Guidance on the Common Reporting Standard

Part XIX of the Income Tax Act

August 23, 2023

Canada Revenue Agency
Agence du revenu du Canada

Canada

Summary of the revisions published on August 23, 2023:

- A financial account held by a reportable person who has died is not considered a financial account in the year the financial institution is informed of the death (Chapter 5).
- Treatment of NEW First Home Savings Account (FHSA) (Chapter 5).

Table of Contents

CHAPTER 1 – INTRODUCTION 1

The purpose of this guidance 1

Scope of this guidance 1

International context 2

CHAPTER 2 – GLOSSARY 3

The meaning of certain terms 3

CHAPTER 3 – FINANCIAL INSTITUTIONS WITH REPORTING OBLIGATIONS IN CANADA 7

Introduction 7

STEP 1 – Is the entity a financial institution? 7
- Depository institution 7
- Custodial institution 8
- Investment entity 9
  - Investment entity that primarily carries on as a business investment activities on behalf of customers 10
  - Investment entity that is professionally managed by another financial institution 10
  - Examples of entities that are considered investment entities 11
- Specified insurance company 11

STEP 2 – Is the entity a Canadian financial institution? 12
- Canadian financial institution 12

Step 3 – Is the Canadian financial institution a reporting financial institution? 17
- Non-reporting financial institutions 17
  - Governmental entity 19
  - Broad participation retirement fund 19
  - Narrow participation retirement fund 20
  - Qualified credit-card issuer 21
  - Prescribed non-reporting financial institutions 21

CHAPTER 4 – ENTITY CLASSIFICATIONS 23

Important terminology 23

Non-financial entity (NFE) 23
- Passive NFE 23
- Active NFE 24
  - Passive income 26
  - Financial asset 27
- Related entity 28
- Established securities market 29

CHAPTER 5 – FINANCIAL ACCOUNTS 29

Introduction 29

Definition of financial account 29
Maintaining a financial account 30
Centralized facilities for the clearing, settlement and deposit of securities 32
Account held by an intermediary other than a financial institution 32
Equity or debt interests in an investment entity that are not financial accounts 33
Cash value insurance contracts and annuity contracts that are not financial accounts 34
Excluded accounts 35
Retirement or pension account 36
Escrow accounts 38
Prescribed excluded accounts 39
Dormant accounts 40

Reportable accounts 40
Reportable persons 41
Reportable jurisdiction 41

Financial account types in more detail 42
Depository account 42
Custodial account 43
Annuity contract 43
Cash value insurance contract 44
Equity or debt interests 45
Equity or debt interests in an investment entity that are regularly traded on an established securities market 46

Account holders 47
"In trust for" accounts 48
Accounts held by partnerships 48
Accounts held by estates 48
Joint accounts 49
Holders of cash value insurance contracts and annuity contracts 49

CHAPTER 6 – GENERAL REQUIREMENTS 50

Due diligence procedures 50

Service providers 51

Documentation collected by other persons 52

Record keeping 53

Form of self-certification 55
Confirming the reasonableness of self-certifications 57

Aggregation rules 60
Excluded accounts 60
Related entity accounts 61
Aggregation of preexisting individual accounts 61
Aggregation of preexisting entity accounts 63

Separate account reporting 65
Aggregation of funds 66

Currency conversion **67**

CHAPTER 7 – PREEXISTING INDIVIDUAL ACCOUNTS 68

Introduction **68**

Definition of preexisting individual accounts **69**

Accounts not required to be reviewed, identified or reported **69**

Cash value insurance contracts and annuity contracts **70**
Assignment of preexisting insurance contracts 70
Individual beneficiaries of a cash value insurance contract or an annuity contract. 70

Accounts subject to review **71**

Lower value accounts **71**
Due diligence for lower value accounts 71
Residence address test 72
Current residence address 72
Acceptable documentary evidence 73
Other considerations 74
Electronic record searches for lower value accounts 74
Effects of not finding any indicia for lower value accounts 75
Effects of finding indicia for lower value accounts 75

Curing indicia **76**

High value accounts **78**
Enhanced review procedures for high value accounts 78
Electronic record searches for high value accounts 78
Paper record searches for high value accounts 78
Relationship manager enquiry for high value accounts 79
Effects of not finding any indicia for high value accounts 82
Effects of finding indicia for high value accounts 82
Additional procedures applicable to high value accounts in subsequent years 83

Change in circumstances **83**

Relevance of records previously reviewed **85**

Validation of self-certification **85**
Determining tax residency of an individual 87

Timing of reviews **87**
Lower value accounts 87
High value accounts 88

Alternative due diligence procedures for preexisting individual accounts **89**

CHAPTER 8 – NEW INDIVIDUAL ACCOUNTS 90

Introduction **90**

Definition of new individual accounts **90**
New account opening for holders of existing individual accounts 91
New, additional or amended customer information 91
Treatment of the accounts as a single account 92

Reportable accounts **93**

Validation of self-certification **94**
Change in circumstances 95
Curing self-certification errors 97
Determining tax residency of an individual 97

Form of self-certification **98**
In-person account openings 98
Telephone account openings 100
On-line account applications 100

CHAPTER 9 – ENTITY ACCOUNTS **101**

Introduction **101**

Definition of preexisting entity accounts **102**

Accounts not required to be reviewed, identified or reported **102**
Threshold exemption 102

Reportable accounts **103**
Determining whether a preexisting entity account holder is a reportable person 104
Determining whether a preexisting entity account holder is a passive NFE with one or more controlling persons 106

Definition of new entity accounts **107**
New account opening for holders of existing entity accounts 107
Determining whether a new entity account holder is a reportable person 108
Determining whether a new entity account holder is a passive NFE with one or more controlling persons 109

Timing of reviews **109**

Use of standardized industry codes **110**

Validation of self-certification **112**
Entity account not supported by a valid self-certification 116
Change in circumstances 117

Controlling persons **117**

CHAPTER 10 – MULTIPLE FINANCIAL INSTITUTION STRUCTURES **120**

Introduction **120**

Client name accounts **121**

Investment funds and their dealers **121**
Holdings in nominee name 122
Holdings in client name 123

Other structures 127

Introducing broker/carrying broker arrangements 127
Financial accounts of the introducing broker 128

CHAPTER 11 – SPECIAL CIRCUMSTANCES 128

Employment-based group plans 128
Financial accounts that are group cash value insurance contracts / group annuity contracts 129
Group payroll deduction savings plans 130
Retirement compensation arrangement 131
Employee health trusts 131
Reporting of Group payroll deduction savings plans, RCAs and employee health trusts 132

Account transfers 133
Account transfers of a single account holder 133
Mergers or bulk acquisition of accounts 133
Mergers of investment entities 134
Merging fund is a reporting financial institution 134
Merging fund is not a reporting financial institution 135
Exchanges of units 135

Financial institution that ceases to be a non-reporting financial institution to become a reporting financial institution 135

Dormant accounts 136

CHAPTER 12 – PART XIX – INFORMATION REPORTING 137

Information elements for reportable accounts 137
Information on the reporting financial institution 137
Information identifying each account holder 137
Information identifying each controlling person 138
Account information 139
Custodial accounts 139
Custodial accounts and other income 140
Custodial accounts and gross proceeds 140
Depository accounts 142
Other accounts 142

Explanatory information 143
Account holder address 143
Account holder jurisdiction of tax residence 143
Foreign taxpayer identification number (Foreign TIN) 144
Transition period to obtain foreign TIN 144
Canadian taxpayer identification number (Canadian TIN) 146
Account holder date of birth 146
Account number 146
Account balance or value 147
Currency 148
Joint accounts 148

Account closures 149
Undocumented accounts 150
Accounts may cease to be reportable 150

Specification of certain data elements 151
Entity account holder type 151
Controlling person type 152

Timetable for reporting 153

Third party service providers 154

Compliance 155
Non-compliance 155
Anti-Avoidance Provision 156

Chapter 1 – Introduction

The purpose of this guidance

1.1 This guidance is to help financial institutions, their advisors, and Canada Revenue Agency (CRA) officials with the due diligence and reporting obligations relating to the Common Reporting Standard (CRS), formally referred to as the "Standard for Automatic Exchange of Financial Account Information in Tax Matters". The CRS was implemented by the addition of Part XIX to the *Income Tax Act* (ITA) (hereinafter simply referred to as "Part XIX").

1.2 Canada's implementation of the CRS will also be of interest to customers of Canadian financial institutions. Individuals with an existing account or opening a new account at a Canadian financial institution can be asked to certify or clarify their residence status for tax purposes or to produce documents or both for any representation they make. Canadian financial institutions need this information to satisfy their obligations under Canadian law for tax reporting to the CRA. Similar but slightly more detailed information can also be required from corporations and other entities with financial accounts. Information to help customers respond to such information requests is available at Information for individual and entity account holders.

Canadian financial institutions also have responsibilities under Part XVIII of the ITA to review, identify and report financial accounts of United States persons. For more information, please refer to the Guidance on the Canada-U.S. Enhanced Tax Information Exchange Agreement – Part XVIII of the Income Tax Act.

Scope of this guidance

1.3 This guidance describes the due diligence and reporting obligations that arise under the ITA by virtue of the CRS implementation in Canada. Financial institutions can also refer to the commentaries on the CRS developed by the Organization for Economic

Co-operation and Development (hereinafter referred to as "OECD Commentaries on the CRS") and the OECD – Frequently Asked Questions (FAQ) to the extent that doing so helps the reader understand the requirements in Canada. The OECD Commentaries on the CRS and the FAQ are important aids for interpreting Part XIX. By design, this guidance is consistent with the OECD Commentaries on the CRS and the FAQ and highlights how they can be appropriately understood in the Canadian context. However, in the event of any variation between the OECD Commentaries on the CRS, the FAQ and this CRA guidance, this CRA guidance prevails as the CRA's view.

1.4 This guidance applies exclusively to Part XIX reporting. Nothing contained in this guidance modifies or is intended to modify the Part XVIII Guidance or a CRA view on any other matter. For ease of reference, different approaches between the CRS and Part XVIII are highlighted in boxes throughout this document. In addition, a full comparison of the intergovernmental approach to the implementation of the Foreign Account Tax Compliance Act (FATCA) and the CRS can be found on pages 126 to 144 of the CRS Implementation Handbook.

1.5 Canada has implemented the CRS using the so-called "wider approach". As a result of the adoption of this approach, Canadian financial institutions have due diligence and reporting obligations under Part XIX in respect of account holders that reside for tax purposes in any jurisdiction (other than Canada and the United States). This is the case even if Canada has not commenced automatic exchange of CRS information with all jurisdictions.

International context

1.6 Jurisdictions worldwide are committed to the CRS and look forward to the increased cooperation in tax matters it promotes. Canada is one of over 100 jurisdictions committed to the CRS. Canada signed the *Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information*, to benefit from a coordinated arrangement to exchange financial account information efficiently and securely with other tax jurisdictions.

1.7 This guidance was developed with the international context in mind and will be updated where appropriate to ensure proper alignment with the international consensus that can emerge on the CRS.

1.8 This guidance uses plain language to explain the CRS under Part XIX. It is provided as general information only. It is not legal advice and is not intended to replace the ITA.

Chapter 2 – Glossary

The meaning of certain terms

2.1 Part XIX defines many terms in subsection 270(1) of the ITA, such as "account holder", "financial institution", and "reportable person". The table below lists terms defined in Part XIX.

Defined terms in Part XIX
Account holder
Active NFE
Annuity contract
Anti-money laundering and know your customer procedures or AML/KYC procedures
Broad participation retirement fund
Canadian financial institution
Cash value
Cash value insurance contract
Central bank
Controlling persons

Defined terms in Part XIX
Custodial account
Custodial institution
Depository account
Depository institution
Documentary evidence
Entity
Equity or debt interest
Established securities market
Excluded account
Exempt collective investment vehicle
Financial account
Financial asset
Financial institution
Governmental entity
Group annuity contract
Group cash value insurance contract
High value account
Insurance contract
International organization
Investment entity
Lower value account
Narrow participation retirement fund
Natural person
New account
New entity account

Defined terms in Part XIX
New individual account
Non-financial entity (NFE)
Non-reporting financial institution
Participating jurisdiction
Participating jurisdiction financial institution
Passive NFE
Pension fund of a governmental entity, international organization or central bank
Preexisting account
Preexisting entity account
Preexisting individual account
Qualified credit card issuer
Related entity
Reportable account
Reportable jurisdiction
Reportable jurisdiction person
Reportable person
Reporting financial institution
Specified insurance company
TIN
USD

2.2 Certain terms and acronyms are also used throughout this guidance. The table below provides a longer-form description and/or an appropriate reference point for many of them.

List of certain terms and acronyms

Term	Refers to
AML	Anti-Money Laundering
CB	Carrying broker
CIV	Collective investment vehicle
CBI/RBI	Citizenship and Residence by Investment
CRA	Canada Revenue Agency
CRS	Common Reporting Standard (Standard for Automatic Exchange of Financial Account Information in Tax Matters)
FATF Recommendations	Financial Action Task Force Recommendations
GIIN	Global intermediary identification number
IB	Introducing broker
ITA	*Income Tax Act* (Canada)
KYC	Know Your Client
NFE	Non-financial entity
NAICS	North American Industry Classification System
PCMLTFA	Proceeds of Crime (Money Laundering) and Terrorist Financing Act
Part XIX	Part XIX of the ITA
Part XIX Information Return	Part XIX Information Return – International Exchange of Information on Financial Accounts
SIC	Standard Industrial Classification
TIN	Taxpayer identification number

Chapter 3 – Financial institutions with reporting obligations in Canada

Introduction

3.1 The reporting obligation in Part XIX applies only to a person or legal arrangement, such as a corporation, a trust, a partnership or a foundation (hereinafter referred to as "entity" or "entities").

3.2 It is a three-step process to determine whether an entity has a potential reporting obligation in Canada under Part XIX. You must first determine whether the entity is a financial institution for the purposes of Part XIX. If an entity is a financial institution, you must then determine whether it is a Canadian financial institution. If that is the case, you must finally determine whether it is a reporting financial institution.

STEP 1 – Is the entity a financial institution?

3.3 Under Part XIX, an entity is a financial institution if it is:

- a depository institution;
- a custodial institution;
- an investment entity; or
- a specified insurance company.

3.4 An entity can be more than one type of financial institution.

Depository institution

3.5 A depository institution is an entity that accepts deposits in the ordinary course of a banking or similar business. Entities that fall within this definition include entities regulated in Canada as a bank, a trust and loan company, a credit society, a savings and credit union, or a caisse populaire.

3.6 An entity is not a depository institution if it:

- solely provides asset-based financial services; or
- accepts deposits from persons solely as collateral or security pursuant to a sale or lease of property, a loan secured by property, or a similar financing arrangement, between it and the person making the deposit.

3.7 For example, this might apply to a leasing, factoring or invoice discounting business or to an entity that solely lends to business enterprises using loans tied to inventory, accounts receivables, or machinery and equipment.

3.8 Facilitating money transfers by instructing agents to transmit funds (without financing the transactions) is not seen as the acceptance of a deposit and an entity will not be considered to be engaged in a banking or similar business or a depository institution because of this activity alone.

Custodial institution

3.9 A custodial institution is an entity that holds, as a substantial portion of its business, financial assets for the account of others. A substantial portion means where 20% or more of the entity's gross income from the shorter of its last three fiscal periods, or the period since the entity has been in existence, arises from the holding of financial assets on behalf of others and from related financial services. Entities that safe keep financial assets for the account of others (see paragraph 4.11 for the definition of financial asset), such as investment dealers, custodian banks, brokerages, trust companies and central securities 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.

3.10 "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.

3.11 Where an entity has no operating history at the time its status as a custodial institution is being assessed, it will be regarded as a custodial institution if it expects to meet the gross income threshold based on its business plans (such as the anticipated deployment of its assets and the functions of its employees). Consideration must be given to any purpose or function for which the entity is licensed or regulated (including those of any predecessor).

3.12 There can be circumstances where an entity holds financial assets for a customer where the income attributable to holding the financial assets or providing related financial services belongs to (or is otherwise paid to) a related entity. For example, the entity could holds assets for a customer of a related entity, or consideration is paid to a related entity, either as an identifiable payment or as one element of a consolidated payment. In such a case, the income should be taken into account when applying the 20% test.

Investment entity

3.13 The two types of entities described in the paragraphs below are investment entities. However, in no case does an investment entity include an entity described in bullets d) to g) of paragraph 4.5.

Investment entity that primarily carries on as a business investment activities on behalf of customers

3.14 The first type of entity is any entity that primarily carries on as a business one or more of the following activities for, or on behalf of, customers:

- trading in:
  - money market instruments (such as cheques, bills, certificates of deposit, and derivatives);
  - foreign exchange, exchange, interest rate and index instruments;
  - transferable securities; and
  - commodity futures;
- individual and collective portfolio management; and
- otherwise investing, administering or managing financial assets or money on behalf of other persons.

Note: Such activities or operations do not include rendering non-binding investment advice to a customer that does not involve any form of portfolio management or investing, administering or managing of financial assets or money on behalf of other persons.

3.15 An entity is treated as primarily carrying on as a business by conducting one or more of the activities described in paragraph 3.14 if its gross income from conducting those activities is at least 50% of its gross income during the shortest of its last three fiscal periods, or the period since the entity has been in existence.

Investment entity that is professionally managed by another financial institution

3.16 The second type of entity (hereinafter referred to as a "professionally managed investment entity") is any entity the gross income of which is primarily attributable to investing, reinvesting, or trading in financial assets, if it is professionally managed by another entity that is a depository institution, a custodial institution, a specified insurance company, or an investment entity as previously described in paragraph 3.14.

3.17 An entity is professionally managed by another entity if the managing entity performs, either directly or through another service provider, any of the activities or operations described in paragraph 3.14 on behalf of the managed entity.

3.18 However, an entity does not manage another entity if it does not have discretionary authority to manage the entity's assets (in whole or in part).

3.19 An entity does not fail to be professionally managed by another entity simply because the second-mentioned entity is not the sole manager of the first-mentioned entity.

3.20 An entity's gross income is primarily attributable to investing, reinvesting, or trading in financial assets (see paragraph 4.11 for the definition of financial asset), if its total gross income is at least 50% of the entity's gross income during the shorter of its last three fiscal periods, or the period since the entity has been in existence.

Examples of entities that are considered investment entities

3.21 An entity is generally considered an investment entity if it functions or holds itself out as a collective investment vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leverage buy-out fund or any similar investment vehicle established with an investment strategy of investing, reinvesting, or trading financial assets.

3.22 An entity that primarily conducts as a business investing, administering, or managing non-debt, direct interests in real or immovable property on behalf of other persons, such as a type of real estate investment trust, will not be an investment entity.

Specified insurance company

3.23 A "specified insurance company" is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a product classified as a cash value insurance contract or an annuity contract.

3.24 An insurance company is an entity that is regulated as an insurance business under the laws, regulations, or practices of any jurisdiction in which the entity is doing business.

3.25 Insurance companies that provide only general insurance or term life insurance, and reinsurance companies that provide only indemnity reinsurance contracts, are not specified insurance companies.

3.26 A specified insurance company can include both an insurance company and its holding company. However, 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.

3.27 Since only certain persons are permitted by Canadian law to provide insurance contracts or annuity contracts, it is unlikely that an insurance holding company in Canada will, itself, issue or be obligated to make payments with respect to cash value insurance or annuity contracts.

3.28 An insurance advisor, agent, or broker will not be classified as a specified insurance company since they are not obligated to make payments under the terms of a cash value insurance contract or an annuity contract.

STEP 2 – Is the entity a Canadian financial institution?

3.29 A financial institution must be a Canadian financial institution under Part XIX for it to have potential reporting obligations in Canada under that Part.

Canadian financial institution

3.30 Under Part XIX, two conditions must be met for a financial institution to be a Canadian financial institution:

- the financial institution must be resident in Canada or a branch located in Canada of a financial institution that is not resident in Canada; and

- the financial institution must be a listed financial institution for the purposes of Part XIX.

3.31 The first condition is met if a financial institution is resident in Canada, but excludes any of its branches located outside of Canada. A financial institution that resides in Canada for tax purposes is considered to be a resident in Canada for the purposes of Part XIX.

3.32 A Canadian financial institution can take the form of a partnership. If the place of effective management of a partnership's business is situated in Canada, the partnership is considered resident in Canada under Part XIX.

3.33 A Canadian financial institution can also take the form of a trust. A trust is considered resident in Canada for tax purposes if the effective management and control of the trust's business takes place in Canada. For reporting purposes, a trust will also be viewed as resident in Canada if one or more of its trustees are resident in Canada. However, in both cases, the trust must be a listed financial institution as described in paragraph 3.35 in order to have reporting obligation in Canada.

3.34 The first condition also ensures that a branch located in Canada of a financial institution that is not resident in Canada, will be a Canadian financial institution so long as the branch is also a listed financial institution.

3.35 The second condition requires the financial institution to be a listed financial institution. A listed financial institution means one of the following entities:

a) an authorized foreign bank within the meaning of section 2 of the *Bank Act* in respect of its business in Canada, or a bank to which that Act applies;
b) a cooperative credit society, a savings and credit union, or a caisse populaire regulated by a provincial Act;
c) an association regulated by the *Cooperative Credit Associations Act*;
d) a central cooperative credit society, as defined in section 2 of the *Cooperative Credit Associations Act*, or a credit union central or a

federation of credit unions or caisses populaires that is regulated by a provincial Act other than one enacted by the legislature of Quebec;

e) a financial services cooperative regulated by *An Act respecting financial services cooperatives*, R.S.Q., c. C-67.3, or *An Act respecting the Mouvement Desjardins*, S.Q. 2000, c. 77;

f) a life company or a foreign life company to which the *Insurance Companies Act* applies or a life insurance company regulated by a provincial Act;

g) a company to which the *Trust and Loan Companies Act* applies;

h) a trust company regulated by a provincial Act;

i) a loan company regulated by a provincial Act;

j) an entity authorized under provincial legislation to engage in the business of dealing in securities or any other financial instruments, or to provide portfolio management, investment advising, fund administration, or fund management, services;

k) an entity that is represented or promoted to the public as a collective investment vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leveraged buyout fund, or similar investment vehicle that is established to invest or trade in financial assets and that is managed by an entity referred to in paragraph j);

l) an entity that is a clearing house or clearing agency; or

m) a department or an agent of Her Majesty in right of Canada or of a province that is engaged in the business of accepting deposit liabilities.

