephone numbers in a reportable jurisdiction and no telephone number in Thailand;
- d. Standing instructions (other than with respect to a depository account) to transfer funds to an account maintained in a reportable jurisdiction;
- e. A current effective power of attorney or signatory authority granted to a person with an address in a reportable jurisdiction; and
- f. A hold mail instruction or in-care-of address in a reportable jurisdiction that is the sole address the Reporting FI has on file for the account holder.

#### *Effects of not finding any indicia for lower value accounts*

When none of the indicia listed above are discovered through an electronic record search, no further action is required in respect of lower value accounts, 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.

## Effects of finding indicia for lower value accounts

If any indicia described are detected through the electronic record search, or if there is a change in circumstances that results in one or more indicia being associated with the account, the Reporting FI must treat the account holder as a resident for tax purposes of each reportable jurisdiction for which an indicium is identified, unless the steps it is required to undertake to cure the indicia result in the account holder not being identified as a reportable account. Reporting FIs may elect whether to apply the curing procedures or not.

## Curing Indicia

**Curing Indicia** is a term used to describe the actions required to be taken by a Reporting FI to know whether the indicia it discovers is to remain as the final determinant of where the account holder resides for tax purposes. The specific steps required to be undertaken to cure each indicium is discussed in the following paragraphs.

When an indicium is:

- b. A current mailing or residence address (including a P.O. Box) in a reportable jurisdiction;
- c. One or more telephone numbers in a reportable jurisdiction and no telephone number in Thailand;
- d. Standing instructions (other than with respect to a depository account) to transfer funds to an account maintained in a reportable jurisdiction;

the account must be reported unless the Reporting FI obtains, or has previously reviewed and currently maintains a record of:

- a self-certification stating that the account holder is not a resident of such reportable jurisdiction, and
- documentary evidence establishing the account holder's is not a resident of such reportable jurisdiction.

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

There will be a standing instruction to transfer funds to an account if the account holder has mandated the Reporting FI to make repeat payments, without further instruction from the account holder, to another account held by the same account holder that can clearly be identified as being an account maintained in a reportable jurisdiction. However, instructions to make an isolated payment will not be a standing instruction even when given well in advance of the payment being made.

The indicium is an identification of the account holder as a resident of a reportable jurisdiction. This indicium is met if the Reporting FI's electronically searchable information contains a designation of the account holder as a reportable jurisdiction's resident for tax purposes. Therefore, when the account holder is identified as a resident in a reportable jurisdiction, the account is required to be reported to the reportable jurisdiction and there is no requirement to cure the indicium.

In the case of the indicium that is a current effective power of attorney or signatory authority granted to a person with an address in a reportable jurisdiction, the account must be reported by the Reporting FI unless the Reporting FI obtains, or has previously reviewed and currently maintains a record of one of the following:

- a self-certification stating that the account holder is not a resident of the reportable jurisdiction; or
- documentary evidence that establishes the account holder's is not a resident of such reportable jurisdiction.

When the indicium is a hold mail instruction or in-care-of address in a reportable jurisdiction and no other address and none of the other indicia are identified for the account holder in the electronic search, then the Reporting FI must in the order most appropriate to the circumstances:

- apply the paper record search; and
- seek to obtain from the account holder a self-certification or documentary evidence to establish the residence for tax purposes of such account holder.

This special procedure for hold mail instruction or in-care-of address is unique to the CRS. It suffices to take only one of the above actions if the chosen action results in the relevant information being obtained. If the paper record search fails to establish an indicium of where the account holder resides and the attempt to obtain a self-certification or documentary evidence fail, then the Reporting FI must report the account as an undocumented account.

#### 6.2.2 High Value Accounts:

##### CRS due diligence procedures for High-Value Pre-Existing Individual Accounts

Enhanced review procedures apply with respect to high value accounts. Reporting FIs are required to apply:

- the electronic record search for high value accounts;
- a paper record search for high value accounts; and
- a relationship manager enquiry for high value accounts.

##### *Electronic record searches for high value accounts (Indicia)*

A Reporting FI must review its electronically searchable data for the indicia listed in [\[Electronic record searches for low value accounts \(Indicia\)\]](#). When no indicia are discovered during the enhanced review procedures for high value accounts, and the account is not identified as being held by a resident of a reportable jurisdiction after making enquiries with the relationship manager, no further action is required until there is a change in circumstances that results in one or more indicia being associated with the account.

##### *Effects of finding indicia for high value accounts*

When one or more indicia are discovered, or if there is a change in circumstances that results in one or more indicia being associated with the account, the Reporting FI must treat the account holder as a resident for tax purposes of each reportable jurisdiction for which an indicium is identified, unless the steps it undertakes to cure the indicia result in the account holder not being identified as a reportable account (see [\[Curing Indicia\]](#)). If the steps undertaken do not reveal that the account holder is not a resident in a reportable jurisdiction, the Reporting FI must treat the account holder as a resident for tax purposes of each reportable jurisdiction for which an indicium is identified.

In the case of a hold mail instruction or in-care-of address in a reportable jurisdiction, if the paper search fails to establish an address or any other indicia, then the Reporting FI must attempt to obtain from the account holder a self-certification or documentary evidence to establish the residence for tax purposes of the account holder. If those attempts fail, the Reporting FI must report the account as an undocumented account.

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



### *Paper record searches for high value accounts*

A paper record search is required unless the Reporting FI can access all the following information from an electronic record search for any indicia:

- the account holder's residence status;
- the account holder's residence address and mailing address currently on file;
- the account holder's telephone number currently on file;
- whether there are standing instructions (other than for a depository account) to transfer funds to another account;
- whether there is a hold mail instruction or a current in-care-of address for the account holder; and
- whether there is any power of attorney or signatory authority for the account.

If a Reporting FI does not have the capacity or does not capture all the above information electronically, a paper record search for indicia is required and it must include a review of the current customer master file and, to the extent they are not contained in the current master file, the following documents associated with the account and obtained by the Reporting FI within the last five years:

- the most recent documentary evidence collected with respect to the account;
- the most recent account opening contract or documentation;
- the most recent documentation obtained by the Reporting FI for the AML/KYC procedures or for other regulatory purposes;
- any power of attorney or signature authority forms currently in effect; and
- any standing instructions (other than with respect to a depository account) to transfer funds currently in effect.

### *Relationship manager enquiry for high value accounts*

In addition to the electronic and paper record searches described above, the enhanced review procedures require Reporting FIs to make certain enquiries of relationship managers. The CRS provides that a relationship manager is an officer or other employee of a Reporting FI who oversees or manages the financial accounts of particular account holders on an ongoing basis.

A relationship manager has a role in connection with a Reporting FI's understanding of whether:

- two or more account balances are required to be aggregated to determine whether the accounts qualify as high value accounts; and
- a high value account assigned to the relationship manager must be treated as a reportable account.

Relationship management must be more than ancillary or incidental to the job function of a person for the person to be considered a relationship manager. Therefore, a person whose functions do not involve direct client contact or which are of a back office, administrative, or clerical nature is not considered a relationship manager.

A person that is a relationship manager is generally expected to be part of a sales team or otherwise be outward-looking toward customers. Moreover, such a person would be viewed as a relationship manager only if actions taken or advice offered in connection with an account cause that person and the account holder to communicate regularly on matters of importance pertaining to the account. For example, an investment advisor at a Reporting FI with a book of clients is a relationship manager in respect of each client that relies on the advisor's expertise, advice, and/or stewardship to achieve investment objectives.

Relationship managers typically offer a degree of ongoing care and attention toward high net worth account holders that can be distinguished from other forms of customer service which require less familiarity with an account holder's financial affairs and overall objectives. It is appreciated that a good rapport and regular contact

can exist between an account holder and an employee of a Reporting FI without causing the employee to be a relationship manager. For example, a person at a Reporting FI who is largely responsible for processing transactions/orders or *ad hoc* requests can end up knowing an account holder well. However, the person is not considered a relationship manager unless that person is ultimately charged with managing the account holder's affairs at the institution—a responsibility that is expected to involve interfacing regularly with the account holder to report information and keep abreast of the account holder's overall investment needs. Similarly, a Reporting FI employee who generally performs front-desk services for walk-in customers is not a relationship manager.

