GUIDANCE NOTE ON COMMMON REPORTING STANDARD FOR AUTOMATIC EXCHNAGE OF FINANCIAL ACCOUNTS INFORMATION

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FOREWORD

In recent decades, globalization has brought new opportunities for the human beings which, in turn, have caused new challenges to our societies. As the world has become increasingly inter-connected and cross-border activities have become the norm, tax administrations need to work together in order to ensure that taxpayers pay the right amount of tax and that, too, to the right jurisdiction. In the current scenario, it has been found quite convenient for the taxpayers to make, hold and manage investments through financial institutions outside their country of residence, thus giving rise to tax evasion and avoidance. Jurisdictions all over the world are losing trillions of dollars in potential revenues to the tax evasion. The co-operation between tax administrations is, therefore, now indispensable in fight against this menace and to protect the integrity of their respective tax systems. Against this backdrop, all jurisdictions must enter into a longstanding co-operation and closer relationship to improve international tax compliance so as to stem the menace of tax evasion and avoidance.

Over the last 50 years, the Organization for Economic Cooperation and Development (OECD) has led the way on tackling various tax issues. This work is the result of global dialogue, now directly involving more than 150 countries and jurisdictions from across the world. The exchange of information has been found as the corner stone of this co-operation and relationship against the cross-border tax evasion. This is the context in which the OECD has developed the Multilateral Convention for Mutual Administrative Assistance in Tax Matters (MAC) and its ancillary Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (MCAA) and a global model of Common Reporting Standard (CRS) for the automatic exchange of information with respect to financial accounts.

Pakistan has joined both MAC and the CRS MCAA. For implementation of CRS in Pakistan, necessary legislative changes have been made in the Income Tax Ordinance, 2001 and the Income Tax Rules, 2002 as to collect and provide relevant financial accounts information to the foreign tax jurisdictions. Hence, Pakistan has put in place all the necessary legislative and administrative measures and other relevant safeguards to implement the CRS and is now all set to exchange financial accounts information with partner jurisdictions in September, 2018.

These Guidance Notes have been compiled to provide guidance to the financial institutions and their regulators in Pakistan. I must thank KPMG Taseer Hadi & Co. Chartered Accountants, for their relentless efforts and untiring contribution in compilation of these Guidance Notes. I must also thank and acknowledge the guidance and technical support provided by the Global Forum on Tax Transparency and Exchange of Information for Tax Purposes in general, and Mr. Donal Godfrey and Mr. Lloyd Garrochinho in particular, as part of the pilot project with Pakistan. I also take this opportunity to acknowledge the contribution of Mr. Jon Swerdlow and other colleagues from HMRC, including Mr. Mike Fell, Mr. Peter Carver and Ms. Zana Aslam, in providing their valuable input and support. Mr. Jon Swerdlow in particular has been visiting Pakistan, as and when required, and was of great technical assistance in developing frameworks for exchange of information,

both automatic and on request basis. Last but not the least, FBR is thankful to the regulators of our financial industry; both the State Bank of Pakistan (SBP) and the Securities and Exchange Commission of Pakistan (SECP) for their continued assistance and support in the pilot project on this strand of exchange of information.

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1. Chapter 1: Introduction

1.1. Background

The menace of tax evasion and avoidance is a serious problem for all the states and jurisdictions, whether developed or developing. Jurisdictions all over the world are losing trillions of dollars in potential revenue due to tax evasion. Hence, co-operation between tax administrations is indispensable to fight against tax evasion and protecting the integrity of tax systems.

In an effort to control offshore tax evasion and other forms of non-compliance, global implementation of Automatic Exchange of Information (AEOI) has long been in place. The Organization for Economic Cooperation and Development (OECD) has facilitated this automatic exchange through the development of legal framework and technical standards and providing guidance and training, seeking to improve automatic exchange at a practical level. The aim of establishing such exchange mechanism was to promote international cooperation and to encourage the sharing of high quality, predictable information between the revenue authorities.

Initially, in September 2013, the G20 Leaders committed to the AEOI as the new global standard and fully supported the OECD work within G20 countries. In February 2014, the G20 Finance Ministers and Central Bank Governors endorsed the Common Reporting Standard as the mechanism for automatic exchange of financial account information on tax matters between multiple countries, and in November 2014, G20 leaders met to finally endorse the CRS mechanism for their respective jurisdictions. So far, more than 100 jurisdictions have committed to its implementation.

The CRS, with a view to maximize efficiency and reduce cost for financial institutions, draws extensively on the IGA approach to implementing Foreign Accounts Tax Compliance Act (FATCA) enacted by the USA. However, CRS deviates in certain aspects from IGA approach to FATCA reporting. The differences are driven by the multilateral nature of the CRS system and other U.S. specific aspects, in particular taxation based on citizenship and the presence of a significant and comprehensive FATCA withholding tax.

Pakistan's Commitment

FBR started efforts to become Party to the OECD's Multilateral Convention on Mutual Administrative Assistance in Tax Matters well in time. In January, 2014, the matter was taken up in the Cabinet which granted approval to the proposal of becoming signatory to the Multilateral Convention on Mutual Assistance in Tax Matters. Accordingly in March, 2014, Pakistan sent a request through Minister for Finance & Revenue to the OECD Secretariat, expressing strong interest in becoming signatory and party to the Multilateral Convention.

After making all the necessary changes in the relevant taxation laws as suggested by the OECD and receiving a "Largely Compliant" rating in the Phase II Peer Review Report on Pakistan from the Global Forum on Transparency and Exchange of Information for Tax purposes in June 2016, Pakistan was finally invited to sign the

Convention which it did so on September 14, 2016. Subsequently, Pakistan ratified the Convention in a record period of three months by depositing the instrument of ratification in the OECD Secretariat on December 14, 2016. The Multilateral Convention is enforced with effect from April 1, 2017, which will be covering the tax periods commencing on or after January 1, 2018. In case of automatic exchange of information, Pakistan has filed a Unilateral Declaration in the OECD enabling it to automatically exchange information for the period related to calendar year 2017 as well.

Salient Features of the Multilateral Convention

The Multilateral Convention facilitates international co-operation for a better operation of national tax laws and provides for all possible forms of administrative co-operation between states and jurisdictions in the assessment and collection of taxes, in particular with a view to combating tax avoidance and evasion. This co-operation ranges from exchange of information, including automatic exchanges, to the recovery of foreign tax claims. The Multilateral Convention shall facilitate member countries in the following types of exchange of information and administrative assistance:

(i) **Exchange of Information on Request:**

On request, the requested State shall provide any information concerning particular persons or transactions, including banking details, which is foreseeably relevant for administration or enforcement of our domestic tax laws.

(ii) **Spontaneous Exchange of Information:**

Parties to the Convention shall on reciprocal basis, without prior request, forward to the other country any information of which it has knowledge that there may be a loss of tax in the other country.

(iii) **Automatic Exchange of Information:**

The Parties shall automatically exchange information in accordance with mutually agreed procedures, such as the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Accounts Information (MCAA).

(iv) **Simultaneous Tax Examinations:**

This shall provide an arrangement between two or more Parties to examine simultaneously, each in its own territory, the tax affairs of a person or persons in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain.

(v) **Tax Examinations Abroad:**

This arrangement provides that based on request, the Requested State may allow representatives of the Applicant State to be present at the appropriate part of a tax examination in the Requested State.

(vi) **Assistance in Recovery of Tax Claims:**

Based on request, the Requested State shall take the necessary steps to recover tax claims of the first-mentioned State as if they were its own tax claims.

(vii) **Service of Documents:**

The Requested State shall serve upon the addressee documents, including those relating to judicial decisions, which emanate from the Requesting State and which relate to a tax covered by this Convention.

Automatic Exchange of Information

The Multilateral Convention by virtue of its Article 6 requires the Competent Authorities of the Parties to the Convention to mutually agree on the scope of the automatic exchange of information and the procedure to be complied with. Against this background, the OECD has developed the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (the "CRS MCAA") and the Common Reporting Standard (CRS).

In the Finance Acts of 2015 and 2016, Pakistan introduced section 165B and made certain amendments to section 107 of the Income Tax Ordinance, 2001 respectively, thus providing primary legislation for the purpose of automatic exchange of information in line with international standard. Similar kinds of changes were also incorporated in the Sales Tax Act, 1990 and Federal Excise Act of 2005. Further, through Finance Act 2017, an explanation was inserted in Section 165B of the Income Tax Ordinance, 2001 in order to bring more clarity and to quell any hint of ambiguity involving the terms "reportable person" and "financial institution" as assigned in the CRS.

Commitment to CRS MCAA

In order to show its resolve towards the implementation of the Common Reporting Standard on automatic exchange of financial accounts information, the Minister for Finance & Revenue Pakistan wrote a letter to the Chair of Global Forum and manifested Pakistan's commitment towards automatic exchange of information. Pakistan, as already noted, has the primary legislation in place and in shortest span of time has framed the CRS rules, which were duly shared with the State Bank of Pakistan (SBP), Securities and Exchange Commission of Pakistan (SECP), the OECD and other stakeholders. The said draft rules were also uploaded on the FBR website for comments and input from the stakeholders. After incorporating necessary changes suggested by the SECP, SBP and the OECD, the CRS Rules were finally notified vide S.R.O. 166 (I)/2017 dated 15 March 2017 by inserting Chapter XII A in the Income Tax Rules, 2002 in order to bring certainty and clarity for the reporting financial institutions to start due diligence procedures well in time for the financial accounts to be reported in 2018. The CRS Rules are available at the Federal Board of Revenue (FBR) website http://www.fbr.gov.pk/. It is worthwhile to mention that although Pakistan has opted for copy out method of the CRS rules, however, certain changes have been incorporated in the said rules to bring it in conformity with the

domestic legislation. More details and guidance about CRS and its implementation requirements can be obtained from OECD's website http://www.oecd.org/tax/exchange-of-tax-information/.

In order to sensitize and facilitate the financial industry about the significance of the automatic exchange of information under the CRS, six orientation sessions/seminars were organized in Islamabad and Karachi respectively. Most of these sessions were also attended by the experts from the OECD and Her Majesty's Customs & Revenue (HMRC).

In addition to translating the CRS into domestic law, a key element of its successful implementation is the putting in place of an international framework that allows the automatic exchange of CRS information between jurisdictions. For that the formal signing of the CRS MCAA was mandatory. Pakistan, subsequent to the approval of the Federal Cabinet, signed the CRS MCAA on June 7, 2017, thus paving the way for the automatic exchange of financial account information with its intended partners in September, 2018.

Salient Features of the CRS MCAA

The CRS MCAA specifies the details of what information will be exchanged, when and how. It is a multilateral framework agreement, with the subsequent bilateral exchanges coming into effect between those signatories that file the subsequent notifications under Section 7 of the CRS MCAA. The notifications to be filed by each jurisdiction include (i) a confirmation that domestic CRS legislation is in place and whether the jurisdiction will exchange on a reciprocal or non-reciprocal basis, (ii) a specification of the transmission and encryption methods, (iii) a specification of the data protection requirements to be met in relation to information exchanged by the jurisdiction, (iv) a confirmation that the jurisdiction has appropriate confidentiality and data safeguards in place and (v) a list of its intended exchange partner jurisdictions under the CRS MCAA. A particular bilateral relationship under the CRS MCAA becomes effective only if both jurisdictions have the MAC in effect, have filed the above notifications and have listed each other. Pakistan has deposited all the necessary notifications in the OECD secretariat in this regard.

Wider Approach

The due diligence procedures in the CRS are designed to identify accounts which are held by tax residents of those jurisdictions with which there is an agreement in place for exchanging information under the CRS MCAA. However, there is an expectation that the number of these jurisdictions will increase over time. Therefore, Reporting Financial Institutions (RFIs) are required to adopt a wider approach i.e., due diligence procedures for all the pre-existing as well as new account holders whether or not that Account Holder is a Reportable Person belonging to a Reportable Jurisdiction in any given reportable period. The wider approach will enhance the efficiency and effectiveness of the CRS by sparing them from carrying out additional review and on-boarding changes each time a new country is added to

the list of Reportable Jurisdictions. The FBR however, will only exchange information with those jurisdictions with which Pakistan has an agreement in effect.

Timelines

The CRS Rules, inter alia, required Reporting Financial Institutions to start due diligence of customers from 1 July 2017. Banks/DFIs/MFBs and other financial institutions were advised to ensure the compliance of the Rules for reporting under the CRS and take all necessary steps to put in place requisite systems/ mechanism in timely manner.

Pakistan has manifested the following time lines with respect to automatic exchange of financial account information in the Annexure-F of the CRS MCAA:

CRS Event	Category	Timing
Cut-off between Pre-existing and New Accounts	Individual and Entity	30 June 2017
Review of Pre-existing Individual Accounts	High Value	31 December 2017
	Lower Value	31 December 2018
Review of Pre-existing Entity Accounts	Exceeds US $250,000 as of 31 December 2017	31 December 2018
	Does not exceed US $250,000 as of 31 December 2017, but exceeds the threshold as of 31 December of a subsequent year	Within the calendar year following the year in which the aggregate account balance or value exceeds US $ 250,000
Start of New Account due diligence procedures	Individual and Entity	1 July 2017

The compliance related to reporting basically involves the following issues:

a. Who is required to report?

b. What is required to be reported?

c. What is the format and timeline for reporting?

First, an entity needs to find out whether it is a Reporting Financial Institution. Then, Reporting Financial Institution needs to review their financial accounts by applying due diligence procedures to identify whether any of the financial account is a Reportable Account. If any account is identified as a reportable account, then the Reporting Financial Institution shall report the relevant information to FBR.

Confidentiality

FBR will not exchange information under the CRS until it is satisfied that a partner jurisdiction has in place adequate measures to ensure the required confidentiality and data safeguards. These confidentiality obligations are evaluated by the Global Forum on Transparency and Exchange of Information for Tax Purposes through its implementation monitoring programme.

Purpose of these Guidance Notes

These Guidance Notes aim at providing practical assistance to financial institutions, businesses, their advisers and officials dealing with the implementation of the CRS. They can be used as a reference source alongside the Commentaries to the CRS and the CRS Handbook, both of which are available on the OECD website. These Guidance Notes are also a notice to all stakeholders falling within the scope of the CRS to comply with the requirements laid down under Chapter XIIA of the Income Tax Rules, 2002 in the implementation of CRS.

The Guidance provides useful and practical guidelines to financial institutions and regulators to ensure compliance with Chapter XIIA of the Income Tax Rules, 2002. The guidance supplements the Commentary and Implementation Handbook issued by the OECD. The OECD provides comprehensive commentary and examples for CRS and Due Diligence Standards, this guidance is only to be considered supplementary to the OECD commentary and covering those aspects where it is necessary to assist with the practical aspects of the CRS that are specific to implementation by Financial Institutions in Pakistan.

2. Reporting Financial Institutions

2.1. Introduction

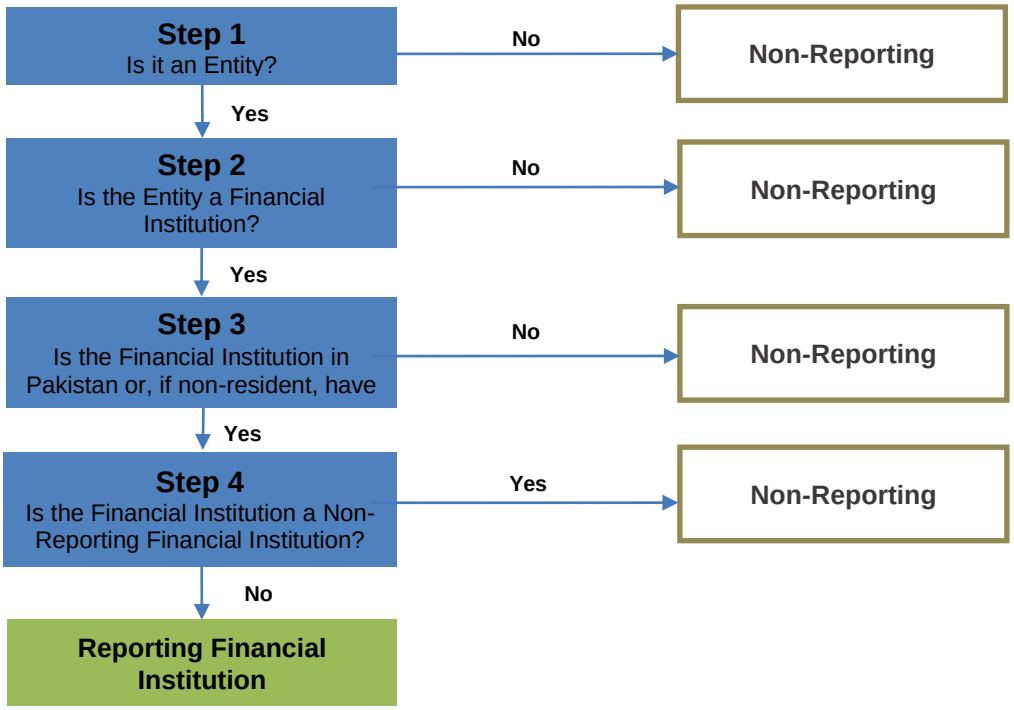
As per Section 165(B) and 107(1) of Income Tax Ordinance, 2001 and other applicable domestic laws and rules related to Automatic Exchange of Information (AEOI), the Reporting Financial Institutions (RFIs) are required to obtain and maintain certain information about their account holders in accordance with the CRS Rules notified by Federal Board of Revenue vide SRO 166(I) / 2017 dated 15th March, 2017. Under the wider approach, RFIs are required to obtain and maintain information of account holders of Reportable Jurisdictions (being any jurisdiction other than the United States of America or Pakistan) and report to FBR on an annual basis on 31st May of every year.

To determine whether an entity has a potential reporting obligation in Pakistan, it must be determined whether the entity is a RFI in Pakistan. An RFI is required to maintain and report certain information in respect to each "Reportable Account".

A Reporting Financial Institution (RFI) is defined under clause (a)of rule 78(B) of the CRS Rules which means any Pakistani Financial Institution that is not a Non-Reporting Financial Institution.