3.36 With reference to paragraph j) of the definition of listed financial institution, an entity is considered to be authorized under provincial legislation to engage in the business of dealing in securities or any other financial instruments, or to provide portfolio management, or investment advising, fund administration, or fund management, services if the legislation contemplates any of the above-mentioned activities and the entity can perform one or more of them in the relevant province. An entity need not be registered in any way for such an authorization to exist.

3.37 Paragraph k) of the definition of listed financial institution ensures that that term includes professionally-managed trusts and other entities that are promoted or represented to the public. Such entities typically seek to raise capital from, or become known as potential investments for, unrelated or external investors. At the same time, certain investment vehicles cannot be promoted to the public if they do not seek external capital (for example, a personal trust used as a means for an individual or a family to hold investable assets). An investment vehicle is considered to be promoted or represented to the public even if marketing or other communication efforts are directed at a limited or a small group of potential investors.

3.38 For clarity, an entity that is a clearing house or clearing agency which if it was treated as an investment entity would not maintain financial accounts, other than equity or debt interests in itself or collateral or settlement accounts held in connection with carrying on business activities, is not considered a listed financial institution.

3.39 Entity classification elections (known as "check the box" elections) made to the Internal Revenue Service (IRS) of the United States (U.S.) are irrelevant for determining whether an entity is a Canadian financial institution. Therefore, Canadian subsidiaries of a U.S. parent entity that have elected for U.S. tax purposes to be classified as disregarded entities, but which are carrying on financial activities in Canada, and that meet the definition of financial institution in the ITA are to be treated as Canadian financial institutions for the purposes of the CRS, separate from the U.S. parent.

3.40 When a trust is considered a Canadian financial institution with one or more trustees resident in another participating jurisdiction, the trust may be required to report to the other participating jurisdiction with respect to the accounts maintained in that other jurisdiction. In such a case, accounts maintained and reported to a partner jurisdiction with which Canada automatically exchanges financial account information are not required to be reported in Canada. However, the Canadian trustee will have to demonstrate that all necessary reporting has been completed by the trust.

3.41 When a Canadian financial institution (other than a trust) is resident in more than one participating jurisdiction, the financial institution may be required to report to the partner jurisdiction with respect to the accounts maintained in that other jurisdiction. In such a case, accounts maintained and reported to a partner jurisdiction with which Canada automatically exchanges financial account information are not required to be reported in Canada. However, the Canadian financial institution will have to demonstrate that it complied with all reporting and due diligence obligations of the participating jurisdiction in which it maintains the financial account (see paragraphs 5.45 to 5.52).

Example A

ABC Bank, located in Toronto, has within its group the following:

- a subsidiary (S) located in Vancouver;
- a subsidiary (D) resident in participating jurisdiction X with no operations in Canada;
- a branch (F) located in participating jurisdiction X.

Only ABC Bank and subsidiary (S) are listed financial institutions.

Under this scenario:

- ABC Bank in Toronto and its subsidiary (S) are Canadian financial institutions and will report to the CRA;
- subsidiary (D) and branch (F) are not Canadian financial institutions and would be expected to be subject to the CRS regime implemented in jurisdiction X.

Example B

Oceania Bank is a resident of Australia and has a branch (Z) located in Montreal. Oceania Bank is a listed financial institution.

By virtue of its location in Canada, branch (Z) would be considered a Canadian financial institution under Part XIX and will report to the CRA.

Example C

Peter establishes a Canadian resident trust as a vehicle to hold financial assets for family estate planning purposes in Canada. The trust is settled with capital provided by Peter and it is not represented or promoted to the public. The trust is not a listed financial institution and is not a Canadian financial institution with due diligence and reporting obligations under Part XIX. As such, the trust cannot represent itself as a financial institution to any financial institution at which it holds an account. Instead, it must classify itself as a passive or active non-financial entity (NFE) in accordance with the circumstances (see paragraph 4.2).

3.42 An entity resident in Canada that is not a Canadian financial institution is either a NFE (see Chapter 4 of this guidance) or a non-reporting financial institution (see paragraph 3.50).

Step 3 – Is the Canadian financial institution a reporting financial institution?

3.43 A Canadian financial institution is either a reporting financial institution or a non-reporting financial institution. The distinction is important because Part XIX obligations apply only to reporting financial institutions.

3.44 Any Canadian financial institution that is not a non-reporting financial institution is a reporting financial institution under Part XIX. A reporting financial institution is required to report Part XIX information to the CRA beginning in 2018.

Non-reporting financial institutions

3.45 A non-reporting financial institution means a Canadian financial institution with no Part XIX reporting obligations in Canada:

- a governmental entity (see paragraph 3.46);
- the Bank of Canada;
- a Canadian office of an international organization as defined under subsection 2(1) of the Foreign Missions and International Organizations Act;
- a broad participation retirement fund;
- a narrow participation retirement fund;
- a pension fund of, either a governmental entity, a Canadian office of an international organization or, the Bank of Canada;
- a qualified credit card issuer;
- an exempt collective investment vehicle (CIV). An exempt CIV is an investment entity regulated as a CIV, provided that all of the interests in the CIV are held by or through individuals or entities (other than a passive NFE with a controlling person who is a reportable person as defined in paragraph 4.4) that are not reportable persons. To be considered regulated as a CIV, it suffices that the investment entity be a listed financial institution;
- any entity that is a trust, to the extent that the trustee is a reporting financial institution and reports all information required to be reported under Part XIX with respect to all reportable accounts of the trust;
- any entity that is prescribed in section 9005 of the *Income Tax Regulations* (ITR) (see paragraph 3.50 for a list of entities).

For the purposes of Part XVIII, non-reporting financial institutions are listed in Annex II of the Agreement and are identified as exempt beneficial owners or deemed-compliant financial institutions. The CRS does not contain the concepts of exempt beneficial owners and deemed-compliant. It is important to note that certain Canadian financial institutions that do not have obligations under Part XVIII will have obligations under Part XIX.

Governmental entity

3.46 The Government of Canada, provincial, territorial, and aboriginal governments in Canada, and municipal level governments in Canada do not have Part XIX obligations. An agency or instrumentality of any such government which is a Canadian financial institution is only a reporting financial institution if it is described in paragraph (m) of the definition of "listed financial institution" in subsection 263(1) of the ITA. Otherwise, it is a non-reporting financial institution.

Note: It is not considered of material importance if a government, agency or instrumentality referred to in this paragraph that is not a reporting financial institution classifies itself as an active NFE (as described in Chapter 4 of this guidance) for the purpose of attesting its status to a financial institution at which it holds an account.

Broad participation retirement fund

3.47 The term "broad participation retirement fund" means a fund that is established to provide retirement, disability or death benefits to beneficiaries that are current or former employees of one or more employers in consideration for services rendered, provided that the fund:

- does not have a single beneficiary with a right to more than 5% of the fund's assets;
- is subject to government regulation and provides information reporting to the CRA;
- satisfies at least one of the following requirements:
  - the fund is generally exempt from tax on investment income, or taxation of investment income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan,
  - the fund receives at least 50% of its total contributions (other than transfers of assets from retirement or pension funds that are excluded accounts) from the sponsoring employers,

- 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 retirement and pension funds that are excluded accounts), or penalties apply if distributions or withdrawals are made before such specified events, and
- contributions by an employee to the fund are limited by reference to the employee's remuneration or cannot exceed US$50,000 annually, applying the aggregation rules.

Note: Entities resident in Canada that meet the definition of a broad participation retirement fund are prescribed in section 9005 of the ITR (see paragraph 3.50).

Narrow participation retirement fund

3.48 The term "narrow participation retirement fund" means a fund that is established to provide retirement, disability or death benefits to beneficiaries who are current or former employees of one or more employers in consideration for services rendered, provided that:

- the fund has fewer than 50 participants;
- the fund is sponsored by one or more employers that are not investment entities or passive NFEs;
- the employee and employer contributions to the fund (other than transfers of assets from retirement and pension funds that are excluded accounts) are limited by reference to the employee's remuneration;
- participants that are not resident in Canada are not entitled to more than 20% of the fund's assets; and
- the fund is subject to government regulation and provides information reporting to the CRA.

Note: Entities resident in Canada that meet the definition of a narrow participation retirement fund are prescribed in section 9005 of the ITR (see paragraph 3.50).

Qualified credit-card issuer

3.49 An entity is a non-reporting financial institution if it 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 has policies and procedures in place by July 1, 2017, to prevent a customer from making an overpayment in excess of US$50,000, or to ensure that any customer overpayment in excess of US$50,000 is refunded to the account holder within 60 days.

Note: Any credit-card issuer formed or organized after January 1, 2017, must have policies and procedures in place within 6 months from being formed or organized to be considered a qualified credit-card issuer.

Prescribed non-reporting financial institutions

3.50 Entities prescribed for the purposes of the definition of non-reporting financial institution are:

a) a labour-sponsored venture capital corporation as prescribed under section 6701 of the ITR*;*
b) a deferred profit sharing plan (DPSP);
c) a pooled registered pension plan (PRPP);
d) a registered disability savings plan (RDSP);
e) a registered education savings plan (RESP);
f) a registered pension plan (RPP);
g) a registered retirement income fund (RRIF);
h) a registered retirement savings plan (RRSP);
i) a trust governed by a registered pension plan;
j) a trust described in paragraph 149(1)(o.4) of the ITA, if all of the interests in the trust as a beneficiary are held by one or more registered pension plans;
k) a corporation described in clause 149(1)(o.1)(i)(A) or subparagraph 149(1)(o.1)(ii) or (o.2)(i) of the ITA;

l) a corporation described in any of subparagraphs 149(1)(o.2)(ii) to (iii) of the ITA, if all of the shares of the corporation are held by (i) one or more registered pension plans or trusts governed by registered pension plans, (ii) one or more trusts described in paragraph j), or (iii) one or more corporations described in this paragraph or paragraph k);

m) a trust, if all of the interests in the trust as a beneficiary are held by one or more plans, trusts or corporations described in paragraph i), k) or l);

n) a tax-free savings account (TFSA); and

o) a central cooperative credit society as defined in section 2 of the *Cooperative Credit Associations Act* and whose accounts are maintained for member financial institutions.

3.51 An entity described in paragraph 3.50 k) is a non-reporting financial institution even if it administers a registered pension plan and is a trustee of a trust governed by a retirement compensation arrangement. In such a case, the trust would be a reporting financial institution and the trustee would be required to perform due diligence on behalf of the trust in connection with the retirement compensation arrangement unless relief is otherwise provided in paragraph 11.6.

Charities, religious organizations and other types of non-profit organizations can be treated differently for the purposes of Part XVIII and Part XIX. Where one of these entities is a Canadian financial institution, for the purposes of Part XVIII it is considered a non-reporting financial institution, while under Part XIX it is a reporting financial institution.

Chapter 4 – Entity classifications

Important terminology

4.1 Determining the proper classification of an entity and the obligations it has under Part XIX requires an understanding of certain terminology. More particularly, reporting financial institutions need to understand the various classifications into which they and their account holders, their affiliates, and others can fall under. This chapter describes key terms and entity classifications to help readers understand the chapters that follow.

Non-financial entity (NFE)

4.2 The term "NFE" means an entity if:

- in the case of an entity that is resident in Canada, it is not a Canadian financial institution; and
- in the case of a non-resident entity, it is not a financial institution.

Part XVIII and the Agreement use the term "non-financial foreign entity (NFFE)" which excludes U.S. entities. For the purposes of Part XIX, a U.S. entity that is not a financial institution is a NFE.

4.3 There are two types of NFEs: active and passive. The distinction is important since a reporting financial institution is required to apply a higher standard of due diligence to financial accounts held by a passive NFE. The financial institution is required to determine whether the passive NFE is controlled by one or more reportable persons.

Passive NFE

4.4 A passive NFE is defined to be two types of entities, namely:

- a NFE that is not an active NFE, or
- an entity that is
  - described as a professionally managed investment entity (see paragraph 3.16); and
  - not a participating jurisdiction financial institution. For a list of participating jurisdictions, refer to the List of participating jurisdictions.

Active NFE

4.5 An active NFE is defined as any NFE that meets one of the following criteria:

a) Less than 50% of the NFE's gross income for the preceding fiscal period is passive income and less than 50% of the assets held by the NFE during the preceding fiscal period are assets that produce or are held for the production of passive income (see paragraph 4.8 for the definition of passive income).

b) The stock of the NFE is regularly traded on an established securities market (see paragraph 4.15 for the definition of 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.

Note: Not all classes of shares of a NFE are required to be regularly traded for the stock of a NFE to be considered regularly traded for the purposes of this test so long as the creation or existence of a particular class of shares did not have the principal purpose of causing the NFE to meet this criterion.

c) The NFE is a governmental entity, an international organization, a central bank, or an entity wholly owned by one or more of the foregoing.

d) All or substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, and providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a financial institution, except that a NFE shall not qualify for this status if the NFE functions (or holds itself out) as an investment fund, such as a private equity fund, a venture capital fund, a leveraged buyout fund, or

any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes.

e) The NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a financial institution, provided that the NFE shall not qualify for this exception after the date that is 24 months after the date of the initial organization of the NFE.

f) The NFE was not a financial institution in the past five years, and is in the process of liquidating its assets or is reorganizing with the intent to continue or recommence operations in a business other than that of a financial institution.

g) The NFE primarily engages in financing and hedging transactions with, or for, related entities that are not financial institutions, and does not provide financing or hedging services to any entity that is not a related entity, provided that the group of any such related entities is primarily engaged in a business other than that of a financial institution.

h) The NFE meets all of the following requirements:

   i. It is:

      a. established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or

      b. established and operated in its jurisdiction of residence and it is a professional organization, a business league, a chamber of commerce, a labour organization, an agricultural or horticultural organization, a civic league, or an organization 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 entity's jurisdiction of residence or the entity's formation documents do not permit any income or assets of the entity to be distributed to, or applied for the benefit of, a private person or a non-charitable entity other than according to the conduct of the entity's charitable activities, as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property that the entity has purchased.

v. The applicable laws of the entity's jurisdiction of residence or the entity's formation documents require that, upon the entity's liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organization, or escheat to the government of the entity's jurisdiction of residence or any political subdivision thereof.

4.6 A general insurance company is not generally treated as a financial institution under Part XIX. It is instead classified as a NFE unless it has financial accounts.

4.7 For details on reporting requirements related to NFEs, see the information provided in Chapters 5, 9 and 12 of this guidance.

Passive income

4.8 Passive income is not defined in Part XIX. The term is required to be interpreted consistently with the OECD Commentaries on the CRS. As such, the term "passive income" will generally include income from the mere holding of property, such as:

- dividends;
- interest;
- income equivalent to interest;
- 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;
- annuities;
- the excess of gains over losses from the sale or exchange of financial assets that gives rise to the passive income described previously;

- the excess of gains over losses from transactions (including futures, forwards, options, and similar transactions) in any financial assets;
- the excess of foreign currency gains over foreign currency losses;
- net income from swaps; and
- amounts received under cash value insurance contracts.

4.9 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.

4.10 Income received on assets used as capital in an insurance business is treated as active rather than passive income.

Financial asset

4.11 The term "financial asset" includes:

- a security, such as:
  - a share of the capital stock of a corporation,
  - an income or capital interest in a widely held or publicly traded trust,
  - a note, bond, debenture, or other evidence of indebtedness,
- a partnership interest;
- a commodity;
- a swap, such as:
  - interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements,
- an 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.

4.12 The term "financial asset" is used in the definition of custodial institution, investment entities, custodial account, and excluded account. It includes any assets that can be held in an account maintained by a financial institution with the exception of a non-debt, direct interest in real or immovable property.

Note: The term "financial asset", as defined for the purposes of Part XIX, has the same meaning as the term "financial instrument" used in the definition of listed financial institution and financial account.

Related entity

4.13 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"). Control means direct or indirect ownership of:

- in the case of a corporation, more than 50% of the vote and value in an entity;
- in the case of a partnership, interest as a member of the partnership that entitles the member to more than 50% of the income or loss of the partnership, or of the assets (net of liabilities) if the partnership were to cease to exist; and
- in the case of a trust, an interest as a beneficiary in the trust with a fair market value that is greater than 50% of the fair market value of all interests as a beneficiary under the trust.

4.14 In the case of two entities that are professionally managed investment entities, the two entities are considered related entities if they are under common management and such management fulfils the Part XIX obligations of the investment entities. This allows investment funds managed by the same fund manager to streamline certain affairs (see Chapter 9 of this guidance for more detail).

Established securities market

4.15 The term "established securities market" means an exchange that is officially recognized and supervised by a governmental authority in which the market is located and that has an annual value of shares traded on the exchange exceeding US$1billion during each of the three years immediately preceding the calendar year in which the determination is being made. The term includes, but is not limited to, exchanges that are "designated stock exchanges" under the ITA.

Chapter 5 – Financial accounts

Introduction

5.1 Under Part XIX, a reporting financial institution must report information to the CRA each year regarding financial accounts that are reportable accounts. To report properly, financial institutions must also be able to categorize financial accounts.

Definition of financial account

5.2 The term "financial account" is defined as an account maintained by a financial institution. A financial account includes:

- depository accounts;
- custodial accounts;
- equity and debt interests in investment entities (other than those discussed in paragraphs 5.10 and 5.11);
- cash value insurance contracts and annuity contracts (other than those discussed in paragraphs 5.12 to 5.16); and
- client name accounts maintained by a person or entity that is authorized under provincial law to engage in the business of dealing in securities or any

other financial instrument, or to provide portfolio management or investment advising services.

Note: A financial account does not include an account that is an excluded account (see paragraph 5.17). In addition, the list of accounts in the definition of financial account is illustrative rather than exhaustive. For example, a financial account maintained by a financial institution includes a client account or file with an entity engaged in the business of dealing in securities or any other financial instrument, or to provide portfolio management or investment advising services.

5.3 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 under Part XIX (for example, so-called delivery versus payment (DVP) accounts benefit from this understanding). The financial institution acting as custodian will be responsible for performing due diligence procedures and reporting where necessary.

The drafting of the definition of financial account in Part XVIII differs from the definition of financial account in Part XIX but the results are intended to be the same. It is therefore acceptable for a financial institution to use the definition of financial account in Part XIX for the purposes of Part XVIII.

Maintaining a financial account

5.4 To be a financial account, the account must be maintained by a financial institution.

5.5 Determining whether a financial account is a depository account, a custodial account or another type of account will assist in understanding whether it is maintained

by a financial institution and will allow the financial institution to distinguish account types for reporting purposes.

5.6 In general, a financial account is considered to be maintained by a financial institution as follows:

- A depository account (see paragraphs 5.30 to 5.33) 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.
- A custodial account (see paragraphs 5.34 to 5.36) 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). See Chapter 10 of this guidance for more details on this relationship.
- An annuity contract (see paragraphs 5.37 to 5.39) or a cash value insurance contract (see paragraphs 5.40 to 5.44) is maintained by the financial institution that is obligated to make payments with respect to the contract.
- Any equity or debt interest (see paragraphs 5.45 to 5.52) in an investment entity that is a financial account is treated as being maintained by that financial institution.
- A client name account is maintained by a person or entity that is authorized under provincial law to engage in the business of dealing in securities or any other financial instrument or to provide portfolio management or investment advising services (see Chapter 10 of this guidance).

5.7 A financial institution 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.

Centralized facilities for the clearing, settlement and deposit of securities

5.8 In Canada, an entity designated under federal legislation to provide centralized facilities for the clearing, settlement and deposit of securities, commonly referred to as a "CSD", will not be treated as maintaining financial accounts. The participants of Canadian securities settlement systems that hold interests recorded in the CSD are either financial institutions in their own right, or they access the system through a financial institution. It is these financial institutions that maintain the accounts and it is these participants that are responsible for undertaking any reporting obligations. This treatment will also apply to a Canadian entity which is a direct or indirect subsidiary used solely to provide services ancillary to the business operated by that CSD (CSD related entity). The relationship between the securities settlement system and its participants is not a financial account and accordingly the CSD and any CSD related entity is not required to undertake any reporting required in connection with interests held by, or on behalf of, participants. Notwithstanding the foregoing, the CSD can report on behalf of such participants in respect of interests recorded as a service provider.

Account held by an intermediary other than a financial institution

5.9 When a financial account is held by an intermediary other than a financial institution (for example, a law firm) that is not described in paragraph 5.17, but is an account holding, on a pooled basis, the funds of underlying clients of the intermediary where:

- the only person listed or identified on the financial account with the financial institution is the intermediary; and
- the disclosure or passing by the intermediary of its underlying clients' information to the financial institution contravenes Canadian law,

the financial institution is required to undertake the due diligence procedures only in respect of the intermediary. The same applies in connection with any client trust account held by a lawyer in trust for a single client in connection with legal services if the above-referenced conditions are satisfied and the lawyer's actions in connection with the opening, use and management of the account are regulated by a law society in Canada.

Equity or debt interests in an investment entity that are not financial accounts

5.10 Notwithstanding paragraph 5.11, any equity or debt interests in an investment entity constitute a financial account, except that it does not include any equity or debt interests in an entity that is an investment entity solely because it:

- renders investment advice to, and acts on behalf of, a customer for the purposes of investing, managing, or administering financial assets deposited in the name of the customer with a financial institution other than such entity; or
- manages portfolios for, and acts on behalf of, a customer for the purpose of investing, managing, or administering financial assets deposited in the name of the customer with a financial institution other than such entity.

Note: Generally speaking, this carve-out ensures that there is no requirement to perform due diligence or reporting in respect of equity and debt interests in an investment entity which is not an investment platform but, rather, limits its service offerings to the activities above-described (see also paragraph 5.3 as an example). In view of this exception, equity or debt interests issued by the above-referenced investment entities would not be considered financial accounts. Conversely, equity or debt interests in collective investment vehicles into which customers can invest, such as a mutual fund, would not benefit from this carve-out.

5.11 An equity or debt interest in a financial institution will be a financial account if:

- one of the purposes of establishing the class of interests is to avoid reporting obligations in accordance with Part XIX; and
- the equity or debt interest is not of an investment entity described in paragraph 5.10.