A relationship manager plays a role in connection with determining whether a pre-existing individual account is a high value account. A relationship manager assigned to a pre-existing account held by an individual must be asked to determine whether he or she knows of any more accounts at the Reporting FI that are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same individual which, when all the accounts are considered collectively, their account balances aggregate to more than THB 30,000,000. If that is the case, the Reporting FI must treat each account held by the individual as a high value account.

The second role of a relationship manager is to assist with the proper identification of reportable accounts. In addition to the electronic and paper record searches, the Reporting FI must consider whether a relationship manager associated with the high value account has actual knowledge that identifies the account holder as a reportable person.

If a relationship manager actually knows that the account holder is a reportable person, the high value account (and any other financial account aggregated with the high value account) must be reported.

A Reporting FI must have appropriate communication channels and procedures in place to capture any change of circumstance in relation to a high value account that is made known to the relationship manager in respect of the account holder's status. The Reporting FI is required to establish and maintain a record of its procedures.

Notwithstanding the preceding paragraphs, a person will not be considered a relationship manager with respect to an account unless it has an aggregated balance of more than THB 30,000,000.

#### Effects of not finding any indicia for high value accounts

When no indicia are discovered during the enhanced review procedures for high value accounts, and the account is not identified as being held by a resident of a reportable jurisdiction after making enquiries with the relationship manager, no further action is required until there is a change in circumstances that results in one or more indicia being associated with the account.

#### Effects of finding indicia for high value accounts

When one or more indicia described in [Electronic record searches \(Indicia\)](#) are discovered through the enhanced review procedures for high value accounts, or if there is a change in circumstances that results in one or more indicia being associated with the account, the Reporting FI must treat the account holder as a resident for tax purposes of each reportable jurisdiction for which an indicium is identified, unless the steps it undertakes to cure the indicia result in the account holder not being identified as a reportable account. If the steps undertaken do not reveal that the account holder is not a resident in a reportable jurisdiction, the Reporting FI must treat the account holder as a resident for tax purposes of each reportable jurisdiction for which an indicium is identified.

In the case of a hold mail instruction or in-care-of address in a reportable jurisdiction, if the electronic record search or paper search fails to establish an address or any other indicia, then the Reporting FI must attempt to obtain from the account holder a self-certification or documentary evidence to establish the residence for tax purposes of the account holder. If those attempts fail, the Reporting FI must report the account as an undocumented account.

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

#### Additional procedures applicable to high value accounts in subsequent years

Once a Reporting FI applies the enhanced review procedures to high value accounts, it is not required to re-apply such procedures, other than a relationship manager enquiry, to the same high value account in any subsequent year, unless the account is undocumented. If the account is undocumented, the Reporting FI must re-apply the enhanced review procedures annually until such account ceases to be undocumented.

With respect to the relationship manager enquiry, annual verifications with respect to the account holder would suffice without there being a requirement for relationship managers to confirm on an account-by-account basis that they do not have actual knowledge that an account holder assigned to them is a reportable person. It suffices that relationship managers be instructed to bring changes in circumstances to the attention of the appropriate officials within the Reporting FI responsible for reporting.

#### 6.3 Alternative due diligence procedures for pre-existing individual accounts

A Reporting FI can apply the due diligence procedures for new accounts to pre-existing accounts, and the due diligence procedures for high value accounts to lower value accounts. If the Reporting FI decides to apply the new account procedures, the rules otherwise applicable to pre-existing accounts will continue to apply. For example, the Reporting FI can still rely on the exception for reporting a foreign TIN or date of birth if it is not in its records and is not otherwise required to be collected under domestic law.

Unless requested to do so, a Reporting FI is not required to advise the TRD of its due diligence procedures. However, it is required to record its decisions, including the basis of its determination of a clearly identifiable group of accounts (if any) in respect of which it has made a designation for a calendar year.

A Reporting FI can designate all relevant pre-existing accounts or, separately, with respect to any clearly identifiable group of such accounts, such as by line of business or the location at which the account is maintained.

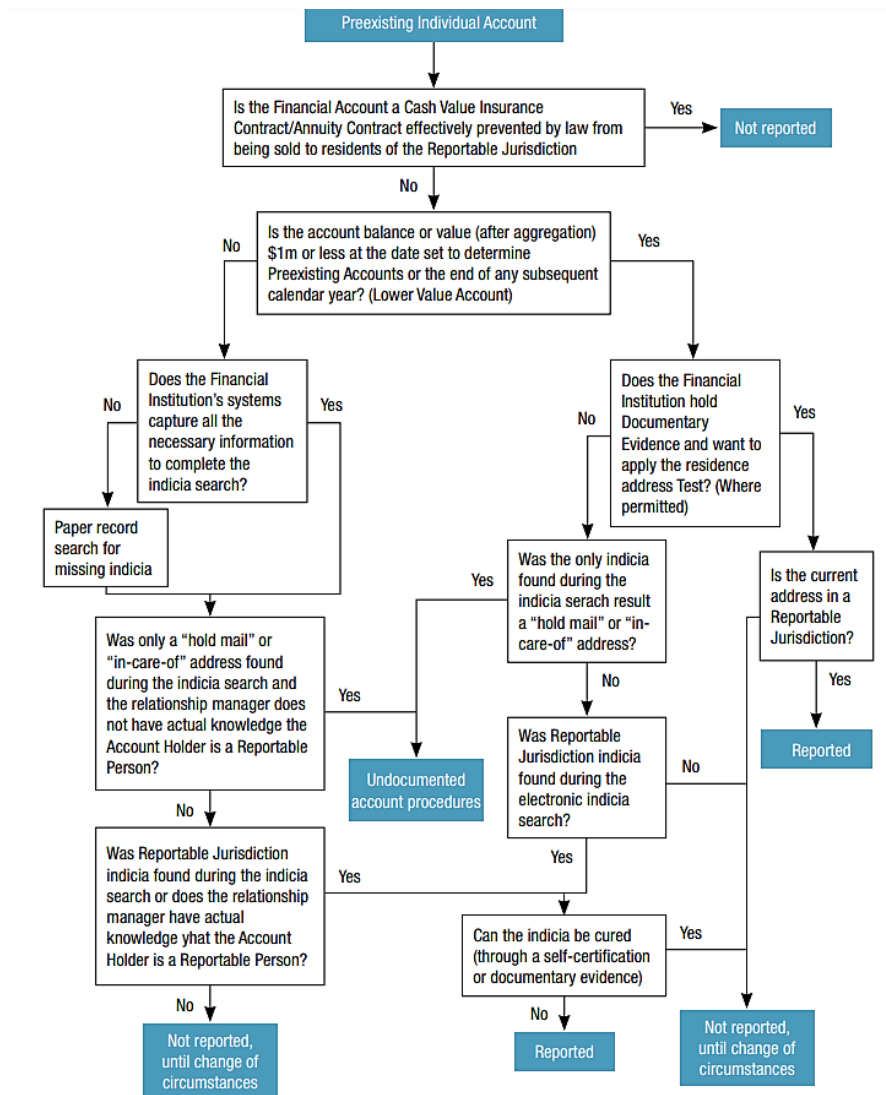
#### 6.4 Change in Circumstances

If a change in circumstances is identified that results in one or more indicia being associated with the account, the Reporting FI must treat the account holder as a resident for tax purposes of each reportable jurisdiction for which an indicium is identified, unless the steps it undertakes to cure the indicia result in the account holder not being identified as a reportable person. This may involve having to obtain a self-certification and/or other documentation from the account holder to establish whether the individual is a reportable person. If, by the later of the last day of the relevant calendar year or by 90 days following the notice or discovery of such change (for high value account), the account holder fails to provide the information requested, the Reporting FI must treat the account as a reportable account with respect to each jurisdiction for which an indicium is identified.

If a Reporting FI has relied on the residence address test described above and there is a change in circumstances that causes the Reporting FI to know or have reason to know that the original documentary evidence is incorrect or unreliable, the Reporting FI must obtain a self-certification and new documentary evidence to establish the residence of the account holder. If, by the later of the last day of the relevant calendar year, or 90 days following the notice or discovery of such change, the account holder fails to respond to the request, the Reporting FI must apply the electronic record search procedure for lower value accounts described.

A change in circumstances includes any change that results in the addition of information relevant to a person's status or otherwise conflicts with such person's status. In addition, a change in circumstances includes any change to, or addition of, information to the Account Holder's account and includes any addition, substitution, or other change of an Account Holder, as well as any change to, or addition of, information to any accounts associated with such account [5.2.7 Account Aggregation Rule](#), if such change or addition of information affects the status of the Account Holder.

