

[^{F1}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 VIII

DEFINED TERMS

- B. Non-Reporting Financial Institution
1. The term ‘Non-Reporting Financial Institution’ means any Financial Institution which is:
 - (a) a Governmental Entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution;
 - (b) a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organisation or Central Bank; or a Qualified Credit Card Issuer;
 - (c) any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in subparagraphs B(1)(a) and (b), and is included in the list of Non-Reporting Financial Institutions referred to in Article 8(7a) of this Directive, provided that the status of such Entity as a Non-Reporting Financial Institution does not frustrate the purposes of this Directive;
 - (d) an Exempt Collective Investment Vehicle; or
 - (e) a trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to Section I with respect to all Reportable Accounts of the trust.
 2. The term ‘Governmental Entity’ means the government of a Member State or other jurisdiction, any political subdivision of a Member State or other jurisdiction (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of a Member State or other jurisdiction or of any one or more of the foregoing (each, a ‘Governmental Entity’). This category is comprised of the integral parts, controlled entities, and political subdivisions of a Member State or other jurisdiction.
 - (a) An ‘integral part’ of a Member State or other jurisdiction means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of a Member State or other jurisdiction. The net earnings of the governing authority must be

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credited to its own account or to other accounts of the Member State or other jurisdiction, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity.

- (b) A ‘controlled entity’ means an Entity which is separate in form from the Member State or other jurisdiction or which otherwise constitutes a separate juridical entity, provided that:
- (i) the Entity is wholly owned and controlled by one or more Governmental Entities directly or through one or more controlled entities;
 - (ii) the Entity's net earnings are credited to its own account or to the accounts of one or more Governmental Entities, with no portion of its income inuring to the benefit of any private person; and
 - (iii) the Entity's assets vest in one or more Governmental Entities upon dissolution.
- (c) Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of government. Notwithstanding the foregoing, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a Governmental Entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons.
3. The term ‘International Organisation’ means any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation (including a supranational organisation) (i) that is comprised primarily of governments; (ii) that has in effect a headquarters or substantially similar agreement with the Member State; and (iii) the income of which does not inure to the benefit of private persons.
4. The term ‘Central Bank’ means an institution that is by law or government sanction the principal authority, other than the government of the Member State itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the Member State, whether or not owned in whole or in part by the Member State.
5. The term ‘Broad Participation Retirement Fund’ means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries who are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that the fund:
- (a) does not have a single beneficiary with a right to more than 5 % of the fund's assets;
 - (b) is subject to government regulation and provides information reporting to the tax authorities; and
 - (c) satisfies at least one of the following requirements:

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- (i) the fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;
 - (ii) the fund receives at least 50 % of its total contributions (other than transfers of assets from other plans described in subparagraphs B(5) through (7) or from retirement and pension accounts described in subparagraph C(17)(a)) from the sponsoring employers;
 - (iii) distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death (except rollover distributions to other retirement funds described in subparagraphs B(5) through (7) or retirement and pension accounts described in subparagraph C(17)(a)), or penalties apply to distributions or withdrawals made before such specified events; or
 - (iv) contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed, annually, an amount denominated in the domestic currency of each Member State that corresponds to USD 50 000, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.
6. The term ‘Narrow Participation Retirement Fund’ means a fund established to provide retirement, disability, or death benefits to beneficiaries who are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that:
- (a) the fund has fewer than 50 participants;
 - (b) the fund is sponsored by one or more employers that are not Investment Entities or Passive NFEs;
 - (c) the employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described in subparagraph C(17)(a)) are limited by reference to earned income and compensation of the employee, respectively;
 - (d) participants that are not residents of the Member State in which the fund is established are not entitled to more than 20 % of the fund's assets; and
 - (e) the fund is subject to government regulation and provides information reporting to the tax authorities.
7. The term ‘Pension Fund of a Governmental Entity, International Organisation or Central Bank’ means a fund established by a Governmental Entity, International Organisation or Central Bank to provide retirement, disability, or death benefits to beneficiaries or participants who are current or former employees (or persons designated by such employees), or who are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services performed for the Governmental Entity, International Organisation or Central Bank.

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8. The term ‘Qualified Credit Card Issuer’ means a Financial Institution satisfying the following requirements:
- (a) the Financial Institution is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and
 - (b) beginning on or before 1 January 2016, the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of an amount denominated in the domestic currency of each Member State that corresponds to USD 50 000, or to ensure that any customer overpayment in excess of that amount is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.
9. The term ‘Exempt Collective Investment Vehicle’ means an Investment Entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through individuals or Entities that are not Reportable Persons, except a Passive NFE with Controlling Persons who are Reportable Persons.
- An Investment Entity that is regulated as a collective investment vehicle does not fail to qualify under subparagraph B(9) as an Exempt Collective Investment Vehicle, solely because the collective investment vehicle has issued physical shares in bearer form, provided that:
- (a) the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after 31 December 2015;
 - (b) the collective investment vehicle retires all such shares upon surrender;
 - (c) the collective investment vehicle performs the due diligence procedures set forth in Sections II through VII and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and
 - (d) the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilised as soon as possible, and in any event prior to 1 January 2018.]