Reporting Financial Institution (RFI) is any financial institution resident in Pakistan (excluding any branch of that financial institution that is located outside Pakistan) as well as any branch of non-resident financial institution located in Pakistan.

Figure: *Steps to identify a Reporting Financial Institution in Pakistan*



2.2. Step 1: Is it an Entity?

The definition of entity is broad and consists of legal persons and legal arrangements, such as corporations, partnerships, trusts, foundations and similar arrangements. Individuals, including sole proprietorships, are therefore excluded from the definition of Reporting Financial Institution. Thus, only entities can be Reporting Financial Institutions.

2.3. Step 2: Is the Entity a financial institution?

The definition of "**Financial Institution**" (FI) is defined under clause (c)of rule 78(B) of the CRS Rules. For the purposes of CRS the definition classifies FIs into four categories, namely:

2.3.1 Custodial Institution;
2.3.2 Depository Institution;
2.3.3 Investment Entity; and
2.3.4 Specified Insurance Company.

2.3.1. Custodial Institution

"Custodial Institution" means any entity that holds, as a substantial portion of its business, financial assets for the account of others. An entity holds financial assets for the account of others as a substantial portion of its business if the entity's gross income attributable to the holding of financial assets and related financial services equals or exceeds twenty per cent of the entity's gross income during the shorter of:

i. the three-year period that ends on the 31st December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or
ii. the period during which the entity has been in existence;

"Income attributable to holding financial assets and related financial services" means:

- 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
- fees for clearance and settlement services.

Entities that safe keep financial assets for the account of others, such as custodian banks, brokers 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.

2.3.2. Depository Institution

“Depository Institution” means any entity that accepts deposits in the ordinary course of a banking or similar business.

An entity is considered to be engaged in a “banking or similar business” if, in the ordinary course of its business with customers, the entity accepts deposits or other similar investments of funds and regularly engages in one or more of the following activities:

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

Savings banks, commercial banks, savings and loan associations, and credit unions would generally be considered Depository Institutions. However, whether an entity conducts a banking or similar business is determined based upon the character of the actual activities of such Entity.

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

2.3.3. Investment Entity

“Investment Entity” means any entity –

i. that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
    a. trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.), foreign exchange, exchange, interest rate and index instruments, transferable securities or commodity futures trading;
    b. individual and collective portfolio management; or
    c. otherwise investing, administering or managing financial assets or money on behalf of other persons; or
ii. the gross income of which is primarily attributable to investing, reinvesting or trading in financial assets, if the entity is managed by another entity that is a depository institution, a custodial institution, a specified insurance company or an investment entity described above; An entity is treated as primarily conducting as a business one or more of the activities above, or an Entity’s gross income is primarily attributable to investing, reinvesting or trading in

financial assets if the entity's gross income attributable to the relevant activities equals or exceeds fifty per cent of the entity's gross income during the shorter of:

a. the three-year period ending on the 31 December of the year preceding the year in which the determination is made; or
b. the period during which the entity has been in existence.

The term "Investment Entity" does not include an entity that is an Active NFE because it meets any of the criteria in sub-clauses (iv) through (vii) of clause (aq) of rule 78(B) of the CRS Rules.

The above definition of investment entity shall be interpreted in a manner consistent with similar language set forth in the definition of "financial institution" in the Financial Action Task Force (FATF) Recommendations.

An entity would generally be 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, leveraged buy-out fund or any similar investment vehicle established with an Investment strategy of investing, reinvesting, or trading in financial assets. An entity that primarily conducts as a business investing, administering, or managing non-debt, direct interests in real property on behalf of other persons, such as a type of Real Estate Investment Trust (REIT), will not be an investment entity.

Examples

Following examples illustrate the application of the term "investment entity":

Investment advisor:

ABC (Pvt.) Ltd. provides advice and discretionary management of a portion of the Financial Assets of its clients. ABC (Pvt.) ltd. has earned more than 60 percent of its gross income for the last three years from providing such services. ABC (Pvt.) Ltd. primarily conducts a business of managing financial assets on behalf of clients and is therefore, an investment entity.

Entity carrying on business that is managed by a Financial Institution

Investment Fund A invests primarily in equities on behalf of its customers. Fund A is managed by XYZ Asset Management Company. Fund A has earned more than 70% of its gross income from the business activity of investing in Financial Assets. Fund A qualifies as an Investment Entity under sub clause (i) of clause (f) of rule 78(B) of the CRS Rules because it primarily conducts as a business one or more of the relevant activities or operations for or on behalf of a customer. Fund A could also qualify as an investment entity under sub clause (ii) of clause (f) of rule 78(B) of the CRS Rules as its gross income is primarily attributable to a relevant activity and it is managed by a financial Institution (provided that XYZ Asset Management Company itself also qualifies as a financial institution).

Entity Managed by a Financial Institution

Partnership X is formed to invest its partners' contributions in financial assets, it invests in its own right and has no customers. The Partnership X is managed by XYZ Asset management company, a Financial Institution. The Partnership X has been investing for several years and its income is derived exclusively from its investment activities. As the Partnership X is managed by a Financial Institution and at least 50% of its income in the last three years is primarily attributable to investing, reinvesting or trading in financial assets it will be an Investment Entity under sub clause (i) of clause (f) of rule 78B of CRS Rules , but not under sub clause (ii) of clause (f) as it is not conducting the relevant activities for or on behalf of a "customer".

Entity Managed by a Foreign Financial Institution

The facts are the same as above, except that Partnership X is managed by Invest Co. that is a UK financial institution. Partnership X's status is not altered solely because it is managed by a foreign financial institution. It will be considered as an investment entity because it is managed by a financial institution and more than 50% of its gross income is primarily attributable to investing, reinvesting or trading in financial assets.

Trust managed by an individual

X, an individual, establishes Trust A, an irrevocable trust for the benefit of X's children, Y and Z. X appoints Trustee A, an individual, to act as the trustee of Trust A. Trust A's assets consist solely of Financial Assets, and its income consists solely of income from those financial assets. Pursuant to the terms of the trust instrument, Trustee A manages and administers the assets of the trust. Trustee A does not hire any Entity as a service provider to perform any of the activities described above. Trust A is not an Investment Entity because it is managed solely by Trustee A, an individual.

2.3.4. Specified Insurance Company

"Specified Insurance Company" means any Entity that is an insurance company (or the holding company of an insurance company) that issues or is obligated to make payments with respect to a **Cash Value Insurance Contract** or an **Annuity Contract.**

Cash Value Insurance Contract is defined in clause (x) of rule 78(B) of the CRS Rules which means an Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value.

Similarly, **Annuity Contract** is defined in clause (w) of rule 78(B) of the CRS Rules that means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation 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;

Most life insurance companies would generally be considered specified insurance companies. Entities that neither issue Cash Value Insurance Contracts or Annuity Contracts nor oblige to make payments with respect to them, such as most non-life insurance companies, most holding companies of insurance companies, and insurance brokers, will not be specified insurance companies.

The reserving activities of an insurance company will not cause the company to be a Custodial Institution, a Depository Institution, or an Investment Entity.

Institutions which are involved in more than one category of activity?

If an entity qualifies for more than one category of FI e.g. as (i) Depository Institution and (ii) Custodial Institution, then the Entity should get registered for all different categories.

2.4. Step 3: Is the Financial Institution in Pakistan?

Pakistani Financial Institution is defined under clause (b) of rule 78(B) of the CRS Rules which means:

i. any Financial Institution that is resident in Pakistan, but excludes any branch of that Financial Institution that is located outside Pakistan; and
ii. any branch of a Financial Institution that is not resident in Pakistan, if that branch is located in Pakistan.

For Example, a Bank located in Pakistan has foreign branches located in multiple countries outside Pakistan. Under the terms of the CRS Rules:

- Bank will only be a Pakistani Financial Institution in relation to Financial Accounts maintained by its local branches.
- Any foreign branches will not be a Pakistani Financial Institution as they are not located in Pakistan. They will be financial institutions of the jurisdiction where they are located.

2.5. Step 4: Is the Entity a Non-Reporting Financial Institution?

A “Non-Reporting Financial Institution (NRFI)” under clause (i) of rule 78(B) of the CRS Rules means any financial institution that is:

i. a Governmental Entity, International Organization 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 a Specified Insurance Company, Custodial Institution, or Depository Institution;
ii. a Broad Participation Retirement Fund, a Narrow Participation Retirement Fund, a Pension Fund of a Governmental Entity, International Organization or Central Bank or a Qualified Credit Card Issuer;
iii. 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 (i) and

(ii) above and included in the list published by Federal Board of Revenue and made available on its web portal i.e. www.fbr.gov.pk, on the recommendations of the State Bank of Pakistan and the Securities Exchange Commission of Pakistan, as the case may be, as a Non-Reporting Financial Institution;

iv. an Exempt Collective Investment Vehicle; or

v. 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 rule 78C of the CRS Rules with respect to all reportable accounts of the trust.

Further guidance on reporting status of different categories of financial institutions is provided below in the light of recommendations of Securities and Exchange Commission of Pakistan and State Bank of Pakistan:

2.6. Lending Non-Banking Financial Companies (NBFCs)

Lending Non-Banking Finance Companies (Investment Finance Services, Leasing Companies, Housing Finance Companies, Discount Houses and Modarabas,) are primarily engaged in the lending business in the form of providing term loans and leases on Islamic as well as on conventional basis.

If the NBFCs and Modarabas are clearly not within the scope of the definition of Investment Entity, Custodial Institution, and solely provides finance services without accepting deposits or similar investments of funds in the course of business, then these institutions shall be considered as non-reporting financial institutions, if they are not engaged in any of the following activities:

• Accepting or raising deposits in the form of CODs, COIs, Musharaka Certificates or through any other similar instrument;
• Establishing accounts of customers for the purpose of custody of financial assets;
• Purchase and sell financial assets for customers; and
• Managing portfolios for others.

The NBFCs (Leasing Companies, Modarabas, Housing Finance Companies and Discount Houses and Modarabas) shall be treated as Reporting Financial Institutions by virtue of their activities. An NBFC may fall within the definition of Depository Institution if it accepts or raise deposits or undertake similar investments of funds that are similar to deposits, and do so in the ordinary course of a business with customers. An institution shall be considered as reporting institution till the time any amount of deposits is outstanding in its books irrespective of the status of its deposit raising permission.

Further, if there is an investment scheme or custodial arrangements falling within the definition of investment entity or custodial institution that would also make such entities as Reporting Financial Institution.

2.7. Non-Bank Micro Finance Companies

Non-Bank Micro Finance Companies ("NBMFCs") are non-deposit taking institutions, mainly involved in the business of providing micro finance to poor persons and micro enterprises. If the Micro Finance Company is clearly not within the scope of the definition of Investment Entity of the Custodial Institution, and solely provides finance services without accepting deposits or similar investments of funds in the course of business that would cause it to be a Depository Institution, then the Micro Finance Company may not be a Financial institution under the CRS Rules, if these are not involved in any of the following activities;

- Establishing accounts of customers for the purpose of custody of financial assets;
- Purchase and sell financial assets for customers; and
- Managing portfolios for others;

Non-Banking Micro Finance Companies shall be Reporting Financial Institutions in case they accept or raise deposits or similar investments of funds in the course of business that would cause it to be depository institution. Further, if there is an investment scheme or custodial arrangements falling within the definition of investment entity or Custodial Institution that would also make such entities as Reporting Financial Institution.

2.8. Fund Management NBFCs: Real Estate Investment Trusts (REITs) Management Companies

If the REIT has within its portfolio only non-debt, direct interests in real property (e.g. the trustee holds tide to buildings directly) then the REIT will not fall within the definition of Investment Entity. However, in the instance where REIT also hold indirect interests in real property, for example, shares or units in other REITs form part of the REIT's portfolio of assets, then those REITs could be within the definition of Investment Entity and be a Reporting Financial Institution.

REITs shall be Reporting Financial Institution to the extent of circumstances mentioned above; otherwise, they will not be treated as Financial Institutions. FAQ #5 of the OECD's CRS FAQs discusses indirect investments in real property, at page 13 of the following link are relevant:
https://www.oecd.org/tax/exchange-of-tax-information/CRS-related-FAQs.pdf

2.9. Custodial Institution: Central Depository Company (CDC)

CDC is a licensed central depository responsible for establishment and operation of book-entry systems for the transfer of securities. CDC has established a participant-driven central depository system (CDS) where transactions are executed directly by participants/account holders. CDS participants/ account holder and other CDS Elements (which includes brokers, banks, asset management companies, mutual funds, NBFCs and DFIs etc.) hold interest recorded in CDS are either financial

institutions in their own right, or they access the system through a financial institution (sponsor).

Investors open and maintain sub-accounts with participants/account holders and operation of their sub-accounts is the responsibility and privilege of participants/account holders. It is these participants/account holders that maintain the accounts and are responsible to perform/maintain customer due-diligence/KYC. The participants being licensed brokers of securities and futures markets are also responsible for the execution of trades (sale/purchase) of securities on trading system of the Pakistan Stock Exchange Limited (PSX) and consequent settlement of all money obligations and security obligations through National Clearing & Settlement System of NCCPL on the instruction of sub-account holder. Therefore, these participants/account holders are responsible to undertake any CRS reporting obligations.

In order to provide retail investors with a direct access to CDC services, CDC offers Investor Account Services (IAS) for secure and safe custody of securities. Where such investor desires to make any buy/sell transaction, the investor has to open a sub-account with a Broker Participant who executes trade transaction for the investor at the official trading terminal of Stock Exchange and also settles such trade with the National Clearing Company of Pakistan Limited by delivering securities (in case of sell transaction) or making payments (in case of buy transaction) in cash through Pay & Collect System of NCCPL.

CDC also offers Direct Settlement Services (DSS) to its IAS clients for direct clearing and settlement of trades executed by such client through a broker participant. In such case, IAS client open and maintain trading account with such Broker Participant, who is responsible to perform/maintain customer due-diligence/KYC. In DSS, all trade related obligations are settled by CDC as Non- Broker Clearing Member of NCCPL.

The relationship between the securities settlement system and its participants is not a financial account and accordingly the CDC is not required to undertake any reporting required in connection with interests held by, or on behalf of reportable interest. Further, any transfer of securities in CDS is subject to authorization of relevant investor and execution of the same by the relevant participant/account-holder, CDC shall not be vested with any responsibility for due-diligence / KYC and undertake any CRS reporting obligations.

2.10. Custodial Institution: Execution- Only Broker:

A trading/execution only broker simply executes trading instructions or receives and transmits such instructions to another executing broker, will not hold Financial Assets for the account of others so will not be a Custodial Institution. However, such a

broker may be a financial institution if it falls within the definition of an investment entity.

2.11. Custodial institution: National Clearing Company of Pakistan Limited (NCCPL)

NCCPL is a licensed clearing house to provide clearing facility for the securities and futures market transactions. For this purpose, it has established a centralized platform namely National Clearing & Settlement System (NCSS) whereby all capital market transactions executed at Pakistan Stock Exchange Limited (PSX) in regular market, futures market, negotiated deal market (NDM) or debt market are cleared and settled by the NCCPL while acting as a central counter-party.

Apart from the above core function, NCCPL is also registered as authorized intermediary for leveraged markets products and provide platforms to the clearing members to execute margin financing, margin trading and securities lending and borrowing transactions. In order to provide retail investors with an option to directly settle their trades and transactions with the NCCPL, a custodial service namely National Custodian Services (NCS) is also being provided. Under this service, a retail investor may opt to trade through a licensed broker but settle its trade obligations through NCCPL by maintaining custody of cash and securities with NCCPL. For this purpose, investors have to open and maintain account with a licensed broker who is responsible to perform/maintain customer due diligence/ KYC, and execute a trade through licensed broker. NCCPL role in NCS is to perform functions of a clearing member and participant of the central depository for clearing and settlement for such executed trades.

However, under none of the above services, NCCPL indulge in trade execution for investor and therefore, NCCPL may not be treated as Financial Institution under the CRS Rules.

2.12. Microfinance Banks (MFBs):

MFBs may meet the description of Financial Institution with a Local Client Base, Local Bank, or Financial Institution with Only Low-Value Accounts contained in Annex II of the United States Model FATCA Intergovernmental Agreement. However, the AEOI Standard does not foresee the same categories, and there is no apparent basis in the AEOI Standard to exempt the MFBs themselves, since there is no category of Non-Reporting Financial Institution in clause (i) of rule 78B of the CRS Rules that MFBs would appear to be similar to.

Further, although most of the deposit accounts are with small balances and pertain to low level income individuals, but there is provision for 10-20% accounts of higher value and not of low risk. Therefore, the Micro Finance Banks are liable for reporting under the Common Reporting Standard (CRS) Rules.

2.13. Development Finance Institutions (DFIs):

All the eight (08) DFIs reported by State Bank of Pakistan (except for HBFC) are joint ventures between Government of Pakistan and the Governments of other partner countries and satisfy the criteria of being a "Government Entity" as set out in Rule 78(B) may be treated as may be treated as a "Non-Reporting Financial Institution" for the purposes of CRS Rules.

Moreover, for further clarification, it may be considered that these institutions present a low risk of being used to evade tax in term of following facts:

- These entities have features of "International Organizations" provided in the CRS rules.
- Entity's assets vests in one or more Governmental entity upon dissolution and these entities share distribution/net earnings are solely for the benefit of the respective governments, with no income incurring to the benefit of any private person.
- These entities do not have checking accounts and do not conduct cash based transaction.
- DFIs only deal in Certificate of Investments (COIs) and their transactions are routed through banking channel. The deposit mobilization of DFIs is routed through commercial banks, which are already subject to due diligence and reporting under the CRS, hence any further applicability of CRS would be duplication of work with no incremental benefit.

2.14. Exchange Companies (ECs):

As per 78B clause (c) of the CRS Rules, the term "Financial Institution" means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company. This definition of Financial Institution does not cover Exchange Companies however; the OECD's Commentary to CRS Rules (endorsed by FBR in its Rules) states that the definition of the term "Investment Entity" shall be interpreted in a manner consistent with similar language set forth in the definition of "financial institution" in the Financial Action Task Force (FATF) Recommendations. The activity based definition of financial institution given by the FATF includes money or value transfer services and money & currency changing.