Cash value insurance contracts and annuity contracts that are not financial accounts

5.12 An annuity contract that is a noninvestment-linked, non-transferable, immediate life annuity that is issued to an individual and monetizes a pension or disability benefit provided under an account that is an excluded account is not a financial account.

5.13 A noninvestment-linked, non-transferable, immediate life annuity is a non-transferable annuity contract that is:

- not an investment-linked annuity contract;
- an immediate annuity; and
- a life annuity contract.

5.14 The term "investment-linked annuity contract" means an annuity contract under which benefits or premiums are adjusted to reflect the investment return or market value of assets associated with the contract.

5.15 The term "immediate annuity" means an annuity contract that:

- is purchased with a single premium or annuity consideration; and
- no later than one year from the purchase date of the contract commences to pay annually or more frequently substantially equal periodic payments.

5.16 The term "life annuity contract" means an annuity contract that provides for payments over the life or lives of one or more individuals.

Excluded accounts

5.17 The definition of financial account does not include any account, product, or arrangement that falls within the definition of excluded account in subsection 270(1) of the ITA. In addition, the *Minister of National Revenue* has exercised discretion to waive the reporting of certain accounts. Therefore, in general, the following accounts are excluded accounts:

- certain retirement or pension account (see paragraphs 5.18 and 5.19 for more information);
- a life insurance contract with a coverage period that ends before the insured individual attains age 90, provided that the contract satisfies the following requirements:
  - periodic premiums, which do not decreased over time, are payable at least annually until the earlier of:
    - the end of the period in which the contract is in existence, and
    - the date that the insured attains age 90,
  - the contract has no contract value that any person can access without terminating the contract,
  - the amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the amount determined by the formula in paragraph 270(1)(c) of the ITA under the definition of excluded account;
- an account held solely by an estate of a deceased individual, if the documentation for the account includes a copy of the will or death certificate of the individual (see paragraphs 5.58 to 5.60);
- an account held by an entity for the purpose of paying the expenses of a condominium or housing cooperative provided that:
  - the financial account is held by an entity exempt from tax under section 149 of the ITA;
  - the account is specific for covering the costs of a condominium or housing cooperative;

- the amounts in the account may only be used to pay for the expenses of the condominium or housing cooperative; and
    - no single owner can annually contribute an amount that exceeds US$50,000 or no more than 20% of the annual and total contributions due in the year is attributable to a single person;
- a reloadable payment card to the extent that the monthly deposits cannot exceed US$1,250 and provided that the financial institution is applying AML/KYC procedures;
- escrow accounts (see paragraph 5.20 for more information);
- a depository account that satisfies the following requirements:
    - 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
    - after June 2017, policies and procedures are in effect relating to overpayments (for this purpose, a customer overpayment does not include credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns) to either:
        - prevent customer from making an overpayment in excess of US$50,000, or
        - ensure that any customer overpayment in excess of US$50,000 is refunded to the customer within 60 days, and
- any other account that is prescribed in section 9006 of the ITR (see paragraph 5.21 for the list of excluded accounts)

Retirement or pension account

5.18 A retirement or pension account is an excluded account if it satisfies the conditions in paragraph (a) of the definition of excluded account in subsection 270(1) of the ITA. In general, the requirements are:

- the account is subject to registration or regulation;

- the account is tax-favoured (for example, an account where contributions to that account 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);
- information reporting to the CRA is required with respect to the account;
- withdrawals are conditioned on reaching a specified retirement age, disability or death, or subject to penalties if made before the events as specified above; and
- annual contributions to the account are limited to US$50,000 (or the equivalent in Canadian dollars) or there is a maximum lifetime contribution limit to the account of US$1,000,000.

5.19 An account is an excluded account if it satisfies the conditions in paragraph (b) of the definition of excluded account in subsection 270(1) of the ITA. In general, the requirements are that:

- the account is
  - subject to regulation as an investment vehicle and is regularly traded on an established securities market, or
  - subject to regulation as a savings vehicle for purposes other than for retirement,
- the account is tax-favoured (for example, an account where contributions to that account 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);
- withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (including the provision of educational or medical benefits), or are subject to penalties if made before the criteria as specified above; and

- annual contributions to the account are limited to US$50,000.

Note: Account that meets the definition of a retirement or pension account is prescribed in section 9006 of the ITR (see paragraph 5.21).

Escrow accounts

5.20 An escrow account is an account maintained in Canada established in connection with any of the following:

- a court order or judgment;
- a sale, exchange, or lease of property, provided that the account satisfies the following requirements:
  - 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 into the account in connection with the sale, exchange, or lease of the property,
  - 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,
  - the assets of the account, including the income earned on the account, will be paid or otherwise distributed for the benefit of the purchaser, the seller, the lessor, or the lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or when the lease terminates,
  - the account is not a margin or similar account established in connection with a sale or exchange of a financial asset, and
  - the account is not associated with a credit card account or other revolving credit facility that allow overpayments in excess of US$50,000,

- an obligation of a financial institution servicing a loan secured by real or immovable property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real or immovable property at a later time; or
- an obligation of a financial institution solely to facilitate the payment of taxes at a later time.

Prescribed excluded accounts

5.21 The following accounts are prescribed for the purposes of the definition of excluded account:

- registered retirement savings plans (RRSPs);
- registered retirement income funds (RRIFs);
- pooled registered pension plans (PRPPs);
- registered pension plans (RPPs);
- registered disability savings plans (RDSPs);
- registered education savings plans (RESPs);
- deferred profit-sharing plans (DPSPs);
- net income stabilization accounts, including a NISA Fund No. 2;
- eligible funeral arrangements;
- tax-free savings accounts; and
- dormant accounts if the balance or value of the account does not exceed US$1,000.

Important notice

Interim treatment of NEW First Home Savings Accounts (FHSA) under Part XIX

The FHSAs are under consideration to be added to the list of the excluded accounts prescribed under section 9006 of the ITR. These accounts do not need to be reviewed, identified or reported at this time.

Dormant accounts

5.22 Financial institutions can apply their normal operating procedures to classify an account (other than annuity contract) as dormant. As long as the balance or value of the dormant account does not exceed US$1,000 on December 31st of the reporting taxation year, it is not subject to due diligence procedures under Part XIX (see paragraphs 11.23 to 11.27 for more information).

Excluded accounts for the purposes of Part XIX are consistent with the types of accounts excluded under Annex II of the Agreement. Life insurance contracts, credit cards or other revolving credit accounts and dormant accounts are on the list of excluded accounts for Part XIX.

Reportable accounts

5.23 Not all financial accounts maintained by a financial institution give rise to reporting requirements.

5.24 A financial account is a reportable account if it is identified as being held by one or more reportable persons or by a passive NFE with one or more controlling persons who are reportable persons. If a financial institution maintains no such accounts, it will have no reporting obligations under Part XIX.

5.25 Once a financial institution has identified the financial accounts it maintains, it needs to review them to identify the jurisdiction in which the account holder is a resident for tax purposes.

A financial account held by a U.S. entity that is a passive NFE is a reportable account under Part XIX if one or more controlling persons reside in one or more reportable jurisdictions. This is the case even if it is also a reportable account under Part XVIII (see Chapters 9 and 12 of this guidance for more information).

5.26 The due diligence procedures that must be followed to identify reportable accounts are first discussed in Chapter 6 of this guidance.

Reportable persons

5.27 A reportable person means an individual or an entity resident in a reportable jurisdiction (see paragraph 5.29) other than:

- a corporation the stock of which is regularly traded on one or more established securities markets;
- any corporation that is a related entity of a corporation described previously;
- a governmental entity;
- an international organization;
- a central bank; or
- a financial institution.

5.28 In the case of a transparent entity that has no residence for tax purposes such as a partnership, the entity is to be treated as a resident in the jurisdiction in which it has its place of effective management. In the case of an estate, the deceased individual is to be treated as a resident in the jurisdiction immediately before death.

Reportable jurisdiction

5.29 For the purposes of Part XIX, a reportable jurisdiction means a jurisdiction other than Canada and the United States.

Financial account types in more detail

Depository account

5.30 A depository account is any commercial, chequing, savings, or an account that is evidenced by a certificate of deposit, investment certificate, certificate of indebtedness, or another similar instrument maintained by a financial institution in the ordinary course of a banking or similar business.

5.31 For the purposes of Part XIX, a depository account includes:

- an account the principal purpose of which is lending, such as a credit card account, and which has a credit balance. However, a credit card account (or other revolving credit facility) will not be considered a depository account (or another form of financial account) if it is an excluded account (see paragraph 5.17);
- a reloadable payment card unless the financial institution is applying AML/KYC identification procedures prior to issuing the card, continues AML/KYC monitoring thereafter and that the monthly deposits cannot exceed US$1,250. In such case, the financial institution must put policies and procedures in place similar to those in paragraph 5.17 to prevent a customer from making a monthly deposit in excess of US$1,250 on the reloadable payment card; and
- an amount held by an insurance company under a guaranteed investment contract or similar agreement to pay or credit interest thereon.

5.32 The account does not have to be an interest-bearing account to be a depository account.

5.33 Amounts held by an insurance company awaiting payment in relation to a cash value insurance contract the term of which has ended will not constitute a depository account. In addition, negotiable debt instruments that are traded on a regulated over-

the-counter market and distributed and held through financial institutions are generally considered financial assets, not depository accounts.

Custodial account

5.34 A custodial account is an account (other than an insurance contract or an annuity contract) that holds one or more financial assets (see paragraph 4.11) for the benefit of another person.

5.35 Cash value insurance contracts and annuity contracts are not considered to be custodial accounts. However, such contracts could be assets that are held in a custodial account. When they are assets in a custodial account, the insurer will need to provide the custodian with the cash value/surrender value of the contracts for any reporting required under Part XIX.

5.36 A custodial account does not exist just because a financial institution holds shares in a corporation in connection with the administration of the corporation's (or related corporation's) employee stock purchase plan.

Annuity contract

5.37 An annuity contract is a contract under which the financial institution agrees to make payments for a period of time, determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an annuity contract according to the law, regulations, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.

5.38 The following are not considered to be an annuity contract:

- annuities that are, or are held within, excluded accounts;
- structured settlements that qualify for treatment as such under the ITA or annuities issued to fund such structured settlements; and

- contracts of reinsurance between two insurance companies in respect of one or more annuity contracts.

5.39 An annuity contract purchased under an RRSP, a RRIF, a RPP, a PRPP, a DPSP, or the Saskatchewan Pension Plan for the benefit of an individual under circumstances in which the ITA provides a tax-deferred rollover to an individual does not have to be reviewed or reported.

Cash value insurance contract

5.40 An insurance contract is a contract, other than an annuity contract, under which the issuer agrees to make payments upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.

5.41 A cash value insurance contract is an insurance contract (other than an indemnity reinsurance contract between two insurance companies) that has a cash value.

5.42 The cash value of a cash value insurance contract means the greater of the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan) and the amount the policyholder can borrow under or with regard to the contract. However, it does not include an amount payable under an insurance contract:

a) solely by reason of the death of an individual insured under a life insurance contract;
b) as a personal injury or sickness benefit, or other benefit, providing indemnification of an economic loss incurred upon the occurrence of the event insured against;
c) as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an insurance contract (other than an investment-linked life insurance or annuity contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective

period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;

d) as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an insurance contract under which the only benefits payable are described in paragraph b); or

e) as a return of an advance premium or premium deposit for an insurance contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract.

5.43 For greater certainty regarding the application of paragraph 5.42 c), an insurance contract that provides critical illness insurance, disability insurance, long term care insurance or other health related accident or sickness benefits, and which would not otherwise be a cash value insurance contract, is not considered to have a "cash value" merely because it includes a return of premium benefit under which all or part of the premiums paid by the policy owner may be refunded, provided that the amount refunded does not exceed the total cumulative premiums paid under the policy.

> The Agreement and the CRS were developed separately. This resulted in the text of the definition of cash value insurance contract between the two to differ slightly. However, with the exception of the US$50,000 exemption under the Agreement, the term is considered to have the same meaning under Part XVIII and Part XIX.

5.44 When a policy becomes subject to a claim and an amount is payable, this does not create a new account. It is still the same policy if the policy has not altogether terminated.

Equity or debt interests

5.45 A financial account includes certain equity and debt interests in financial institutions that maintain accounts.

5.46 In the case of a partnership that is a financial institution, the equity interest means either a capital or profits interest in the partnership. This means that a financial institution that is a partnership will be required to identify and where necessary report on the capital or profits interest of any of the partners who are reportable persons or passive NFEs.

5.47 In the case of a trust that is a financial institution, an equity interest is deemed to be held by any person treated as a settlor or beneficiary of all or a portion of the trust or any other natural person exercising ultimate effective control over the trust.

5.48 A reportable person shall be treated as being a beneficiary of a trust if such person:

- has the right to receive or receives, directly or indirectly, a mandatory distribution from the trust; or
- receives, directly or indirectly, a discretionary distribution from the trust.

Note: For these purposes, a beneficiary who receives a discretionary distribution from the trust will only be treated as a beneficiary of the trust if such person receives a distribution in the calendar year or other appropriate reporting period (for example, either the distribution has been paid or is made payable to the beneficiary). A contingent beneficiary will be treated similarly.

Equity or debt interests in an investment entity that are regularly traded on an established securities market

5.49 Unlike Part XVIII, Part XIX does not exclude equity or debt interests from the definition of financial account on the basis of whether they are regularly traded on an established securities market.

5.50 An exchange traded fund is a fund composed of a group of stocks that track a specific market index, sector group, or commodity. Unlike a traditional mutual fund, units of exchange traded funds trade like individual stocks on established securities markets.

5.51 If an investment dealer or other financial institution intermediates the purchase for a client of a unit in an exchange traded fund or a closed-end fund (the term "ETF" is used to refer to both) that regularly trades on an established securities market and the unit is registered in nominee name on the books of the ETF, the ETF would be considered to maintain a financial account. However, where the unit in the ETF is held in nominee name by a custodial institution, the custodial institution (or in the case of a CSD, its relevant participating member) is responsible for the reporting and not the ETF. ETF responsibilities will be limited to documenting the status of the unit holder on its books and records.

5.52 If a purchase results in a unit being first registered in client name on the books of an ETF, the ETF will have outcomes similar to a traditional mutual fund in connection with units held in client name and the guidance on coordination between funds and the dealers set out in paragraphs 10.10 to 10.15 may be of interest.

Account holders

5.53 To identify the account holder, a financial institution must consider the type of account and the capacity in which it is held.

5.54 In most cases, the identification of the holder of a financial account by a financial institution will be straightforward. Normally, the account holder is the person listed or identified as the holder of the financial account by the financial institution that maintains the account.

5.55 However, if a person (other than a financial institution) holds an account for the benefit of another person (for example, as agent or as nominee), the first-mentioned person will not be treated as holding the account. Instead, the person on whose behalf the account is held is the account holder. For these purposes, a financial institution can 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.

Note: Where a financial account is opened by or on behalf of a child and the child is considered the account holder, the parent or the legal guardian can complete and sign the self-certification form on behalf of the child.

"In trust for" accounts

5.56 Many financial institutions open accounts under an "in trust for" (ITF) convention but there is no consistent industry approach to ITF account naming conventions. An ITF account naming convention is often used to recognize a stated intent by an account opener to commit something to another without any legal obligation to actually do so. In such cases, the person identified as the holder of the account would not be considered to be holding the account for the benefit or account of another person.

Example

A parent in the absence of any formal trust or fiduciary arrangement opens a bank account for a child without relinquishing any control over the account. The financial institution opens the account using the ITF naming convention. An ITF designation is not, in of itself, cause for the financial institution to treat the child as the account holder; the parent would be the account holder.

Accounts held by partnerships

5.57 When a financial account is held in the name of the partnership, it will be the partnership that is the account holder rather than the partners in the partnership.

Accounts held by estates

5.58 When an estate is listed as the holder of a financial account, it is to be treated as the account holder, rather than any beneficiary or other person.

5.59 An account of a deceased person will continue to be treated as an account held by an individual until such time as the financial institution that maintains the account receives and is in possession of a formal notification of the account holder's death, i.e.,

a copy of the deceased's death certificate or will. The financial institution must treat the account of the deceased person as having the same status that it had prior to the death of the account holder until the date it obtains a formal notification. Once such notification is received, an account that is held solely by the estate of the deceased individual will not be considered a financial account in the year the notification is received or in subsequent years.

5.60 In the case where a deceased person jointly held an account with another person and upon his or her death, their entitlement automatically transfers to the surviving joint holder or holders, the account would retain its status as a financial account and be subject to due diligence and reporting obligations until the time the financial institution receives a formal notification of the death. Where the surviving account holder is a reportable person, the account will remain reportable. However, where the surviving account holder is not a reportable person, the account will not be required to be reported in the year a formal notification of the death is received.

Joint accounts

5.61 When an account is jointly held, each of the joint holders is considered an account holder for the purposes of Part XIX. Moreover, the balance or value in the account is to be attributed in full to each holder of the account. This will apply for both aggregation and reporting purposes.

5.62 If an account is jointly held by an individual and an entity, the financial institution will need to apply both the individual and the entity due diligence requirements in relation to that account.

Holders of cash value insurance contracts and annuity contracts

5.63 An insurance or annuity contract is held by each person entitled to access the contract's value (for example, through a loan, a withdrawal, a surrender, or otherwise) or with the ability to change a beneficiary under the contract.

5.64 When no person can access the contract's value or change a beneficiary, the account holder is any person named in the contract as an owner and any person who is entitled to receive a future payment under the terms of the contract.

5.65 When an obligation to pay an amount under the contract becomes fixed, each person entitled to receive a payment is an account holder.

Chapter 6 – General requirements

Due diligence procedures

6.1 Reporting financial institutions must comply with verification and due diligence procedures under Part XIX in connection 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 and Part XVIII. The required procedures under Part XIX are, in many respects, determined by whether a particular account is:

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

6.2 Due diligence is required to identify reportable accounts. Financial institutions 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 financial institution having to:

- search for certain indicia linked to an account holder (see paragraph 7.24 for a list of indicia); and/or
- request that account holders self-certify their residence status.

6.3 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.

6.4 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 financial institution in its entirety;
- the account becomes an excluded account; or
- the reporting financial institution becomes a non-reporting financial institution.

6.5 A financial institution 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 financial institutions are not expected to provide information on all aspects of tax residency. If an account holder asks for such a clarification, a financial institution can refer the account holder to seek professional tax advice or to review information available at the CRA and the OECD. It is the responsibility of account holders to determine where they are resident for tax purposes.

6.6 This chapter discusses certain common concepts that support the due diligence and identification processes that are covered in more detail in Chapters 7, 8 and 9 of this guidance.

Service providers

6.7 A financial institution can rely on one or more service providers to meet its obligations under Part XIX, however, the due diligence and information reporting obligations remain the responsibility of the financial institution. The mere provision of

service by a third party does not cause it to maintain a financial account for the purposes of Part XIX, even if it is a financial institution in its own right.

Documentation collected by other persons

6.8 A financial institution 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 financial institution. The agent can retain the documentation as part of an information system maintained for one or more financial institutions provided that, under the system, any financial institution 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 financial institution 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 financial institutions, 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 financial institution (for example, a fund managed by the fund manager).

6.9 The financial institution 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 financial institutions 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.

6.10 Under the provisions of paragraphs 6.8 and 6.9 above, 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 financial institutions as long as all the reporting financial institutions 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.

Record keeping

6.11 A financial institution 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.

6.12 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.

Note: Documentation can be shared and used in relation to more than one financial account.

6.13 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.

6.14 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.

6.15 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.

6.16 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.

6.17 When for the purposes of AML/KYC procedures in Canada a financial institution can rely on notations of records or documents reviewed, it will be treated as having retained a record of such documentation if it retains in its files:

- the date the documentation was reviewed;
- the type of document and jurisdiction of issue (for example, a Canadian passport, a foreign driver's licence); and
- the document's identification number where present (for example, passport number).

Note: A notation in the record that a self-certification has been reviewed cannot be relied upon.

Form of self-certification

6.18 A financial institution is required to obtain a self-certification to establish whether an account holder is a reportable person or to clarify the status of a particular entity. This will generally be the case with respect to the opening of a new account and can apply to a preexisting account and when there is a change in circumstances to an existing account.

6.19 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 financial institution to fulfil its due diligence and reporting obligations.

6.20 A self-certification can be obtained verbally, electronically or on a stand-alone document, or it can be part of a more comprehensive document used by a financial institution in connection with the account opening as long as it includes an element allowing the account holder to positively acknowledge by signature or other means that the self-certification is valid. (For example, the self-certification can be part of the account opening documentation.)

6.21 Self-certification forms have been developed by the CRA to assist financial institutions in establishing the status of account holders under Part XIX:

- RC520: Declaration of Tax Residence for Individuals – Part XIX of the Income Tax Act
- RC521: Declaration of Tax Residence for Entities – Part XIX of the Income Tax Act

6.22 Combined self-certification forms have also been developed by the CRA to assist financial institutions that are required to comply with both Part XVIII and Part XIX:

- RC518: Declaration of Tax Residence for Individuals – Part XVIII and Part XIX of the Income Tax Act
- RC519: Declaration of Tax Residence for Entities – Part XVIII and Part XIX of the Income Tax Act

6.23 While these forms are not prescribed (i.e., they are not required to be used), financial institutions are encouraged to use them. Financial institutions that develop their own forms must ensure that their forms appropriately capture all the proper attestations and information required by Part XIX and Part XVIII. For example, the self-certification must be designed to ask the account holder and its controlling persons where required (in the case of an entity account) to declare their tax residency. Examples of the types of questions and instructions that are acceptable are provided in the CRA self-certification forms.

6.24 As stated in paragraph 6.18, a self-certification is generally required upon opening a new account. It can also apply to a preexisting account and when there is a change in circumstances to an existing account. The opening of a new account is a process that can take different forms (see paragraphs 8.23 to 8.36). The account opening process will typically be completed when the account holder is able to transact in the account. For more information on when a self-certification is required for a preexisting account, new account and when there is a change in circumstances, see Chapters 7 to 9 of this guidance.

6.25 Where a self-certification is obtained during the account opening process but validation of the self-certification cannot 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.

6.26 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.

6.27 Given that obtaining and validating a self-certification is a critical aspect of ensuring that Part XIX is effective, a financial institution 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".