Figure 7: Steps need to be taken for Pre – existing Individual account<sup>6</sup>



<sup>6</sup> OECD (2018), Standard for Automatic Exchange of Financial Information in Tax Matters - Implementation Handbook - Second Edition OECD, Paris

## Chapter 7 - Due Diligence for New Individual Accounts

While the due diligence for Pre-existing Accounts relies mainly on information the Reporting FI already has on file, the opening of a New Account requires the Reporting FI to request additional information relevant to tax compliance.

This chapter provides guidance on the review procedures and reporting requirements in respect of new individual accounts and provides guidance on the due diligence procedures set out.

### 7.1 Definition of New Individual Accounts

A new individual account is an account opened on or after 16 August 2023. Any individual that opens an account needs to provide a self-certification which establishes where the individual is resident for tax purposes. If the self-certification establishes that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, then, the Reporting FI must treat the account as a Reportable Account. However, there can be cases where there is a new account opening for holders of existing individual accounts, such account can be treated as an existing account if the conditions are met.

#### *New account opening for holders of existing individual accounts*

An individual may already have an existing account at the time a new account is opened, with the same reporting FIs or a related financial institution. This is including account transfers where an account holder closes the existing account and at that time replaces it with a new account.

A new account may be treated as an existing account, subject to meeting the four conditions as follows:

- the account holder already holds with the Reporting FI another financial account;
- the opening of the new account does not require the provision of new, additional, or amended customer information by the account holder other than for CRS purposes;
- with respect to a financial account subject to AML/KYC procedures, the Reporting FI is permitted to satisfy those procedures for the new account by relying on the procedures performed in connection with the existing account; and
- the financial institution and its related entity treat both accounts, existing and new accounts, as a single account for purposes of satisfying the standards and knowledge requirements and determining the balance or value of any of the financial accounts when applying any account thresholds as discussed under treatment of the accounts as a single account.

Examples where new, additional, or amended customer information is likely to be required would be where an Account Holder that currently holds only a Depository Account opens a Custodial Account (as the Account Holder would often be required to provide information with respect to its risk profile), or an Account Holder concludes a new Insurance Contract. The sole acceptance of terms and conditions, or the sole authorisation of a credit rating, with respect to a Financial Account will not constitute customer information.

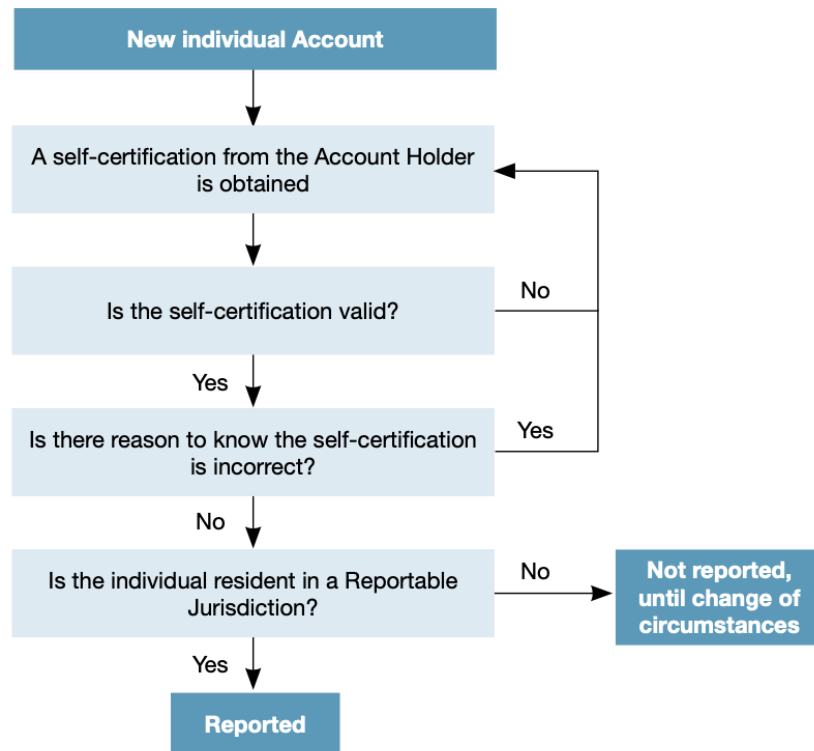
if a Reporting FI has reason to know that the status assigned to the Account Holder of one of the Financial Accounts is inaccurate, then it has reason to know that the status assigned for all other Financial Accounts of the Account Holder is inaccurate. Similarly, to the extent that an account balance or value is relevant for purposes of applying any account threshold to one or more of the Financial Accounts, the Reporting Financial Institution must aggregate the balance or value of all such Financial Accounts.

A fund will probably not qualify as a Related Entity of another and, as a consequence, the alternative definition of the term “Preexisting Account” would not be applicable to new equity or debt interests held by end investors that are directly registered in the fund’s interest register.

## 7.2 Evidence of Steps to be taken by FIs

A reporting FI must determine whether the account is reportable. Doing so requires assessing whether a particular individual is resident in a reportable jurisdiction. If that is the case, reporting obligations will exist in connection with the account. Figure 8 below sets out Due diligence procedure for New Individual Accounts.

Figure 8: Due diligence procedure for New Individual Accounts<sup>7</sup>



Due diligence must be carried out by obtaining a self-certification that allows the Reporting FI to determine whether the account holder is resident for tax purposes in a reportable jurisdiction. Reporting FI must have account opening processes that facilitate collection of a self-certification at the time of the account opening.

## 7.3 Validation of Self-Certification

The previous sections describe various situations in which a reporting FI must obtain a self-certification. A self-certification must include a clear declaration from an account holder as to whether he or she is a resident for tax purposes in a reportable jurisdiction as described in [Section 5.2.6. Self – Certification Form](#) of this guidance.

If the self-certification obtained establishes that the account holder is not resident for tax purposes in a reportable jurisdiction, the Reporting FI is not required to treat the account as a reportable account unless it knows, or has reason to know, that the self-certification is unreliable. This section focuses on the validation of the self – certification with respect to the opening of a new account and can apply to a pre-existing account and when there is a change in circumstances to an existing account.

<sup>7</sup> OECD (2018), Standard for Automatic Exchange of Financial Information in Tax Matters - Implementation Handbook - Second Edition OECD, Paris

Where a self-certification is obtained during the account opening process, validation of the self-certification might not be completed during that time, the self-certification should be validated as quickly as feasible, and in any case, within 90 days from when the account is opened.

In all cases, reporting FI must ensure that they have obtained and validated the self-certification in time to be able to meet their due diligence and reporting obligations

There are limited instances where, due to the specificities of a business sector, it is not possible to obtain a self-certification during the account opening process, for example, where an insurance contract was assigned from one person to another, or where an investor acquires shares in an investment trust on the secondary market. In such circumstances, the self-certification should be both obtained and validated as quickly as feasible, and in any case, within 90 days from when the account is opened.

Given that obtaining and validating a self-certification is a critical aspect of CRS, a reporting FI must take effective measures to ensure the collection and validation of the self-certification as soon as possible. Measures that foresee the closure or freezing of the account can constitute an effective measure.

Foreign TIN with respect to each reportable jurisdiction.

A self-certification is not invalid by reason alone of the account holder not providing a TIN. A TIN may be collected through other means. However, a reportable person who is not eligible to obtain a foreign TIN or is otherwise unable to secure a foreign TIN must provide a reasonable explanation. Where the jurisdiction of residence of the reportable person issues and collects TIN, the reporting FIs must use reasonable efforts to obtain the TIN in order to report the account.

#### Self-Certification Signatory

A self-certification can be signed (or otherwise positively affirmed) by any person authorized to sign on behalf of the account holder. Where a person other than the account holder signs a self-certification on the account holder's behalf, the reporting FI must rely on documentary evidence of that person's authority to act on behalf of the account holder.

#### 7.4 Reasonableness Test

Once the Reporting FI has obtained a self-certification it must confirm its reasonableness based on the information obtained in connection with the opening of the account, including any documentation collected pursuant to AML/KYC procedures (the reasonableness test).