However, considering scope of the activities of Exchange Companies (both full-fledged exchange companies and exchange companies of 'B' Category) these entities are not relevant for CRS since all of their clients are walk-in clients having no contractual relationship with ECs. Further, no deposits or other financial value is held by ECs for their customers that may be required to be reported under CRS.

Therefore, the Exchange Companies licensed and regulated by SBP as a whole are excluded from the implementation of CRS.

2.15. Trusts

A trust is treated as an entity for CRS purposes. For a trust to be a financial institution it must fall under at least one of the following categories.

- a Custodial Institution
- a Depository Institution
- an Investment Entity
- a Specified Insurance Company.

The category most likely to apply to trusts is 'Investment Entity'. Determining whether a trust is an investment entity may require considering the status of any Entity ‘managing’ the trust. The trustee is an entity or individual that must carry out various obligations under the trust, including managing the trust in accordance with the terms of the trust and laws relating to trustees’ duties. A trustee that is an entity could carry on activities such that the trustee is an investment entity itself; for example, a corporate trustee in the business of trading, administering or managing financial assets on behalf of other persons. The trustee’s status as a Financial Institution would cause the trust itself to also be a financial institution, provided that the trust meets the gross income test in sub clause (ii) of clause (f)of rule 78B of the CRS Rules.

A trustee may appoint or engage a professional manager to manage the trust. A trust that is not a Financial Institution is a Non-Financial Entity (NFE) for CRS purposes.

2.16.

It is important to mention here that the status of the financial institutions as mentioned in this chapter, may change depending on the change of circumstances or any subsequent comments of the Global Forum, OECD.

3. Financial Accounts

3.1. Introduction

Financial Account means an account maintained by Financial Institutions and includes certain categories as defined in clause (r) of rule 78B of the CRS Rules.

Reporting Financial Institutions are required to review the financial accounts maintained by them to identify reportable accounts. Where a financial account is held by any reportable person(s), such account becomes a reportable account to FBR.

The term “Financial Account” generally includes the following five categories:

S. No	Categories of Financial Accounts	Which financial institution is generally considered to maintain them
1	Depository Account	The financial institution that is obligated to make payments with respect to the account (excluding an agent of a financial institution)
2	Custodial Account	The financial institution that holds custody over the assets in the account
3	Equity and Debt Interest in certain Investment Entity	The equity or debt interest in a Financial Institution is maintained by that Financial Institution
4	Cash Value Insurance Contracts	The financial institution that is obligated to make payments with respect to the contract.
5	Annuity Contracts	The financial institution that is obligated to make payments with respect to the contract.

3.2. Depository Account

Depository Account includes any commercial, checking, savings, time or thrift account or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness or other similar instrument maintained by a financial institution in the ordinary course of a banking or similar business.

A depository account also includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon.

An account that is evidenced by a passbook would generally be considered a Depository Account. As mentioned in CRS Commentary, negotiable debt instruments traded on a regulated market or over-the-counter market, distributed and held through financial institutions would not generally be considered Depository Accounts, but Financial Assets.

3.3. Custodial Account

Custodial Account means an account (other than an Insurance Contract or Annuity Contract) that holds one or more financial assets for the benefit of another person.

Financial assets includes a security (for example, a share of stock in a corporation, partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust, note, bond, debenture or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps and similar agreements), insurance contract or annuity contract or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, insurance contract or annuity contract. The term “Financial Asset” does not include a non-debt, direct interest in real property.

3.4. Equity and Debt interests

Equity and Debt interests are financial accounts where they are interests in an investment entity (noting also that where such interests are held as financial assets in an account this can also give rise to a custodial account). However, equity and debt interests in an entity that is an investment entity solely because it is an investment advisor, or an investment manager, are not financial accounts. Investment advisor or manager for these purposes means an entity that is an investment Entity solely because it (i) renders investment advice to, and acts on behalf of or (ii) manages portfolios for, and acts on behalf of, a customer for the purpose of investing, managing, or administering financial assets deposited in the name of the customer with a financial institution other than such entity. In the case of a financial institution that is not an investment entity (including the type of Investment Entity described in the previous sentence), equity or debt interests in the financial institution can also be a financial account if the class of interests was established with a purpose of avoiding reporting in accordance with rule 78C of the CRS Rules.

An **Equity interest** may vary depending on the nature of the investment entity. In the case of an investment entity that is a:

- Partnership – An equity interest is either a capital or profits interest in the partnership.
- Trust – An equity interest is any interest held by a person who is treated as a settlor or beneficiary of all or any part of the trust, or any other natural person exercising ultimate effective control over the trust.
- Legal Arrangement- The same as for a trust that is a financial institution is applicable for a legal arrangement that is equivalent or similar to a trust, or foundation that is a Financial Institution.

A reportable person will be treated as being a beneficiary of a trust if such reportable person has the right to receive, directly or indirectly (for example, through a

nominee), a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust.

For these purposes, a beneficiary who may receive a discretionary distribution from the trust only will be treated as a beneficiary of a trust if such person receives a distribution in the calendar year or other appropriate reporting period (i.e. either the distribution has been paid or made payable). The same is applicable with respect to the treatment of a reportable person as a beneficiary of a legal arrangement that is equivalent or similar to a trust, or foundation.

3.5. Cash Value Insurance Contracts

Cash Value Insurance Contract means a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.

Cash Value Insurance Contract is an Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a **Cash Value** where cash value is defined under clause (y) of rule 78(B) of the CRS Rules which means the greater of:

a) 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
b) The amount the policyholder can borrow under or with regard to the contract.

Notwithstanding the foregoing, the term “Cash Value” does not include an amount payable under an Insurance Contract:

i. Solely by reason of the death of an individual insured under a life insurance contract;
ii. 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;
iii. 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 contract or an 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;
iv. 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 sub clause(ii) of clause (y) of rule 78B of the CRS Rules; or

v. 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.

Cash Value Insurance Contract do not include:

- Indemnity insurance contracts between insurance companies;
- Term Life Insurance Contract (Para 3.7 may be referred for further guidance);
- General or Property Insurance;
- Policies indemnifying against economic loss arising from specified circumstances, for example personal injury, theft, etc; and
- Micro Insurance contracts (including a cash value equal to zero) that do not have a cash value.

3.6. Annuity Contract

Annuity Contract is defined under clause (w) of rule 78(B) of the CRS Rules which means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation 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.

3.7. Excluded Accounts

Common Reporting Standard allows various categories of Financial Accounts to be excluded from being reportable accounts. Certain financial accounts are excluded because they have been identified as carrying a low-risk of being used to evade tax. Such Excluded Accounts are not subject to the CRS due diligence procedures that apply for purposes of identifying reportable accounts among financial accounts (such as obtaining a self-certification).Following are the excluded accounts:

- Retirement and Pension accounts;
- Non-Retirement tax favoured accounts;
- Term Life insurance accounts;
- Estate accounts;
- Escrow accounts;
- Depository accounts due to non-returned overpayments; and
- Certain Low risk excluded accounts.

3.7.1. Retirement and Pension account

All retirement and pension accounts can be excluded Accounts, provided that they satisfy the following requirements, namely:

a) the account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the

provision of retirement or pension benefits (including disability or death benefits);

b) the account is tax-favored (i.e. contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
c) information reporting is required to the Commissioner Inland Revenue with respect to the account;
d) withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and
e) either (i) annual contributions are limited to fifty thousand US Dollars or less, or (ii) there is a maximum lifetime contribution limit to the account of one million US Dollars or less, in each case applying the rules set forth in the 78(I) of the CRS Rules for account aggregation and currency translation.

A Financial Account that otherwise satisfies the requirements of this paragraph will not fail to satisfy such requirements solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of the CRS Rules clause (ah) of rule 78B of the CRS Rules or from one or more retirement or pension funds.

3.7.2. Non-Retirement tax favoured accounts;

A non-retirement account can be an excluded account, provided that it satisfies all the requirements listed an account that satisfies the following requirements, namely:

a) the account is subject to regulation as in the case of an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market, or the account is subject to regulation as a savings vehicle for purposes other than for retirement;
b) the account is tax-favored (i.e. contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
c) withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (for example, the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met; and
d) annual contributions are limited to fifty thousand US dollars or less, applying the rules set forth in rule 78I of the CRS Rules for account aggregation and currency translation.

A Financial Account that otherwise satisfies the requirement ofsub clause (ii) (d) of clause (ah) of rule 78B of CRS Rules will not fail to satisfy such requirement solely because such financial account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of the sub-clause (i) or (ii) of clause (ah) of rule 78B of CRS Rules or from one or more retirement or pension funds that meet the requirements of any of clauses (m) through (o) of the CRS Rules.

3.7.3. Term life insurance contracts

A life insurance contract with a coverage period that will end before the insured individual attains age of ninety, can be an Excluded Account, provided that the contract satisfies the following requirements, namely:

a) periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age of ninety, whichever is shorter;
b) the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;
c) the amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and
d) the contract is not held by a transferee for value.

3.7.4. Estate Accounts

An account that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate. For this purpose, the Reporting Financial Institution must treat the account as having the same status that it had prior to the death of the account holder until the date it obtains such copy.

3.7.5. Escrow Accounts

An account established in connection with any of the following, namely:

a) a court order or judgment;
b) a sale, exchange or lease of real or personal property, provided that the account satisfies the following requirements, namely:
    - the account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a financial asset that is deposited in the account in connection with the sale, exchange, or lease of the property;
    - 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 thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates;
- 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 an account described in sub clause (vi) of clause (ah) of rule 78B of the CRS Rules;

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

d) An obligation of a financial institution solely to facilitate the payment of taxes at a later time;

3.7.6. Depository accounts due to non-returned overpayments:

A depository account that satisfies the following requirements; namely:

a) 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

b) Beginning on or before the 1 July, 2017, the financial institution implements policies and procedures either to prevent a customer from making an overpayment in excess of fifty thousand US Dollar or to ensure that any customer overpayment in excess of fifty thousand US Dollars is refunded to the customer within sixty days, in each case applying the rules set forth in sub-rule (3) of rule 78(I) of the CRS Rules for 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;

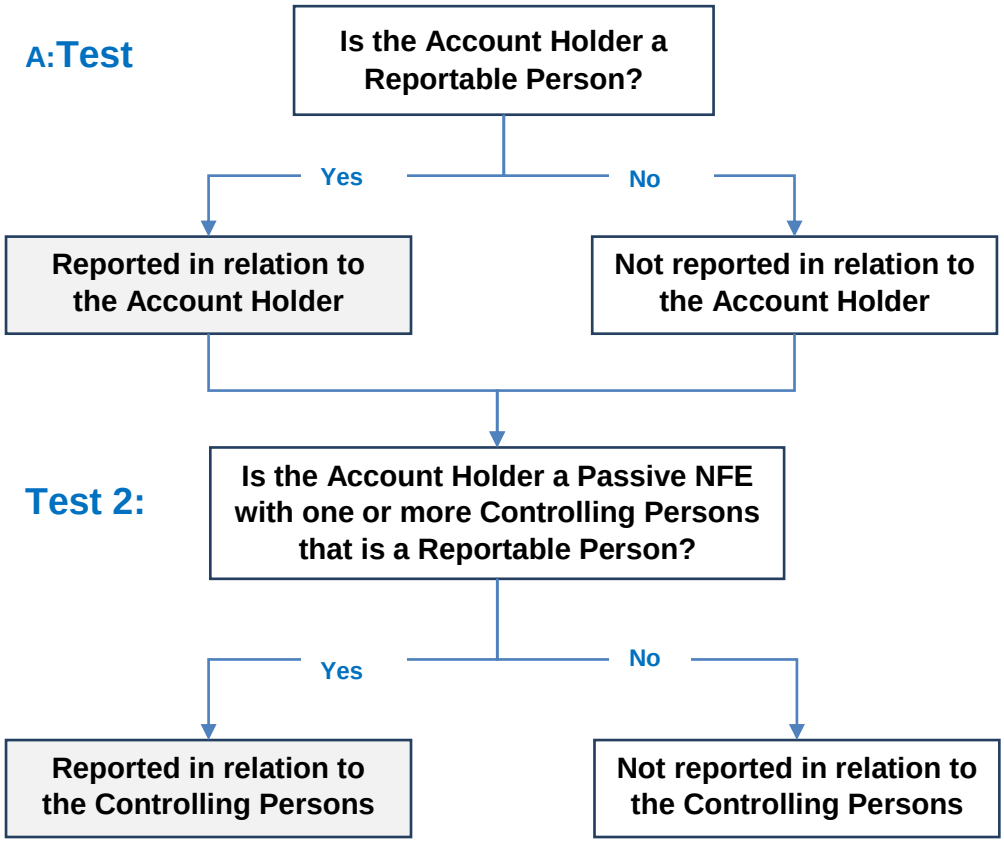
Any other account that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the accounts described in sub clauses (i) through (vi) of clause (ah) of rule 78B of the CRS Rules and is included in the list published by FBR and available on its web portal i.e. www.fbr.gov.pk, on recommendations of the State Bank of Pakistan and the Securities and Exchange Commission of Pakistan, as the case may be, as excluded account, provided that the status of such account as an Excluded Account does not frustrate the purposes of the CRS Rules.

4. Financial Accounts which are Reportable Accounts

4.1. Introduction

Once a Reporting Financial Institution has identified the financial accounts that they maintain, they are required to review those accounts to identify whether any of them are reportable accounts as defined in rule 78(B) of the CRS Rules. This means an account held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person provided it has been identified as such pursuant to rule 78(D) through 78(J) of the CRS Rules. Following two tests are required to establish a reportable Account:

Figure: *Two tests to determine a Reportable Account*



4.2. Reportable Accounts by virtue of the Account Holder

The first test establishes whether a financial account is a reportable account by virtue of the account holder. Reportable person is defined in clause (aj) of rule 78(B) of the CRS Rules that means a person other than:

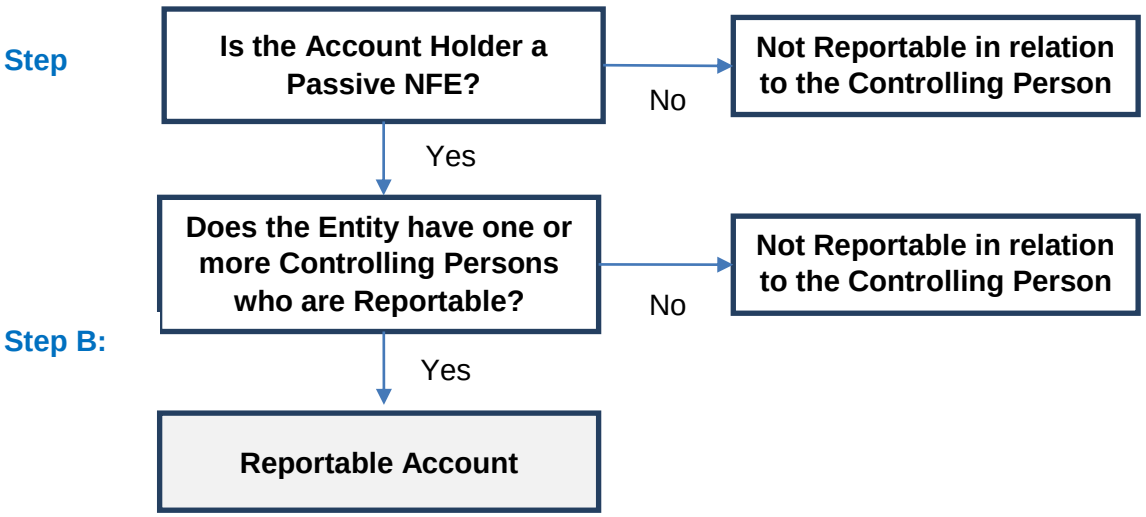
i. a corporation the stock of which is regularly traded on one or more established securities markets / stock markets;
ii. any corporation that is a Related Entity of a corporation described in (i) above;
iii. a governmental entity;
iv. an international organization;
v. a central bank; or

vi. a financial institution.

4.3. Reportable Accounts by virtue of the Account Holder's Controlling Persons

Regardless of whether the Financial Account is a reportable account by virtue of the account holder, there is then a second test in relation to the controlling persons of certain entity account holders. This may mean that additional information is required to be reported in relation to an already reportable account or that a previously non-reportable account becomes a reportable account by virtue of the controlling persons.

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



A: Is the Account Holder a Passive NFE?

Non-Financial Entity (NFE) is essentially an Entity that is not a Financial Institution. NFEs are then split into Active NFEs or Passive NFEs with additional procedures required to identify Passive NFEs.

Passive NFE is defined in clause (ap) of rule 78(B) of the CRS Rules which means:

i. an NFE that is not an Active NFE; or
ii. an Investment Entity described in sub clause (ii) of clause (f) of rule 78B of the CRS Rules that is not a Participating Jurisdiction Financial Institution.

For the purposes of conducting due diligence of Passive NFEs of the type described in paragraph (ii) above, a Participating Jurisdiction means a jurisdiction (i) with which an agreement is in place pursuant to which it will provide the information specified in rule 78C of the CRS Rules, and (ii) which is identified in a published list of Intended Exchange Partners/ Participating Jurisdictions available on FBR's web portal which may be updated from time to time. However, as already notified vide FBR Circular dated 16th June, 2017, Pakistan has opted for wider approach. Foreseeing the possibility of more and more jurisdictions reaching agreement with

Pakistan over the period of time, the due diligence rules have been designed to adopt a wider approach to record the territory in which a person is tax resident irrespective of whether that territory is a Reportable Jurisdiction or not during the period of due diligence by the financial institutions.

For background on these transitional arrangements, please refer to paragraphs 28 to 32 of the CRS Implementation Handbook available on www.oecd

The definition of Active NFE is covered in the clause (aq) of rule 78(B) of the CRS Rules. Active NFE essentially excludes entities that primarily receive passive income or primarily hold amounts of assets that produce passive income (such as dividends, interest, rents etc.), and includes entities that are publicly traded (or related to a publicly traded Entity), Governmental Entities, International Organizations, Central Banks, or a holding NFEs of nonfinancial groups. An exception to this is an Investment Entity that is not a Participating Jurisdiction Financial Institution, which is always treated as a Passive NFE.