6.28 In all cases, financial institutions must ensure that they have obtained and validated the self-certification in time to be able to meet their due diligence and reporting obligations. A financial institution that fails to obtain and validate a self-certification when required or to take effective measures to obtain and validate a self-certification is liable to a penalty of up to $2,500 for each such failure under subsection 162(7) of the ITA, as mentioned in paragraph 12.58.

6.29 More information on the validation of self-certifications is found in Chapters 7 to 9 of this guidance.

Confirming the reasonableness of self-certifications

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

6.31 In assessing whether reliance can be placed on a self-certification, a financial institution 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. In addition, financial institutions should adjust their procedures to take into account the results of the OECD's risk analysis on the citizenship and residence by investment (CBI/RBI) schemes in confirming the reasonableness of the self-certification. Some CBI/RBI schemes are open to potential misuse and could be used to undermine the CRS due diligence procedures.

Example

A financial institution has received a new account opening instruction from an individual which includes a self-certification regarding the account holder's residence status. The financial institution's AML/KYC procedures include checking the identity of the individual (name, address, and date of birth) against the records of a credit reference agency. It should also include checking the results of the OECD's risk analysis to ensure the account holder is not claiming to be a resident of a potential high-risk CBI/RBI scheme listed on the OECD website. The check confirmed the identity and residency of the individual.

The financial institution can accept the self-certification as long as information in the account opening instruction or other information that is otherwise readily at hand does not discredit its validity or is not being misused to undermine the CRS due diligence.

6.32 CBI/RBI schemes are being offered by a number of jurisdictions and allow foreign individuals to obtain citizenship or temporary or permanent residence rights on the basis of local investments or against a flat fee. Identity cards and other documentation obtained through CBI/RBI schemes can be misused to misrepresent an individual's jurisdiction(s) of tax residence and financial institutions should take appropriate measures to ascertain the tax residency of such individuals.

6.33 To the extent that the doubt arises from the fact that the account holder or controlling person is solely claiming residence in a jurisdiction offering a potentially high-

risk CBI/RBI scheme, financial institutions may consider raising the following questions, to ensure the provided self-certification or documentary evidence is correct and reliable:

- Did you obtain residence rights under a CBI/RBI scheme?
- Do you hold residence rights in any other jurisdictions?
- Have you spent more than 90 days in any jurisdictions during the previous year?
- In which jurisdictions have you filed personal income tax returns during the previous year?

6.34 The CRS is an internationally-agreed standard that over 100 jurisdictions are committed to. As such, there is an interest to promote consistent applications across jurisdictions. However, jurisdictions are separately implementing the CRS into their own domestic law and this can give rise to differences in domestic implementation. Therefore, in the cross-border context, reference needs to be made to the law of the implementing jurisdiction. For example, the question can arise as to whether a particular entity that is resident in a participating jurisdiction that has a financial account with a Canadian financial institution meets the definition of a financial institution. In such a case, the classification of the entity will be resolved under the law of the participating jurisdiction in which the entity is resident and a Canadian financial institution should not treat the self-certification as unreliable or incorrect just because a non-resident entity declares a status other than it would be if determined under Part XIX. However, if the entity is resident in a non-participating jurisdiction, Canada's rules must be used to determine the entity's status. To determine whether an entity resides in a participating jurisdiction, refer to the List of participating jurisdictions.

Example

A non-resident personal trust in a participating jurisdiction that is professionally managed by an investment entity self-certifies that it is a financial institution. A financial institution should not treat the self-certification as unreliable or incorrect just because the trust would be viewed as a passive NFE under Canadian law.

Aggregation rules

6.35 To determine whether accounts are subject to review, a financial institution can be required to aggregate accounts held by individuals and entities.

6.36 Part XIX contemplates accounts being aggregated in the context of a computerized process, but only when the financial institution's current computerized systems link the accounts by reference to a data element (for example, a customer number or a taxpayer identification number (TIN)) and allow account balances or values to be aggregated. A TIN, which includes a Canadian-issued social insurance number (SIN), a business number (BN) or a trust account number, can be used for this purpose.

Note: Accounts are not considered linked just because they are connected as part of a broader account grouping, such as a household or family relationship.

6.37 If the system can link accounts by a common identifier, but does not provide details of the balance or value of the accounts, a financial institution is not required to undertake the aggregation requirements.

6.38 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 is capable of performing 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.

Excluded accounts

6.39 If a product is exempt from being treated as a financial account, it should not be included for the purposes of aggregation. For example, if an individual holds an RRSP as well as several depository accounts with the same financial institution and its

information technology systems allow all these holdings to be linked, the depository accounts are aggregated, but the RRSP is not.

Related entity accounts

6.40 When a computer system links accounts across related entities, the financial institution is required to aggregate the accounts when it considers whether any monetary threshold in Part XIX applies. However, once a financial institution has considered the thresholds, it will be responsible for reviewing and reporting only on the accounts it holds.

Aggregation of preexisting individual accounts

6.41 For purposes of determining the aggregate balance or value of accounts held by an individual to determine whether the financial account is a high value account, all accounts held by the individual including any high value account assigned to a relationship manager must be aggregated to the extent that the financial institution's computerized system can link the accounts by reference to a data element and allow the account balances or value to be aggregated.

6.42 The following examples illustrate outcomes from the aggregation rules. Unless otherwise stated, all balances or values referred to in the following examples are balances or values as at June 30, 2017.

Example 1 – Application of the US$1,000,000 threshold to high value accounts

Company B is a reporting financial institution that must consider the high value accounts threshold under subsection 270(1) of the ITA. It can link and aggregate the following financial accounts of an account holder by a client number:

- a depository account with a balance of US$40,000
- a custodial account with a balance of US$980,000

The aggregation rules apply for the purposes of determining whether a balance or value of each preexisting individual account exceeds US$1,000,000. Since the aggregated total exceeds US$1,000,000, the enhanced review procedures for high value accounts, including the relationship manager enquiry, apply in respect of both accounts to determine if the account holder is resident in a reportable jurisdiction (see paragraphs 7.35 to 7.49).

Example 2 – Aggregation involving joint accounts

Two account holders have three depository accounts between them. Each has a deposit account and they share a joint deposit account. The accounts are maintained by the same financial institution and have the following balances:

- Client A US$35,000
- Client B US$15,000
- Joint account US$970,000

A data element in the financial institution's computer system allows the joint account to be associated with both Client A and Client B. The system shows the individual balances of the accounts and permits the balances to be electronically aggregated.

The balance of the joint account is attributable in full to each of the account holders. The aggregate balance for Client A is US$1,005,000 and for Client B is US$985,000.

Since the amounts after aggregation exceed the threshold of US$1,000,000 with respect to Client A, the enhanced review procedures for high value accounts, including the relationship manager enquiry, apply to Client A to determine if the account holder is resident in a reportable jurisdiction. And, since the aggregated amount is below the threshold with respect to Client B, Client B is not subject to the enhanced review procedures for high value accounts.

Example 3 – Aggregation of negative balances

Two account holders have three depository accounts between them. Each has a deposit account and they share a joint deposit account. The accounts are maintained by the same financial institution and have the following balances:

- Client A US$1,001,000
- Client B US$49,000
- Joint account (US$8,000)

The accounts can be linked and therefore must be aggregated. But, for the purposes of aggregation, the negative balance of the joint account is treated as nil. In this example, after applying the threshold of US$1,000,000, the enhanced review procedures for high value accounts, including the relationship manager enquiry, must be applied to Client A's account but not to Client B's account.

Aggregation of preexisting entity accounts

6.43 For purposes of determining the aggregate balance or value of accounts held by an entity, all accounts held by the entity must be aggregated when the financial institution considers the US$250,000 threshold set out in subsection 275(1) of the ITA and the financial institution's computerized system can link the accounts by reference to a data element and allow the account balances or value to be aggregated.

6.44 The following examples illustrate outcomes from the aggregation rules. Unless otherwise stated, all balances or values referred to in the following examples are balances or values as at June 30, 2017.

Example 4 – Aggregation of preexisting entity accounts

Entity Y has two depository accounts with Bank X. The balances are as follows:

- Depository account US$150,000
- Depository account US$110,000

Bank X has not elected to disregard the US$250,000 threshold in subsection 275(1) of the ITA and its computer system allows the account balances to be aggregated.

The accounts must be reviewed since the aggregated balance exceeds the US$250,000 threshold. The review determines that Entity Y is a reportable person and therefore the accounts are reportable.

Example 5 – Aggregation of preexisting entity accounts

Individual A has a depository account with Bank X. Individual A also controls 100% of Entity Y and 50% of Entity Z, both of which also have a depository account with Bank X. None of the accounts are managed by a relationship manager. The balances are as follows:

- Individual A depository account US$35,000
- Entity Y depository account US$130,000
- Entity Z depository account US$110,000

Entity Z's account has never exceeded US$250,000.

Bank X has not elected to disregard the US$250,000 threshold and its computer system allows the account balances to be aggregated.

Where there is no relationship manager, an account held by a person can only be aggregated with other accounts held by that person.

In this example, both entity accounts are not required to be reviewed since the aggregation rule does not apply to cause the entity accounts to exceed the threshold that triggers the review. However, the individual account is subject to review and is reportable if the individual is resident in a reportable jurisdiction.

Example 6 – Aggregation of preexisting entity accounts

Individual A has a custodial account with Bank X. Individual A also controls 100% of Entity Y and 50% of Entity Z. Entity Y holds a custodial account and Entity Z holds a depository account, (both accounts are with Bank X). A relationship manager is assigned to Individual A. The balances are as follows:

- Individual A custodial account US$35,000
- Entity Y custodial account US$1,180,000
- Entity Z depository account US$110,000

Entity Z's depository account has never exceeded US$250,000.

Bank X must make enquiry of the relationship manager assigned to Individual A to establish whether the manager knows of any accounts that are directly or indirectly owned, controlled or established (other than in a fiduciary capacity) by Individual A.

The relationship manager knows Individual A is the controlling person of Entity Y and Entity Z and, therefore, is required to aggregate the three accounts. Since the aggregated balance of Individual A's accounts exceeds US$1,000,000, Individual A's account is a high value account subject to the enhanced review procedures (see paragraphs 7.35 to 7.49). The value of Entity Y's account exceeds the US$250,000 threshold and must be reviewed whereas Entity Z's account is not required to be reviewed as its balance does not exceed that threshold.

Separate account reporting

6.45 If the aggregation rules result in two or more accounts being subject to review and the review determines that the accounts are reportable, each account must be reported individually on a Part XIX Information Return. A financial institution must not consolidate the accounts for reporting purposes.

Example 7 – Separate account reporting

Person Y holds three depository accounts with Bank Z. The balances are as follows:

- Account 0001 US$63,000
- Account 0002 US$72,000
- Account 0003 US$925,000

The aggregated balance totals US$1,060,000, causing all three accounts to be subject to the enhanced review procedures for high value accounts, including the relationship manager enquiry. The review determines that Person Y is resident in a reportable jurisdiction. Therefore, all three accounts are reportable. Bank Z must report each account individually and not consolidate the information into a single information return for reporting purposes.

Aggregation of funds

6.46 In the context of a family of funds, accounts can be linked for purposes of centralized statement preparation. However, if no fund controls another fund and none of the funds are under common control from an ownership perspective, aggregation of unit holdings outside of a particular fund is not required unless the fund is under common management and such management is subject to the due diligence obligations of the investment entities.

6.47 A "family of funds" is not a term defined in the ITA. However, it generally means a group of mutual funds offered by one investment or fund company. Generally, the constituent funds cover a wide range of fund categories and investment objectives, also referred to as a "mutual fund family" or simply a "fund family".

6.48 A fund manager of a family of funds can act on behalf of the funds and can stand in their place to meet the obligations of the funds under Part XIX.

6.49 Aggregation is required across the family of funds when the fund manager administering them or its service provider uses the same computerized systems to link the accounts.

6.50 A fund manager can use a service provider to manage the client relationships of the account holders (the investors in the funds). When different service providers are used by the same agent or fund manager, the systems may not link account information across service providers and aggregation is required only at the level of the service provider.

6.51 For example, when a fund manager manages all the client relationships through a single transfer agent, aggregation is performed at the level of the fund manager (to the extent that the system links accounts).

6.52 When a fund manager has two fund families each using a different transfer agent, it is understood that, in practice, aggregation may be possible only at the fund family or service provider level, since this is where the client relationship is held.

Currency conversion

6.53 Most accounts maintained by financial institutions are denominated in Canadian dollars.

6.54 When accounts are denominated in a currency other than U.S. dollars, any applicable monetary threshold set out in Part XIX must be converted into the currency in which the accounts are denominated before determining whether it applies. For Canadian dollar denominated accounts or other non-U.S. dollar denominated accounts, this conversion can be done using the spot rate for the relevant date published by the Bank of Canada or a reputable and widely-used financial service.

Example

The threshold to be applied to a Canadian dollar denominated preexisting individual high value account when the published Bank of Canada spot rate for June 30, 2017, is 1.2500 CAD would be CAN$1,250,000 (US$1,000,000 * 1.2500).

Note: A financial institution can treat the Canadian dollar at par with the U.S. dollar in respect of a particular year when the Canadian dollar was, at all times in that year, valued at less than the U.S. dollar.

6.55 In determining whether a preexisting individual account is a high value account or that a preexisting entity account has an aggregate account balance or value that does not exceed US$250,000, the relevant rate to use is the spot rate on June 30, 2017. In determining whether a preexisting account continues to meet the threshold in subsequent years, the relevant rate to use is the spot rate on the last day of the calendar year or other appropriate period.

6.56 Alternatively, a financial institution could convert the Canadian dollar denominated balances into U.S. dollars and then apply the U.S. dollar thresholds. Regardless of the method of conversion, the rules for determining the spot rate apply.

6.57 The method of conversion must be applied consistently.

Chapter 7 – Preexisting individual accounts

Introduction

7.1 If a reporting financial institution 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 below. If an individual account has to be reviewed, the

financial institution must perform specific procedures to determine whether the account holder is resident in a reportable jurisdiction. When the financial institution determines that the account holder is resident in a reportable jurisdiction, reporting obligations to the CRA will exist in connection with the account.

Under Part XIX, a financial institution is required to review all individual accounts. As a result, accounts that were not required to be reviewed under Part XVIII may have to be reviewed under Part XIX.

7.2 This chapter provides guidance on the review procedures and reporting requirements in respect of preexisting individual accounts. New individual accounts are covered in Chapter 8 and entity accounts are discussed in Chapter 9 of this guidance.

Definition of preexisting individual accounts

7.3 A preexisting individual account is an account maintained by a financial institution on June 30, 2017 if held by one or more individuals.

7.4 Preexisting individual accounts fall into one of three categories. These are:

- cash value insurance contracts and annuity contracts unable to be sold to non-residents;
- lower value accounts; and
- high value accounts.

Accounts not required to be reviewed, identified or reported

7.5 A financial institution is not required to perform review procedures on accounts that were closed before July 1, 2017 (see paragraph 12.45 for account closures). Provided certain conditions are met, a financial institution is also not required to perform review procedures on cash value insurance contracts and annuity contracts.

Cash value insurance contracts and annuity contracts

7.6 Preexisting cash value insurance contracts or annuity contracts that are effectively unable to be sold to non-residents by virtue of laws or regulations in Canada or other jurisdictions do not need to be reviewed, identified, or reported.

7.7 The sale of contracts to non-residents will be considered effectively prevented if the issuing specified insurance company (excluding any branch located outside of Canada) is not licensed to sell insurance in any other jurisdictions and the products are not registered with any other securities regulators. The Canadian operations of an insurer incorporated in Canada are considered to be effectively prevented from selling to non-residents through its Canadian operations. This is the case even though that insurer has a branch in a foreign jurisdiction that is licensed to carry on insurance business in the foreign jurisdiction or some of the products of the foreign branch are registered with the foreign securities regulators.

Assignment of preexisting insurance contracts

7.8 When ownership of a preexisting cash value insurance contract or annuity contract is assigned to another person (referred to as an "absolute assignment" in the insurance industry), the contract will be treated as a new account. This is to ensure that preexisting insurance contracts assigned after June 30, 2017, to non-residents are correctly identified and reported, where necessary.

7.9 Once the Canadian insurance company becomes aware that an assignment has been made, it will need to perform due diligence procedures on the new account holder (see the procedures in Chapter 8 of this guidance).

Individual beneficiaries of a cash value insurance contract or an annuity contract.

7.10 A financial institution may presume that an individual beneficiary (other than the owner of the contract) who receives a death benefit under a cash value insurance contract or an annuity contract is not a reportable person and may treat such financial

account as other than a reportable account unless the financial institution knows or has reason to know that the beneficiary is a reportable person.

7.11 A financial institution has reason to know that a beneficiary of a cash value insurance contract or an annuity contract is a reportable person if the information collected by the financial institution and associated with the beneficiary contains indicia as described in paragraph 7.24. If a financial institution knows or has reason to know that the beneficiary is a reportable person, the financial institution must attempt to cure the indicia as explained below in paragraphs 7.28 to 7.32.

Accounts subject to review

7.12 A preexisting individual account that is required to be reviewed will be a reportable account under Part XIX if the due diligence procedures set out in sections 273 to 277 of the ITA cause it to be identified as a financial account held by a reportable person.

Lower value accounts

7.13 A lower value account is a preexisting individual account with a balance or value that is equal to or less than US$1,000,000 on June 30, 2017. Such an account remains a lower value account until it exceeds US$1,000,000 on December 31, 2018, or on December 31 of any subsequent year.

Due diligence for lower value accounts

7.14 Two potential options exist for a financial institution to perform due diligence in connection with a preexisting lower value individual account. The first method is referred to as the "residence address test". The second method is referred to as the "electronic record search".

Residence address test

7.15 To apply the residence address test, a financial institution 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.

7.16 In general, an in-care-of address or a post office box is not a residence address. However, a post office box would generally be considered a residence address if it forms part of an address together with another identifier such as a street, an apartment number, or a rural route, which clearly identifies the actual residence of the account holder. In special circumstances, such as that of military personnel or when the address clearly identifies a residential home, an in-care-of address can constitute a residence address.

Current residence address

7.17 A residence address is considered to be current where it is the most recent residence address that was recorded by the financial institution 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.

7.18 Where the financial institution 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 financial institution should not treat the service provider's address as the residence of the account holder.

7.19 Where the account is a dormant account (as described in paragraph 5.22) the mailing or residence address attached to the account can be considered as current during the period of dormancy.

Acceptable documentary evidence

7.20 The residence address test can only be used by a financial institution in connection with a particular account if the current address of the account holder in the financial institution's records is known to have been based on documentary evidence. This requirement is satisfied if the financial institution'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.

7.21 The term "documentary evidence" for individuals includes any of the following:

- a certificate of residence issued by an authorized government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the account holder claims to be a resident;
- any valid identification issued by an authorized government body that includes the individual's name and is typically used for identification purposes (for example, a driver's licence); and
- any audited financial statement, third-party credit report, bankruptcy filing, or securities regulator's report.

7.22 Identification documents issued in Canada which constitute documentary evidence include:

- a passport;
- a national identity card;
- a driving licence;
- a provincial health insurance card (if not prohibited by provincial law);
- a birth certificate provided by an individual under the age of 21;

- a government-issued age of majority card;
- a Canadian citizenship card;
- a Record of Landing (IMM1000) or a Confirmation of Permanent Residence (IMM 5292) issued before 1/1/2004;
- a permanent residence card;
- a Canadian Armed Forces identity card;
- a government-issued Certificate of Indian Status;
- an Alberta photo identification card;
- a B.C. identification card;
- a Government of Newfoundland and Labrador photo identification card;
- a Nova Scotia photo identification card;
- a Prince Edward Island voluntary ID;
- a Saskatchewan mandatory photo ID;
- a Manitoba identification card; and
- a NEXUS card.

Other considerations

7.23 Where a financial institution 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 financial institution cannot apply (or simply decides not to rely on) the residence address test it must review the electronic records search for any indicia.

Electronic record searches for lower value accounts

7.24 Under the electronic record search method, a financial institution 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 Canada;
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 financial institution has on file for the account holder.

Effects of not finding any indicia for lower value accounts

7.25 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

7.26 If any indicia described in paragraph 7.24 a) to e) 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 financial institution 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 (see paragraphs 7.28 to 7.32). The requirement to attempt to cure indicia is a mandatory requirement.

Note: The indicium contained in paragraph 7.24 a) is an identification of the account holder as a resident of a reportable jurisdiction. This indicium is met if the financial institution'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.

7.27 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 financial institution must in the order most appropriate to the circumstances:

- apply the paper record search described in paragraph 7.37; 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.

Note: 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 financial institution must report the account as an undocumented account.

For the purposes of Part XIX, the hold mail instruction indicium applies to both lower value and high value accounts while for the purposes of Part XVIII it applies only to high value accounts.

Curing indicia

7.28 "Curing indicia" is a term used to describe the actions required to be taken by a financial institution 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.

7.29 When an indicium is:

- a current mailing or residence address in a reportable jurisdiction,

- one or more telephone numbers in a reportable jurisdiction (and no telephone number in Canada), or
- 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 financial institution 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 non-reportable status.

7.30 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).

7.31 There will be a standing instruction to transfer funds to an account if the account holder has mandated the financial institution 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.

7.32 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 financial institution unless the financial institution 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 non-reportable status.

High value accounts

7.33 A high value account is a preexisting individual account (other than a cash value insurance contract or an annuity contract referred to in paragraph 7.6) with a balance or value that exceeds US$1,000,000 on June 30, 2017, or on December 31, 2018, or on December 31 of any subsequent year.

7.34 The aggregation rules described in Chapter 6 of this guidance apply to determine whether the aggregate balance or value of a financial account exceeds the US$1,000,000 threshold.

Enhanced review procedures for high value accounts

7.35 Enhanced review procedures apply with respect to high value accounts. Financial institutions are required to apply:

- the electronic record search for high value accounts (see paragraph 7.36);
- a paper record search for high value accounts (see paragraph 7.37); and
- a relationship manager enquiry for high value accounts (see paragraph 7.39).

Electronic record searches for high value accounts

7.36 A financial institution must review its electronically searchable data for the indicia listed in paragraph 7.24. If an indicium in relation to a reportable jurisdiction is found, the financial institution must take the actions discussed in paragraph 7.51.

Paper record searches for high value accounts

7.37 A paper record search is required unless the financial institution can access all of 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.