A Reporting FI is considered to have confirmed the reasonableness of a self-certification if it does not know or have reason to know that the self-certification is incorrect or unreliable. Where a self-certification fails the reasonableness test the Reporting FI is expected to either obtain a valid self-certification or a reasonable explanation and documentation as appropriate supporting the reasonableness of the self-certification.

#### 7.5 Valid Self-certifications

A self-certification remains valid until there is a change in circumstances as described in [Section 5.2.2 – Change in Circumstances](#) that causes the Reporting FI to know or have reason to know that the original self-certification is incorrect or unreliable.

When a reporting FI cannot rely on the original self-certification it must obtain either:

- a valid self-certification that establishes the residence(s) for tax purposes of the account holder; or
- a reasonable explanation and documentation (as appropriate) supporting the validity of the original self-certification.

Reporting FIs are expected to notify the person providing a self-certification of the person's obligation to notify the reporting FI of a change in circumstances.

A self-certification becomes invalid on the date that the reporting FI holding the self-certification knows or has reason to know that circumstances affecting the correctness of the self-certification have changed. However, a reporting FI can choose to treat a person as having the same status that it had prior to the change in circumstances until the earlier of 90 calendar days from the date that the self-certification become invalid due to the change in circumstances, the date that the validity of the self-certification is confirmed, or the date that a new self-certification is obtained. A reporting FI can rely on a self-certification without having to enquire into possible changes of circumstances that can affect the validity of the statement, unless it knows or has reason to know that circumstances have changed.

If the reporting FI cannot obtain a confirmation of the validity of the original self-certification or a valid self-certification during such 90-day period, or if the filing date is near, the reporting FI must treat the account holder as resident of the jurisdiction in which the account holder claimed to be resident in the original self-certification and the jurisdiction in which the account holder may be resident as a result of the change in circumstances.

A reporting FI can treat a self-certification as valid, notwithstanding that the self-certification contains an inconsequential error, if the reporting FI has sufficient documentation on file to supplement the information missing from the self-certification due to the error. In such case, the documentation relied upon to cure the inconsequential error must be conclusive.

A failure to declare a jurisdiction of tax residence on a self-certification is not inconsequential. In addition, information on a self-certification that contradicts other information contained on the self-certification or in the customer master file is not an inconsequential error.

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

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

**Example 1:** Individual A completes an online application to open an account with Reporting Financial Institution K. All the information required for self-certification is entered by A on an electronic application (including a confirmation of A's jurisdiction of residence for tax purposes). A's information, as provided in the electronic self-certification, is confirmed by K's service provider to be reasonable based on the information it has collected pursuant to AML/KYC Procedures. A's self-certification is valid.

**Example 2:** Individual B makes an application in person to open an account with bank L. B produces his identity card as proof of identification and provides all the information required for self-certification to an employee of L who enters the information into the L's systems. The application is subsequently signed by B. B's self-certification is valid.

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



## Chapter 8 - Due Diligence for Pre-existing Entity Accounts

If a reporting FI maintains a financial account held by an entity, it must determine whether it is a reportable account. Doing so requires assessing whether the entity account falls within the de minimis threshold exemption for pre-existing account. If an entity account is subject to review, the reporting FI must perform specific procedures to determine whether the account holder is a reportable person, and if the entity is a passive NFE then whether the controlling persons are reportable persons. If the Reporting FI determines that the account holder is a reportable person or that the passive NFE is controlled by reportable persons, reporting obligations to the TRD will exist in connection with the account.

This chapter provides guidance on the review procedures and reporting obligations in respect of pre-existing entity account.

### 8.1 Definition of Pre-existing Entity Accounts

A pre-existing entity account is an account maintained by a Reporting FI held by an entity on December 31, 2022 or account opened and maintained by Reporting FI during 01 January 2023 to 15 August 2023.

A pre - existing entity account with an aggregate account balance or value that does not exceed THB 7,500,000 for the same Account Holder as of 31 December 2022 or account opened and maintained by Reporting FI during 01 January 2023 to 15 August 2023 is not required to be reviewed, identified, or reported as a Reportable Account if and until the aggregate account balance or value exceeds THB 7,500,000 as of the last day of any subsequent calendar year. This threshold is applicable unless a Reporting FI elects otherwise, either with respect to all pre - existing entity accounts or, separately, with respect to any clearly identified group of such accounts.

Unless requested to do so, a reporting FI is not required to advise the TRD of whether it has elected to review all or, separately, with respect to any clearly identifiable group of its pre - existing entity accounts. However, it is required to record its decisions, including the basis of its determination of a clearly identifiable group of accounts (if any) in respect of which it has made the election for a calendar year.

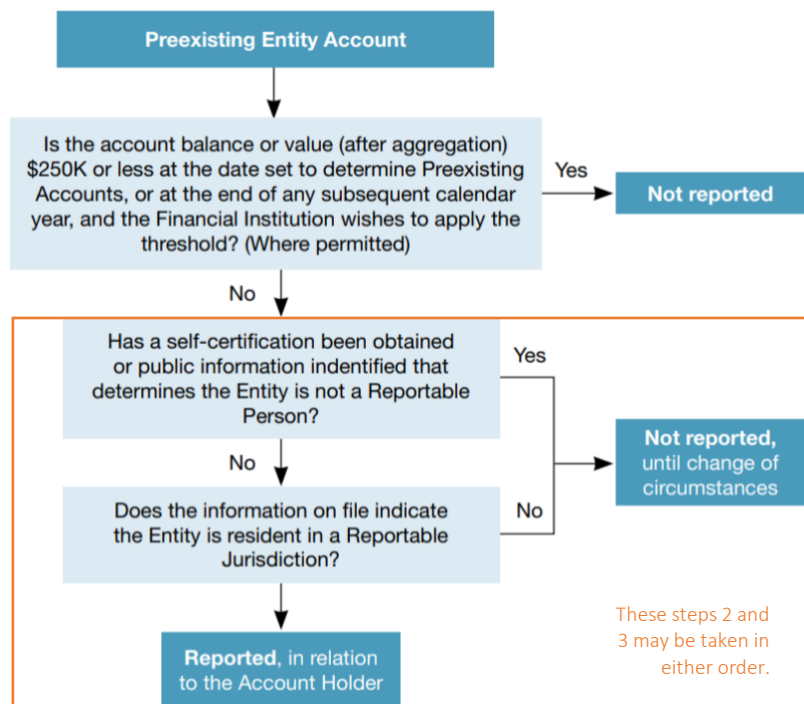
A pre-existing Entity Account that has an aggregate account balance or value that exceeds THB 7,500,000 for the same Account Holder as of 31 December 2022 or account opened and maintained by Reporting FI during 01 January 2023 to 15 August 2023, and a pre-existing Entity Account that does not exceed THB 7,500,000 as of 31 December 2022 or account opened and maintained by Reporting FI during 01 January 2023 to 15 August 2023 but the account balance or value of which exceeds THB 7,500,000 as of the last day of 2023 or any subsequent calendar year, must be reviewed in accordance with the procedures set forth in following section.

### 8.2 Review Procedure for Pre – Existing Entity Account

Review procedures for identifying pre - existing entity accounts with respect to which reporting may be required, reporting FI must apply the review procedures described in this section to determine whether the account is held by one or more entities that are Reportable Persons, and whether the account is held by one or more Entities that are Passive NFEs with one or more Controlling Persons who are Reportable Persons.

First, the reporting FI must establish whether the entity is a **Reportable Person**. If so, the account is then a **Reportable Account**. Figure 9 sets out the process to establish whether the entity account holder is a reportable person and therefore whether the account is a reportable account by virtue of its account holder.

Figure 9: Due diligence procedure for Pre-existing Entity<sup>8</sup>



#### Determining the tax residence(s) of Account Holder (Pre – Existing Entity Account)

A Reporting FI must review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML / KYC Procedures) to determine whether the information indicates the Account Holder's residence for tax purposes. For this purpose, information indicating the Account Holder's tax residence includes:

- a place of incorporation or organisation;
- an address; or
- an address of one or more of the trustees of a trust.

If the information indicates that the account holder is resident in a reportable jurisdiction, then the Reporting FI 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 (including information published by an authorised government body or information previously recorded in the files of Reporting FI), that the account holder is not a reportable person.