B: Does the Entity have one or more Controlling Persons which are Reportable Persons?

If the entity account holder is a Passive NFE then the financial institution must "look-through" the entity to identify its controlling persons. If the controlling persons are reportable persons then information in relation to the financial account must be reported, including details of the account holder and each reportable controlling person.

Controlling person is defined in the clause (an) of rule 78B of the CRS Rules which means natural persons who exercise control over an entity. In the case of a trust, such term means the settlor, the trustees, the protector, if any, the beneficiaries or class of beneficiaries and any other natural person exercising ultimate effective control over the trust and in the case of a legal arrangement, other than a trust, such term means persons in equivalent or similar positions. The term "Controlling Persons" must be interpreted in a manner consistent with the Financial Action Task Force recommendations.

FATF Recommendations do not require the determination of beneficial ownership if an Entity is (or is a majority owned subsidiary of) a company that is listed on a stock exchange and is subject to market regulation and to disclosure requirements to ensure adequate transparency of beneficial ownership. Further, FATF Recommendations do not require determination of beneficial ownership of a controlling interest that is held by an Entity described in the preceding sentence. Thus, in such cases, it is generally accepted that a Reporting Financial Institution will not be able to determine the controlling persons for CRS purposes.

In the case of a partnership and similar arrangements, controlling person means, consistent with 'beneficial owner' as described in the FATF Recommendations, any natural person who exercises control through direct or indirect ownership of the

capital or profits of the partnership, voting rights in the partnership, or who otherwise exercise control over the management of the partnership or similar arrangement

The detailed procedures to be followed by financial institution for establishing what is required to be reported are set out in the chapter on Information Reporting.

5. Due Diligence

5.1. General Requirements

CRS due diligence procedures are the procedures a Reporting Financial Institution (RFI) is required to undertake to determine whether there are any reportable accounts among the financial accounts it maintains.

The details of due diligence requirements depend on whether an account is preexisting or a new account. The required due diligence further depends on whether an account holder is an individual or an entity. For preexisting accounts held by individuals, there are further distinctions in procedures for Lower Value Accounts and High Value Accounts.

A Standardized due diligence approach is required to ensure quality of information to be reported and exchanged amongst the jurisdictions. This approach utilizes the information available under the existing processes of entities such as those for Anti Money Laundering (AML) and Know Your Customer (KYC) purposes. This is particularly the case for Preexisting Accounts where it is more challenging and costly for financial institutions to obtain new information from the account holder.

Reporting Financial Institutions should record the date of identification of account (as reportable account) which may be used for future reference purposes.

Due diligence procedures are also dependent on the balance/value of the financial account. On the basis of balance/value, preexisting accounts are also classified as either lower value or high value accounts based on their aggregate or individual account balance.

This is provided in the following table:

Financial Accounts Classification

Classification of Accounts	Status	Value	Due Diligence
Preexisting (As of 30 June, 2017)	Individual	High Value Account	Aggregate account balance or value exceeds $1,000,000
		Lower Value Account	Aggregate account balance or value does not exceed $1,000,000
	Entity	N/A	Account balance or value exceeds $250,000(optional*)
New Accounts (Opened on or after 1 July, 2017)	Individual	N/A	No threshold
	Entity	N/A	No threshold

*Unless the Reporting Financial Institution elects otherwise, either with respect to all preexisting entity accounts or, separately, with respect to any clearly identified group of such accounts, a preexisting entity account with an aggregate account balance or

value that does not exceed US$250,000 as of the 31 December, 2017, is not required to be reviewed, identified or reported as a reportable account until the account balance or value exceeds US$ 250,000 as of the last day of any subsequent calendar year.

A financial institution can be asked to clarify the procedures to ascertain the residence status of a reportable person. Depending on the situation, these procedures 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 the OECD's automatic exchange portal jurisdictional tax residence information. It is the responsibility of account holders to determine where they are resident for tax purposes.

A Reporting Financial Institution must establish, maintain, and document the due diligence procedures it uses to identify reportable accounts.

A Reporting Financial Institution must retain all relevant records including self-certification used to support an account holder's status for minimum of six years after the end of the year in which the account was required to be reported or from the date that the last financial account to which it relates was closed, whichever the case may be.

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

A Reporting 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.

5.2. AML/KYC Procedures

AML/KYC procedures are an integral part of the due diligence procedures for an RFI. An RFI may rely on information collected and maintained through properly conducted AML/KYC procedures when otherwise reviewing an account in accordance with the CRS due diligence procedures permit or require information collected pursuant to AML/KYC procedures to be relied upon.

A Reporting Financial Institution may rely solely on their AML/KYC procedures when:

- reasonably determining that an entity is an Active NFE or a Financial Institution (any entity account);
- identifying the controlling persons of an entity (for New Entity Accounts, the AML/KYC procedures must be consistent with the FATF Recommendations10 and 25 (as adopted in February 2012); and
- determining whether the Controlling Person or persons of a Passive NFE holding a preexisting account is a Reportable Person, provided that the balance or value does not exceed US$ 1,000,000.

A Reporting Financial Institution must review AML/KYC information and other information held on the client:

- confirming the reasonableness of a self-certification for a new individual account or a New Entity Account; and
- determining whether the holder, or the Controlling Person(s) of the holder, of a preexisting entity account may be a Reportable Person.

5.3. Due Diligence – Preexisting Individual Accounts

Preexisting individual accounts are accounts maintained by Reporting Financial Institutions as on or before 30 June, 2017 that are held by one or more individuals. Preexisting individual accounts are classified in the following three categories:

- Cash value insurance contracts and annuity contracts effectively prevented from being sold to non-residents, which are not required to be reviewed, identified or reported;
- Lower value accounts; and
- High value accounts.

A financial institution is not required to perform review procedures on accounts that were closed before 30th June, 2017. Provided certain conditions are met, a financial institution is also not required to perform review procedures on cash value insurance contracts and annuity contracts, as discussed below:

5.4. Cash value insurance contract

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

The sale of contracts to non-residents will be considered effectively prevented if the issuing specified insurance company (excluding any branch located outside of Pakistan) is not licensed to sell insurance or annuity contracts residents of another participating jurisdiction and/or the products are not registered with the other relevant securities regulators, and such license or registration is required. Hence, in such cases the local operations of an insurer incorporated in Pakistan are considered to be effectively prevented from selling to non-residents. 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.

In such case 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. An Insurance company should put procedures and controls in place to ensure that it becomes aware of an assignment and perform due diligence on the new account holder. This is to ensure that preexisting insurance contracts assigned after 30 June 2017, to non-residents are treated as new account and correctly identified and reported, where necessary.

A Reporting 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. A Reporting Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract or an Annuity Contract is a Reportable Person if the information collected by the Reporting Financial Institution and associated with the beneficiary contains indicia. If a Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person, the Reporting Financial Institution shall follow the procedures for Lower Value Accounts.

5.5. Preexisting Lower Value Accounts

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

Due Diligence procedures for lower value accounts permit Reporting Financial Institutions to conduct the “residence address test” and if the Reporting Financial Institution does not rely on a current residence address test for the individual Account Holder based on documentary evidence as set forth in 5.5.3 below, the Reporting Financial Institution shall review electronically searchable data by performing the “electronic record search” in accordance with the CRS Rules.

5.5.1. Residence address test

To apply the residence address test, a financial institution must have in its records, the account holder's current residence address 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 holder is a reportable person.

In general, an “in-care-of” address or a post office box is not a residence address. However, a post office box would 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 tehsil, 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.

5.5.2. Current residence address

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 undelivered other than due to an error and the account is flagged to that effect.

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.

Where the account is a dormant account, the mailing or residence address attached to the account can be considered as current during the period of dormancy.

5.5.3. Acceptable documentary evidence

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. 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 license); and
- audited financial statement, third-party credit report, bankruptcy filing, or securities regulator's report.

Identification documents issued in Pakistan which may constitute documentary evidence include:

- a passport;
- a National Identity Card;
- Pakistan Origin Card (POC);
- a driving license;

- a Pakistan armed forces identity card;
- National Tax Number certificates; or
- Utility bills for the confirmation of residence address in accordance with paragraph 11 of the Commentaries on Section III of the CRS. This could only be relied upon if the Reporting Financial Institution's policies and procedures ensure that where it has government-issued Documentary Evidence but such Documentary Evidence does not contain a recent residence address or does not contain an address at all (e.g. certain passports), the current residence address in the Reporting Financial Institution's records is the same address, or in the same jurisdiction, as that on recent documentation issued by an authorized government body or a utility company, or on a declaration of the individual Account Holder under penalty of perjury.

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

5.5.4. Electronic Record Search

Under the electronic record search procedure, 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 Pakistan;
d) Standing instructions (other than with respect to a depository account) to transfer funds to an account maintained in a reportable jurisdiction;
e) A currently effective power of attorney or signatory authority granted to a person with an address in a reportable jurisdiction; or
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.

When none of the indicia listed above are discovered through an electronic search, no further action is required in respect of lower value accounts, until there is a subsequent change of circumstances that results in one or more indicia being associated with the account, or the account becomes a high value account.

If any indicia are detected by a financial institution in 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 Reporting Financial Institution elects to apply the curing procedures supported by documentary evidence to cure the indicia of the account holder.

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:

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

This special procedure for undocumented accounts where a hold mail instruction or in-care-of address are identified and the residence of the account holder cannot be established is unique to 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.

5.5.5. Effect of finding indicia and curing procedures

If none of the indicia listed in clause (b) of sub rule (2) of rule 78E of the CRS Rules are discovered in the review of accounts described above and the account is not identified as held by a Reportable Person, then further action is not required until there is a change in circumstances that results in one or more indicia being associated with the account;

If any of the indicia listed in clause (b) of sub rule (2) of rule 78E of the CRS Rules are discovered in the review of accounts described above, or if there is a subsequent change in circumstances that results in one or more indicia being associated with the account, then the Reporting Financial Institution shall treat the account as a Reportable Account with respect to each Reportable Jurisdiction for which an indicium is identified unless it elects to apply curing procedures and one of the exceptions in this paragraph 5.5.5 with respect to that account.

“Curing Procedures” is a term used to describe the actions 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 as follows:

Treatment of Indicia found	
Indicia	**Treatment**
A current mailing or residence address 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 from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction, and - Documentary evidence establishing the account holder's non-reportable status.
One or more telephone numbers in a reportable jurisdiction (and no telephone number in Pakistan) (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).	
Standing instructions (other than with respect to a depository account) to transfer funds to an account maintained in a reportable jurisdiction.	
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.
Standing instruction to transfer funds (other than with respect to a Depository Account) 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 from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction, and - Documentary evidence establishing the account holder's non-reportable status.

5.6. Preexisting High Value Accounts

High value account is a preexisting individual account with a balance or value that exceeds US$1,000,000 on 30 June, 2017, 31 December,2017 or 31st December of any subsequent year.

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

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

5.6.1. Electronic record searches for high value accounts

The Reporting Financial Institutions is not required to perform the paper record search to the extent its electronically searchable information includes the fields for and captures the following information:

- the account holder's residence status for tax purposes;
- the account holder's residence address and mailing address currently on file with the Reporting Financial Institution;
- the account holder's telephone number or numbers currently on file, if any, with the Reporting Financial Institution;
- in the case of financial accounts other than depository accounts, whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the Reporting Financial Institution or another financial institution);
- whether there is a current "in-care-of" address or "hold mail" instruction for the account holder; or
- whether there is any power of attorney or signatory authority for the account.

5.6.2. Paper record searches for high value accounts

To the extent the electronic searchable database does not include fields for or does not capture all of the above information, then Reporting Financial Institution is required to perform a paper record search. Where the electronically searchable databases include fields for the required information but are left blank, a paper record search will be required unless the Reporting Financial Institution's policies and procedures are in place mean that a field is only left blank when the information is not in the Reporting Financial Institution's records. For Example: telephone number or power of attorney fields are blank because a telephone number has not been provided by the customer or power of attorney has not been granted for the account or where the electronically searchable database contains all the required information except for details of standing instructions to transfer funds, the paper record search will only be required to look for that information.

Reporting Financial Institution needs to review the current customer master file and, to the extent not contained in the current customer master file, the following documents associated with the account and obtained by the Reporting Financial

Institution within the last five years for any of the indicia described in sub-clause (b) of clause (2) of section 78(E) of the CRS Rules:

- The most recent documentary evidence with respect to account;
- The most recent account opening contract or documentation;
- The most recent documentation obtained by the RFI pursuant to rules framed under the Anti-Money Laundering Act 2010 and SBP's AML/ CFT Regulations or any other law for the time being in force;
- Any power of attorney or signature authority forms currently in effect; and
- Any standing instructions (other than a Depository Account in the case of CRS) to transfer funds currently in effect.

5.6.3. Relationship manager enquiry for high value accounts

In addition to the electronic and paper record searches described above, the Reporting Financial Institution shall treat as a Reportable Account any High Value Account assigned to a relationship manager if the relationship manager has actual knowledge that the Account Holder is a Reportable Person. 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 or for other aggregation purposes; and
- A high value account assigned to the relationship manager must be treated as a reportable account.

The CRS Rules provide 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.

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

A person that is a relationship manager is generally expected to be part of a sales team or otherwise be outward-looking toward customers. Moreover, such a person would be viewed as a relationship manager only if actions taken or advice offered in connection with an account cause that person and the account holder to communicate regularly on matters of importance pertaining to the account. For example, an investment advisor at a 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.

Relationship managers typically offer a degree of ongoing care and attention toward 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 needs. Similarly, a financial institution employee who generally performs front-desk services for walk-in customers is not a relationship manager.

A relationship manager plays a role in connection with determining whether a 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. This is also an overall responsibility of every Reporting Financial Institution. If that is the case, the financial institution must treat each account held by the individual as a high value account.

The second role of a relationship manager is to assist with the proper identification of reportable accounts. In addition to the electronic and paper record searches, the 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.

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

A 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.

5.6.4. Effect of finding indicia

If none of the indicia listed in clause (b) of sub rule (2) of rule 78E of the CRS Rules are discovered in the enhanced review of High Value Accounts described above and the account is not identified as held by a Reportable Person, then further action is not required until there is a change in circumstances that results in one or more indicia being associated with the account;

If any of the indicia listed in clause (b) of sub rule (2) of rule 78E of the CRS Rules are discovered in the enhanced review of High Value Accounts described above, or if there is a subsequent change in circumstances that results in one or more indicia being associated with the account, then the Reporting Financial Institution shall treat

the account as a Reportable Account with respect to each Reportable Jurisdiction for which an indicium is identified unless it elects to apply curing procedures and one of the exceptions in paragraph 5.5.5 with respect to that account ;

Where the information arising from the due diligence procedures contains potentially conflicting information, for example, the electronic search identifies a residential address in Pakistan but the relationship manager has knowledge of an address in United Kingdom, the Reporting Financial Institution may attempt to cure the information by seeking a self-certification with documentary evidence from the account holder.

if a “hold mail” instruction or “in-care-of” address is discovered in the enhanced review of High Value Accounts described above, and no other address and none of the other indicia listed in clause (b) of sub rule (2) of rule 78E of the CRS Rules are identified for the Account Holder, the Reporting Financial Institution shall obtain from such Account Holder a self-certification or Documentary Evidence to establish the residence for tax purposes of the Account Holder. If the Reporting Financial Institution cannot obtain such self-certification or Documentary Evidence, it shall report the account as an undocumented account;

If a Preexisting Individual Account is not a High Value Account as of the 30 June 2017, but becomes a High Value Account as of the last day of a current (2017) or subsequent calendar year, the Reporting Financial Institution shall complete the enhanced review procedures for High Value Accounts described in 5.6 with respect to such account within the calendar year following the year in which the account becomes a High Value Account. If based on this review such account is identified as a Reportable Account, the Reporting Financial Institution shall report the required information about such account with respect to the year in which it is identified as a Reportable Account and subsequent years on an annual basis, unless the Account Holder ceases to be a Reportable Person;

Once a Reporting Financial Institution applies the enhanced review procedures described in 5.6 to a High Value Account, the Reporting Financial Institution is not required to re-apply such procedures, other than the relationship manager inquiry described in 5.6.3 to the same High Value Account in any subsequent year unless the account is undocumented where the Reporting Financial Institution should re-apply them annually until such account ceases to be undocumented;

If there is a change of circumstances with respect to a high value account that results in one or more indicia described in clause (b) of sub rule (2) of rule 78E of the CRS Rules being associated with the account, then the Reporting Financial Institution shall treat the account as a Reportable Account with respect to each Reportable Jurisdiction for which an indicium is identified;

Review of preexisting high value individual accounts shall be completed by the 31 December 2017 and for Low Value Accounts by the 31 December 2018; and any preexisting individual account that has been identified as a reportable account under

this rule shall be treated as a reportable account in all subsequent years, unless the account holder ceases to be a reportable person.

5.7. Due Diligence – Preexisting Entity Accounts

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

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 30 June 2017, until such balance or value exceeds US$250,000 as of the last day of 2017 or any subsequent year.

The review procedures to identify Reportable Accounts among the pre-existing entity accounts require Financial Institutions to determine whether :

- 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.

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

Mr. X resides in a reportable jurisdiction. She establishes a corporation in Pakistan 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 Pakistan on 1 March 2018. The financial institution needs to collect a self-certification from the corporation and if necessary its controlling persons. The corporation is not a reportable person by virtue of being incorporated in Pakistan. However, since Mr. X is a controlling person who resides in a reportable jurisdiction, the account is a reportable account.

Example 2

Same as example 1 except that Mr. X and Mr. Y each own 50% of the shares of the corporation, Mr. Y resides in Pakistan, and the corporation was incorporated in the same jurisdiction where Mr. X is resident. The fact that Mr. X is a controlling person who resides in the same reportable jurisdiction as the corporation does not remove the requirement that the account is reported as a reportable account both in respect of Mr. X and the passive NFE residence for tax purposes.

5.7.1. Determining whether a preexisting entity account holder is a reportable person

A Reporting 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.