7.38 If a financial institution does not have the capacity or does not capture 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 financial institution 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 financial institution 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

7.39 In addition to the electronic and paper record searches described above, the enhanced review procedures require financial institutions to make certain enquiries of relationship managers. The term "relationship manager" is not defined in Part XIX. However, the CRS provides that a relationship manager is an officer or other employee of a financial institution who oversees or manages the financial accounts of particular account holders on an ongoing basis.

The information below reveals that the term "relationship manager" is considered to have the same meaning for purposes of Part XVIII and Part XIX.

7.40 A relationship manager has a role in connection with a financial institution'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.

7.41 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.

7.42 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 financial institution 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.

7.43 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 financial institution without causing the employee to be a relationship manager. For example, a person at a financial institution 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 financial institution employee who generally performs front-desk services for walk-in customers is not a relationship manager.

7.44 For purposes of Part XIX, it would be exceptional for the CRA to view more than one person as a relationship manager for any particular account.

7.45 A relationship manager plays a role in connection with determining whether a preexisting individual account is a high value account. A relationship manager assigned to a preexisting account held by an individual must be asked to determine whether he or she knows of any more accounts at the financial institution 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 US$1,000,000. If that is the case, the financial institution must treat each account held by the individual as a high value account.

7.46 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 financial institution must consider whether a relationship manager associated with the high value account has actual knowledge that identifies the account holder as a reportable person.

7.47 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.

7.48 A financial institution 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 financial institution is required to establish and maintain a record of its procedures.

7.49 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 US$1,000,000.

Effects of not finding any indicia for high value accounts

7.50 When no indicia in paragraph 7.24 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

7.51 When one or more indicia in paragraph 7.24 a) to e) 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 financial institution 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 paragraphs 7.28 to 7.32). If the steps undertaken do not reveal that the account holder is not a resident in a reportable jurisdiction, the financial institution must treat the account holder as a resident for tax purposes of each reportable jurisdiction for which an indicium is identified.

7.52 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 outlined in paragraph 7.24, then the financial institution 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 financial institution must report the account as an undocumented account.

7.53 A financial institution 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 of May 1. 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 financial institution 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 CRA, it is expected that the financial institution will report the account based on the information in its possession.

Additional procedures applicable to high value accounts in subsequent years

7.54 Once a financial institution 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 financial institution must re-apply the enhanced review procedures annually until such account ceases to be undocumented.

7.55 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 financial institution responsible for Part XIX reporting.

Change in circumstances

7.56 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.

7.57 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 financial institution 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 financial institution other than changing the address in its records.

7.58 If a change in circumstances is identified that results in one or more indicia being associated with the account, the financial institution 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 (see paragraphs 7.28 to 7.32). 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 90 days following the notice or discovery of such change, the account holder fails to provide the information requested, the financial institution must treat the account as a reportable account with respect to each jurisdiction for which an indicium is identified.

7.59 If a financial institution has relied on the residence address test described in paragraph 7.15 and there is a change in circumstances that causes the financial institution to know or have reason to know that the original documentary evidence is incorrect or unreliable, the financial institution 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 financial institution must apply the electronic record search procedure for lower value accounts described in paragraphs 7.24 to 7.27.

Relevance of records previously reviewed

7.60 A self-certification or documentary evidence that has been previously reviewed and is still maintained by the financial institution may be relied upon for purposes of curing indicia unless the financial institution knows or has reasons to know that the self-certification or documentary evidence is incorrect or unreliable. A document such as a driver's licence that was previously reviewed and is still maintained does not lose its reliability for the purposes of curing the indicia just because it expired between the time it was earlier reviewed and the time due diligence to cure indicia is performed (for example, a driver's licence with an expiry date of December 31, 2016, that was reviewed by a financial institution earlier in 2016 and is maintained by it is not, by virtue of that expiry alone, ineligible to be relied upon by the financial institution in 2017).

7.61 At the same time, the reliability of a previously reviewed document erodes over time. A self-certification from an account holder that declares the status of not being a resident of a reportable jurisdiction obtained a week before finding indicia will be significantly more reliable in curing that indicia compared to what would be the case if the certification were a year old. The time at which an earlier obtained self-certification or document becomes unreliable depends on the circumstances.

Validation of self-certification

7.62 Earlier sections of this chapter describe various situations in which a financial institution can request a self-certification from an account holder.

7.63 A self-certification must include a clear declaration from the account holder as to whether he or she is a resident for tax purposes in a reportable jurisdiction.

7.64 If the self-certification obtained establishes that the account holder is not a reportable person, the financial institution is not required to treat the account as a reportable account unless the financial institution knows, or has reason to know, that the self-certification is unreliable.

7.65 The self-certification is valid if it is signed (or otherwise positively affirmed) by the account holder, it is dated, and it contains the account holder's:

- Name
- Residence address
- Jurisdiction of residence for tax purposes
- Foreign TIN with respect to each reportable jurisdiction (if the account holder is a reportable person)
- Canadian TIN (if applicable)
- Date of birth

Note: 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 the TIN, the financial institution must use reasonable efforts to obtain the TIN in order to report it on the Part XIX Information Return.

7.66 Although there is no requirement for a financial institution to report a foreign TIN or date of birth for a preexisting individual account holder who resides outside of Canada until the end of the second calendar year following the year in which such account is identified as a reportable account, having account holders furnish their TINs and date of birth when they self-certify is desirable. An account holder that does not provide a foreign TIN on request in connection with a preexisting account that is required to be reported, may be liable to a penalty of $500 for each such failure under subsection 281(3) of the ITA where the jurisdiction in which the account holder is

resident issues and collects TINs (see paragraphs 12.23 to 12.29). If the account holder is a reportable person and does not have a TIN, the account holder must apply for a TIN no later than 90 days after the request is made and provide it to the financial institution within 15 days of receipt, unless the jurisdiction of residence does not issue or collect TINs. A financial institution that has identified a reportable account but has not received a TIN from the account holder, must still report the account by filing a Part XIX information return to the CRA.

7.67 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 financial institution must rely on documentary evidence of that person's authority to act on behalf of the account holder.

Determining tax residency of an individual

7.68 An account holder may be unsure whether he or she is a non-resident of Canada and may ask a financial institution for clarification about how to determine tax residency. Depending on the situation, these rules can be complex, and financial institutions are not expected to provide information on all aspects of tax residency. If an account holder asks for such a clarification, a financial institution can refer the account holder to seek professional tax advice or to review information available at the CRA and the OECD. It is the responsibility of account holders to determine where they are resident for tax purposes.

Timing of reviews

Lower value accounts

7.69 The review of preexisting individual accounts that are lower value accounts on June 30, 2017, must be completed by December 31, 2019.

7.70 Where a preexisting lower value or high value account is closed after June 30, 2017, but prior to the financial institution carrying out its due diligence procedures, the account still needs to be reviewed. Where, following the due diligence procedures the account is found to be reportable, the financial institution must report the information for the closed account. Where the account is closed and the financial institution has no continuing contractual relationship with the account holder and therefore is unable to undertake action in relation to any indicia or is unable to receive a response to any query, the account should be treated as a reportable account.

Example

On June 30, 2017, a financial institution determines a particular depository account is a lower value account (the balance of the account is equal to or less than US$1,000,000). The financial institution completes due diligence procedures on the lower value account in March 2018 and determines that the account is held by a non-resident. The financial institution is required to report the account with respect to 2018 on the Part XIX Information Return filed with the CRA before May 2, 2019.

High value accounts

7.71 The review of preexisting individual accounts that are high value accounts on June 30, 2017 must be completed by December 31, 2018.

7.72 If an account with a balance over US$1,000,000 on June 30, 2017 is identified as reportable in 2017, the financial institution is required to report the account with respect to 2017 on the Part XIX Information Return filed with the CRA before May 2, 2018. If an account with a balance over US$1,000,000 on June 30, 2017 is not identified as reportable in 2017 it must be reviewed before December 31, 2018. If the financial institution is required to report the account, it must be reported with respect to 2018 (but not 2017) on the Part XIX Information Return filed with the CRA before May 2, 2019.

7.73 When the balance or value of an account does not exceed US$1,000,000 on June 30, 2017, but does on December 31, 2018, or on December 31 of any subsequent calendar year, the financial institution must perform the enhanced review procedures described for high value accounts by December 31 of the year after the year in which the balance or value exceeded US$1,000,000. Any such account that is a reportable account is required to be reported in respect of the year in which it was identified as being reportable. Once a financial institution has performed the enhanced review procedures, it is not required to re-apply those procedures, other than a relationship manager enquiry, on the high value account in any subsequent year.

Example

The balance of a custodial account held at a financial institution was US$900,000 on each of June 30, 2017, December 31, 2018, and December 31, 2019. The financial institution completed the due diligence procedures applicable to lower value accounts in May 2019 and determined that the account was not reportable. The balance of the account was US$1,100,000 on December 31, 2020. As a result, the financial institution was required to review the account using the due diligence procedures applicable to high value accounts by December 31, 2021. The financial institution completed its due diligence review in April 2021 and determined that the account was reportable. Consequently, it is required to report the account with respect to 2021 on the Part XIX Information Return filed with the CRA before May 2, 2022. Additionally, reporting on the account is required in all subsequent years on an annual basis unless the account holder ceases to be a reportable person.

Alternative due diligence procedures for preexisting individual accounts

7.74 Financial institutions can apply the due diligence procedures for new accounts to preexisting accounts, and the due diligence procedures for high value accounts to lower value accounts. If a financial institution decides to apply the new account procedures, the rules otherwise applicable to preexisting accounts will continue to apply. For example, the financial institution 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.

7.75 Unless requested to do so, a financial institution is not required to advise the CRA 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.

7.76 A financial institution can designate all relevant preexisting 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.

Chapter 8 – New individual accounts

Introduction

8.1 At the time an individual account is opened, a reporting financial institution 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 to the CRA will exist in connection with the account.

8.2 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 in section 274 of the ITA. Chapter 7 discusses preexisting individual accounts, and entity accounts are covered in Chapter 9 of this guidance.

Definition of new individual accounts

8.3 A new individual account is an account opened on or after July 1, 2017.

New account opening for holders of existing individual accounts

8.4 A new account opened by an individual account holder may be treated as an existing account, subject to meeting the four conditions as follows:

- the account holder already holds with the financial institution (or with a related entity in Canada) 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 financial institution 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 or entities in Canada 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 paragraph 8.6.

Note: Paragraph 8.4 includes "account transfers" where an account holder closes the existing account and at that time replaces it with a new account.

New, additional or amended customer information

8.5 Customer information refers to information about the identity of the account holder. It does not cover the nature or characteristics of the account or investment such as altering the mix of investments within an account. New, additional or amended customer information is likely to be required 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.

Treatment of the accounts as a single account

8.6 The last condition in paragraph 8.4 that allows a new account to be treated as an existing account requires a financial institution to view all accounts of a customer as a single account such that it is aware of any information that may cause a reasonably prudent person to question the documentary evidence, self-certifications, or a claim being made by the customer such as being resident of a particular jurisdiction. In order to satisfy this condition, the financial institution must do two things:

- Apply the standards and knowledge, as required to establish the correctness or reliability of documentary evidence or self-certifications from that account holder, as if the existing account held by the account holder and the new account are a single account. If the financial institution has reason to know that the status assigned to one of the accounts is inaccurate, then it has reason to know that the status assigned to all other accounts of the account holder is inaccurate.
- Where the existing account is a preexisting account, treat the preexisting account and the new account as a single account for the purposes of applying any of the account thresholds. For example, where there is a preexisting account and a new account is being opened, the financial institution's internal policies and procedures must account for the year-end account balances of both accounts when monitoring whether their aggregate balance or value exceeds US$1,000,000 at the end of that calendar year and future years. If it exceeds US$1,000,000, it will trigger the enhanced review procedures for high value accounts. The financial institution's policies and procedures would also need to take into account in this aggregation the knowledge that any relationship managers (of an account) possess for financial accounts held with the financial institution or with a related entity.

Example

An individual holds a preexisting account with a balance that was US$35,000 on June 30, 2017. The individual opens a new account at the same financial institution and the new account does not require the provision of new, additional or amended customer information. The financial institution is able to link the new account to the preexisting account. The new account can be treated as a continuation of the preexisting account and will not be subject to the enhanced review procedures in paragraph 7.35 until such time as the aggregate balance or value of the accounts exceeds US$1,000,000.

Reportable accounts

8.7 In respect of a financial account that is opened after June 30, 2017, a financial institution must determine the account holder's status using the due diligence procedures described below.

8.8 Due diligence must be carried out by obtaining a self-certification that allows the financial institution to determine whether the account holder is resident for tax purposes in a reportable jurisdiction. Where the account holder claims to reside solely in a jurisdiction offering a potentially high-risk CBI/RBI scheme, the financial institution should consider raising further questions as suggested in paragraph 6.33. A financial institution 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.

8.9 Financial institutions must have account opening processes that facilitate collection of a self-certification at the time of the account opening. However, financial institutions are not expected to carry out an independent legal analysis of relevant tax laws to confirm the reasonableness of a self-certification.

Validation of self-certification

8.10 The previous sections describe various situations in which a financial institution 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.

8.11 If the self-certification obtained establishes that the account holder is not resident for tax purposes in a reportable jurisdiction, the financial institution 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.

8.12 A self-certification is valid if it is signed (or otherwise positively affirmed) by the account holder, it is dated, and it contains the account holder's:

- Name
- Residence address
- Jurisdiction of residence for tax purposes
- Foreign TIN with respect to each reportable jurisdiction (if the account holder is a reportable person)
- Canadian TIN (if applicable)
- Date of birth

Note: 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 financial institution must use reasonable efforts to obtain the TIN in order to report it on the Part XIX Information Return.

8.13 An account holder that does not provide a foreign TIN on request in connection with a new account that is required to be reported, may be liable to a penalty of $500 for

each such failure under subsection 281(3) of the ITA where the jurisdiction in which the account holder is resident issues and collects TINs (see paragraphs 12.23 to 12.29). If the account holder is a reportable person and does not have a foreign TIN, the account holder must apply to the foreign government for a TIN no later than 90 days after the request is made and provide it to the financial institution within 15 days of receipt, unless the jurisdiction of residence does not issue or collect TINs. A financial institution that has identified a reportable account but has not received a foreign TIN from the account holder, must still report the account by filing a Part XIX information return to the CRA.

Note: Some account holders may have a Canadian TIN, in which case, the Canadian TIN should be reported on the self-certification when the person is a reportable person. For individuals, a Canadian TIN can be in the form of a SIN or an individual tax number (ITN).

8.14 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 financial institution must rely on documentary evidence of that person's authority to act on behalf of the account holder.

8.15 A financial institution that opens an account without obtaining a self-certification from the account holder must treat the account holder as a resident of each reportable jurisdiction for which an indicium as described in paragraph 7.24 is identified and report the account. If the financial institution has no such indicia in its records and has no reason to know that the account holder is a reportable person, then the account is not required to be reported and no further action is required until there is a change in circumstances that results in one or more indicia with respect to the account holder.

Change in circumstances

8.16 A self-certification remains valid until there is a change in circumstances (as described in paragraphs 7.56 to 7.59) that causes the financial institution to know or

have reason to know that the original self-certification is incorrect or unreliable. When a financial institution 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.

8.17 Financial institutions are expected to notify the person providing a self-certification of the person's obligation to notify the financial institution of a change in circumstances.

8.18 A self-certification becomes invalid on the date that the financial institution holding the self-certification knows or has reason to know that circumstances affecting the correctness of the self-certification have changed. However, a financial institution 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 financial institution 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.

8.19 If the financial institution 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 financial institution 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.

Curing self-certification errors

8.20 A financial institution can treat a self-certification as valid, notwithstanding that the self-certification contains an inconsequential error, if the financial institution 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.

Example

A self-certification in which the individual submitting the form abbreviated the jurisdiction of tax residence can be treated as valid, notwithstanding the abbreviation, if the financial institution has government issued identification for the person from a jurisdiction that reasonably matches the abbreviation. On the other hand, an abbreviation for the jurisdiction of tax residence that does not reasonably match the jurisdiction of residence shown on the person's passport brings the validity of the self-certification into question.

8.21 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.

Determining tax residency of an individual

8.22 If a financial institution wants to give more instructions in connection with the question of where the individual resides for tax purposes, it can explain that citizenship (other than U.S. citizenship) does not determine an individual residence for tax purposes. However, if the financial institution uses a combined form for the purposes of Part XVIII and Part XIX, the account holder has to identify whether he or she is a U.S. citizen even if that individual also resides in Canada or another jurisdiction.

Form of self-certification

8.23 Financial institutions can permit individuals to open accounts in various ways. For example, individuals can initiate account openings by telephone, on-line, or in person at a branch location.

8.24 Regardless of the account opening method, a self-certification must be obtained in the course of the account opening process (see paragraphs 6.24 to 6.28).

8.25 The following guidance illustrates how the self-certification procedures can operate in various scenarios.

In-person account openings

8.26 A financial institution must have procedures in place to secure a self-certification from its account holders. There is no prescribed form for the certification. Financial institutions can use any form as long as it asks for the required information.

8.27 The self-certification must allow for the determination of the account holder's residence(s) for tax purposes.

8.28 The self-certification can be a stand-alone document or form part of a more comprehensive document used by a financial institution in connection with the account opening.

8.29 A financial institution can collect an account holder's tax residency information by way of that information being communicated to a customer service representative for input into the electronic client account records management system. If this approach is to be adopted in connection with its Part XIX responsibilities, certain safeguards must be in place to ensure that the self-certification provided to the financial institution results in an unambiguous acknowledgement that the person declaring their status agrees with the representations made through the self-certification. The following approach would be satisfactory:

- collect tax residency information from the account holder at account opening;
- require that the information collected be read back to the account holder to confirm the accuracy of what was recorded; and
- have the account holder sign an account opening agreement which has the account holder attest specifically that all representations made in respect of their tax status are correct and complete and that updated information will be provided, where necessary. A statement that captures this attestation must be prominent or otherwise easily identifiable by the account holder and proximate to the signature block of the agreement unless the statement that captures this attestation is separately initialed by the account holder.

Note: The above represents only one example of a satisfactory approach.

8.30 Generally, an individual will only have one jurisdiction of residence for Canadian tax purposes. However, an individual can be resident for tax purposes in two or more jurisdictions. To solve cases of double residence, tax conventions (where applicable) contain specials rules which give one jurisdiction preference over the other. Generally, an individual will be resident for tax purposes in a jurisdiction if, under the laws of that jurisdiction (including tax conventions), he or she should be paying tax therein by reason of his or her domicile, residence or any other criterion of a similar nature, and not only from sources in that jurisdiction. Dual resident individuals can rely on the tie-breaker rules contained in tax conventions (if applicable) to solve cases of double residence for determining their residence for tax purposes. Subsection 250(5) of the ITA provides that when an individual would otherwise be a resident in Canada, but for the purposes of any tax convention, is resident of another country, the individual is deemed not to be resident in Canada for tax purposes.

Example

Sandro has a permanent home in Canada and is taxed as being a resident of Canada. He spent the winter months at his home in jurisdiction X. Due to the length of his stay, Sandro is considered a resident of jurisdiction X for tax purposes under its domestic

law. If a tax convention exists between Canada and jurisdiction X and its application resulted in Sandro only being considered a resident of Canada for purposes of the convention, Sandro need only certify to his Canadian financial institution that he is a resident of Canada for tax purposes.

Telephone account openings

8.31 In the context of an account opening arranged by telephone, a financial institution is expected to provide the same instructions to, and obtain the same information from, any prospective account holder as it would in the context of an in-person account opening.

8.32 A financial institution can 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.

8.33 The financial institution must retain any verbal self-certification obtained by telephone for the required retention period unless it secures and appropriately retains a self-certification in an alternative form from the account holder such as by way of a follow-up email confirmation.

On-line account applications

8.34 In the context of an account opening initiated on-line, a financial institution must secure the same information from the prospective account holder as it would be expected to acquire in the context of an in-person account opening. Therefore, it must secure a self-certification from the account holder. A financial institution can accept an electronic form including the electronic signature of the account holder (or person formally authorized to sign) and the account holder must positively acknowledge by signature or other means that the certification is correct. If the information is electronic, the information must be in electronically readable format.

8.35 An electronic signature can be numeric, character-based, or biometric, as long as it is unique to the person and a record can be kept. An electronic signature may also

be encrypted. For example, a client's personal identification number can be used as an electronic signature. CRA's expectation is that it will be able to review a self-certification record during an examination, but the electronic signature does not need to be unencrypted.

8.36 In order for the CRA to accept an electronic signature from an account holder whose identity has been verified by the financial institution, the electronic signature will generally need to be provided in one of the following ways:

- It may be provided if the account holder sends personal information, including the electronic signature using the electronic address most recently provided by the account holder to the financial institution;
- It may be provided in person by the account holder, in the presence of the financial institution e.g., using a stylus or finger on a tablet; or
- It may be provided through an access controlled, secured electronic location such as a secure website that is accessible to the account holder only because the location of the secure website has been made known to the account holder and access has been granted by the financial institution.

Note: For more information, see CRA Program updates for electronic signature in software.

Chapter 9 – Entity accounts

Introduction

9.1 If a reporting financial institution 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 has to be reviewed given that a monetary threshold exemption for preexisting account exists, as explained below. If an entity account has to

be reviewed, the financial institution 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 financial institution determines that the account holder is a reportable person or that the passive NFE is controlled by reportable persons, reporting obligations to the CRA will exist in connection with the account.

9.2 This chapter provides guidance on the review procedures and reporting obligations in respect of preexisting and new entity accounts. The due diligence rules specific to entities begin at section 275 of the ITA.

Definition of preexisting entity accounts

9.3 A preexisting entity account is an account maintained by a financial institution held by an entity on June 30, 2017.

Accounts not required to be reviewed, identified or reported

9.4 A financial institution is not required to perform review procedures on accounts that were closed before July 1, 2017 (see paragraph 12.45 for account closures).

Threshold exemption

9.5 A financial institution is not required to review a preexisting entity account with an aggregate account balance or value that does not exceed US$250,000 on June 30, 2017, until such balance or value exceeds US$250,000 as of the last day of any subsequent year. If a financial institution does not want to apply the exemption, it can elect to review all or, separately, with respect to any clearly identified group of such accounts (which will be required to form part of a clearly identifiable group of accounts).