Publicly available information will include the following:

- information published by an authorised government body of a jurisdiction, such as information in a list published by a tax administration that contains the names and identifying numbers of FIs (e.g., the FATCA Foreign Financial Institution list);
- information in a publicly accessible register maintained or authorised by an authorised government body of a jurisdiction;
- information disclosed on an established securities market; and

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

- any publicly accessible classification with respect to the Account Holder that was determined based on a standardised industry coding system and that was assigned by a trade organisation or a chamber of commerce, consistent with normal business practices.

In this respect, the Reporting FI is expected to retain a notation of the type of information reviewed, and the date the information was reviewed.

Other than the standard for the self-certification sets out in [section 5.2.6 Self- Certification Form](#), the self-certification may also contain information on the Account Holder's status, such as the type of FI or the type of NFE it is. This could be useful for the rest of the due diligence process for Pre-existing Entity Accounts (see the next steps in relation to Controlling Persons).

- Second, for certain **Entity Account Holders (Passive NFEs)**, the reporting FI must establish whether the **Entity is controlled by a Reportable Person(s)**. Review procedure for Controlling Persons is set out in Figure 10 with each step subsequently explained in further detail.

#### *Determining the tax residence(s) of the Controlling Person(s) of a Passive NFE (Pre - Existing Entity)*

With respect to an Account Holder of a pre-existing Entity Account (including an Entity that is a Reportable Person), the Reporting FI must identify whether the Account Holder is a Passive NFE with one or more Controlling Persons and determine the tax residence(s) of such Controlling Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account is treated as a Reportable Account. This could result in additional information becoming reportable (including to one or more additional jurisdictions) in relation to an account already identified as a reportable account or in the account becoming a reportable account by virtue of the entity account holder's controlling person(s).

In making these determinations the Reporting FI must follow the guidance below in the order most appropriate under the circumstances:

**For purposes of determining whether the Account Holder is a Passive NFE**, the Reporting FI 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 FI (other than a professionally managed (Type B) Investment Entity that is not a Participating Jurisdiction FI).

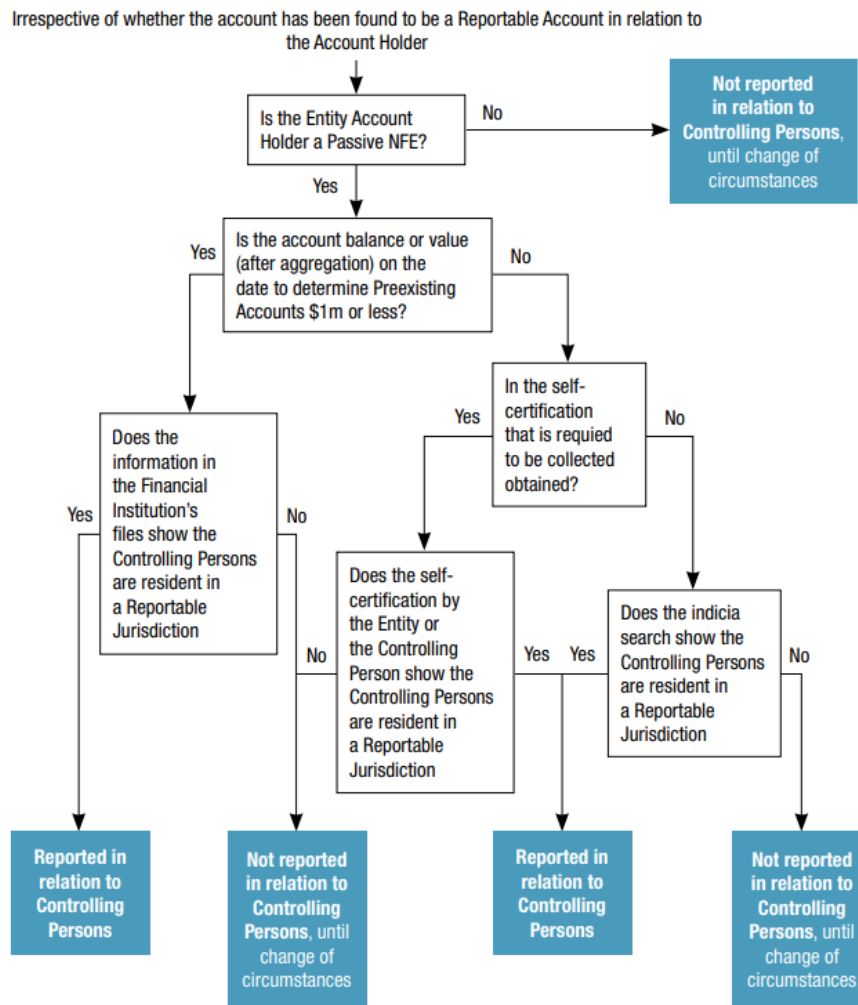
**For purposes of determining the Controlling Persons of an Account Holder**, a Reporting FI may rely on information collected and maintained pursuant to AML / KYC Procedures.

**For purposes of determining the residence of a Controlling Person of a Passive NFE**, a Reporting FI may rely on:

- Information collected and maintained pursuant to AML / KYC Procedures in the case of a Pre - existing Entity Account held by one or more Passive NFEs with an aggregate account balance or value that does not exceed THB 30,000,000; or
- A self-certification from the Account Holder or such Controlling Person(s) in the case of a pre-existing Entity Account held by one or more Passive NFEs with an account balance or value that exceeds THB 30,000,000. If a self-certification is required to be collected and is not obtained with respect to a Controlling Person of a Passive NFE, the Reporting FI must rely on the indicia described in [Section 6.2.1 on Electronic record searches \(Indicia\)](#) that it has in its records for such Controlling Person to establish the residence(s) of the Controlling Person. If the Reporting FI has none of such indicia in its records, then no further action would be required until there is a change in circumstances that results in one or more indicia with respect to the Controlling Person being associated with the account.

For the avoidance of doubt, a Reporting FI that cannot determine the status of the Entity Account Holder as an Active NFE or a FI (other than a professionally managed (Type B) Investment Entity that is not a Participating Jurisdiction FI) must presume it is a Passive NFE.

Figure 10: Due diligence procedure for Pre-existing Entity in relation to Controlling Persons for Preexisting Accounts<sup>9</sup>



**Example 1:** Jill resides in a reportable jurisdiction. She establishes a corporation in Thailand that she wholly-owns and controls. The corporation is considered a passive NFE. A financial account for the corporation is opened with a reporting FI in Thailand on March 1, 2023. The reporting FI needs to collect a self-certification from the corporation and its controlling persons. The corporation is not a reportable person by virtue of being incorporated in Thailand. However, since Jill is a controlling person who resides in a reportable jurisdiction, the account is a reportable account.

**Example 2:** Same as example 1 above except that Jack and Jill each own 50% of the shares of the corporation. Jack resides in Thailand and is also a controlling person of the corporation. The corporation and Jack are both residents in Thailand and are therefore not reportable persons. However, since Jill is a controlling person who resides in a reportable jurisdiction, the account is a reportable account.

<sup>9</sup> OECD (2018), Standard for Automatic Exchange of Financial Information in Tax Matters - Implementation Handbook - Second Edition OECD, Paris

### 8.3 Change in Circumstances for Pre – Existing Entity Account

If there is a change in circumstances with respect to a pre-existing Entity Account that causes the Reporting FI to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the Reporting FI must re-determine the status of the account in accordance with the procedures set forth in [Section 8.2 Review Procedure for Pre – Existing Entity Account](#). In such a case, a Reporting FI must apply the following procedures by the later of the last day of the calendar year or 90 calendar days following the discovery of the change in circumstances:

With respect to the determination of the Account Holder's residence(s) for tax purposes, a Reporting FI must obtain either;

- (i) a self - certification; or
- (ii) a reasonable explanation and documentation (as appropriate) supporting the reasonableness of the original self - certification or documentation (and retain a copy or a notation of such explanation and documentation).

If the Reporting FI fails to either obtain a self-certification or confirm the reasonableness of the original self-certification or documentation, it must treat the Account Holder as a tax resident with respect to the jurisdiction(s) that are indicated on the original self-certification and in which the Account Holder may be tax resident as a result of the change in circumstances.