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

If the information indicates that the Account Holder is resident in a Reportable Jurisdiction, then the Reporting Financial Institution must treat the account as a Reportable Account unless Reporting Financial Institution 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 with respect to such Reportable Jurisdiction. 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;
- 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.

Where the Reporting Financial Institution relies on such information it must retain a notation of the type of information reviewed, and the date the review was carried out.

5.7.2. Determining whether a preexisting entity account holder is a passive NFE with one or more controlling persons who are Reportable Persons

With respect to an Account Holder of a Preexisting Entity Account (including an Entity that is a Reportable Person), the Reporting Financial Institution shall 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 shall be treated as a Reportable Account. In making these determinations the Reporting Financial Institution may follow the guidance in the succeeding paragraphs in the order most appropriate under the circumstances.

5.7.3. 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 shall 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 a professionally managed investment entity resident in a non-participating jurisdiction.

5.7.4. 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 or KYC Procedures.

5.7.5. 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 Information collected and maintained pursuant to AML or KYC Procedures in the case of a Preexisting Entity Account held by one or more NFEs with an aggregate account balance that does not exceed one million US Dollars ; or a self-certification from the Account Holder or such Controlling Person of the jurisdiction in which the Controlling Person is resident for tax purposes.

The self-certification is valid only if it is signed by the Controlling Person or a person with authority to sign for the Account holder or the Controlling Person, and it contains following details about each of the Controlling Person(s):

- Name
- Address
- Jurisdiction of Residence
- TIN with respect of each reportable jurisfiction;
- Date of birth

Further, if a self- certification is required to be collected and is not obtained with respect to a Controlling Person of a passive NFE, the RFI must rely on the indicia described in sub rule (2) of rule 78E of CRS Rules that it maintains in its record in respect of such Controlling Person. In case no such indicia is available on records, then the RFI does not need any further action till the change in circumstances.

5.8. Due Diligence – New Individual Accounts

New Individual Accounts are those accounts opened by Reporting Financial Institutions on or after 1 July, 2017. The following procedures apply with respect to New Individual Accounts to determine whether the account is a reportable account:

- Upon account opening, an Reporting Financial Institution must obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Financial Institution to determine the Account Holder's

residence(s) for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures.

- If the self-certification establishes that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account and the self-certification must also include the Account Holder's Tax Identification Number (TIN) with respect to such Reportable Jurisdiction(s) and date of birth. In case, if the account holder claims not to have a TIN for the foreign jurisdiction, the self-certification should confirm this. For jurisdiction where a TIN usage is widespread, the Reporting Financial Institution should seek and record the reason for the lack of TIN. An Reporting Financial Institution may rely on the self – certification and a reasonable explanation provided that there is no reason to believe the statement is false.
- If there is a change of circumstances with respect to a New Individual Account that causes the Reporting Financial Institution to know, or have reason to know, that the original self-certification is incorrect or unreliable, the Reporting Financial Institution cannot rely on the original self-certification and must obtain a valid self-certification that establishes the residence(s) for tax purposes of the Account Holder.

5.8.1. Requirements for Validity of Self-Certification

If a Reporting Financial Institution later determines that a Self-certification is incorrect or unreliable, it must obtain another valid self-certification. Alternatively, it must obtain a reasonable explanation and appropriate documentation that supports the accuracy of the original self-certification. The Reporting Financial Institution must retain a copy or notation of such explanation and documentation.

It is expected that financial institutions will maintain account opening processes that facilitate collection of a self-certification at the time of the account opening, whether that process is done face-to-face, online or by telephone. There may be circumstances where, exceptionally, it is not possible to obtain a self-certification on 'day one' of the account opening process, for example where an insurance contract has been assigned from one person to another or in the case where an investor acquires shares in an investment trust on the secondary market. In such circumstances, the self-certification should always be obtained within a period of 90 days.

Self - certifications must include all of the following information:

- Name
- Residence Address
- jurisdiction(s) of residence for tax purposes
- Tax Identification Number

- Date of birth
- Place of birth

The self-certification may be provided in any manner and in any form, for example, it can be in paper or electronic format. If the self-certification is provided electronically, the Financial Institution must have systems in place to ensure that the information provided is that of the Account Holder and it must be able to provide a hard copy of all such self-certifications to FBR on request.

The following example illustrates how a self-certification may be provided:

Example

An Individual, Omer, completes an online application to open an account with an Reporting Financial Institution. All the information required for self-certification is entered by Omer on an electronic application (including a confirmation of Omer's jurisdiction of residence for tax purposes– not a reportable jurisdiction - and his acknowledgment that the information provided is complete and correct). Omer positively confirms the information provided as part of the application.

Omer's information, as provided in the electronic self-certification, is confirmed by Reporting Financial Institution to be reasonable based on the information it has collected pursuant to AML/KYC procedures.

Omer's self-certification is valid and a further self-certification providing Omer's foreign TIN and date of birth is not required. However, if Omer was tax resident in a reportable jurisdiction(s), the self-certification, or a further self-certification, would have needed to include his foreign TIN(s) and date of birth in order to be valid and the New Account procedures to be complied with.

A self-certification remains valid until there is a change of circumstances that causes the Reporting Financial Institution to know, or have reason to know, that the original self-certification is incorrect or un-reliable. When that is case, the Reporting Financial Institution cannot rely on the original self-certification and must obtain either (i) a valid self-certification that establish the residence(s) for tax purposes of the Account Holder, or (ii) a reasonable explanation and documentation supporting the validity of the original self-certification. Therefore, a Reporting financial Institution is expected to institute procedures to ensure that any change that constitutes a change in circumstances is identifies by the Reporting Financial Institution.

5.9. Due Diligence – New Entity Accounts

New Entity Accounts are those accounts opened by Reporting Financial Institutions on or after 1 July 2017. There is no minimum threshold for due diligence on New Entity Accounts under the Common Reporting Standard (CRS) Rules. All new entity accounts must be reviewed. For a new entity, the Reporting Financial Institution must determine whether the account is held by one or more entities that are reportable persons. The Reporting Financial Institution must also determine whether

the entity is a Passive NFE with one or more controlling persons who are Reportable Persons.

5.9.1. Entity Account holder is a Reportable Person

In order to determine whether an entity account holder is a reportable person, the Reporting Financial Institution must obtain self-certification in the account opening procedure. It must also confirm the reasonableness of the self-certification based on information obtained in connection with the account opening, including information collected according to the AML/KYC procedures.

An Reporting Financial Institution may rely on a valid self-certification provided for one account in meeting due diligence obligations for another account. For example, a self-certification provided by an entity for an existing account can be relied upon for the opening of a new account; so long as the self-certification remains reliable for the older account (no change in circumstances has affected its reliability). The earlier self-certification must also be reasonable when considered against information collected on the opening of the new account.

If the self-certification indicates that the Account Holder is resident in a reportable jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account unless the Reporting Financial Institution reasonably determines, based on Information in its possession or publicly available, that the Account Holder is not a Reportable Person with respect to such reportable jurisdiction.

If an account holder is a financial institution, the account would generally not be a reportable account for CRS, with the exception of a financial institution that is an Investment Entity described in sub clause (ii) of clause (f) of rule 78B of the CRS Rules that is not a Participating Jurisdiction Financial Institution (which is treated as a Passive NFE and may have Controlling Persons which cause its account to be a Reportable Account).

If the 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.

5.9.2. Entity is a Passive NFE

The Reporting Financial Institution must determine whether the entity is a Passive NFE. If so, the Reporting Financial Institution must identify the Controlling Persons of the Passive NFE and whether any of those Controlling Persons is a Reportable Person.

For the purposes of determining whether the entity is a Passive NFE, the Reporting Financial Institution must request a self-certification unless it has information in its possession or that is publicly available on the basis of which it can it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution other

than an Investment Entity described in sub clause (ii) of clause (f) of rule 78B of the CRS Rules 78B that is not a Participating Jurisdiction Financial Institution.

To identify the Controlling Persons, the Reporting Financial Institution may rely on information collected and maintained in line with AML/KYC procedures (but in such case, the AML/KYC procedures must be consistent with the FATF Recommendations, as adopted in February 2012). If a Controlling Person of the Passive NFE is itself an entity, the Reporting Financial Institution will need to identify the natural persons that control that entity (and if there is a chain of entities, the identification process will continue until the ultimate natural persons with control are determined).

The Reporting Financial Institution must seek a self-certification from either the Account Holder or the Controlling Person to establish if any Controlling Persons are Reportable Persons.

5.10. Change in Circumstances

A self-certification can become invalid as a result of change of the account holder's circumstances. Reporting Financial Institution is required to have procedures to ensure that any change that constitutes a change in circumstances is identified.

A Reporting Financial Institution is expected to notify any person providing a self-certification of the person's obligation to notify the Reporting Financial Institution of a change in circumstances.

A change in circumstances affecting the self-certification provided to the Reporting Financial Institution will invalidate the self-certification with respect to the information that is no longer reliable until the information is updated.

A self-certification becomes invalid as soon as the Reporting Financial Institution knows or has reason to know that circumstances affecting the correctness of the self-certification have changed. However, an Reporting Financial Institution may treat the status of the Account Holder as unchanged until the earlier of:

- 90 calendar days from the date that the self-certification became invalid due to the change in circumstances;
- The date that the validity of the self-certification is confirmed (where appropriate); or
- The date that a new self-certification is obtained.

If the Reporting Financial Institution cannot obtain a confirmation of the validity of the original self-certification or a valid self-certification during the 90 day period, the financial institution must continue to treat the Account Holder as resident in the jurisdiction identified in the original self-certification and must also treat the Account Holder as resident in the jurisdiction indicated by the change of circumstances.

5.11. Special Due Diligence Rules

The following additional clauses shall apply in implementing the due diligence procedures described above:

5.11.1. Reliance on self- certification and documentary evidence.

A Reporting Financial Institution may not rely on a self-certification or Documentary Evidence if the Reporting Financial Institution knows or has reason to know that the self-certification or Documentary Evidence is incorrect or unreliable;

5.11.2. Account Balance aggregation and currency rules Aggregation of individual accounts

For purposes of determining the aggregate balance or value of Financial Accounts held by an individual, a Reporting Financial Institution is required to aggregate all Financial Accounts maintained by the Reporting Financial Institution, or by a Related Entity, but only to the extent that the Reporting Financial Institution's computerized systems link the Financial Accounts by reference to a data element such as client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this paragraph.

Alternative Procedures for Financial Accounts held by individual beneficiaries of Cash Value Insurance Contract or an Annuity Contract

A Reporting Financial Institution may presume that an individual beneficiary (other than the owner) of a Cash Value Insurance Contract or an Annuity Contract receiving a death benefit is not a Reportable Person and may treat such Financial Account as other than a Reportable Account unless the Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person. A Reporting Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract or an Annuity Contract is a Reportable Person if the information collected by the Reporting Financial Institution and associated with the beneficiary contains indicia as described in sub rule (2) of rule 78E of CRS Rules. If a Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person, the Reporting Financial Institution must follow the procedures in sub rule (2) of rule 78E of CRS Rules.

Aggregation of entity accounts

For purposes of determining the aggregate balance or value of Financial Accounts held by an Entity, a Reporting Financial Institution is required to take into account all Financial Accounts that are maintained by the Reporting Financial Institution, or by a Related Entity, but only to the extent that the Reporting Financial Institution's computerized systems link the Financial Accounts by reference to a data element such as client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the

entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this paragraph.

Special aggregation rule applicable to relationship managers

For purposes of determining the aggregate balance or value of Financial Accounts held by a person to determine whether a Financial Account is a High Value Account, a Reporting Financial Institution is also required, in the case of any Financial Accounts that a relationship manager knows, or has reason to know, are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person, to aggregate all such accounts.

Currency translation

All amounts in this document are in U.S. dollars and must be read to include equivalent amounts in other currencies, as determined by applicable law in Pakistan.

Reporting

Where currencies are converted for reporting amounts, spot rate from the last day of the calendar year must be used.

Thresholds

FBR has allowed the financial institutions to use equivalent amounts of currencies other than US dollar. In determining the balance or value, financial institutions must translate the relevant USD threshold amount into local currency by reference to the spot rate of exchange on the date for which the financial institutions is determining the threshold.

For purpose of testing a CRS threshold, a spot rate on the test date may be used.

The CRS test date is 30 June 2017 for initial categorization of pre-existing accounts, or 31 December each year for subsequent testing of thresholds (High Value Account and reviewable Pre-existing Entity Account thresholds). For an insurance contract or Annuity Contract, the date of the most recent contract valuation may be used.

6. Information Reporting

6.1. Introduction

As per clause (aj) of rule 78(b) of the CRS Rules, Reportable Account means an account held by one or more reportable persons or by a Passive NFE with one or more controlling persons that is a reportable person provided it has been identified as such pursuant to rules 78D through 78J of the CRS Rules.

Whereas, Reportable Jurisdiction Person means an individual or Entity that is resident in a Reportable Jurisdiction. The term may also include an estate of a decedent that was a resident of Reportable Jurisdiction. A Reportable Jurisdiction means any jurisdiction other than the United States of America and Pakistan. For this purpose, an Entity such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated. For details, clause (ah) of rule 78B and OECD's Commentaries on CRS at Page 191 - 195 may be consulted.

All Financial Institutions are required to enroll with FBR through their respective regulators i.e. SBP and SECP. Initially, Reporting Financial Institutions have been enrolled manually by providing information under clause (c) of sub-rule (1) of Rule 78C of the CRS Rules. However, the Reporting Financial Institutions shall be electronically registered/ enrolled when the CRS Compliant software is in place.

General Reporting Requirements

Each Reporting Financial Institution shall report the following information with respect to each Reportable Account of such Reporting Financial Institution to the FBR, namely:-

a) the name, address, jurisdiction(s) of residence, Tax Identification Number (TIN) and date and place of birth (in the case of an individual) of each reportable person that is an account holder of the account;
b) in the case of any entity that is an account holder and after application of the due diligence procedures consistent with the rules 78G through 78I of CRS Rules is identified as having one or more Controlling Persons that is a reportable person:-
    (i) the name, address, jurisdiction(s) of residence and TIN(s) of the Entity; and
    (ii) the name, address, jurisdiction of residence, TIN(s) and date and place of birth of each reportable person.
c) the account number (or functional equivalent in the absence of an account number);
d) the name and identifying number, if any, of the Reporting Financial Institution;
e) the account balance or value (including, in the case of a cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate

reporting period or, if the account was closed during such year or period, the closure of the account;

f) in the case of any Custodial Account:-
   (i) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year; or other appropriate reporting period; and
   (ii) the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee or otherwise as an agent for the Account Holder.

g) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and

h) in the case of any account not described in clause (e) or (f) of sub rule (1) of rule 78C of the CRS Rules, 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 Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

The information reported shall identify the currency in which each amount is denominated.

Notwithstanding clause (a) of sub rule (1) of rule 78C of the CRS Rules, with respect to each reportable account that is a preexisting account, the TIN or date of birth is not required to be reported if such TIN or date of birth is not in the records of the Reporting Financial Institution and is not otherwise required to be collected by such Reporting Financial Institution under the domestic law. However, a Reporting Financial Institution is required to use reasonable efforts to obtain the TIN and date of birth with respect to preexisting accounts by the end of the second calendar year following the year in which such accounts were identified as reportable accounts.
Notwithstanding clause (a) of sub rule (1) of rule 78C of the CRS Rules, the TIN is not required to be reported if (i) a TIN is not issued by the relevant Reportable Jurisdiction or (ii) the domestic law of the relevant Reportable Jurisdiction does not require the collection of the TIN issued by such Reportable Jurisdiction.

Notwithstanding clause (a) of sub rule (1) of rule 78C of the CRS Rules, the place of birth is not required to be reported unless the Reporting Financial Institution is

otherwise required to obtain and report it under the domestic law and it is available in the electronically searchable data maintained by the Reporting Financial Institution.

Notwithstanding rule 78C, the information to be reported with respect to 2017 is the information described in said rule, except for gross proceeds described in sub-clause (ii) of clause (e) of sub-rule (1) of the CRS Rules.

6.2. Information on Accounts to be reported

After the Reporting Financial Institution has identified Financial Accounts it maintains as Reportable Accounts, the Reporting Financial Institution needs to report specific information in respect to each Reportable Account. As per rule 78C of the Income Tax Rules, 2002, a Reporting Financial Institution needs to maintain and report the following information:

6.2.1. Account Holder

“Account Holder” means the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. This is regardless of whether such person is a flow-through Entity. Thus, for example, if a trust or an estate is listed as the holder or owner of a Financial Account, the trust or estate is the Account Holder, rather than its owners or beneficiaries. Similarly, if a partnership is listed as the holder or owner of a Financial Account, the partnership is the Account Holder, rather than the partners in the partnership.

A person, other than a financial institution, holding a financial account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, intermediary, or legal guardian, is not treated as holding the account. Instead, such other person is treated as holding the account. For these purposes, a Reporting Financial Institution may rely on information in its possession (including information collected pursuant to AML/KYC Procedures), based on which it can reasonably determine whether a person is acting for the benefit or account of another person.

With respect to a jointly held account, each joint holder is treated as an account holder for purposes of determining whether the account is a Reportable Account. Thus, an account is a reportable account if any of the account holders is a reportable person or a Passive NFE with one or more controlling persons who are reportable persons. When more than one Reportable Person is a joint holder, each Reportable Person is treated as an Account Holder.

In the case of a cash value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the

maturity of a Cash Value Insurance Contract or an Annuity Contract (i.e. when obligation to pay an amount under the contract becomes fixed), each person entitled to receive a payment under the contract is treated as an Account Holder.

6.2.2. Name

The name of each Reportable Person that is an Account Holder of the account and in case of entity, the legal name of entity and controlling person(s).

6.2.3. Address

Where an account is held by an individual that is a Reportable Person, a Reporting Financial Institution should report the current residence address of the individual. If Reporting Financial Institution does not have residence address in its records then it should report the mailing address it has on file.

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 where it forms part of an address together with, e.g. a street, an apartment or suite number, or a rural route, and thus clearly identifies the actual residence of the Account Holder. Similarly, in special circumstances such as that of military personnel, an “in-care-of” address may constitute a residence address.