9.6 Unless requested to do so, a financial institution is not required to advise the CRA of whether it has elected to review all or, separately, with respect to any clearly identifiable group of its preexisting 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.

9.7 A financial institution can elect to review all or, separately, with respect to any clearly identifiable group of accounts, such as by line of business or the location at which the account is maintained.

Reportable accounts

9.8 A preexisting entity account that is required to be reviewed will be reportable by a financial institution if:

- the account is held by an entity that is a reportable person; or
- the account is held by an entity that is a passive NFE with one or more of the controlling persons who are reportable persons.

9.9 If a financial institution maintains a financial account held by an entity, it must determine whether the account is reportable. In other words, it must determine whether the account holder is a reportable person or a passive NFE with one or more controlling persons who are reportable persons. If the account holder has either status, reporting obligations to the CRA will exist in connection with the account.

Note: An entity account held by a passive NFE with one or more controlling persons who are reportable persons does not fail to qualify as a reportable account, solely because the entity itself is not a reportable person or any of the controlling persons of the passive NFE is resident in the same jurisdiction as the passive NFE.

Example 1

Jill resides in a reportable jurisdiction. She establishes a corporation in Canada that she wholly-owns and controls. The corporation is considered a passive NFE. A financial account for the corporation is opened with a financial institution in Canada on March 1, 2018. The financial institution 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 Canada. 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 except that Jack and Jill each own 50% of the shares of the corporation. Jack resides in Canada and is also a controlling person of the corporation. The corporation and Jack are both residents in Canada 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.

9.10 Due diligence procedures must be applied to determine the status of an account. In certain cases, the procedures differ depending on whether the account under review is a new or a preexisting entity account. In determining whether an entity account is held by one or more entities that are reportable persons, the financial institution can follow the guidance in the order most appropriate under the circumstances.

Determining whether a preexisting entity account holder is a reportable person

9.11 In the case of a preexisting entity account (other than for an account with an aggregate account balance or value that does not exceed US$250,000), a financial institution must review information that it maintains for regulatory and customer relationship purposes (including information collected according to the AML/KYC procedures) to determine whether the information indicates that the account holder is resident in a reportable jurisdiction. Information indicating that an account holder is or may be resident in a reportable jurisdiction includes:

- an address in a reportable jurisdiction;
- a place of incorporation or organization in a reportable jurisdiction; or
- where the entity is a trust, an address of one or more of the trustees is in a reportable jurisdiction.

9.12 The existence of a permanent establishment (including a branch) in a reportable jurisdiction is not, in isolation, an indication of residence for tax purposes.

9.13 If it is believed or information indicates that the entity account holder is or may be resident in a reportable jurisdiction, the account holder must be treated as a reportable account unless the financial institution that maintains the account obtains a self-certification from the account holder, or reasonably determines based on information in its possession or that is publicly available, that the account holder is not a reportable person. For example, such information can reveal that the entity is a corporation that is publicly traded on an established securities market in which case it would not be a reportable person. (See paragraph 5.27 for the definition of reportable persons.)

Note: An account holder that is a financial institution is not reportable under Part XIX except where the financial institution is a professionally managed investment entity resident in a non-participating jurisdiction (see paragraph 4.4). In such a case, the financial institution will be a passive NFE for reporting purposes.

9.14 Information which can assist with a reasonable determination of whether an account holder is a reportable person includes:

- information published by a government body, such as information in a list published by a tax administration that contains the names and identifying members of financial institutions. For example, if the financial institution knows that the account holder is a financial institution, other than a professionally managed investment entity resident in a non-participating jurisdiction (see paragraph 4.4) and has a Global intermediary identification number (GIIN), it will have reasonably determined that the account holder is not a reportable person. The financial institution can verify whether the account holder has been issued a GIIN by referring to the IRS FFI list;
- information in a publicly accessible government register;
- information disclosed on an established securities market; and

- any publicly accessible classification with respect to the account holder that was determined based on a standardized industry coding system.

Determining whether a preexisting entity account holder is a passive NFE with one or more controlling persons

9.15 Unless a financial institution has previously determined based on information in its possession or that is publicly available that the account holder is an active NFE or a financial institution, other than a professionally managed investment entity resident in a non-participating jurisdiction (see paragraph 4.4), the financial institution must obtain a self-certification from the account holder to determine whether the preexisting entity account holder is a passive NFE.

9.16 If it is determined that the entity account holder is a passive NFE, the financial institution must identify the passive NFE's controlling persons and determine whether the individual is a reportable person.

Note: In respect of all passive NFE (regardless of whether it is a reportable person), the financial institution must determine if a controlling person is a reportable person.

9.17 A financial institution can rely on publicly-available information (for example, a public registry) or on information collected and maintained according to the AML/KYC procedures in determining the controlling persons. Those same procedures can also be used to determine whether the individual is a reportable person in a case where the account has an aggregate balance or value that does not exceed US$1,000,000 on June 30, 2017.

9.18 If the aggregate account balance or value of the account exceeds US$1,000,000 on June 30, 2017, the financial institution must obtain a self-certification from the entity account holder or from each controlling person to determine whether the individual is a reportable person.

9.19 If any controlling person of a passive NFE is a reportable person, the account is a reportable account.

Definition of new entity accounts

9.20 A new entity account is an account opened by an entity after June 30, 2017.

New account opening for holders of existing entity accounts

9.21 A new account opened by an entity account holder may be treated as an existing account, subject to meeting the four conditions as follows:

- the account holder already holds with the financial institution (or with a related entity in Canada) 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 financial institution is permitted to satisfy those procedures for the new account by relying on the procedures in connection with the existing account; and
- the financial institution and its related entity or entities in Canada 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 paragraph 8.6.

Note: Paragraph 9.21 includes "account transfers" where an account holder closes the existing account and at that time replaces it with a new account.

9.22 When the financial institution has reason to know that the account holder's status is inaccurate in relation to one account, it is considered to know that same

concern exists in connection with other accounts held by the entity account holder (see paragraph 8.6).

Determining whether a new entity account holder is a reportable person

9.23 Upon opening of an entity account after June 30, 2017, a financial institution must determine whether the account holder is a reportable person. Doing so requires assessing the classification of the entity that holds the account and whether the entity is tax resident in a reportable jurisdiction.

9.24 A reportable person does not include a corporation that is publicly traded on an established securities market or a financial institution, other than a professionally managed investment entity resident in a non-participating jurisdiction (see paragraph 4.4). If a financial institution reasonably determines that the account holder is not a reportable person based on a review of public information or information in its possession, it will be considered to have determined that the account is not reportable.

9.25 In all other cases, a financial institution must determine whether the entity is tax resident in a reportable jurisdiction by obtaining a self-certification and confirming the reasonableness of such self-certification based on the information obtained by the financial institution in connection with the opening of the account, including information collected according to the AML/KYC procedures. If the self-certification indicates that the entity account holder is tax resident in a reportable jurisdiction, the account must be treated as a reportable account unless the financial institution 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 (see paragraph 5.27 for the definition of reportable person). For example, such information can show that the entity is a depository institution.

Determining whether a new entity account holder is a passive NFE with one or more controlling persons

9.26 Unless a financial institution has previously determined that the account holder is an active NFE or a financial institution, other than a professionally managed investment entity resident in a non-participating jurisdiction (see paragraph 4.4), the financial institution must rely on the self-certification to determine whether the new entity account holder is a passive NFE.

9.27 If it is determined that the entity account holder is a passive NFE, the financial institution must identify the passive NFE's controlling persons and determine whether the individual is a reportable person.

Note: In respect of all passive NFE (regardless of whether it is a reportable person), the financial institution must determine if the controlling person is a reportable person.

9.28 A financial institution can rely on publicly-available information (for example a public registry) or on information collected and maintained according to the AML/KYC procedures in determining the controlling persons of the entity. However, a financial institution must rely on the self-certification obtained from the entity account holder or from each controlling person to determine whether a controlling person is a reportable person. Where a controlling person claims to solely reside in a jurisdiction offering a potentially high-risk CBI/RBI scheme, the financial institution should consider raising further questions as suggested in paragraph 6.33.

9.29 If any controlling person of a passive NFE is a reportable person, the account is a reportable account.

Timing of reviews

9.30 The review of a preexisting entity account with an aggregate account balance or value that exceeds US$250,000 on June 30, 2017, must be completed by

December 31, 2019. Financial institutions that elect to review all preexisting entity accounts must complete their review by December 31, 2019.

9.31 The review of a preexisting entity account with an aggregate account balance or value that did not exceed US$250,000 on June 30, 2017, but exceeds US$250,000 on December 31, 2018, or on December 31 of any subsequent year, must be completed by December 31 of the year after the year in which the aggregate account balance or value exceeded US$250,000.

Example

A financial institution maintains a financial account held by an entity with a balance of US$240,000 on June 30, 2017. The financial institution applies the US$250,000 monetary threshold applicable to preexisting entity accounts. The account is therefore not required to be reviewed. The balance of the account was US$900,000 on December 31, 2018. The account must be reviewed by December 31, 2019, to determine whether it is a reportable account. If that is the case, the financial institution is required to report the account with respect to 2019 on the Part XIX Information Return filed with the CRA before May 2, 2020.

Use of standardized industry codes

9.32 As discussed in paragraph 9.11, a financial institution can, in certain circumstances, rely on information it has in its possession to reasonably determine the status of an entity account holder. Standard industry codes, such as the Standard industrial classification (SIC) and the North American industry classification system (NAICS) codes can help a financial institution in this regard with respect to preexisting entity accounts.

Note: For preexisting entity accounts, when a financial institution has reasonably assigned any one of the following SIC (version 1980) or NAICS (version 2012) codes to an entity account holder, it can rely on that code to determine that the account holder is

not a passive NFE. Later and earlier versions of the same codes can be used from Statistics Canada. A concordance table is available at Statistics Canada.

SIC codes

A – Food, beverage, and tobacco

B – Wood and paper

C – Energy

D – Chemicals, chemical products, and textiles

E – Metallic minerals and metal products

F – Machinery and equipment (except electrical)

G – Transportation equipment

H – Electrical and electronic products

I – Construction and related activities

J – Transportation services

K – Communications

M – General services to business

N – Government services

O – Education, health, and social services

P – Accommodation, restaurants, and recreation services

Q – Food retailing

R – Consumer goods and services

NAICS codes

11 – Agriculture, forestry, fishing, and hunting

21 – Mining, quarrying, and oil and gas extraction

22 – Utilities

23 – Construction

31-33 – Manufacturing

41 – Wholesale trade

44-45 – Retail trade

48-49 – Transportation and warehousing
51 – Information and cultural industries
53 – Real estate and rental and leasing
54 – Professional, scientific, and technical services
56 – Administrative and support, waste management, and remediation services
61 – Educational services
62 – Health care and social assistance
71 – Arts, entertainment, and recreation
72 – Accommodation and food services
81 – Other services (except public administration)
91 – Public administration

However, if a financial institution has information in its files to suggest that the SIC or NAICS code is known to be incorrect or misleading, the financial institution cannot rely on the code to determine that the account holder is not a passive NFE.

9.33 In the context of a new entity account, the account opening presents a financial institution with the opportunity to obtain the information necessary to determine the status of an account holder without having to refer to a standardized industrial code, which presumably would have been assigned on the basis of the same or similar information. Therefore, the coding systems themselves are not thought to be particularly useful.

Validation of self-certification

9.34 The previous sections describe various situations in which a financial institution must obtain a self-certification to determine the classification of an entity. The self-certification must include a clear declaration from the account holder as to whether it is a reportable person or a passive NFE with one or more controlling persons who are reportable persons.

9.35 A financial institution 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.

9.36 A financial institution has reason to believe that a self-certification provided by an entity account holder is unreliable if the entity represents itself as a financial institution residing in Canada and the financial institution knows or has reason to know that the entity is not a Canadian financial institution (see paragraph 3.30).

Note: An entity account holder resident in Canada can self-certify itself as a financial institution only if it is defined as a Canadian financial institution or a non-reporting financial institution. Otherwise it would have to self-certify itself as either a passive or active NFE.

9.37 If an entity certifies that it has no residence for tax purposes, the financial institution can rely on the address of the principal office of the entity to determine the tax residence of the account holder.

9.38 Regardless of the type of self-certification used, there must be an element that allows the account holder to positively acknowledge by signature or other means that the self-certification is valid.

9.39 If the self-certification obtained establishes that the account holder resides in a reportable jurisdiction and is a reportable person, the financial institution must treat the account as a reportable account.

Note: If the account holder is a governmental entity, an international organization, or a central bank, it is not considered of material importance if it classifies itself as a financial institution or an active NFE as this type of entity is not a reportable person.

9.40 If the self-certification obtained establishes that the account holder resides in a reportable jurisdiction and is a passive NFE, the financial institution must treat the

account as a reportable account and, if applicable, report any of its controlling person that is a reportable person.

9.41 If the self-certification obtained establishes that the account holder resides in Canada and/or the U.S. and is a passive NFE, the financial institution must treat the account as a reportable account but only if one or more of its controlling person is a reportable person.

9.42 The self-certification is valid if it is signed (or otherwise positively affirmed) by the account holder, it is dated, and it contains the account holder's:

- Name
- Residence address
- Jurisdiction of residence for tax purposes
- Foreign TIN with respect to each reportable jurisdiction (if the account holder is a reportable person)
- Canadian TIN (if applicable)

Note: 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 financial institution must use reasonable efforts to obtain the TIN in order to report it on the Part XIX Information Return.

9.43 An account holder that does not provide a foreign TIN on request in connection with an account that is required to be reported, may be liable to a penalty of $500 for each such failure under subsection 281(3) of the ITA where the jurisdiction in which the account holder is resident issues and collects TINs (see paragraphs 12.23 to 12.29). If the account holder is a reportable person and does not have a foreign TIN, the account holder must apply to the foreign government for a TIN within 90 days after the request is made and provide it to the financial institution within 15 days of receipt, unless the

jurisdiction of residence does not issue or collect TINs. A financial institution that has identified a reportable account but has not received a foreign TIN from the account holder, must still report the account by filing a Part XIX Information Return to the CRA.

Note: Some account holders may have a Canadian TIN, in which case, the Canadian TIN should be reported on the self-certification when the person is a reportable person. For entities, a Canadian TIN can be in the form of a BN or a trust account number.

9.44 While a financial institution can rely on publicly-available information or the AML/KYC procedures in determining the controlling persons of the entity, it must obtain a self-certification from the account holder including information from each controlling person to determine whether one of the controlling persons is a reportable person.

9.45 The self-certification with respect to the controlling person is valid if it is signed (or otherwise positively affirmed) by the controlling person, a person with authority to sign for the controlling person, or the authorized signing officer of the entity; it is dated; and it contains each controlling person's:

- Name
- Residence address
- Jurisdiction of residence for tax purposes
- Foreign TIN with respect to each reportable jurisdiction (if the controlling person is a reportable person)
- Canadian TIN (if applicable)
- Date of birth

Note: A self-certification is not invalid by reason alone of the controlling person not providing a TIN. A TIN may be collected through other means. However, a controlling person who is a reportable person and 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 financial institution must use reasonable efforts to obtain the TIN in order to report it on the Part XIX Information Return.

9.46 The requirements for the validity of self-certifications with respect to new individual accounts (see paragraphs 8.10 to 8.21) are applicable for the validity of self-certifications with respect to entity accounts and to determine whether a controlling person of a passive NFE is a reportable person. The same is applicable with respect to curing self-certification errors, the requirement to obtain self-certifications on an account-by-account basis, and documentation collected by other persons.

Entity account not supported by a valid self-certification

9.47 If a financial institution fails to obtain a valid self-certification and is unable to determine whether the entity account holder is a reportable person, it must treat the account as a reportable account for each reportable jurisdiction in which the account holder appears to be a resident. Information that gives such an appearance includes:

- an address in a reportable jurisdiction;
- a place of incorporation or organization in a reportable jurisdiction; or
- where the entity is a trust, an address of one or more of the trustees is in a reportable jurisdiction.

9.48 If it is believed or information indicates that the entity account holder is not a reportable person, and the financial institution is unable to determine whether the entity account holder is an active NFE or a financial institution, other than a professionally managed investment entity resident in a non-participating jurisdiction (see paragraph 4.4), the financial institution must treat the account holder as a passive NFE.

9.49 If the entity account holder is treated as a passive NFE, the financial institution must rely on the indicia that it has in its records in order to determine whether one of the controlling persons is a reportable person (see paragraph 7.24 for indicia) and whether the account should be reported. If the financial institution has no such indicia in its records and has no reason to know that the controlling person is a reportable person, then the account is not required to be reported and no further action is required until there is a change in circumstances that results in one or more indicia with respect to the controlling person.

Change in circumstances

9.50 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 or addition of information to the account holder's account (including the addition, substitution, or other change of an account holder or a controlling person such as a new administrator, a new major shareholder or a distribution to a discretionary beneficiary) or any change or addition of information to any account associated with such account if such change or addition of information affects the status of the account holder.

9.51 If there is a change in circumstances that causes the financial institution to know, or have reason to know, that the self-certification or other documentation associated with the account is incorrect or unreliable, the financial institution must request a self-certification or other documentation from the account holder to establish whether the entity is a reportable person or when the entity is a passive NFE, whether the controlling persons are reportable persons. 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 provide the information requested, the financial institution must treat the account as a reportable account with respect to each jurisdiction for which an indicium is identified.

Controlling persons

9.52 The term "controlling persons" of an entity means the natural persons who exercise direct or indirect control over the entity. Financial institutions can give effect to this definition by reference to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA) and related regulations, such as in section 138 of the PCMLTFA Regulations. Generally, whether a person exercises control over an entity is determined in a manner consistent with how beneficial owners are identified in the PCMLTFA, including the ownership thresholds set by Canadian financial regulatory authorities.

9.53 For example, in the case of a corporation, a person is considered a controlling person of a corporation if they directly or indirectly own or control 25% or more of the corporation. However, where no natural person is identified as exercising control of the corporation, the controlling persons of the corporation are the natural persons who hold the positions of senior managing officials, such as the chief executive officer or the person who performs that function.

9.54 In the case of a trust, the controlling persons include its settlors, trustees, protectors (if any), beneficiaries or class of beneficiaries, and any other natural persons exercising ultimate effective control over the trust. A person is treated as a beneficiary if they have the right to receive, directly or indirectly, a mandatory distribution; or they receive, directly or indirectly, a discretionary distribution from the trust. In the case of discretionary beneficiaries, the beneficiary may only be treated as a controlling person in the calendar year in which a distribution has been paid or made payable to the discretionary beneficiary.

9.55 Where a trust is a passive NFE, the financial institution must obtain information on all natural persons that are considered controlling persons in order to determine if one or more of the controlling persons is a reportable person. Since a discretionary beneficiary of a trust is only considered a controlling person in the calendar year in which a distribution has been paid or made payable to her/him, the financial institution must maintain appropriate procedures in place to be notified when a distribution is made to a discretionary beneficiary of the trust in a given year . For instance, the financial institution requires a notification from the trust that a distribution has been paid or made payable to a discretionary beneficiary along with a self-certification within the time needed to correctly comply with their filing requirement each year. This may be achieved by having:

- the financial institution seeking annual refreshment of the certification – this requires the trust to re-certify whether any members of the class of beneficiaries who have received distributions since the previous certification are discretionary; or

- the financial institution requiring the trust, as a condition of holding the account and on an as needed and a timely basis, to provide a new certification when the trust has paid or made payable a distribution to a discretionary beneficiary (this condition can be included in the account opening documents).

9.56 If a controlling person of an entity account that is a passive NFE is an entity, then for purposes of determining the passive NFE's controlling persons, one has to look through the chain of control or ownership of any such entity to identify the natural persons that are controlling persons of the entity.

9.57 In the case of a passive NFE that is a corporation, where the control or ownership of the passive NFE is with a trust, i.e., the trust directly or indirectly owns or controls 25% or more of the passive NFE, the financial institution must obtain information on all natural persons who are controlling persons of the trust and qualify as reportable persons. In the case where the passive NFE is a corporation and its control or ownership is with a corporation that directly or indirectly owns or controls 25% or more of the passive NFE, the financial institution should require the authorized signing officer to disclose all of the natural persons who directly or indirectly own or control 25% or more of the corporation.

9.58 In the case of a legal arrangement other than a trust, depending on the control structure of the arrangement, controlling persons are persons in equivalent or similar positions to those described either in paragraph 9.53 who directly or indirectly own or control 25% or more of the legal arrangement or where the control is exercised through other means than ownership, the controlling persons are the persons in equivalent or similar positions to those described in paragraph 9.54.

Example

According to the partnership agreement, Howard will invest $100,000 in the partnership to buy equipment and rent space for the entity, and Betty will be solely responsible for operating the entity and performing its business. All decisions related to the partnership

must be unanimous; in case of a disagreement, either partner can decide to end the partnership. Howard and Betty will split the income from the entity 50/50. If they decide to end the partnership, Howard will get 85% of the proceeds of the sale of the business assets, while Betty will get 15%.

The business structure is important in this example as the ownership and control of the entity is shared between Howard and Betty despite an uneven split of proceeds in the case the business is sold. For the purpose of paragraph 12.52, should the account be reportable, Howard and Betty would both be considered to hold an equivalent or similar position to any other controlling person of the legal arrangement.

9.59 Where a financial institution maintains an account for an entity in trust form which is a passive NFE by virtue of being a professionally managed investment entity resident in a non-participating jurisdiction (see paragraph 4.4), the determination of the controlling persons of the entity can be completed based on information required to be collected and maintained pursuant to AML/KYC procedures (including treating the settlor(s) and trustee(s) of the trust as controlling persons of the trust) so long as the entity is widely-held and subject to investor-protection regulation in the jurisdiction in which it is established.

Chapter 10 – Multiple financial institution structures

Introduction

10.1 The meaning of the term "financial account" for the purposes of Part XIX is set out in subsection 270(1) of the ITA. That provision, together with subsections 277(4) and (5) of the ITA, ensures the distribution of the responsibilities under Part XIX aligns with the structure of the financial industry in Canada.