With respect to the determination of whether the Account Holder is FI, Active NFE or Passive NFE, a Reporting FI must obtain additional documentation or a self-certification (as appropriate) to establish the status of the Account Holder as an Active NFE or FI. If the Reporting FI fails to do so, it must treat the Account Holder as a Passive NFE. With respect to the determination of the Controlling Person of a Passive NFE's residence(s) for tax purposes, a Reporting FI must obtain either:

- (i) a self-certification; or
- (ii) a reasonable explanation and documentation (as appropriate) supporting the reasonableness of a previously collected self-certification or documentation (and retain a copy or a notation of such explanation and documentation).

If the Reporting FI fails to either obtain a self-certification or confirm the reasonableness of the previously collected self-certification or documentation, it must rely on the indicia described in [Section 6.2.1 on Electronic record searches \(Indicia\)](#) it has in its records for such Controlling Person.

## Chapter 9 - Due Diligence for New Entity Accounts

### 9.1 Definition of New Entity Accounts

A new entity account is an account opened on or after 16 August 2023.

A Reporting FI cannot rely on the THB 7,500,000 monetary threshold of pre-existing entity accounts to exempt new entity accounts from due diligence and reporting. However, there can be cases where there is a new account opening for holders of existing entity accounts, such account can be treated as an existing account if the conditions are met. Please refer to the conditions in [Chapter 7: New account opening for holders of existing individual accounts](#).

### 9.2 Review Procedure for New Entity Account

The rules and procedures set out in this section apply for purposes of identifying Reportable Accounts among New Financial Accounts held by Entities. Similar to the Pre – existing Entity account a Reporting FI must, before or as soon as is practicable after opening for a New Account, take all reasonable efforts to determine whether: (i) the Entity Account Holder is a Reportable Person; and (ii) the Controlling Person of an Account Holder that is a Passive NFE, is a Reportable Person.

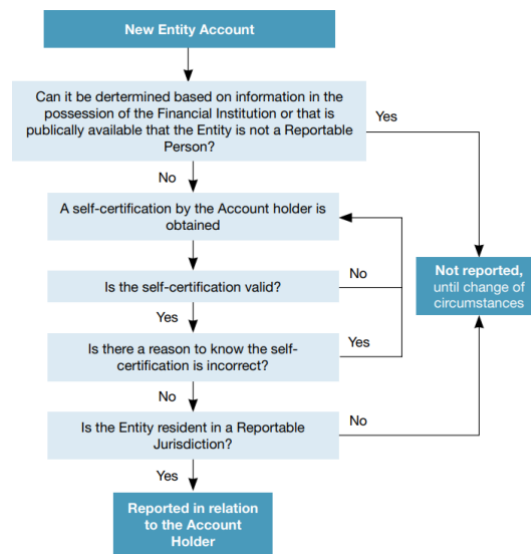
#### *Determining the tax residence(s) of the Account Holder (New Entity Account)*

A Reporting FI must, before or as soon as practicable after opening an account, obtain a valid self-certification, which may be part of the account opening documentation, that allows the Reporting FI 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 FI 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 FI may rely on the address of the principal office of the Entity to determine the tax residence of the Account Holder.

If the self-certification indicates that the Account Holder is tax resident in a Reportable Jurisdiction, the Reporting FI 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 .

Figure 11 and the associated text below set out the process to establish whether the entity account holder is a reportable person and therefore whether the account is a reportable account by virtue of its Account Holder.

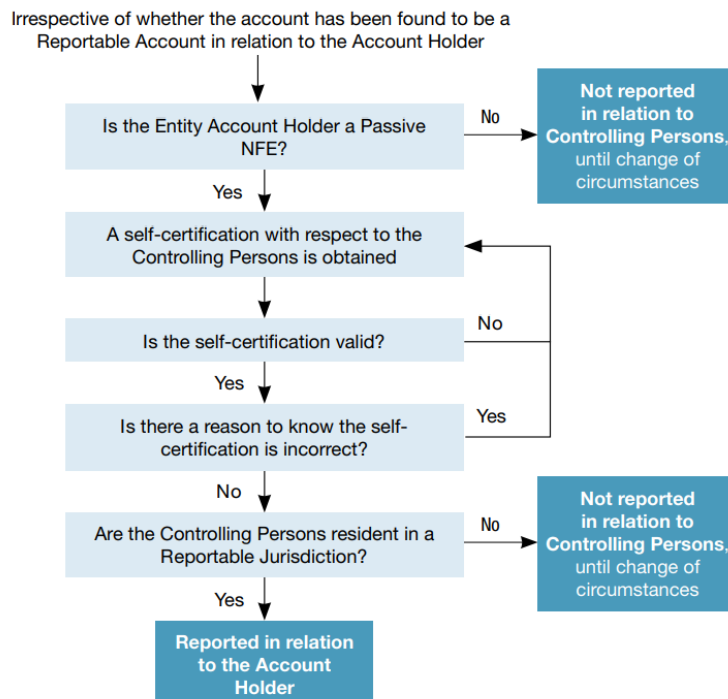
Figure 11: Due diligence procedure for New Entity Accounts<sup>10</sup>



*Determine the tax residence of the Controlling Persons of a Passive NFE (New Entity Account)*

Notwithstanding whether the account has been found to be a Reportable Account following the first part of the test, the Reporting must carry out the procedure in relation to Controlling Persons to identify whether additional information must also be reported or whether an account now becomes a Reportable Account. The procedure is outlined in Figure 12 with each step described below.

Figure 12: Due diligence procedure in respect of Controlling Persons for New Entity Accounts<sup>11</sup>



<sup>10</sup> OECD (2018), Standard for Automatic Exchange of Financial Information in Tax Matters - Implementation Handbook - Second Edition OECD, Paris

<sup>11</sup> OECD (2018), Standard for Automatic Exchange of Financial Information in Tax Matters - Implementation Handbook - Second Edition OECD, Paris

With respect to an Account Holder of a New Entity Account (including an Entity that is a Reportable Person), the Reporting FI must identify whether the Account Holder is a Passive NFE with one or more Controlling Persons and determine the tax residence of such Controlling 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 FI must follow the guidance in the order most appropriate under the circumstances below:

**For purposes of determining whether the Account Holder is a Passive NFE**, the Reporting FI must obtain a valid 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 FI (other than a professionally managed (Type B) Investment Entity that is not a Participating Jurisdiction FI). A Reporting FI that cannot determine the status of the Account Holder as an Active NFE or a FI (other than a managed (Type B) Investment Entity that is not a Participating Jurisdiction FI) must presume that it is a Passive NFE.

**For purposes of determining the Controlling Persons of an Account Holder that is a Passive NFE**, a Reporting FI may rely on information collected and maintained pursuant to AML / KYC Procedures that must be consistent with Recommendations 10 and 25 of the FATF Recommendations (as adopted in February 2012), including always treating the settlor(s) of a trust as a Controlling Person of the trust.

**For purposes of determining the tax residence of a Controlling Person of a Passive NFE**, a Reporting FI may only rely on a valid self - certification from either the Account Holder or such Controlling Person.

### 9.3 Validation of Self-certification

#### *Self-certification for Account Holder*

For the self-certification to be valid the CRS sets out that it must be signed (or otherwise positively affirmed, i.e., involving some level of active input or confirmation) by a person authorised to sign on behalf of the Entity, be dated, and must include the Account Holder's: name; address; jurisdiction(s) of residence for tax purposes and TIN(s).

The Reporting FI must confirm the reasonableness of such self-certification based on the information obtained in connection with the opening of the account (the reasonableness test). Essentially the Reporting FI must not know or have reason to know that the self-certification is incorrect or unreliable. If the self-certification fails the reasonableness test, a new valid self-certification would be expected to be obtained upon account opening.

#### *Self-Certification for Passive NFE*

A valid self-certification is one that is signed or otherwise positively affirmed by the person making the self-certification or a person with authority to sign for that first-mentioned person. It contains the date when the self-certification is signed or otherwise positively affirmed; and has the following particulars:

If the Account Holder is an Entity that is a Passive NFE:

- The NFE's name
- The NFE's registered or business address
- All of the NFE's residences for tax purposes
- If applicable, the NFE's TIN with respect to each of the residences for tax purposes
- The name, date of birth and residential address of each Controlling Person
- The residences for tax purposes and, if applicable, the corresponding TIN with respect to each of the residences for tax purposes of each Controlling Person
- 
-



If the Account Holder is an Entity that is not a Passive NFE:

- The Entity's name
- The Entity's registered or business address
- All of the Entity's residences for tax purposes
- If applicable, the Entity's TIN with respect to each of the residences for tax purposes
- Whether the Entity is a FI or an NFE, and a description of the type of FI or NFE.