In case of an account held by an Entity that is a Reportable Person or a Passive NFE with one or more Controlling Persons that is a Reportable Person, the Reporting Financial Institution should report the address of the entity that it has on its records and the current residence address of each Controlling Person of such entity who is a Reportable Person. If the Reporting Financial Institution does not have residence address of the Controlling Person(s) in its records then it should report the mailing address(es) it has on the file.

6.2.4. Jurisdiction of Residence

If an account is held by a Reportable Person, a Reporting Financial Institution should report the jurisdiction of residence of each Reportable Person. The jurisdiction of residence to be reported with respect to an account is the jurisdiction of residence identified by the Reporting Financial Institution for the Reportable Person with respect to the relevant calendar year or other appropriate reporting period pursuant to the due diligence procedures.

In the case of a Reportable Person that is identified as having more than one jurisdiction of residence, the Reporting Financial Institution should report all jurisdictions of residence with respect to the relevant calendar year or other appropriate period.

The jurisdiction(s) of residence that are identified as a result of the due diligence procedures are without prejudice to any residence determination made by the Reporting Financial Institution for any other tax purposes.

6.2.5. Tax Identification Number (TIN)

TINs should be collected for all Reportable Accounts. “TIN” means Taxpayer Identification Number (or functional equivalent in the absence of a Taxpayer Identification Number). A Taxpayer Identification Number is a unique combination of letters or numbers, however described, assigned by a jurisdiction to an individual or an Entity and used to identify the individual or Entity for purposes of administering the tax laws of such jurisdiction.

In the case of a Reportable Person that is identified as having more than one jurisdiction of residence, the TIN to be reported is the Account Holder’s TIN with respect to each Reportable Jurisdiction.

For example, if an individual X is a tax resident of UK and the account of such person is to be reported by a Reporting Financial Institution in Pakistan, the TIN of UK is required to be collected and reported by the Reporting Financial Institution in respect of such person. TIN of UK is Unique Taxpayer Reference (UTR).

6.2.6. Functional Equivalent to TIN

Some jurisdictions do not issue a TIN to their taxpayers. However, these jurisdictions issue some other high integrity number with an equivalent level of identification (a functional equivalent). Examples of such numbers include:

- social security/insurance number;
- citizen/personal identification/service code/number; and
- resident registration number.

For Entities, a business/or company registration code/number may be used in case where no TIN has been issued to the Entity.

6.2.7. Account Number

The account number to be reported with respect to a Reportable Account is the identifying or registration number assigned by the Reporting Financial Institution to the account.

If no such number is assigned to the account, a Reporting Financial Institution must report a functional equivalent (i.e. a unique serial number or other number for e.g. customer identification number assigned to the Financial Account that distinguishes the account from other accounts maintained by such financial institution).

For example, it will be bank account number / Customer No in case of bank accounts, contract or policy number for insurance contracts would be generally considered as functional equivalent of an account number.

6.2.8. Account balance or value

The Reporting Financial Institution must report the balance or value of the account as of the end of the calendar year i.e. 31 December of each year.

In general, 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. An account with a balance or value that is negative must be reported as having zero account balance or value.

In the case of Cash Value Insurance or Annuity Contract, the Reporting Financial Institution must report the Cash Value or surrender value of the account. In the case of equity in a Financial Institution, 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. In case of debt interest, the balance or value of a debt interest is its principal amount.

The balance or value of the account is not to be reduced by any liabilities or obligations incurred by an account holder with respect to the account or any of the assets held in the account.

6.2.9. Joint Accounts

Each holder of a jointly held account is attributed the entire balance or value of the joint account, as well as the entire amounts paid or credited to the joint account.

For example, there is a joint account held by two individuals e.g. X & Y, having balance of US$ 75,000. One of the Account Holders X is resident in Ireland. The other person Y is resident in Pakistan. The amount reportable in respect of person X will be US$ 75,000 whereas Y is not reportable.

If both Account Holders in the above example are resident in Ireland, then each would be attributed US$ 75,000 for reporting purposes.

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.

6.3. Closure of Accounts

In the case of an account closure, the Reporting Financial Institution has no obligation to report the account balance or value before or at closure, but must report the fact that the account was closed. In determining when an account is "closed", reference must be made to the SBP and SECP relevant regulations. If the applicable law does not address closure of accounts, an account will be considered to be closed according to the normal operating procedures of the Reporting Financial Institution that are consistently applied for all accounts maintained by such institution. 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.

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.

6.4. Reporting Period

The information to be reported must be as of 31 December of each year. The due date for reporting of information of Reportable Accounts by the Reporting Financial Institution to FBR is 31 May each year commencing from 31st May, 2018. Accordingly, every Reporting Financial Institution is responsible to provide complete information on Reportable Accounts to FBR by the due date.

6.5. Other Information on Reportable Accounts

6.5.1. Custodial Account:

Apart from the general reporting requirements, the following information is to be reported for a Custodial Account in each reporting period:

i. the total gross amount of interest paid or credited to the account (or with respect to the account) during the calendar year;

ii. the total gross amount of dividends paid or credited to the account (or with respect to the account) during the calendar year;

iii. the total gross amount of other income generated with respect to the assets held in the account paid or credited to the account (or with respect to the account) during the calendar year;

iv. the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee or otherwise as an agent for the Account Holder;

Other Income

In the case of a Custodial Account, “other income” (paragraph iii above) means any amount considered income under the applicable laws in Pakistan other than any amount considered interest, dividends, or gross proceeds or capital gains from the sale or redemption of Financial Assets.

Gross Proceeds

In the case of a Custodial Account, information to be reported includes the total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder. The term “sale or redemption” means any sale or redemption of Financial Assets, determined without regard to whether the owner of such Financial Assets is subject to tax with respect to such sale or redemption.

A clearing or settlement organization that maintains Reportable Accounts and settles sales and purchases of securities between members of such organization on a net basis may not know the gross proceeds from sales or dispositions. Where the clearing or settlement organization does not know the gross proceeds, gross proceeds 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 by such member as of the time that such transactions are settled under the settlement procedures of such organization.

With respect to a sale that is effected by a broker that results in a payment of gross proceeds, the date the gross proceeds are considered paid is the date that the proceeds of such sale are credited to the account of or otherwise made available to the person entitled to the payment.

In the case of a sale of an interest bearing debt obligation gross proceeds includes any interest accrued between interest payment dates.

6.5.2. Depository Account:

Apart from the general reporting requirements, the following information is to be reported for a depository account in each reporting period: the total gross amount of interest paid or credited to the depository account during the calendar year or other appropriate reporting period.

6.5.3. Other Accounts:

In the case of accounts other than a Custodial or Depository Account, apart from the general reporting requirements, the following information is to be reported i.e. 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 Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

6.6. Currency

The value of the account should be reported in the currency in which account is denominated and the information reported must identify the currency in which each amount is denominated. In the case of an account denominated in more than one currency, the Reporting Financial Institution may elect to report the information in a currency in which the account is denominated and is required to identify the currency in which the account is reported. In such case, the Reporting Financial Institution may need to calculate the balance or value by applying a spot rate to translate a balance or value into the currency equivalent. The spot rate must be determined as of the last day of the calendar year or other appropriate reporting period for which the account is being reported.

6.7. Exceptions

There are few exceptions where TIN is not required to be reported for both Preexisting and New Accounts. Where:

- TIN (including its functional equivalent) is not issued by the relevant Reportable Jurisdiction in which the person is resident for tax purposes or;
- The domestic law of the relevant Reportable Jurisdiction does not require the collection of the TIN issued by such Reportable Jurisdiction.

There are some jurisdictions, e.g. Australia, which issue TINs, but their domestic law does not require the collection of the TIN for domestic reporting purposes. If a Reportable Account is maintained by a person resident in such jurisdictions, a Reporting Financial Institution is not required to obtain and report the TIN for those jurisdictions. However, the Reporting Financial Institution is not prevented from asking for, and collecting the Account Holder's TIN for reporting purposes if the Account Holder chooses to provide it.

It is also clarified that TIN is not required to be collected by the Reporting Financial Institutions even from a person who may be eligible to obtain a TIN (or the functional equivalent) in his country or territory of residence, but has not yet obtained a TIN. However, in this case, Reporting Financial Institutions may document this reason and seek TIN from the person after he obtains the same.

Guidance on TIN(s) on OECD - AEOI Portal

OECD has launched an automatic exchange portal to support implementation of Common Reporting Standard. The portal has a specific section that provides an overview of domestic rules in the participating jurisdictions governing the issuance, structure, use and validity of TIN or their functional equivalents. The jurisdiction-specific information should assist Reporting Financial Institutions in the collection of

TINs of Reportable Jurisdictions and can be accessed at www.oecd.org/tax/transparency.

6.7.1. Exceptions for Preexisting Accounts:

With respect to Preexisting Accounts, the TIN is not required to be reported if it is not in records of the Reporting Financial Institution. However, a Reporting Financial Institution is required to make reasonable efforts to obtain the TIN for each pre-existing reportable account by the end of the second calendar year following the year in which such accounts were identified as Reportable Accounts.

"Reasonable efforts" means genuine attempts to acquire the TIN and date of birth of the Account Holder of a Reportable Account. Such efforts must be made, at least once a year, during the period between the identification of the Pre-existing Account as a Reportable Account and the end of the second calendar year following the year of that identification. Examples of reasonable efforts include contacting the Account Holder (e.g. by mail, in-person or by phone), including a request made as part of other documentation or electronically (e.g. by facsimile or by e-mail) and reviewing electronically searchable information maintained by a related entity of the Reporting Financial Institution, in accordance with the aggregation principles. Further reasonable efforts do not necessarily require closing, blocking, or transferring the account, nor conditioning or otherwise limiting its use.

6.7.2. Date of Birth

The date of birth is required to be reported for all reportable accounts.

With respect to pre-existing accounts, the date of birth is not required to be reported if the date of birth is not in the records of the Reporting Financial Institution. Reporting Financial Institution is required to make reasonable efforts (explained in "**Exceptions for Preexisting Accounts")** to obtain the date of birth with respect to Preexisting Accounts by the end of the second calendar year following the year in which such accounts were identified as reportable accounts.

For New Accounts, the date of birth must always be reported and there are no exceptions similar to those described above for Pre-existing Accounts.

6.7.3. Place of Birth

The place of birth is not required to be reported unless the Reporting Financial Institution is otherwise required to obtain and report it under the domestic law of Pakistan and it is available in the electronically searchable data maintained by the Reporting Financial Institution.

Annexure-A

(TO BE PUBLISHED IN THE GAZETTE OF PAKISTAN EXTRAORDINARY PART.I)

GOVERNMENT OF PAKISTAN
REVENUE DIVISION
***

Islamabad, the 14th July, 2017

NOTIFICATION
(Income Tax)

S.R.O.697(I)/2017.- WHEREAS the Islamic Republic of Pakistan became a signatory to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters as amended by the 2010 Protocol on September 14, 2016, as set out in the Annexure to this Notification (The Convention);

AND WHEREAS the aforementioned Convention has been ratified by Pakistan and the Instrument of Ratification has been deposited in the OECD on December 16, 2016;

AND WHEREAS, in terms of its Article 28, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of ratification with one of the Depositaries;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of section 107 of the Income Tax Ordinance, 2001 (XLIX of 2001), the Federal Government is pleased to direct that the provisions of the said Convention shall come into force from 1st April, 2017 and shall have effect in accordance with paragraphs 6 and 7 of Article 28 of the said Convention.

Annexure

CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS

Text amended by the provisions of the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters, which entered into force on 1st June 2011

CONVENTION CONCERNANT L'ASSISTANCE ADMINISTRATIVE EN MATIÈRE FISCALE

Texte amendé conformément aux dispositions du Protocole d'amendement à la Convention concernant l'assistance administrative mutuelle en matière fiscale, entré en vigueur le 1er juin 2011.

Preamble

The member States of the Council of Europe and the member countries of the Organisation for Economic Co-operation and Development (OECD), signatories of this Convention,

Considering that the development of international movement of persons, capital, goods and services – although highly beneficial in itself – has increased the possibilities of tax avoidance and evasion and therefore requires increasing co-operation among tax authorities;

Welcoming the various efforts made in recent years to combat tax avoidance and tax evasion on an international level, whether bilaterally or multilaterally;

Considering that a co-ordinated effort between States is necessary in order to foster all forms of administrative assistance in matters concerning taxes of any kind whilst at the same time ensuring adequate protection of the rights of taxpayers;

Recognising that international co-operation can play an important part in facilitating the proper determination of tax liabilities and in helping the taxpayer to secure his rights;

Considering that fundamental principles entitling every person to have his rights and obligations determined in accordance with a proper legal procedure should be recognised as applying to tax matters in all States and that States should endeavour to protect the legitimate interests of taxpayers, including appropriate protection against discrimination and double taxation;

Convinced therefore that States should carry out measures or supply information, having regard to the necessity of protecting the confidentiality of information, and taking account of international instruments for the protection of privacy and flows of personal data;

Considering that a new co-operative environment has emerged and that it is desirable that a multilateral instrument is made available to allow the widest number of States to obtain the benefits of the new co-operative environment and at the same time implement the highest international standards of co-operation in the tax field;

Desiring to conclude a convention on mutual administrative assistance in tax matters,

Have agreed as follows:

Chapter I – Scope of the Convention

Article 1 – Object of the Convention and persons covered

1 The Parties shall, subject to the provisions of Chapter IV, provide administrative assistance to each other in tax matters. Such assistance may involve, where appropriate, measures taken by judicial bodies.

2 Such administrative assistance shall comprise:

a exchange of information, including simultaneous tax examinations and participation in tax examinations abroad;

b assistance in recovery, including measures of conservancy; and

c service of documents.

3 A Party shall provide administrative assistance whether the person affected is a resident or national of a Party or of any other State.

Article 2 – Taxes covered

1 This Convention shall apply:

a to the following taxes:

i taxes on income or profits,

ii taxes on capital gains which are imposed separately from the tax on income or profits,

iii taxes on net wealth,

imposed on behalf of a Party; and

b to the following taxes:

i taxes on income, profits, capital gains or net wealth which are imposed on behalf of political subdivisions or local authorities of a Party,

ii compulsory social security contributions payable to general government or to social security institutions established under public law, and

iii taxes in other categories, except customs duties, imposed on behalf of a Party, namely:

A. estate, inheritance or gift taxes,

B. taxes on immovable property,

C. general consumption taxes, such as value added or sales taxes,

D. specific taxes on goods and services such as excise taxes,

E. taxes on the use or ownership of motor vehicles,

F. taxes on the use or ownership of movable property other than motor vehicles,

G. any other taxes;

iv taxes in categories referred to in sub-paragraph iii. above which are imposed on behalf of political subdivisions or local authorities of a Party.

2 The existing taxes to which the Convention shall apply are listed in Annex A in the categories referred to in paragraph 1.

3 The Parties shall notify the Secretary General of the Council of Europe or the Secretary General of OECD (hereinafter referred to as the "Depositaries") of any change to be made to Annex A as a result of a modification of the list mentioned in paragraph 2. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

4 The Convention shall also apply, as from their adoption, to any identical or substantially similar taxes which are imposed in a Contracting State after the entry into force of the Convention in respect of that Party in addition to or in place of the existing taxes listed in Annex A and, in that event, the Party concerned shall notify one of the Depositaries of the adoption of the tax in question.

Chapter II – General definitions

Article 3 – Definitions

1 For the purposes of this Convention, unless the context otherwise requires:

a the terms "applicant State" and "requested State" mean respectively any Party applying for administrative assistance in tax matters and any Party requested to provide such assistance;

b the term "tax" means any tax or social security contribution to which the Convention applies pursuant to Article 2;

c the term "tax claim" means any amount of tax, as well as interest thereon, related administrative fines and costs incidental to recovery, which are owed and not yet paid;

d the term "competent authority" means the persons and authorities listed in Annex B;

e the term "nationals" in relation to a Party means:

i all individuals possessing the nationality of that Party, and

ii all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in that Party.

For each Party that has made a declaration for that purpose, the terms used above will be understood as defined in Annex C.

2 As regards the application of the Convention by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that Party concerning the taxes covered by the Convention.

3 The Parties shall notify one of the Depositaries of any change to be made to Annexes B and C. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary in question.

Chapter III – Forms of assistance

Section I – Exchange of information

Article 4 – General provision

1 The Parties shall exchange any information, in particular as provided in this section, that is foreseeably relevant for the administration or enforcement of their domestic laws concerning the taxes covered by this Convention.

2 Deleted.

3 Any Party may, by a declaration addressed to one of the Depositaries, indicate that, according to its internal legislation, its authorities may inform its resident or national before transmitting information concerning him, in conformity with Articles 5 and 7.

Article 5 – Exchange of information on request

1 At the request of the applicant State, the requested State shall provide the applicant State with any information referred to in Article 4 which concerns particular persons or transactions.

2 If the information available in the tax files of the requested State is not sufficient to enable it to comply with the request for information, that State shall take all relevant measures to provide the applicant State with the information requested.

Article 6 – Automatic exchange of information

With respect to categories of cases and in accordance with procedures which they shall determine by mutual agreement, two or more Parties shall automatically exchange the information referred to in Article 4.

Article 7 – Spontaneous exchange of information

1 A Party shall, without prior request, forward to another Party information of which it has knowledge in the following circumstances:

a the first-mentioned Party has grounds for supposing that there may be a loss of tax in the other Party;

b a person liable to tax obtains a reduction in or an exemption from tax in the first-mentioned Party which would give rise to an increase in tax or to liability to tax in the other Party;

c business dealings between a person liable to tax in a Party and a person liable to tax in another Party are conducted through one or more countries in such a way that a saving in tax may result in one or the other Party or in both;

d a Party has grounds for supposing that a saving of tax may result from artificial transfers of profits within groups of enterprises;

e information forwarded to the first-mentioned Party by the other Party has enabled information to be obtained which may be relevant in assessing liability to tax in the latter Party.

2 Each Party shall take such measures and implement such procedures as are necessary to ensure that information described in paragraph 1 will be made available for transmission to another Party.