Client name accounts

10.2 Subsections 277(4) and (5) apply to client name accounts. In brief, where a reporting financial institution maintains a client name account and all of the following criteria are met, the financial institution is exempt from the due diligence requirements in respect of the account and shall rely on another financial institution ("dealer")'s determination in respect of whether the account is reportable:

- The property recorded in the account is also recorded in a financial account ("related account"), maintained by the dealer.
- The dealer is authorized under the provincial legislation to engage in the business of dealing in securities or any other financial instrument, or to provide portfolio management or investment advising services.
- The dealer has advised the financial institution whether the related account is a reportable account.
- It can not reasonably be concluded by the financial institution that the dealer has failed to comply with its obligations under Part XIX.

10.3 The following paragraphs illustrate the application of the above provisions to the investment funds and their dealers, based on the information provided by Canadian financial institution industry.

Investment funds and their dealers

10.4 Canadian investment funds include conventional mutual funds, non-conventional investment funds (for example, exchange traded funds), and specialized funds (for example, labour-sponsored investment funds). These funds operate in diverse portions of the capital markets and rely on both public offerings and private placements. These funds are subject to a number of regulatory requirements under provincial securities legislation and nationally-applied rules.

10.5 Securities (hereinafter simply referred to as "units") in investment funds are typically sold through dealers that must be registered in each province in which they have clients. They are subject to examinations by provincial securities commissions and self-regulatory organizations. The sales representatives and advisors of dealers are also registered and subject to account opening and KYC requirements under securities legislation as well as to client identification requirements under the PCMLTFA and related regulations.

10.6 Dealers such as mutual fund dealers, exempt-market dealers, and other investment dealers are financial institutions in their own right (e.g., by virtue of being within the definition of a custodial institution or an investment entity) and have due diligence and reporting requirements in connection with the clients' financial accounts they maintain.

10.7 When investment fund units are sold through dealers, they can be issued in the name of the beneficial owner (client name) or recorded in the name of the dealer (nominee name). These accounts are inclusive of investments in fund units regardless of whether the dealer purchased units on behalf of a client in nominee name or in client name. This is because of the definition of financial account which is consistent with the Canadian fund industry's Allocated Compliance Model (as contemplated under the PCMLTFA regulations) and the responsibilities that industry participants have for client identification under Canada's AML regime.

Holdings in nominee name

10.8 If a dealer holds legal title to units of an investment fund on behalf of a client (the ultimate investor), the dealer maintains the account of the client, and the dealer is an account holder of the fund. In this circumstance, the issuance of the fund units in nominee name separates the ultimate investors from the fund in the sense of not creating an account holder relationship between the two. Therefore, the fund has to verify the status of the dealer that is its direct account holder. A dealer's status can be verified by referring to publicly available information. For example, the U.S. Internal

Revenue Service Foreign Financial Institution List can be used to verify the status of the dealer. For the accounts held in nominee name, the fund has no obligation to ascertain information or perform reporting in connection with the ultimate investors.

10.9 For the purpose of applying the relevant aggregation requirement (as set out in Chapter 6 of this guidance) to aggregate accounts and determine whether any preexisting entity account is below the US$250,000 monetary threshold provided for in subsection 275(1) of the ITA, a dealer will need to consider all the financial accounts it maintains for that client without reference to whether the client's underlying interests are in different funds or other investments.

Holdings in client name

10.10 In Canada, certain investments made by individuals and other investors, even with the assistance of a dealer, are made directly with a fund such that the units are registered in the fund in client name. Indeed, many dealers place their clients in mutual fund units without holding legal title to the investment or having custody over the asset.

10.11 An investment fund unit held in client name will be a financial account maintained by the fund for the purposes of Part XIX even if that unit is also contained in an account of a dealer. However, in view of overlapping responsibilities that exist at the dealer level, Part XIX offers funds (and other financial institutions) relief from having to perform due diligence in connection with a unit held in client name that is also contained in an account of a dealer that is a financial institution.

10.12 In view of the current compliance practices between fund dealers and fund managers for client name accounts, subsection 277(5) of the ITA along with CRA's administrative policy in paragraph 10.14 are generally expected to apply in respect of such accounts. The CRA expects dealers to perform the due diligence and account classification and funds to perform the reporting, unless the fund is advised by the dealer that the dealer will take responsibility for its own reporting.

10.13 In case of a new account or when there is a change in circumstances related to an existing account, if the fund is notified by the dealer of its determination of the reportable status of the related account, the fund is relieved from conducting its own due diligence and must rely on the dealer's determination unless it can reasonably be concluded by the fund that the dealer has failed to perform the due diligence. Such conclusion can be based on a review of the available information including the information received from the dealer. If it can reasonably be concluded by the fund that the dealer failed to comply with its due diligence obligations, the fund must conduct its own due diligence. Alternatively, the fund can also refuse to open the account in the case of a new account until it is satisfied that the dealer conducted its due diligence and has obtained a self-certification.

Example 1

In the case of a new account, the dealer provides a classification as to whether the account is reportable for a unit of the fund held in client name that the dealer is considered to maintain and confirms in writing or through a systemic/electronic notification to the fund that a self-certification has been obtained to support the classification.

Example 2

In the case of an existing client name account with the fund where the account was not reportable, the dealer informs in writing or through a systemic/electronic notification to the fund of a change of address for the client, to a reportable jurisdiction and that the account is reportable based on the new self-certification or any other documentation obtained by the dealer. In such a case, had the dealer only provided a new address in a reportable jurisdiction without any classification, the fund would need to get more information from the dealer as to whether the account is reportable or conduct its own due diligence.

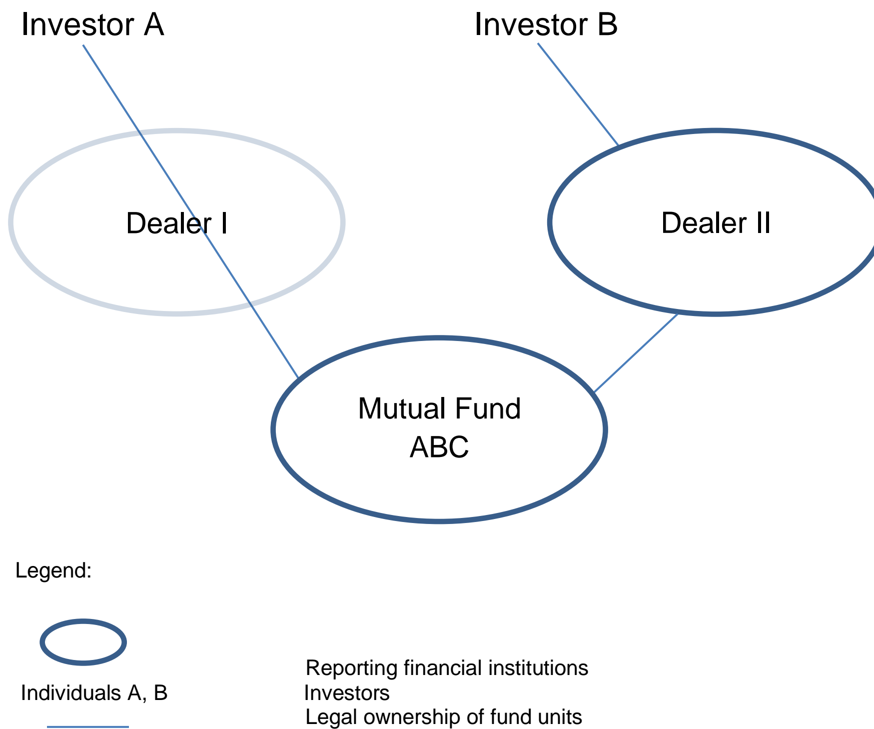
10.14 If a dealer communicates its determination of an account holder's status to the fund on a timely basis and the fund files the Part XIX Information Return in respect of a

reportable account, the dealer is not required to file a separate Part XIX Information Return with the CRA in respect of that account. Similarly, where a dealer files the Part XIX Information Return with the CRA in respect of a reportable account and informs the fund in writing, the fund is not required to file a separate Part XIX Information Return with the CRA in respect of that account unless the fund can reasonably conclude that the dealer has not complied with its reporting obligations. This approach avoids duplicate reporting (if any) in respect of the account.

10.15 To the extent that a fund relies on due diligence performed at the dealer level in respect of a financial account, the fund is not entitled to apply the US$250,000 monetary threshold to avoid having to report in connection with the account. The monetary threshold can be applied only at the dealer level.

Example – Identification and reporting of an interest in a fund

Two non-residents, Investor A and Investor B, seek to invest in Mutual Fund ABC (referred to in this example as the "Fund"). Investor A invests in the Fund through Dealer I. Dealer I acquires units in the Fund in the client name of Investor A. Investor B invests in the Fund through Dealer II that acquires units in the Fund in nominee name on behalf of Investor B. Dealer I, Dealer II, and the Fund are reporting financial institutions.



Dealer I and Dealer II have as account holders Investor A and Investor B, respectively. Both Dealer I and Dealer II, have Part XIX responsibilities in connection with the financial accounts they maintain, irrespective of whether the fund units are held in client name or in nominee name.

The Fund maintains a financial account for each of Investor A and Dealer II by virtue of the fund units they hold. The Fund has Part XIX responsibilities in respect of its account holders that are Investor A and Dealer II. If, in respect of Investor A, Dealer I communicates its determination of Investor A's status to the Fund and the Fund files a Part XIX Information Return to report Investor A's interest in the Fund, Dealer I is not required to file with the CRA a separate Part XIX Information Return to report Investor A's interest in the Fund. Similarly, the Fund is not required to perform due diligence in respect of Investor A unless it can reasonably be concluded by the Fund that Dealer I has failed to comply with its obligations under Part XIX.

In respect of Investor B, the Fund has to verify that Dealer II is a financial institution. For example, the Fund can do this by verifying that the dealer has a Global intermediary

identification number (GIIN) by referring to the U.S. Internal Revenue Service Foreign Financial Institutions list. If the Fund confirms that Dealer II is a financial institution, the Fund is not required to file with the CRA a separate Part XIX Information Return to report Dealer II as Dealer II is not a reportable person.

Other structures

10.16 It is important to note that the term "dealer" in subsection 277(4) of the ITA includes any financial institution that is authorized under provincial law to engage in the business of dealing in securities or any other financial instrument or to provide portfolio management or investment advising services. The affairs of a particular client can result in two or more financial institutions each maintaining an account for that client. To address this scenario and to avoid duplicative efforts, subsection 277(5) of the ITA along with CRA's administrative policy described in paragraph 10.14 provide relief to the financial institutions from having to perform the same due diligence and fulfil the reporting obligations in connection with a client name account where all the criteria as discussed in paragraph 10.2 are met. An example may be the case of a custodial institution having a client–name account and an investment manager that meets the criteria of a dealer in respect of a related financial account it maintains, provided all other criteria as described under paragraph 10.2 are met. Consequently, the dealer account rules in Part XIX can apply to situations where investment managers have client accounts that result in financial assets being custodied with other financial institutions.

Introducing broker/carrying broker arrangements

10.17 For the remainder of this chapter, the term "investment dealer" is used to refer specifically to investment dealers that are subject to membership and regulation requirements of the Investment Industry Regulatory Organization of Canada (IIROC).

10.18 IIROC investment dealers are financial institutions and have Part XIX due diligence and reporting obligations in connection with the financial accounts they maintain.

Financial accounts of the introducing broker

10.19 Within the industry, an IIROC investment dealer (the "introducing broker" or "IB") can enter into an agreement with another IIROC investment dealer (the "carrying broker" or "CB") to allow it to use the back office of the carrying broker to perform certain functions on the IB's behalf.

10.20 The term "financial account" includes the accounts that an introducing broker maintains for its clients. Where an introducing broker is maintaining the account, but under a contract, relies on the services of a carrying broker to fulfil the Part XIX due diligence and reporting obligations of the introducing broker, the introducing broker remains responsible to fulfil those obligations.

10.21 In a cross-border context, where the introducing broker is not a Canadian financial institution, there may be agreements under which the account is relinquished to the carrying broker. Under such circumstances, since the carrying broker would be maintaining the account, as the reporting financial institution, the carrying broker will be responsible to fulfil the Part XIX due diligence and reporting obligations in Canada.

Chapter 11 – Special circumstances

Employment-based group plans

11.1 Certain financial arrangements administered by financial institutions involve employment-based situations. The due diligence and reporting obligations under Part XIX should not unduly affect employers that offer employment-based benefits of a low-risk nature.

Financial accounts that are group cash value insurance contracts / group annuity contracts

11.2 A financial institution can treat a financial account that is a member's interest in a group cash value insurance contract or group annuity contract as a financial account that is not a reportable account until the date on which an amount is payable to the employee/certificate holder or beneficiary if all of the following requirements are met:

- The group cash value insurance contract or group annuity contract is issued to an employer and covers at least 25 employees/certificate holders.
- The employees/certificate holders are entitled to receive any contract value related to their interests and to name beneficiaries for the benefit payable upon the death of the employee/certificate holder.
- The aggregate amount payable to any employee/certificate holder or beneficiary does not exceed US$1,000,000.

11.3 A group cash value insurance contract means a cash value insurance contract that:

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

11.4 A group annuity contract means an annuity contract under which the obligees are individuals who are associated through an employer, trade association, labour union or other association or group.

Group payroll deduction savings plans

11.5 Consistent with the AML/KYC procedures in Canada, when an employer (referred to as a "sponsor") contracts with a financial institution to provide a group payroll deduction savings plan (referred to as a "plan") to its employees (referred to as "members") and member contributions, together with any sponsor contributions, are invested directly through an employee payroll savings plan in one or more accounts, a financial institution that maintains such an account is not required to review or report a member's account unless:

- the financial institution knows or has reason to know that there are indicia in the member's information obtained or maintained by the financial institution associated with the member's account;
- the member makes a contribution to the plan other than by payroll deduction (For this purpose, a member payment made to the plan for the period of a sponsor approved leave of absence (such as maternity, paternity, or disability) will not cause the member's account to be reviewable or reportable as long as the payments by the member to the sponsor do not exceed the aggregate contribution amount that the member would have made by payroll deduction but for the leave of absence. Such payments to the sponsor by the member can be made through prepayment before the leave of absence or as otherwise agreed upon by the sponsor. The sponsor can include member contributions, including member payments received for the period of the sponsor approved leave, in its regular payroll contribution remittance.); or
- less than 25 employees are members of the plan (a determination that can be made based on the number of employees in the plan at the end of the calendar year preceding the calendar year for which reporting obligations are being determined).

Retirement compensation arrangement

11.6 When an employer or its representative, consistent with the AML/KYC procedures in Canada, creates a retirement compensation arrangement as defined in subsection 248(1) of the ITA (referred to as an "RCA") for its employees (referred to as "members") and contributions to the RCA are invested by the RCA in one or more financial accounts, a member is not treated as a beneficiary of the RCA, and therefore a controlling person, until the RCA has commenced making payments to the member. The financial institution that maintains such an RCA account is not required to review or report a member as a controlling person of an RCA trust or an account holder unless:

- the financial institution knows or has reason to know that there are indicia in the member's information obtained or maintained by the financial institution associated with the member's participation;
- the RCA is not established or administered in Canada; or
- less than 25 employees are members of the RCA (a determination that can be made based on the number of employees in the RCA at the end of the calendar year preceding the calendar year for which reporting obligations are being determined).

Employee health trusts

11.7 An employee life and health trust, defined in section 144.1 of the ITA, is a trust established by one or more employers for the sole purpose of providing designated employee benefits. A health and welfare trust is not defined in the ITA. In Folio S2-F1-C1: *Health and Welfare Trusts*, the CRA describes a health and welfare trust as a "trust arrangement established by an employer for the purpose of providing health and welfare benefits to its employees". An employee life and health trust and a health and welfare trust are collectively referred to in this chapter as an "employee health trust". Under these types of arrangements, trustees receive contributions from the employer and in some cases from employees, to provide certain health and welfare benefits agreed to between the employer and the employees.

11.8 When an employer or its representative creates an employee health trust for its employees (referred to as "members") and contributions to the employee health trust are invested by the trust in one or more financial accounts, the financial institution that maintains such a trust account is not required to review or report a member as a controlling person of the employee health trust or an account holder unless:

- the financial institution knows or has reason to know that there are indicia in the member's information obtained or maintained by the financial institution associated with the member's participation;
- the health and welfare trust is not established or administered in Canada or in the case of an employee life and health trust it does not satisfy the requirements in subsection 144.1(2) of the ITA; or
- less than 25 employees are members of the employee health trust (a determination that can be made based on the number of employees in the employee health trust at the end of the calendar year preceding the calendar year for which reporting obligations are being determined).

Reporting of Group payroll deduction savings plans, RCAs and employee health trusts

11.9 Group payroll deduction savings plans, RCAs and employee health trusts (collectively referred to in this paragraph as "plans") can be structured in a number of different ways. In some situations, there can be more than one financial institution involved, not only as a financial institution maintaining one or more different types of financial accounts or assets, but also acting in one or more capacities such as administrator, custodian, trustee, etc. Industry participants that maintain accounts covered under a plan can agree on the means to avoid unnecessary or duplicative reporting and to otherwise give practical effect to the above guidance. Where reporting is required, it is also unnecessary to report the aggregate balance of, or amounts paid or credited to, the plan as a whole. Instead, where applicable, plan members ought to be considered as individual account holders with financial accounts reflective of their interest in the plan.

Account transfers

Account transfers of a single account holder

11.10 Account transfers between related entities of financial accounts will not attract due diligence procedures if the transferring financial institution has completed the due diligence procedures and the information, including the self-certification and/or documentary evidence, is fully accessible during the required retention period to the receiving financial institution. Otherwise, the account transferred is a new account for the receiving financial institution and the due diligence procedures for new accounts apply.

11.11 Account transfers between unrelated financial institutions are to be treated as new accounts for the receiving financial institution except where the conditions for mergers or bulk acquisitions of accounts described below are met.

Mergers or bulk acquisition of accounts

11.12 When a financial institution acquires accounts by way of a merger or bulk acquisition of accounts, it can rely on the status of account holders as determined by the predecessor provided that the predecessor is a participating jurisdiction financial institution that has met its due diligence obligations.

11.13 A merger or bulk acquisition of accounts is considered to include the acquisition of member accounts acquired upon the transfer of a group savings plan.

11.14 The acquiring financial institution can continue to rely on the status of an account holder as long as it has no reason to know that the status is unreliable or incorrect. To give effect to this understanding, a financial institution can treat accounts acquired in a merger or bulk acquisition that takes place after June 30, 2017, as preexisting accounts for the purposes of applying the identification and documentation procedures by treating the accounts as if they had been acquired on June 30, 2017.

11.15 The CRA expects the acquiring financial institution will undertake a sample review of the acquired accounts to determine that the status assigned to them by the predecessor financial institution is reliable. An account holder's status will need to be verified by the acquiring financial institution according to the due diligence procedures if the acquirer has reason to know that a status is incorrect or there is a change in circumstances.

Mergers of investment entities

11.16 Mergers of investment entities can be different from mergers of custodial institutions or depository institutions. The financial accounts of investment entities are its equity and debt interest holders, so the merger of two investment entities creates in the surviving investment entity a series of new accounts.

11.17 Mergers of investment entities will normally involve a surviving fund taking over the assets of the merging fund in exchange for issuing shares or units to the investors of the merging fund. The shares or units in the merging fund are then extinguished. The new shares in the surviving fund will be new accounts except when both funds are under common management and such management is subject to the due diligence obligations of the investment entities.

11.18 So that fund mergers are not impeded or held up by the requirement to perform due diligence on a series of new accounts, special rules apply to the documentation of new accounts on a merger of investment entities. There are a number of potential scenarios depending on the status of the merging fund (the investors of which will create the new accounts in the surviving fund).

Merging fund is a reporting financial institution

11.19 When the merging fund is a reporting financial institution, or a participating jurisdiction financial institution, the surviving fund can rely on the account identification and documentation performed by the merging fund and will not need to undertake any further account due diligence to comply with its obligations. The surviving fund can

continue to use the same account classification as the merging fund until there is a change in circumstances for the financial account.

Merging fund is not a reporting financial institution

11.20 When the merging fund is not a reporting financial institution or a participating jurisdiction financial institution, the surviving fund will need to undertake account identification procedures on the new accounts. However, in these circumstances the account identification procedures can be limited to those that are required for preexisting accounts and must be carried out at the latest by December 31 following the date of the merger or by December 31 of the year after the year of the merger if the merger takes place after September 30 of any calendar year.

Exchanges of units

11.21 Periodically, units of one fund are exchanged for the units of another fund where both funds are managed by the same manager. An exchange of units of a fund that is a trust for units of another fund that is a trust does not create a new financial account where both funds are under common management and such management are subject to the due diligence obligations of the investment entities. Similarly, sub-funds of a mutual fund corporation, as described in paragraph 12.3, are collectively one financial institution for Canadian purposes, and an exchange of units of one sub-fund for units of another sub-fund is not considered to create a new account. (The reference to units includes securities in investment funds, see paragraph 10.5.)

Financial institution that ceases to be a non-reporting financial institution to become a reporting financial institution

11.22 Where a financial institution ceases to be a non-reporting financial institution and becomes a reporting financial institution in the course of a reportable period, for example, due to a change in legislation, the relevant cut-off date for reviewing accounts shall be the beginning of the following reportable period. For instance, if the reportable period began on January 1, 2021, then the reporting financial institution is required to

apply the preexisting account due diligence procedures for any financial account maintained on December 31, 2021, whereas the new account due diligence procedures are to be applied for any financial account opened on or after January 1, 2022. As such, the first reporting year would be January 1, 2022 to December 31, 2022 and any reportable accounts would have to be reported before May 2, 2023.

Dormant accounts

11.23 A financial institution can apply its normal operating procedures to classify an account (other than annuity contract) as dormant.

11.24 A financial institution can classify a dormant account based on documentation it already has in its possession for the account holder. Where this review indicates the account is a reportable account, the financial institution should report the account even if there has been no contact with the account holder.

11.25 If the account is closed and the balance is transferred to a pooled account for unclaimed balances, maintained by the financial institution, there does not exist a reportable account.

11.26 An account ceases to be dormant on the earliest of any of the following events occurring:

- the account holder initiates a transaction on the dormant account or any other account held with the financial institution;
- the account holder communicates with the financial institution about the dormant account or any other account held with the financial institution; or
- the account ceases to be a dormant account under the normal operating procedures of the financial institution.

11.27 At the time an account is no longer dormant, the financial institution will have to establish the account holder’s status following the procedures applicable to new accounts.