If the Controlling Person of a Passive NFE is making the self-certification:

- The Controlling Person's name
- The Controlling Person's residential address
- The Controlling Person's date of birth
- All of the Controlling Person's residences for tax purposes
- If applicable, the Controlling Person's TIN with respect to each of the residences for tax purposes

In general, the person with authority to sign on behalf of an Entity will include the following:

- A director of a company; or
- A partner of a partnership; or
- A trustee of a trust; or
- For other types of Entity, any person holding an equivalent title to any of the above; and
- Any other person with written authorisation from the Entity to sign documentation on behalf of the Entity.

#### 9.4 Change in Circumstances for New Entity Account

Where there is a change in circumstances with respect to a New Entity Account that causes the Reporting FI to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the Reporting FI must re-determine the status of the account in accordance with the procedures as set out in [8.3 Change in Circumstances for Pre – Existing Entity Account](#) above.

## Chapter 10 - Reporting Process

Once a Reporting FI has applied the CRS due diligence procedures in respect of the Financial Accounts it holds and has identified the Reportable Accounts, it must report certain information regarding those accounts to TRD.

The information including:

- information required for the automatic exchange partner jurisdiction to identify the Account Holder concerned (Identification Information);
- information to identify the account and the Reporting FI where the account is held (Account Information); and
- information in relation to the activity taking place in the account and the account balance (Financial Information).

Together, this information should be sufficient to identify the account holder and then to establish a picture of the compliance risk of that account holder. The following section set out the information to be reported in greater detail.

### 10.1 Registration for CRS Reporting

Please refer to Registration for CRS Reporting as published on the [TRD - CRS Webpage](#).

### 10.2 Information elements for each reportable account

An account is treated as a Reportable Account beginning as of the date it is identified as such pursuant to the CRS due diligence procedures set out in Chapter 6-9 above that the Reporting FI is required to apply. Generally, information must be reported annually to TRD on that account in the calendar year following the year to which the reportable information relates.

Once a Reporting FI has applied the CRS due diligence procedures in respect of the Financial Accounts it holds and has identified the Reportable Accounts, it must report certain information regarding those accounts to TRD in accordance with the timelines in [Section 5.3 Due Diligence Procedure](#).

Under the CRS Regulations, a Reportable Account will also include an undocumented account which refers to a pre-existing account where:

1. the Account Holder is an individual;
2. the Reporting FI that maintains the account does not have any indicia other than a hold mail or in-care-of address; and
3. the Reporting FI is unable to obtain any Documentary Evidence, or valid self-certification from the Account Holder to establish the Account Holder's residence for tax purposes.

Every Reporting FI that maintains Financial Accounts that are not Reportable Accounts is required to file a nil return with TRD for the relevant Reporting Year.

The information to be reported with respect to each Reportable Account in relation to: (i) each Reportable Person that is the Account Holder; and (ii) each Passive NFE that is the Account Holder and is identified as having one or more Controlling Persons that is a Reportable Person is listed in tables 1 to 4 categorized by the types of information including Identification Information, Account Information and Financial Information.

Table 1 illustrates the Identification Information required to be reported in relation to Individual and Entity Account Holders that are Reportable Persons, Entities with Controlling Persons that are Reportable Persons and the Controlling Persons themselves.

Table 1: Identification Information

Information	Further description (as applicable)
Name	
Address	<p>The address recorded for the Account Holder pursuant to the due diligence procedures.</p> <p>In the case of an account held by an individual that is a Reportable Person, the address to be reported is the current residential address of the individual; or if no residential address is associated with the Account Holder, the address for the account used for mailing purpose by the Reporting FI.</p> <p>In the case of an account held by an Entity, that address to be reported is the address of the Entity that is registered with any public agency (“registered address”) or the one at which the Entity is carrying on its business (“business address”).</p> <p>In the case of an account held by a Passive NFE that is identified as having one or more Controlling Persons who are Reportable Persons, the address to be reported for the NFE is the registered or business address of the Entity, and the address to be reported for each Controlling Person of the Entity is the Controlling Person’s residential address.</p>
Jurisdiction(s) of residence	For pre-existing Accounts this will be based on the residence address test or the indicia search (or a self- certification if obtained) and for New Accounts this will be based on a self- certification.
TIN(s)	<p>The TIN to be reported with respect to an account is the TIN assigned to the Account Holder by its jurisdiction of residence (i.e., not by a jurisdiction of source).</p> <p>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 Reportable Jurisdiction does not require the collection of the TIN issued by such jurisdiction. (subject to reasonable efforts to obtain the information).</p> <p>Information with respect to the issuance, structure, use and validity of TINs issued by CRS Participating Jurisdictions are available at the <a href="#">OECD Automatic Exchange Portal</a>. Although Reporting FIs do not need to confirm the format and other specifications of a TIN with the information provided on the Portal, Reporting FIs are encouraged to do so in order to enhance the quality of information collected and reduce the effort associated with any follow up concerning the reporting of an incorrect TIN.</p>

Table 2 lists the additional information required to be reported in relation to Individuals/ Controlling Persons only.

Table 2: Identification Information (Additional for Individual/Controlling Person Only)

Information	Further description
Date of birth	The date of birth is not required to be reported with respect to pre-existing Accounts if (i) it is not in the records of the Reporting FI, and (ii) there is not otherwise a requirement for the date of birth to be collected by the Reporting FI under domestic law (subject to reasonable efforts to obtain the information similar to TIN(s).)
Place of birth	The place of birth is not required to be reported for both pre-existing and New Accounts unless the Reporting FI is otherwise required to obtain and report it under domestic law or it is available in the electronically searchable data maintained by the Reporting FI.

Table 3 illustrated Account information required with respect to all Reportable Accounts

Table 3: Account Information

Information	Further description
The account number (or functional equivalent)	This is the unique identifying number or code that is sufficient for a Reporting FI to identify the Reportable Account held by the named Account Holder. A contract or policy number would generally be considered functional equivalents of an account number.
The name address and identifying number (TIN) of the Reporting FI	The Reporting FI must report its name address and identifying number (TIN) to allow Participating Jurisdictions to easily identify the source of the information reported and subsequently exchanged.

Table 4 illustrates the Financial Information required with respect to all Reportable Accounts.

Table 4: Financial Information

Information	Further description (as applicable)
The account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) or, if the account was closed during the reporting period, the closure of the account.	<p>The Reporting FI must report the balance or value of the account as of the end of the calendar year. In the case of an account that is a Cash Value Insurance Contract or Annuity Contract, the Reporting FI must report the cash value or surrender value of the account.</p> <p>An account with a balance or value that is negative must be reported as having an account balance or value equal to zero.</p> <p>In general, the balance or value of a Financial Account is the balance or value calculated by the Reporting FI for purposes of reporting to the Account Holder. In the case of an equity or debt interest in a Reporting FI, the balance or value of an Equity Interest is the value calculated by the Reporting FI for the purpose that requires the most frequent determination of value, and the balance or value of a debt interest is its principal amount.</p> <p>The account balance or value of an account must be reported in the currency in which the account is denominated and the information reported must identify the currency in which each amount is denominated. In the case of an account denominated in more than one currency, the Reporting FI may elect to report the information in a currency in which the account is denominated and is required to identify the currency in which the account is reported.</p> <p>The balance or value of the account is not to be reduced by any liabilities or obligations incurred by an Account Holder with respect to the account or any of the assets held in the account.</p> <p>Where a Financial Account is jointly held (Joint Accounts), the balance or value to be reported in respect of each joint Account Holder who is a Reportable Person is the entire balance or value of the account.</p>

In addition to elements in table 1 to 4 listed above, the following financial information (which must be reported in the currency in which the account is denominated) in relation to the calendar year must be reported for different type of accounts.

Table 5 shows the Financial Information required with respect to Custodial Accounts.

