

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

## [<sup>F1</sup>ANNEX I

### REPORTING AND DUE DILIGENCE RULES FOR FINANCIAL ACCOUNT INFORMATION

#### Textual Amendments

- F1** Inserted by [Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation.](#)

## SECTION V

### DUE DILIGENCE FOR PRE-EXISTING ENTITY ACCOUNTS

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

- A. Entity Accounts Not Required to Be Reviewed, Identified or Reported. Unless the Reporting Financial Institution elects otherwise, either with respect to all Pre-existing Entity Accounts or, separately, with respect to any clearly identified group of such accounts, a Pre-existing Entity Account with an aggregate account balance or value that does not exceed, as of 31 December 2015, an amount denominated in the domestic currency of each Member State that corresponds to USD 250 000, is not required to be reviewed, identified, or reported as a Reportable Account until the aggregate account balance or value exceeds that amount as of the last day of any subsequent calendar year.
- B. Entity Accounts Subject to Review. A Pre-existing Entity Account that has an aggregate account balance or value that exceeds, as of 31 December 2015, an amount denominated in the domestic currency of each Member State that corresponds to USD 250 000, and a Pre-existing Entity Account that does not exceed, as of 31 December 2015, that amount but the aggregate account balance or value of which exceeds such amount as of the last day of any subsequent calendar year, must be reviewed in accordance with the procedures set forth in paragraph D.
- C. Entity Accounts With Respect to Which Reporting Is Required. With respect to Pre-existing Entity Accounts described in paragraph B, only accounts that are held by one or more Entities that are Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons, shall be treated as Reportable Accounts.
- D. Review Procedures for Identifying Entity Accounts With Respect to Which Reporting Is Required. For Pre-existing Entity Accounts described in paragraph B, a Reporting Financial Institution must apply the following review procedures to determine whether the account is held by one or more Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons:
  1. Determine Whether the Entity Is a Reportable Person.
    - (a) Review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine whether the information indicates that the Account Holder is resident in a Member State.

For this purpose, information indicating that the Account Holder is resident in a Member State includes a place of incorporation or organisation, or an address in a Member State.

- (b) If the information indicates that the Account Holder is resident in a Member State, the Reporting Financial Institution must treat the account as a Reportable Account unless it obtains a self-certification from the Account Holder, or reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person.
2. Determine Whether the Entity is a Passive NFE with One or More Controlling Persons who are Reportable Persons. With respect to an Account Holder of a Pre-existing Entity Account (including an Entity that is a Reportable Person), the Reporting Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons who are Reportable Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. In making these determinations the Reporting Financial Institution must follow the guidance in subparagraphs D(2)(a) through (c) in the order most appropriate under the circumstances.
- (a) Determining whether the Account Holder is a Passive NFE. For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Financial Institution must obtain a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.
  - (b) Determining the Controlling Persons of an Account Holder. For the purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.
  - (c) Determining whether a Controlling Person of a Passive NFE is a Reportable Person. For the purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Financial Institution may rely on:
    - (i) information collected and maintained pursuant to AML/KYC Procedures in the case of a Pre-existing Entity Account held by one or more NFEs with an aggregate account balance or value that does not exceed an amount denominated in the domestic currency of each Member State that corresponds to USD 1 000 000; or
    - (ii) a self-certification from the Account Holder or such Controlling Person of the Member State(s) or other jurisdiction(s) in which the controlling person is resident for tax purposes.

---

*Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

---

- E. Timing of Review and Additional Procedures Applicable to Pre-existing Entity Accounts
1. Review of Pre-existing Entity Accounts with an aggregate account balance or value that exceeds, as of 31 December 2015, an amount denominated in the domestic currency of each Member State that corresponds to USD 250 000, must be completed by 31 December 2017.
  2. Review of Pre-existing Entity Accounts with an aggregate account balance or value that does not exceed, as of 31 December 2015, an amount denominated in the domestic currency of each Member State that corresponds to USD 250 000 but exceeds that amount as of 31 December of a subsequent year, must be completed within the calendar year following the year in which the aggregate account balance or value exceeds such amount.
  3. If there is a change of circumstances with respect to a Pre-existing Entity Account that causes the Reporting Financial Institution to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the Reporting Financial Institution must re-determine the status of the account in accordance with the procedures set forth in paragraph D.]