Chapter 12 – Part XIX – Information reporting

Information elements for reportable accounts

12.1 Each reporting financial institution with reportable accounts in a year is required to electronically file a Part XIX Information Return for that year with the CRA before May 2nd following the calendar year to which the information return applies. Information returns that are late filed or not filed electronically will be subject to the penalties under subsections 162(7.01) and (7.02) of the ITA. In addition, any financial institution that fails to provide any information required on an information return is liable to a penalty of $100 for each such failure under subsection 162(5) of the ITA unless reasonable effort was made by the financial institution to obtain the information from the account holder.

12.2 A financial institution that does not maintain a reportable account for a particular year is not required to file a nil Part XIX Information Return for that year with the CRA.

Information on the reporting financial institution

12.3 The reporting financial institution must identify itself to the CRA by providing its name, address and BN.

Note: A mutual fund corporation with classes of shares where each such class is considered a separate fund pursuant to securities legislation, each such fund is referred to as a "sub-fund" and is considered one reporting financial institution. Since the sub-funds are considered part of the same entity, they can be reported using the corporation's BN.

Information identifying each account holder

12.4 In relation to each reportable account, the following identifying information of the account holder must be reported:

- Name
- Residence address
- Jurisdiction of residence for tax purposes
- Foreign TIN with respect to each reportable jurisdiction (if the account holder is a reportable person - see paragraphs 12.23 to 12.29)
- Canadian TIN (if applicable - see paragraph 12.30)
- Date of birth (if applicable - see paragraphs 12.31 to 12.33)

Information identifying each controlling person

12.5 When an account held by a passive NFE is controlled by one or more reportable persons, the same identifying information as mentioned in paragraph 12.4 must be provided in respect of each of its controlling persons who are reportable persons. In addition, the controlling person type must also be provided, see paragraph 12.52 for more information.

12.6 To identify the controlling persons for the purposes of filing the Part XVIII or Part XIX Information Return, financial institutions must consider the type of entity account they are reporting as follows:

Entities and their controlling persons		
If the entity account is held by…	**Controlling persons to report under Part XVIII**	**Controlling persons to report under Part XIX**
a professionally managed investment entity resident in a non-participating jurisdiction and considered a passive NFE (see paragraph 4.4)	N/A	the controlling persons who are tax residents in jurisdictions other than Canada and the United States.

a passive NFE	the controlling persons who are tax residents in the U.S. including U.S. citizens.	the controlling persons who are tax residents in jurisdictions other than Canada and the United States.
a passive NFE and a specified U.S. person (see Part XVIII Guidance for more information on specified U.S. person)	N/A	the controlling persons who are tax residents in jurisdictions other than Canada and the United States.

An account held by a U.S. entity that is a passive NFE with one or more controlling persons who are reportable persons must be reported under Part XVIII and Part XIX.

Account information

12.7 Financial institutions must report account information in connection with the reportable account. In all cases, the account number and the account balance or value must be reported. The other information to be reported depends on the nature of the account.

Custodial accounts

12.8 If the account is a custodial account, the information listed below must be provided in respect of reporting for 2017 and subsequent years:

- 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; and

- the total gross proceeds from the sale or redemption of financial assets paid or credited to the account.

Note: A financial institution holding an investment fund unit as intermediary or nominee for a customer can consider all amounts received in connection with that unit as other income. Similarly, a financial institution holding an interest in a mutual fund corporation as intermediary or nominee for a customer can consider all distributions received in connection with that interest as dividend income.

12.9 Where a cash value insurance contract or annuity contract, including a segregated fund contract, is held in nominee name and is reported as part of a custodial account, the custodian should report all amounts paid or credited to the custodian from the contract (i.e., withdrawals from the contract). This amount can be reported as gross proceeds paid or credited to the account. For this purpose, the amount "paid or credited to the account" means the amount that would have been paid or credited to the account holder if the account were held directly by the account holder.

Custodial accounts and other income

12.10 The term "other income" means any amount considered as income under the ITA other than interest, dividends, or gross proceeds or capital gains from the sale or redemption of financial assets, such as trust income.

Custodial accounts and gross proceeds

12.11 The total gross proceeds from a sale or redemption are the total amount realized as a result of a sale or redemption of financial assets. The sale or redemption is to be determined regardless of whether the owner of the financial asset is subject to tax in Canada with respect to the sale or redemption.

12.12 The total gross proceeds from a sale or redemption of financial assets is the total amount paid or credited to the account of the person entitled to the payment increased by any amount not paid by reason of the repayment of margin loans.

Commissions and fees with respect to the sale and redemption can be taken into account in determining the total gross proceeds. Gross proceeds are considered paid on the date that the proceeds are credited to the account of or otherwise made available to the person entitled to the payment.

12.13 Gross proceeds can also include the return of capital and the distribution of capital gains in respect of the financial assets even where there has not been a sale or redemption of the financial assets. Alternatively, such amounts can be reported as other income.

12.14 A financial institution is required to report income and the total gross proceeds from the sale or redemption of financial assets held in a custodial account when the income or gross proceeds are paid or credited to, or with respect to, the custodial account. The requirement to report in respect of financial assets held in a custodial account applies regardless of whether the amount is paid or credited to an account other than the custodial account.

12.15 In the case of a sale or redemption of an interest bearing debt obligation, the gross proceeds include any interest that has accrued between interest payment dates. Alternatively, the amount of accrued interest can be included in the total gross amount of interest reported for the account.

12.16 In the case of a clearing organization that settles sales and purchases of securities between members of such organization on a net basis, the gross proceeds from sales or dispositions are limited to the net amount paid or credited to a member's account that is associated with sales or other dispositions of financial assets described in this section by such member as of the time that such transactions are settled under the settlement procedures of such organization.

12.17 A partnership interest held in a custodial account is a financial asset and is therefore to be reported along with any other assets held in a custodial account. A custodian does not necessarily have details regarding the annual allocations of income, gain or losses made to each partner. Therefore, a financial institution is not required to

report annual allocations of income, gain or loss made by a partnership to a partner in respect of a partnership interest held in a custodial account. However, distributions paid or credited by the partnership to the custodial account must be reported as either gross proceeds or other income.

Depository accounts

12.18 If the account is a depository account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period is required in respect of reporting for 2017 and subsequent years.

Other accounts

12.19 For accounts other than custodial or depository accounts (such as equity and debt interests, cash value insurance contracts, annuity contracts and client name accounts), the following information is required in respect of reporting for 2017 and subsequent years:

- the total gross amount paid or credited to the account holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the financial institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the account holder during the year.

Note: For greater clarity, there is no need to distinguish the return of capital from other amounts paid or credited. Distributions from an entity that is a CIV that are considered paid or credited for income tax purposes are considered paid or credited to the account holder of the unit.

12.20 Whether an interest in a partnership is treated as a financial account or an asset depends on whether the interest is held as a financial account or as an asset in a financial account. A partnership interest that is held directly by an account holder is an equity interest and is to be reported as other accounts. A partnership interest held in a

custodial account is an asset and is therefore to be reported along with any other assets held in a custodial account.

Explanatory information

Account holder address

12.21 The address to be reported is the current residence address of the account holder. If no current residence address is associated with the account holder, report the address that is on file for mailing or other purposes. 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 current residence address of each controlling person who is a reportable person must also be reported.

Account holder jurisdiction of tax residence

12.22 The jurisdiction of tax residence to be reported is the jurisdiction of tax residence identified by the financial institution for the account holder at the end of the relevant calendar year. In the case of an account holder that is identified as having more than one jurisdiction of tax residence, the jurisdictions of tax residence to be reported are all the jurisdictions of tax residence identified by the financial institution for the account holder with respect to the relevant calendar year. 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 jurisdiction of residence of each controlling person who is a reportable person must also be reported.

Note: For the purposes of Part XIX, where an individual is a tax resident in Canada or the U.S., and a reportable jurisdiction, the financial institution shall report the individual's tax residency using only the country code of the reportable jurisdiction.

Foreign taxpayer identification number (Foreign TIN)

12.23 A foreign TIN is a unique combination of letters or numbers, assigned by a jurisdiction to an individual or entity and used to identify the individual or entity for purposes of administering the tax laws of such jurisdiction. A foreign TIN includes:

- a social security or insurance number;
- citizen, personal identification, or service code/number;
- resident registration number; and
- a business or company registration code/number.

12.24 The foreign TIN to be reported with respect to an account is the TIN assigned to the reportable person by its jurisdiction of tax residence (i.e., not by a jurisdiction of source). In the case of a reportable person that is identified as having more than one jurisdiction of tax residence, the TIN to be reported is the reportable person's TIN with respect to each reportable jurisdiction.

12.25 With respect to preexisting accounts, the foreign TIN is not required to be reported if it is not in the records of the financial institution, during the transition period discussed below.

Transition period to obtain foreign TIN

12.26 If the foreign TIN is not in the records of the financial institution, and the jurisdiction of residence of the account holder and / or the controlling persons issues and collects the TIN, the financial institution is required to use reasonable efforts to obtain the foreign TIN by the end of the second calendar year following the year in which such accounts were identified as reportable accounts. In any case, for reporting related to 2021 and future calendar years, a foreign TIN is required to be reported where the account holder is a reportable person and in the case of any entity that is identified as a passive NFE controlled by one or more controlling persons that is a reportable person. If a reportable person does not have a foreign TIN and its jurisdiction of residence issues and collects TIN, the reportable person must apply for a foreign TIN

from their jurisdiction of residence and provide it to the financial institution. If the reportable person does not provide a foreign TIN, the account remains reportable.

12.27 "Reasonable efforts" means genuine attempts to acquire the foreign 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 preexisting account as a reportable account and the end of the second calendar year following the year of that identification, or until the foreign TIN is obtained. A financial institution is authorized to ask its account holders to provide a foreign TIN at any time regardless of the phase-in period.

Example

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 financial institution.

12.28 A foreign TIN is not required to be reported where a jurisdiction does not issue TINs or where the domestic law of the relevant reportable jurisdiction does not require the collection of the TIN issued by such reportable jurisdiction. If the account holder does not provide a foreign TIN, the account remains reportable. The financial institution must identify on the Part XIX Information Return the reason why the account holder does not have a foreign TIN.

Note: The list of jurisdictions that require the collection of a TIN is available on the OECD website.

12.29 A financial institution is not required to confirm the format and other specifications of a foreign TIN but can do so in order to enhance the quality of the information collected and minimize the administrative burden associated with any follow up concerning the reporting of an incorrect foreign TIN. A financial institution will not be

held accountable when information supplied by an individual or an entity proves to be inaccurate and the financial institution has no reason to know that.

Canadian taxpayer identification number (Canadian TIN)

12.30 A financial institution must provide the Canadian TIN of the account holder if it is in the records of the financial institution in the case of a preexisting account and if the account holder has a Canadian TIN in the case of a new account. 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 Canadian TIN (if applicable) of each controlling person who is a reportable person must also be reported. A Canadian TIN can be in the form of a SIN, an ITN, a BN, or a trust account number.

Account holder date of birth

12.31 The date of birth of a reportable person that is an account holder (or a person identified as a controlling person) must be reported. The place of birth is not relevant for purposes of Part XIX reporting.

12.32 With respect to preexisting accounts, the date of birth is not required to be reported if the date of birth is not in the records of the financial institution.

12.33 If the date of birth is not in the records of the financial institution, the financial institution is required to use reasonable efforts to obtain the date of birth by the end of the second calendar year following the year in which such accounts were identified as reportable accounts.

Account number

12.34 The account number to be reported with respect to an account is the identifying number assigned to the financial account or another number that is used to identify the financial account within the financial institution.

Account balance or value

12.35 The account balance or value as of the end of the relevant calendar year or other appropriate reporting period must be reported together with the currency in which the balance or value is denominated (see paragraph 12.42). For depository accounts, the relevant date is December 31 (unless the account is closed earlier in the year). Subject to the information below, December 31 is also anticipated to be the most relevant date for most other financial accounts.

12.36 An account with a balance or value that is negative must be reported as having an account balance or value equal to zero.

12.37 When it is not possible to value an account at the end of a particular year, the normal valuation point for the account that falls within the particular year that is nearest to December 31 is to be used.

Example

For a reportable insurance product that is valued at the anniversary date of the opening of the policy, opened for example on June 3, 2018, the product will be valued on June 2, 2019. The June 2, 2019 value will be reported for the 2019 calendar year to the CRA before May 2, 2020.

12.38 In respect of a cash value insurance contract or an annuity contract, the account balance or value is the cash value or surrender value of the account.

12.39 The balance or value of a financial account is the balance or value calculated by the financial institution for purposes of reporting to the account holder. For immediate annuities (that is, annuities under which annuity payments have begun), it is appreciated that there is often no on-going account balance or value reported to the account holder because the account holder has used the value that had been accumulated to purchase the right to a series of future payments. A financial institution

can report the balance or value of such an account as nil if it is not performing surrender value calculations and is not reporting a value to the account holder.

12.40 The balance or value of an equity interest is the value calculated by the financial institution for the purpose that requires the most frequent determination of value, and the balance or value of a debt interest is its principal amount.

12.41 The balance or value of the account is not to be reduced by a liability or obligation incurred by an account holder with respect to the account, nor is it to be reduced by any potential future fees, penalties, or other charges for which the account holder may be liable upon terminating, transferring, surrendering, liquidating, or withdrawing cash from the account.

Currency

12.42 All amounts to be reported by the financial institution must identify the currency in which they are denominated. In the case of an account denominated in more than one currency, the financial institution can 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.

Joint accounts

12.43 Each holder of a jointly held account that is a reportable person is attributed the entire balance or value of the joint account, as well as the entire amount paid or credited to the joint account (or with respect to the joint account).

Example

When a joint account has a balance or value of US$100,000 and one of the individual account holders is a reportable person, the amount to be attributed to the reportable person is US$100,000. A report is made for the reportable person; no report is made for the other account holder.

If both account holders are reportable persons, each is attributed the US$100,000 and reports are made for both. For reporting purposes, one slip with the full account balance, should be prepared for each joint holder that is a reportable person.

12.44 The attribution of the entire balance or value of the account is also applicable with respect to:

- an account held by a passive NFE with more than one controlling person who is a reportable person, where each controlling person is attributed the entire balance or value of the account held by the passive NFE, as well as the entire amounts paid or credited to the account;
- an account held by an account holder that is a reportable person and is identified as having more than one jurisdiction of tax residence, where the entire balance or value of the account, as well as the entire amount paid or credited to the account, must be reported with respect to each jurisdiction of tax residence of the account holder;
- an account held by a passive NFE with a controlling person who is a reportable person and is identified as having more than one jurisdiction of tax residence, where the entire balance or value of the account held by the passive NFE, as well as the entire amount paid or credited to the account, must be reported with respect to each jurisdiction of tax residence of the controlling person; or
- an account held by a passive NFE that is a reportable person with a controlling person who is a reportable person, where the entire balance or value of the account held by the passive NFE, as well as the entire amount paid or credited to the account, must be reported with respect to both the passive NFE and the controlling person.

Account closures

12.45 In respect of an account closure, the account balance reporting requirement intends to capture the amount or value from the account at the point of closure.

Therefore, financial institutions must report zero as the account balance or value and must indicate that the account is closed. In practice, account closing procedures differ between institutions and between different products and accounts. A financial institution can use any reasonable and consistently applied approach to determining when a particular account is considered to be closed. For example, an equity or debt interest in a financial institution would generally be considered to be closed upon termination, transfer, surrender, redemption, cancellation, or liquidation. However, an account with a balance or value equal to zero or that is negative will not be a closed account solely by reason of such balance or value.

Undocumented accounts

12.46 An undocumented account generally arises when a financial institution is unable to obtain information from an account holder in respect of a preexisting individual account. If the account is treated as an undocumented account and there are no indicia other than a hold mail instruction, Canada must be used as the residency country code as no address is available. If the account is treated as an undocumented account and there are no indicia other than a care of address in a reportable jurisdiction, the reportable jurisdiction must be used as the residency country code.

Accounts may cease to be reportable

12.47 Other than in the context of an account closure, the requirement to report an account under Part XIX for a particular year is based on the status of the account holder at the end of that year. As such, if an account holder ceases to be a reportable person prior to the end of the year, the accounts held by that account holder are not reportable accounts for that year. In the case of an account closure, the requirement to report the account under Part XIX for the year in which the account was closed is based on the status of the account holder at the time of closure.

Specification of certain data elements

Entity account holder type

12.48 Financial institutions must report the entity account holder type in connection with a reportable account using the following data elements:

- CRS101 – Passive NFE with one of more controlling persons who are reportable persons
- CRS102 – CRS reportable person
- CRS103 – Passive NFE that is a CRS reportable person

12.49 An account held by a passive NFE with one or more controlling persons who are reportable persons must be reported using CRS101. In addition, where the passive NFE is a reportable person with one or more controlling persons who are reportable persons, it suffices that the account be reported using CRS101.

Example 1

A financial institution maintains an account for a passive NFE that resides in Canada for tax purposes. The entity is controlled by a person who resides in France for tax purposes. Since the passive NFE is controlled by a person that resides in a reportable jurisdiction, the account must be reported using CRS101.

Example 2

A financial institution maintains an account for a passive NFE that resides in Germany for tax purposes. The entity is controlled by two persons who reside in France and Italy for tax purposes. Since the passive NFE is controlled by persons who reside in reportable jurisdictions, the account must be reported using CRS101.

12.50 An account held by a reportable person that must be reported using CRS102 is limited to an active NFE that is a reportable person.

Example

A financial institution maintains an account for a charitable organization that resides in Germany for tax purposes. The entity is considered an active NFE. Since the active NFE is a reportable person, the account must be reported using CRS102.

12.51 An account held by a passive NFE that is a reportable person with no controlling persons who are reporting persons, must be reported using CRS103.

Example

A financial institution maintains an account for a passive NFE that resides in Germany for tax purposes. The entity is controlled by a Canadian resident and a U.S. resident. Since no controlling persons reside in a reportable jurisdiction, the entity account will be reported using CRS103.

Controlling person type

12.52 Financial institutions must report the controlling person type in connection with the reportable account using the following data elements:

- CRS801 = Direct owner
- CRS802 = Indirect owner (through an intermediary)
- CRS803 = Senior managing official
- CRS804 = Settlor of a trust
- CRS805 = Trustee of a trust
- CRS806 = Protector of a trust
- CRS807 = Beneficiary of a trust
- CRS808 = Other controlling person of a trust
- CRS809 = Equivalent to a settlor of a legal arrangement other than a trust
- CRS810 = Equivalent to a trustee of a legal arrangement other than a trust
- CRS811 = Equivalent to a protector of a legal arrangement other than a trust

- CRS812 = Equivalent to a beneficiary of a legal arrangement other than a trust
- CRS813 = Other controlling person of a legal arrangement other than a trust

12.53 This data element allows the identification of the type of each controlling person. For preexisting entity account, the information is required to be reported if the information is available in the records of the financial institution.

Timetable for reporting

12.54 The following lists provide the information required to be reported in respect of each reportable account. The obligation to obtain and report information with respect to reportable accounts is shown below.

Information to be reported to the CRA every year for all accounts, starting in 2017

Name
Address
Jurisdiction of residence
Foreign TIN and date of birth
Canadian TIN
Account number or functional equivalent
Account balance or value

Information to be reported to the CRA every year, starting in 2017

Information to be reported by type of account	Custodial accounts	Depository accounts	Other accounts
Total gross amount of interest paid or credited to the account	Starting 2017	Starting 2017	N/A
Total gross amount of dividends paid or credited to the account	Starting 2017	N/A	N/A
Total gross amount of other income paid or credited to the account	Starting 2017	N/A	N/A
Total gross amount paid or credited to the account holder with respect to the account including the aggregate amount of redemption payments made to the account holder	N/A	N/A	Starting 2017
Total gross proceeds from the sale or redemption of property paid or credited to the account	Starting 2017	N/A	N/A

Third party service providers

12.55 A financial institution can rely on one or more third-party service providers to meet its obligations under Part XIX. However, all obligations remain the responsibility of the financial institution.

Example 1

A financial institution 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 financial institution will be held liable.

Example 2

A financial institution can use a third-party service provider to file its Part XIX Information Return. The third-party service provider is required to use its transmitter number and must include the financial institution's BN on the information return. A third-party service provider can use its CRA web access code. However, in the event of any irregularities or failure to meet the legislative requirements, the financial institution will be held liable.

Compliance

12.56 The CRA is responsible for the administration of Part XIX and will take appropriate steps to promote compliance. The CRA will also engage in discussions with its exchange partners if a concern is raised in connection with the CRS information.

Non-compliance

12.57 An exchange partner will notify the CRA 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 financial institution with the applicable reporting requirements and due diligence procedures consistent with the CRS.

12.58 The CRA will take all appropriate measures available under its domestic law to address the errors or non-compliance described in the notice. In general, pursuant to subsection 162(7) of the ITA, a failure to comply with an obligation imposed under the ITA/ITR, such as a due diligence obligation under Part XIX of the ITA, may be subject to a penalty of $25 per day to a maximum of 100 days, during which the failure continued, except where another provision of the ITA (other than subsection 162(10) or 162(10.1) or 163(2.22)) sets out a penalty for the failure.

12.59 Non-compliance includes:

- repeated failure to file the Part XIX Information Return;

- 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 under Part XIX.

Anti-Avoidance Provision

12.60 Part XIX contains an anti-avoidance provision where if a person enters into an arrangement or engages in a practice, the primary purpose of which can reasonably be considered to be to avoid an obligation under Part XIX, the person is subject to the obligation as if the person had not entered into the arrangement or engaged in the practice.

Example 1

If a financial institution did not create any electronic records for a lower value account so that an electronic record search would not yield any results, or maintains computerised systems artificially dissociated to avoid application of the entity account aggregation rules, then, in the absence of a commercial reason, it may be reasonable to view that these arrangements were established to avoid the relevant accounts being reported. Under such circumstances, the obligations under Part XIX apply in respect of these accounts.

Example 2

A financial institution holds preexisting entity accounts. It is discovered that transfers from / to those accounts to / from the related offshore accounts have taken place just before and after the end of a calendar year so that the account balances go below the reporting thresholds at the end of the calendar year. In the absence of an apparent commercial or administration reason for these transfers, if it is reasonable to view that

the year-end account balances were manipulated primarily to avoid the reporting of the accounts, the anti-avoidance provision applies.