Information	Further description (as applicable)
The total gross amount of interest paid or credited to the account.	
The total gross amount of dividends paid or credited to the account	
The total gross amount of other income generated with respect to the assets held in the account paid or credited to the account	The term 'other income' means any amount considered income under the laws of the jurisdiction where the account is maintained, other than any amount considered interest, dividends, or gross proceeds or capital gains from the sale or redemption of Financial Assets.
The total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account	<p>In the case of a Custodial Account, information to be reported includes the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting FI acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder. The term "sale or redemption" means any sale or redemption of Financial Assets, determined without regard to whether the owner of such Financial Assets is subject to tax with respect to such sale or redemption.</p> <p>The total gross proceeds from a sale or redemption means the total amount realized as a result of a sale or redemption of Financial Assets. In the case of a sale effected by a broker, the total gross proceeds from a sale or redemption means the total amount paid or credited to the account of the person entitled to the payment increased by any amount not so paid by reason of the repayment of margin loans; the broker may (but is not required to) take commissions with respect to the sale into account in determining the total gross proceeds. In the case of a sale of an interest bearing debt obligation, gross proceeds include any interest accrued between interest payment dates.</p>

Table 6 shows the additional Financial Information required with respect to Depository Accounts.

Information	Further description (as applicable)
The total gross amount of interest paid or credited to the account	

And lastly Table 7 listed the additional Financial Information required with respect to Other accounts (other than a Custodial Account or a Depository.)

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

### 10.3 Format and Transmission

(Under development of provision)

The format for reporting to TRD is the prevailing CRS XML Schema (“XML Schema”) as published on the [TRD - CRS Webpage](#). Returns providing information on Reportable Accounts will have to be prepared in accordance to the published XML Schema and the TRD CRS Return XML Schema User Guide.

Reporting FIs can consolidate and report all Reportable Accounts in one return, and need not submit separate returns for each Reportable Jurisdiction. Reporting FIs should seek the services of an IT professional or vendor to assist them in capturing and preparing the data in accordance to the XML Schema if they do not have the relevant expertise to do so.

### 10.4 Nil Report

Reporting FI may submit Nil Report in the TRD CRS System.

### 10.5 Timelines for Reporting to TRD

Unless advised otherwise by TRD, all information for the relevant Reporting Year is to be submitted to TRD by 30 June of the year following the end of the calendar during which the Reportable Account was maintained. For example, a Reporting FI will submit information in relation to a Reportable Account for Reporting Year 2024 to TRD by 30 June 2025.

However, reporting schedule for the interim period can be found as per below;

Account Type	Cut-off Date	Account Holder	Account Value	CDD's Rules	Report Value As of	Submission Period
Pre - Existing Account (1)	Accounts maintained by Reporting FI as of 31DEC22	Individual	High Value	Pre-Existing Account CDD's Rules	31DEC22	15SEP23
			Low Value	Pre-Existing Account CDD's Rules	31DEC23	JUN24
		Entity	Bal. > 7.5 MB THB	Pre-Existing Account CDD's Rules	31DEC23	JUN24
Pre - Existing Account (2)	Accounts opened and maintained by Reporting FI during 01JAN23 - 15AUG23	Individual	High Value	Pre-Existing Account CDD's Rules	31DEC23	JUN24
			Low Value	Pre-Existing Account CDD's Rules	31DEC23	JUN24
		Entity	Bal. > 7.5 MB THB	Pre-Existing Account CDD's Rules	31DEC23	JUN24
New Account	Accounts opened on or after 16AUG23- 31DEC23	Individual	All Accounts	Self - Certification	31DEC23	JUN24
		Entity	All Accounts	Self – Certification	31DEC23	JUN24

## Chapter 11 - Compliance

### 11.1 Non – Compliance

An exchange partner will notify the TRD when it has reason to believe that an error could have led to incorrect or incomplete information reporting or there is non-compliance by a particular Reporting FI with the applicable reporting requirements and due diligence procedures consistent with the CRS.

The TRD will take all appropriate measures available under its domestic law to address the errors or non-compliance described in the notice.

Non-compliance includes:

- repeated failure to file the Return report;
- on-going or repeated failure to supply accurate information or establish appropriate governance or due diligence processes;
- the intentional provision of substantially incorrect information;
- the deliberate or negligent omission of required information; or
- otherwise, active assistance to reportable persons in avoiding the reporting obligations.

### 11.2 Anti - Avoidance Provision

(Under the development of provision)

### 11.3 Record Keeping

A Reporting FI must establish, maintain, and document the due diligence procedures it uses to identify reportable accounts. Rules in respect of keeping records, including its forms and the retention period are discussed in the following paragraphs.

A financial institution must keep records that were obtained or created in connection with its reporting obligations, such as self-certifications and documentary evidence. A financial institution must also keep records of its policies and procedures that establish its governance and due diligence processes, including procedures for regular relationship manager enquiries. The relationship manager enquiry is discussed in Chapter 7 of this guidance.

A financial institution must retain records used to support an account holder's status for at least six years after the end of the year in which the status was established. A self-certification must be retained for a minimum of six years from the date that the last financial account to which it relates was closed. All other records must be retained to the end of the last calendar year in respect of which the record is relevant.

The records can be retained as originals or photocopies and can exist in paper or electronic format. Records that are retained electronically must be retained in an electronically readable format. Records are to be retained at the financial institution's place of business, or at any other place they are equally accessible and as secure as they would be if they were maintained at the financial institution's place of business.

A financial institution can receive documentary evidence in the following manner:

- a form or document scanned and received electronically, for example, an image embedded in an e-mail;
- a portable document format (.pdf) attached to an e-mail;
- a facsimile; or
- an electronic signature;
- unless it knows the document was transmitted by a person not authorized to do so or has reason to believe it is not a true copy.

A financial institution can accept an electronic signature of the account holder (or person formally authorized to sign). A financial institution can also accept a voice recording or digital footprint as long as it is captured by the financial institution in a manner that can credibly demonstrate that the self-certification was positively acknowledged.

#### 11.4 Minor Errors

(Under the development of provision)

#### 11.5 Contact Information

For enquiries on this local guidance, please contact us at [TRD - CRS Webpage](https://www.rd.go.th/64547.html) (<https://www.rd.go.th/64547.html>)



## Appendix A: Definition of Excluded Account

The term **Excluded Account** means any of the following accounts:

- 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 THB 1,500,000 or less, or (ii) there is a maximum lifetime contribution limit to the account of THB 30,000,000 or less, in each case applying the rules set forth in [Section 5.2.7 Account Aggregation and 5.2.8 Currency Translation Rule](#)

A Financial Account that otherwise satisfies the requirement of a.v. above 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 retirement or pension account or non - retirement tax favoured account or from one or more retirement or pension funds that meet the requirements of any of Broad Participation Retirement Fund or Narrow Participation Retirement Fund and Pension Fund of a Governmental Entity, International Organisation or Central Bank.

- b. **non - retirement tax favoured account;** 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 THB 1,500,000 or less, applying the rules set forth in [Section 5.2.7 Account Aggregation and 5.2.8 Currency Translation Rule](#)

A Financial Account that otherwise satisfies the requirement of 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 retirement or pension account or non - retirement tax favoured account or from one or more retirement or pension funds that meet the requirements of any of Broad Participation Retirement Fund or Narrow Participation Retirement Fund and Pension Fund of a Governmental Entity, International Organisation or Central Bank.

- c. **term life insurance contracts;** 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
- iv. the contract is not held by a transferee for value.
- d. **estate accounts**; 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. **escrow accounts**; 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:
    1. 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;
    2. 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;
    3. 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;
    4. the account is not a margin or similar account established in connection with a sale or exchange of a Financial Asset; and
    5. the account is not associated with an account described in **depository Accounts due to not-returned overpayments**.
  - iii. an obligation of a Reporting FI 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 Reporting FI solely to facilitate the payment of taxes at a later time.
- f. **depository Accounts due to not-returned overpayments**; 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 1 July 2017, the Reporting FI implements policies and procedures either to prevent a customer from making an overpayment in excess of USD50,000, or to ensure that any customer overpayment in excess of USD50,000 is refunded to the customer within 60 days, in each case applying the rules set forth in [Section 5.2.7 Account Aggregation](#) and [5.2.8 Currency Translation Rule](#). 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. **low risk excluded account**; 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 subsections C(17)(a) through (f), and is defined in domestic law as an Excluded Account, provided that the status of such account as an Excluded Account does not frustrate the purposes of the CRS.

Appendix B: Example of Self – Certification Form

- i. Declaration of Tax Residence for Individuals
- ii. Declaration of Tax Residence for Entities



Appendix C: Comparison between the CRS and FATCA

(Under the development of provision)

Appendix D: Participating Jurisdiction



Appendix E: Reportable Jurisdiction