Article 8 – Simultaneous tax examinations

1 At the request of one of them, two or more Parties shall consult together for the purposes of determining cases and procedures for simultaneous tax examinations. Each Party involved shall decide whether or not it wishes to participate in a particular simultaneous tax examination.

2 For the purposes of this Convention, a simultaneous tax examination means an arrangement between two or more Parties to examine simultaneously, each in its own territory, the tax affairs of a person or persons in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain.

Article 9 – Tax examinations abroad

1 At the request of the competent authority of the applicant State, the competent authority of the requested State may allow representatives of the competent authority of the applicant State to be present at the appropriate part of a tax examination in the requested State.

2 If the request is acceded to, the competent authority of the requested State shall, as soon as possible, notify the competent authority of the applicant State about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the requested State for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the requested State.

3 A Party may inform one of the Depositaries of its intention not to accept, as a general rule, such requests as are referred to in paragraph 1. Such a declaration may be made or withdrawn at any time.

Article 10 – Conflicting information

If a Party receives from another Party information about a person's tax affairs which appears to it to conflict with information in its possession, it shall so advise the Party which has provided the information.

Section II – Assistance in recovery

Article 11 – Recovery of tax claims

1 At the request of the applicant State, the requested State shall, subject to the provisions of Articles 14 and 15, take the necessary steps to recover tax claims of the first-mentioned State as if they were its own tax claims.

2 The provision of paragraph 1 shall apply only to tax claims which form the subject of an instrument permitting their enforcement in the applicant State and, unless otherwise agreed between the Parties concerned, which are not contested.

However, where the claim is against a person who is not a resident of the applicant State, paragraph 1 shall only apply, unless otherwise agreed between the Parties concerned, where the claim may no longer be contested.

3 The obligation to provide assistance in the recovery of tax claims concerning a deceased person or his estate, is limited to the value of the estate or of the property acquired by each beneficiary

of the estate, according to whether the claim is to be recovered from the estate or from the beneficiaries thereof.

Article 12 – Measures of conservancy

At the request of the applicant State, the requested State shall, with a view to the recovery of an amount of tax, take measures of conservancy even if the claim is contested or is not yet the subject of an instrument permitting enforcement.

Article 13 – Documents accompanying the request

1 The request for administrative assistance under this section shall be accompanied by:

a a declaration that the tax claim concerns a tax covered by the Convention and, in the case of recovery that, subject to paragraph 2 of Article 11, the tax claim is not or may not be contested,

b an official copy of the instrument permitting enforcement in the applicant State, and

c any other document required for recovery or measures of conservancy.

2 The instrument permitting enforcement in the applicant State shall, where appropriate and in accordance with the provisions in force in the requested State, be accepted, recognised, supplemented or replaced as soon as possible after the date of the receipt of the request for assistance, by an instrument permitting enforcement in the latter State.

Article 14 – Time limits

1 Questions concerning any period beyond which a tax claim cannot be enforced shall be governed by the law of the applicant State. The request for assistance shall give particulars concerning that period.

2 Acts of recovery carried out by the requested State in pursuance of a request for assistance, which, according to the laws of that State, would have the effect of suspending or interrupting the period mentioned in paragraph 1, shall also have this effect under the laws of the applicant State. The requested State shall inform the applicant State about such acts.

3 In any case, the requested State is not obliged to comply with a request for assistance which is submitted after a period of 15 years from the date of the original instrument permitting enforcement.

Article 15 – Priority

The tax claim in the recovery of which assistance is provided shall not have in the requested State any priority specially accorded to the tax claims of that State even if the recovery procedure used is the one applicable to its own tax claims.

Article 16 – Deferral of payment

The requested State may allow deferral of payment or payment by instalments if its laws or administrative practice permit it to do so in similar circumstances, but shall first inform the applicant State.

Section III – Service of documents

Article 17 – Service of documents

1 At the request of the applicant State, the requested State shall serve upon the addressee documents, including those relating to judicial decisions, which emanate from the applicant State and which relate to a tax covered by this Convention.

2 The requested State shall effect service of documents:

a by a method prescribed by its domestic laws for the service of documents of a substantially similar nature;

b to the extent possible, by a particular method requested by the applicant State or the closest to such method available under its own laws.

3 A Party may effect service of documents directly through the post on a person within the territory of another Party.

4 Nothing in the Convention shall be construed as invalidating any service of documents by a Party in accordance with its laws.

5 When a document is served in accordance with this article, it need not be accompanied by a translation. However, where it is satisfied that the addressee cannot understand the language of the document, the requested State shall arrange to have it translated into or a summary drafted in its or one of its official languages. Alternatively, it may ask the applicant State to have the document either translated into or accompanied by a summary in one of the official languages of the requested State, the Council of Europe or the OECD.

Chapter IV – Provisions relating to all forms of assistance

Article 18 – Information to be provided by the applicant State

1 A request for assistance shall indicate where appropriate:

a the authority or agency which initiated the request made by the competent authority;

b the name, address, or any other particulars assisting in the identification of the person in respect of whom the request is made;

c in the case of a request for information, the form in which the applicant State wishes the information to be supplied in order to meet its needs;

d in the case of a request for assistance in recovery or measures of conservancy, the nature of the tax claim, the components of the tax claim and the assets from which the tax claim may be recovered;

e in the case of a request for service of documents, the nature and the subject of the document to be served;

f whether it is in conformity with the law and administrative practice of the applicant State and whether it is justified in the light of the requirements of Article 21.2.g.

2 As soon as any other information relevant to the request for assistance comes to its knowledge, the applicant State shall forward it to the requested State.

Article 19 – Deleted

Article 20 – Response to the request for assistance

1 If the request for assistance is complied with, the requested State shall inform the applicant State of the action taken and of the result of the assistance as soon as possible.

2 If the request is declined, the requested State shall inform the applicant State of that decision and the reason for it as soon as possible.

3 If, with respect to a request for information, the applicant State has specified the form in which it wishes the information to be supplied and the requested State is in a position to do so, the requested State shall supply it in the form requested.

Article 21 – Protection of persons and limits to the obligation to provide assistance

1 Nothing in this Convention shall affect the rights and safeguards secured to persons by the laws or administrative practice of the requested State.

2 Except in the case of Article 14, the provisions of this Convention shall not be construed so as to impose on the requested State the obligation:

a to carry out measures at variance with its own laws or administrative practice or the laws or administrative practice of the applicant State;

b to carry out measures which would be contrary to public policy (*ordre public*);

c to supply information which is not obtainable under its own laws or its administrative practice or under the laws of the applicant State or its administrative practice;

d to supply information which would disclose any trade, business, industrial, commercial or professional secret, or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*);

e to provide administrative assistance if and insofar as it considers the taxation in the applicant State to be contrary to generally accepted taxation principles or to the provisions of a convention for the avoidance of double taxation, or of any other convention which the requested State has concluded with the applicant State;

f to provide administrative assistance for the purpose of administering or enforcing a provision of the tax law of the applicant State, or any requirement connected therewith, which discriminates against a national of the requested State as compared with a national of the applicant State in the same circumstances;

g to provide administrative assistance if the applicant State has not pursued all reasonable measures available under its laws or administrative practice, except where recourse to such measures would give rise to disproportionate difficulty;

h to provide assistance in recovery in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the applicant State.

3 If information is requested by the applicant State in accordance with this Convention, the requested State shall use its information gathering measures to obtain the requested information, even though the requested State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations contained in this Convention, but in no case shall such limitations, including in particular those of

paragraphs 1 and 2, be construed to permit a requested State to decline to supply information solely because it has no domestic interest in such information.

4 In no case shall the provisions of this Convention, including in particular those of paragraphs 1 and 2, be construed to permit a requested State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 22 – Secrecy

1 Any information obtained by a Party under this Convention shall be treated as secret and protected in the same manner as information obtained under the domestic law of that Party and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Party as required under its domestic law.

2 Such information shall in any case be disclosed only to persons or authorities (including courts and administrative or supervisory bodies) concerned with the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, taxes of that Party, or the oversight of the above. Only the persons or authorities mentioned above may use the information and then only for such purposes. They may, notwithstanding the provisions of paragraph 1, disclose it in public court proceedings or in judicial decisions relating to such taxes.

3 If a Party has made a reservation provided for in sub-paragraph a. of paragraph 1 of Article 30, any other Party obtaining information from that Party shall not use it for the purpose of a tax in a category subject to the reservation. Similarly, the Party making such a reservation shall not use information obtained under this Convention for the purpose of a tax in a category subject to the reservation.

4 Notwithstanding the provisions of paragraphs 1, 2 and 3, information received by a Party may be used for other purposes when such information may be used for such other purposes under the laws of the supplying Party and the competent authority of that Party authorises such use. Information provided by a Party to another Party may be transmitted by the latter to a third Party, subject to prior authorisation by the competent authority of the first-mentioned Party.

Article 23 – Proceedings

1 Proceedings relating to measures taken under this Convention by the requested State shall be brought only before the appropriate body of that State.

2 Proceedings relating to measures taken under this Convention by the applicant State, in particular those which, in the field of recovery, concern the existence or the amount of the tax claim or the instrument permitting its enforcement, shall be brought only before the appropriate body of that State. If such proceedings are brought, the applicant State shall inform the requested State which shall suspend the procedure pending the decision of the body in question. However, the requested State shall, if asked by the applicant State, take measures of conservancy to safeguard recovery. The requested State can also be informed of such proceed-

ings by any interested person. Upon receipt of such information the requested State shall consult on the matter, if necessary, with the applicant State.

3 As soon as a final decision in the proceedings has been given, the requested State or the applicant State, as the case may be, shall notify the other State of the decision and the implications which it has for the request for assistance.

Chapter V – Special provisions

Article 24 – Implementation of the Convention

1 The Parties shall communicate with each other for the implementation of this Convention through their respective competent authorities. The competent authorities may communicate directly for this purpose and may authorise subordinate authorities to act on their behalf. The competent authorities of two or more Parties may mutually agree on the mode of application of the Convention among themselves.

2 Where the requested State considers that the application of this Convention in a particular case would have serious and undesirable consequences, the competent authorities of the requested and of the applicant State shall consult each other and endeavour to resolve the situation by mutual agreement.

3 A co-ordinating body composed of representatives of the competent authorities of the Parties shall monitor the implementation and development of this Convention, under the aegis of the OECD. To that end, the co-ordinating body shall recommend any action likely to further the general aims of the Convention. In particular it shall act as a forum for the study of new methods and procedures to increase international co-operation in tax matters and, where appropriate, it may recommend revisions or amendments to the Convention. States which have signed but not yet ratified, accepted or approved the Convention are entitled to be represented at the meetings of the co-ordinating body as observers.

4 A Party may ask the co-ordinating body to furnish opinions on the interpretation of the provisions of the Convention.

5 Where difficulties or doubts arise between two or more Parties regarding the implementation or interpretation of the Convention, the competent authorities of those Parties shall endeavour to resolve the matter by mutual agreement. The agreement shall be communicated to the co-ordinating body.

6 The Secretary General of OECD shall inform the Parties, and the Signatory States which have not yet ratified, accepted or approved the Convention, of opinions furnished by the co-ordinating body according to the provisions of paragraph 4 above and of mutual agreements reached under paragraph 5 above.

Article 25 – Language

Requests for assistance and answers thereto shall be drawn up in one of the official languages of the OECD and of the Council of Europe or in any other language agreed bilaterally between the Contracting States concerned.

Article 26 – Costs

Unless otherwise agreed bilaterally by the Parties concerned:

a ordinary costs incurred in providing assistance shall be borne by the requested State;

b extraordinary costs incurred in providing assistance shall be borne by the applicant State.

Chapter VI – Final provisions

Article 27 – Other international agreements or arrangements

1 The possibilities of assistance provided by this Convention do not limit, nor are they limited by, those contained in existing or future international agreements or other arrangements between the Parties concerned or other instruments which relate to co-operation in tax matters.

2 Notwithstanding paragraph 1, those Parties which are member States of the European Union can apply, in their mutual relations, the possibilities of assistance provided for by the Convention in so far as they allow a wider co-operation than the possibilities offered by the applicable European Union rules.

Article 28 – Signature and entry into force of the Convention

1 This Convention shall be open for signature by the member States of the Council of Europe and the member countries of OECD. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with one of the Depositaries.

2 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five States have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 1.

3 In respect of any member State of the Council of Europe or any member country of OECD which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

4 Any member State of the Council of Europe or any member country of OECD which becomes a Party to the Convention after the entry into force of the Protocol amending this Convention, opened for signature on 27th May 2010 (the "2010 Protocol"), shall be a Party to the Convention as amended by that Protocol, unless they express a different intention in a written communication to one of the Depositaries.

5 After the entry into force of the 2010 Protocol, any State which is not a member of the Council of Europe or of the OECD may request to be invited to sign and ratify this Convention as amended by the 2010 Protocol. Any request to this effect shall be addressed to one of the Depositaries, who shall transmit it to the Parties. The Depositary shall also inform the Committee of Ministers of the Council of Europe and the OECD Council. The decision to invite States which so request to become Party to this Convention shall be taken by consensus by the Parties to the Convention through the co-ordinating body. In respect of any State ratifying the Convention as amended by the 2010 Protocol in accordance with this paragraph, this Convention shall enter into force on the first day of the month following the expiration of a

period of three months after the date of deposit of the instrument of ratification with one of the Depositaries.

6 The provisions of this Convention, as amended by the 2010 Protocol, shall have effect for administrative assistance related to taxable periods beginning on or after 1 January of the year following the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party, or where there is no taxable period, for administrative assistance related to charges to tax arising on or after 1 January of the year following the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party. Any two or more Parties may mutually agree that the Convention, as amended by the 2010 Protocol, shall have effect for administrative assistance related to earlier taxable periods or charges to tax.

7 Notwithstanding paragraph 6, for tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the applicant Party, the provisions of this Convention, as amended by the 2010 Protocol, shall have effect from the date of entry into force in respect of a Party in relation to earlier taxable periods or charges to tax.

Article 29 – Territorial application of the Convention

1 Each State may, at the time of signature, or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Convention shall apply.

2 Any State may, at any later date, by a declaration addressed to one of the Depositaries, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Depositary.

3 Any declaration made under either of the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to one of the Depositaries. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

Article 30 – Reservations

1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval or at any later date, declare that it reserves the right:

a not to provide any form of assistance in relation to the taxes of other Parties in any of the categories listed in sub-paragraph b. of paragraph 1 of Article 2, provided that it has not included any domestic tax in that category under Annex A of the Convention;

b not to provide assistance in the recovery of any tax claim, or in the recovery of an administrative fine, for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;

c not to provide assistance in respect of any tax claim, which is in existence at the date of entry into force of the Convention in respect of that State or, where a reservation has

previously been made under sub-paragraph a. or b. above, at the date of withdrawal of such a reservation in relation to taxes in the category in question;

d not to provide assistance in the service of documents for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;

e not to permit the service of documents through the post as provided for in paragraph 3 of Article 17;

f to apply paragraph 7 of Article 28 exclusively for administrative assistance related to taxable periods beginning on or after 1 January of the third year preceding the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party, or where there is no taxable period, for administrative assistance related to charges to tax arising on or after 1 January of the third year preceding the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party.

2 No other reservation may be made.

3 After the entry into force of the Convention in respect of a Party, that Party may make one or more of the reservations listed in paragraph 1 which it did not make at the time of ratification, acceptance or approval. Such reservations shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the reservation by one of the Depositaries.

4 Any Party which has made a reservation under paragraphs 1 and 3 may wholly or partly withdraw it by means of a notification addressed to one of the Depositaries. The withdrawal shall take effect on the date of receipt of such notification by the Depositary in question.

5 A Party which has made a reservation in respect of a provision of this Convention may not require the application of that provision by any other Party; it may, however, if its reservation is partial, require the application of that provision insofar as it has itself accepted it.

Article 31 – Denunciation

1 Any Party may, at any time, denounce this Convention by means of a notification addressed to one of the Depositaries.

2 Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Depositary.

3 Any Party which denounces the Convention shall remain bound by the provisions of Article 22 for as long as it retains in its possession any documents or information obtained under the Convention.

Article 32 – Depositaries and their functions

1 The Depositary with whom an act, notification or communication has been accomplished, shall notify the member States of the Council of Europe and the member countries of OECD and any Party to this Convention of:

a any signature;

b the deposit of any instrument of ratification, acceptance or approval;

c any date of entry into force of this Convention in accordance with the provisions of Articles 28 and 29;

d any declaration made in pursuance of the provisions of paragraph 3 of Article 4 or paragraph 3 of Article 9 and the withdrawal of any such declaration;

e any reservation made in pursuance of the provisions of Article 30 and the withdrawal of any reservation effected in pursuance of the provisions of paragraph 4 of Article 30;

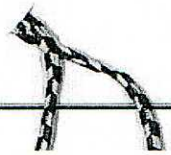
f any notification received in pursuance of the provisions of paragraph 3 or 4 of Article 2, paragraph 3 of Article 3, Article 29 or paragraph 1 of Article 31;

g any other act, notification or communication relating to this Convention.

2 The Depositary receiving a communication or making a notification in pursuance of the provisions of paragraph 1 shall inform immediately the other Depositary thereof.

Certified a true copy of the original.
Copie certifiée conforme à l'original.

Nicola BONUCCI
Director for Legal Affairs
OECD
Directeur des Affaires juridiques
OCDE
Paris, 14 septembre 2016



[C.No.3(48)Int.Taxes/11]

(Dr. Muhammad Iqbal)
Additional Secretary/Member (IR- Policy)

Annexure-B

DECLARATION

I, Muhammad Iqbal, Member (Inland Revenue Policy) at the Federal Board of Revenue, on behalf of the Competent Authority of Pakistan, declare that it hereby agrees to comply with the provisions of the

Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports

hereafter referred to as the "Agreement" and attached to this Declaration.

By means of the present Declaration, the Competent Authority of Pakistan is to be considered a signatory of the Agreement as from 21 June 2017. The Agreement will come into effect in respect of the Competent Authority of Pakistan in accordance with Section 8 thereof.

Signed in Noordwijk on 21 June 2017

OECD
29 JUIN 2017
Legal Directorate

CERTIFIED TRUE COPY
OF ORIGINAL

MULTILATERAL COMPETENT AUTHORITY AGREEMENT ON THE EXCHANGE OF COUNTRY-BY-COUNTRY REPORTS

Whereas, the jurisdictions of the signatories to the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports (the "Agreement") are Parties of, or territories covered by, the Convention on Mutual Administrative Assistance in Tax Matters or the Convention on Mutual Administrative Assistance in Tax Matters as amended by the Protocol (the "Convention") or have signed or expressed their intention to sign the Convention and acknowledge that the Convention must be in force and in effect in relation to them before the automatic exchange of Country-by-Country (CbC) Reports takes place;

Whereas, a country that has signed or expressed its intention to sign the Convention will only become a Jurisdiction as defined in Section 1 of this Agreement once it has become a Party to the Convention;

Whereas, the jurisdictions desire to increase international tax transparency and improve access of their respective tax authorities to information regarding the global allocation of the income, the taxes paid, and certain indicators of the location of economic activity among tax jurisdictions in which Multinational Enterprise (MNE) Groups operate through the automatic exchange of annual CbC Reports, with a view to assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, as well as for economic and statistical analysis, where appropriate;

Whereas, the laws of the respective Jurisdictions require or are expected to require the Reporting Entity of an MNE Group to annually file a CbC Report;

Whereas, the CbC Report is intended to be part of a three-tiered structure, along with a global master file and a local file, which together represent a standardised approach to transfer pricing documentation which will provide tax administrations with relevant and reliable information to perform an efficient and robust transfer pricing risk assessment analysis;

Whereas, Chapter III of the Convention authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and allows the competent authorities of the Jurisdictions to agree on the scope and modalities of such automatic exchanges;

Whereas, Article 6 of the Convention provides that two or more Parties can mutually agree to exchange information automatically, albeit that the actual exchange of the information will take place on a bilateral basis between the Competent Authorities;

Whereas, the Jurisdictions will have, or are expected to have in place by the time the first exchange of CbC Reports takes place, (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used for the purposes of assessing high-level transfer pricing risks and other base erosion and profit shifting related risks, as well as for economic and statistical analysis, where appropriate, in accordance with Section 5 of this Agreement, (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Section 4 of this Agreement) and (iii) the necessary legislation to require Reporting Entities to file the CbC Report;

Whereas the Jurisdictions are committed to discuss with the aim of resolving cases of undesirable economic outcomes, including for individual businesses, in accordance with paragraph 2 of Article 24 of the Convention, as well as paragraph 1 of Section 6 of this Agreement;

Whereas mutual agreement procedures, for instance on the basis of a double tax convention concluded between the jurisdictions of the Competent Authorities, remain applicable in cases where the CbC Report has been exchanged on the basis of this Agreement;

Whereas, the Competent Authorities of the jurisdictions intend to conclude this Agreement, without prejudice to national legislative procedures (if any), and subject to the confidentiality and other protections provided for in the Convention, including the provisions limiting the use of the information exchanged thereunder;

Now, therefore, the Competent Authorities have agreed as follows:

SECTION 1
Definitions

1. For the purposes of this Agreement, the following terms have the following meanings:

a. the term **"Jurisdiction"** means a country or a territory in respect of which the Convention is in force and is in effect, either through ratification, acceptance or approval in accordance with Article 28, or through territorial extension in accordance with Article 29, and which is a signatory to this Agreement;

b. the term **"Competent Authority"** means, for each respective Jurisdiction, the persons and authorities listed in Annex B of the Convention;

c. The term **"Group"** means a collection of enterprises related through ownership or control such that it is either required to prepare consolidated financial statements for financial reporting purposes under applicable accounting principles or would be so required if equity interests in any of the enterprises were traded on a public securities exchange;

d. the term **"Multinational Enterprise (MNE) Group"** means any Group that (i) includes two or more enterprises the tax residence for which is in different jurisdictions, or includes an enterprise that is resident for tax purposes in one jurisdiction and is subject to tax with respect to the business carried out through a permanent establishment in another jurisdiction, and (ii) is not an Excluded MNE Group;

e. the term **"Excluded MNE Group"** means a Group that is not required to file a CbC Report on the basis that the annual consolidated group revenue of the Group during the fiscal year immediately preceding the reporting fiscal year, as reflected in its consolidated financial statements for such preceding fiscal year, is below the threshold defined in domestic law by the Jurisdiction and being consistent with the 2015 Report, as may be amended following the 2020 review contemplated therein;

f. the term **"Constituent Entity"** means (i) any separate business unit of an MNE Group that is included in the consolidated financial statements for financial reporting purposes, or would be so included if equity interests in such business unit of an MNE Group were traded on a public securities exchange (ii) any separate business unit that is excluded from the MNE Group's consolidated financial statements solely on size or materiality grounds and (iii) any permanent establishment of any separate business unit of the MNE Group included in (i) or (ii) above provided the business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes;

g. the term **"Reporting Entity"** means the Constituent Entity that, by virtue of domestic law in its jurisdiction of tax residence, files the CbC Report in its capacity to do so on behalf of the MNE Group;

h. the term **"CbC Report"** means the country-by-country report to be filed annually by the Reporting Entity in accordance with the laws of its jurisdiction of tax residence and with the information required to be reported under such laws covering the items and reflecting the format set out in the 2015 Report, as may be amended following the 2020 review contemplated therein;

i. the term **"2015 Report"** means the consolidated report, entitled "Transfer Pricing Documentation and Country-by-Country Reporting, on Action 13 of the OECD/G20 Action Plan on Base Erosion and Profit Shifting;

j. the term "**Co-ordinating Body**" means the co-ordinating body of the Convention that, pursuant to paragraph 3 of Article 24 of the Convention, is composed of representatives of the competent authorities of the Parties to the Convention;

k. the term **"Co-ordinating Body Secretariat"** means the OECD Secretariat that provides support to the Co-ordinating Body;

l. the term **"Agreement in effect"** means, in respect of any two Competent Authorities, that both Competent Authorities have indicated their intention to automatically exchange information with each other and have satisfied the other conditions set out in paragraph 2 of Section 8. A list of Competent Authorities between which this Agreement is in effect is to be published on the OECD Website.

2. As regards to the application of this Agreement at any time by a Competent Authority of a Jurisdiction, any term not otherwise defined in this Agreement will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the Jurisdiction applying this Agreement, any meaning under the applicable tax laws of that Jurisdiction prevailing over a meaning given to the term under other laws of that Jurisdiction.

SECTION 2
Exchange of Information with Respect to MNE Groups

1. Pursuant to the provisions of Articles 6, 21 and 22 of the Convention, each Competent Authority will annually exchange on an automatic basis the CbC Report received from each Reporting Entity that is resident for tax purposes in its jurisdiction with all such other Competent Authorities of Jurisdictions with respect to which it has this Agreement in effect, and in which, on the basis of the information in the CbC Report, one or more Constituent Entities of the MNE Group of the Reporting Entity are either resident for tax purposes, or are subject to tax with respect to the business carried out through a permanent establishment.

2. Notwithstanding the previous paragraph, the Competent Authorities of the Jurisdictions that have indicated that they are to be listed as non-reciprocal jurisdictions on the basis of their notification pursuant to paragraph 1 b) of Section 8 will send CbC Reports pursuant to paragraph 1, but will not receive CbC Reports under this Agreement. Competent Authorities of Jurisdictions that are not listed as non-reciprocal Jurisdictions will both send and receive the information specified in paragraph 1. Competent Authorities will, however, not send such information to Competent Authorities of the Jurisdictions included in the aforementioned list of non-reciprocal Jurisdictions.

SECTION 3
Time and Manner of Exchange of Information

1. For the purposes of the exchange of information in Section 2, the currency of the amounts contained in the CbC Report will be specified.

2. With respect to paragraph 1 of Section 2, a CbC Report is first to be exchanged, with respect to the fiscal year of the MNE Group commencing on or after the date indicated by the Competent Authority in the notification pursuant to paragraph 1a) of Section 8, as soon as possible and no later than 18 months after the last day of that fiscal year. Notwithstanding the foregoing, a CbC Report is only required to be exchanged, if both Competent Authorities have this Agreement in effect and their respective Jurisdictions have in effect legislation that requires the filing of CbC Reports with respect to the fiscal year to which the CbC Report relates and that is consistent with the scope of exchange provided for in Section 2.

3. Subject to paragraph 2, the CbC Report is to be exchanged as soon as possible and no later than 15 months after the last day of the fiscal year of the MNE Group to which the CbC Report relates.

4. The Competent Authorities will automatically exchange the CbC Reports through a common schema in Extensible Markup Language.

5. The Competent Authorities will work towards and agree on one or more methods for electronic data transmission, including encryption standards, with a view to maximising standardisation and minimising complexities and costs and will notify the Co-ordinating Body Secretariat of such standardised transmission and encryption methods.

SECTION 4
Collaboration on Compliance and Enforcement

A Competent Authority will notify the other Competent Authority when the first-mentioned Competent Authority has reason to believe, with respect to a Reporting Entity that is resident for tax purposes in the jurisdiction of the other Competent Authority, that an error may have led to incorrect or incomplete information reporting or that there is non-compliance of a Reporting Entity with respect to its obligation to file a CbC Report. The notified Competent Authority will take appropriate measures available under its domestic law to address the errors or non-compliance described in the notice.

SECTION 5
Confidentiality, Data Safeguards and Appropriate Use

1. All information exchanged is subject to the confidentiality rules and other safeguards provided for in the Convention, including the provisions limiting the use of the information exchanged.

2. In addition to the restrictions in paragraph 1, the use of the information will be further limited to the permissible uses described in this paragraph. In particular, information received by means of the CbC Report will be used for assessing high-level transfer pricing, base erosion and profit shifting related risks, and, where appropriate, for economic and statistical analysis. The information will not be used as a substitute for a detailed transfer pricing analysis of individual transactions and prices based on a full functional analysis and a full comparability analysis. It is acknowledged that information in the CbC Report on its own does not constitute conclusive evidence that transfer prices are or are not appropriate and, consequently, transfer pricing adjustments will not be based on the CbC Report. Inappropriate adjustments in contravention of this paragraph made by local tax administrations will be conceded in any competent authority proceedings. Notwithstanding the above, there is no prohibition on using the CbC Report data as a basis for making further enquiries into the MNE Group's transfer pricing arrangements or into other tax matters in the course of a tax audit and, as a result, appropriate adjustments to the taxable income of a Constituent Entity may be made.

3. To the extent permitted under applicable law, a Competent Authority will notify the Co-ordinating Body Secretariat immediately of any cases of non-compliance with paragraphs 1 and 2 of this Section, including any remedial actions, as well as any measures taken in respect of non-compliance with the above-mentioned paragraphs. The Co-ordinating Body Secretariat will notify all Competent Authorities with respect to which this is an Agreement in effect with the first mentioned Competent Authority.

SECTION 6
Consultations

1. In case an adjustment of the taxable income of a Constituent Entity, as a result of further enquiries based on the data in the CbC Report, leads to undesirable economic outcomes, including if such cases arise for a specific business, the Competent Authorities of the Jurisdictions in which the affected Constituent Entities are resident shall consult each other and discuss with the aim of resolving the case.

2. If any difficulties in the implementation or interpretation of this Agreement arise, a Competent Authority may request consultations with one or more of the Competent Authorities to develop appropriate measures to ensure that this Agreement is fulfilled. In particular, a Competent Authority shall consult with the other Competent Authority, before the first-mentioned Competent Authority determines that there is a systemic failure to exchange CbC Reports with the other Competent Authority. Where the first mentioned Competent Authority makes such a determination it shall notify the Co-ordinating Body Secretariat which, after having informed the other Competent Authority concerned, will notify all Competent Authorities. To the extent permitted by applicable law, either Competent Authority may, and if it so wishes through the Co-ordinating Body Secretariat, involve other Competent Authorities that have this Agreement in effect with a view to finding an acceptable resolution to the issue.

3. The Competent Authority that requested the consultations pursuant to paragraph 2 shall ensure, as appropriate, that the Co-ordinating Body Secretariat is notified of any conclusions that were reached and measures that were developed, including the absence of such conclusions or measures, and the Co-ordinating Body Secretariat will notify all Competent Authorities, even those that did not participate in the consultations, of any such conclusions or measures. Taxpayer-specific information, including information that would reveal the identity of the taxpayer involved, is not to be furnished.

SECTION 7
Amendments

This Agreement may be amended by consensus by written agreement of all of the Competent Authorities that have the Agreement in effect. Unless otherwise agreed upon, such an amendment is effective on the first day of the month following the expiration of a period of one month after the date of the last signature of such written agreement.

SECTION 8
Term of Agreement

1. A Competent Authority must provide, at the time of signature of this Agreement or as soon as possible thereafter, a notification to the Co-ordinating Body Secretariat:

a. that its Jurisdiction has the necessary laws in place to require Reporting Entities to file a CbC Report and that its Jurisdiction will require the filing of CbC Reports with respect to fiscal years of Reporting Entities commencing on or after the date set out in the notification;

b. specifying whether the Jurisdiction is to be included in the list of non-reciprocal Jurisdictions;

c. specifying one or more methods for electronic data transmission including encryption;

d. that it has in place the necessary legal framework and infrastructure to ensure the required confidentiality and data safeguards standards in accordance with Article 22 of the Convention and paragraph 1 and Section 5 of this Agreement, as well as the appropriate use of the information in the CbC Reports as described in paragraph 2 of Section 5 of this Agreement, and attaching the completed confidentiality and data safeguard questionnaire attached as Annex to this Agreement; and

e. that includes (i) a list of the Jurisdictions of the Competent Authorities with respect to which it intends to have this Agreement in effect, following national legislative procedures for entry into force (if any) or (ii) a declaration by the Competent Authority that it intends to have this Agreement in effect with all other Competent Authorities that provide a notification under paragraph 1e) of Section 8.

Competent Authorities must notify the Co-ordinating Body Secretariat, promptly, of any subsequent change to be made to any of the above-mentioned content of the notification.

2. This Agreement will come into effect between two Competent Authorities on the later of the following dates: (i) the date on which the second of the two Competent Authorities has provided notification to the Co-ordinating Body Secretariat under paragraph 1 that includes the other Competent Authority's Jurisdiction pursuant to subparagraph 1e) and (ii) the date on which the Convention has entered into force and is in effect for both Jurisdictions.

3. The Co-ordinating Body Secretariat will maintain a list that will be published on the OECD website of the Competent Authorities that have signed the Agreement and between which Competent Authorities this is an Agreement in effect. In addition, the Co-ordinating Body Secretariat will publish the information provided by Competent Authorities pursuant to subparagraphs 1(a) and (b) on the OECD website.

4. The information provided pursuant to subparagraphs 1(c) through (e) will be made available to other signatories upon request in writing to the Co-ordinating Body Secretariat.

5. A Competent Authority may temporarily suspend the exchange of information under this Agreement by giving notice in writing to another Competent Authority that it has determined that there is or has been significant non-compliance by the second-mentioned Competent Authority with this Agreement. Before making such a determination, the first-mentioned Competent Authority shall consult with the other Competent Authority. For the purposes of this paragraph, significant non-compliance means non-compliance with paragraphs 1 and 2 of Section 5 and paragraph 1 of Section 6 of this Agreement and/or the corresponding provisions of the Convention, as well as a failure by the Competent Authority to provide timely or adequate information as required under this Agreement. A suspension will have immediate effect and will last until the second-mentioned Competent Authority establishes in a manner acceptable to both Competent Authorities that there has been no significant non-compliance or that the second-mentioned Competent Authority has adopted relevant measures that address the significant non-compliance. To the extent permitted by applicable law, either Competent Authority may, and if it so wishes through the Co-ordinating Body Secretariat, involve other Competent Authorities that have this Agreement in effect with a view to finding an acceptable resolution to the issue.

6. A Competent Authority may terminate its participation in this Agreement, or with respect to a particular Competent Authority, by giving notice of termination in writing to the Co-ordinating Body Secretariat. Such termination will become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination. In the event of termination, all information previously received under this Agreement will remain confidential and subject to the terms of the Convention.

SECTION 9
Co-ordinating Body Secretariat

Unless otherwise provided for in the Agreement, the Co-ordinating Body Secretariat will notify all Competent Authorities of any notifications that it has received under this Agreement and will provide a notice to all signatories of the Agreement when a new Competent Authority signs the Agreement.

Done in English and French, both texts being equally authentic.

Annexure-C

Government of Pakistan
Revenue Division
Federal Board of Revenue
*****

C.No. 2(103) Int.Taxes (Ops)/14(pt) 76780-R/2017 Islamabad, the 16th June, 2017

CIRCULAR

Subject: **Common Reporting Standard Rules- Optional Provisions**

In certain areas, the CRS Rules provide optional approaches allowing jurisdictions to adopt the most suitable option according to their circumstances. The optional provisions are intended to provide greater flexibility for financial institutions in implementation of Common Reporting Standard. This Circular explains various options, for the financial institutions to be adopted for implementation of the CRS Rules notified through SRO No 166(I) /2017 dated 15th March, 2017.

1. **Wider Approach**

The 'wider approach' is intended to enable Reporting Financial Institutions to capture and maintain information on the tax residence of account holders irrespective of whether or not that account holder is a resident in a Reportable jurisdiction for any given reportable period. Foreseeing the possibility of more and more jurisdictions reaching agreement with Pakistan over the period of time, FBR intends to opt for wider approach and accordingly the due diligence rules have been designed to adopt a wider approach to record the territory in which a person is tax resident irrespective of whether that territory is a Reportable Jurisdiction or not during the period of due diligence by the financial institutions. at the time that the CRS Rules come into force.

Adopting the wider approach for the due diligence of reportable accounts will help the financial institution to standardize their processes and makes the due diligence process convenient at the time when a new jurisdiction is added to the list of Reportable Jurisdictions. This will also lower the cost for financial institutions in complying with their obligations as, since wider approach is adopted, financial institutions will only need to revisit the determination of tax residence in those cases where there has been a change of circumstances, instead of conducting the due diligence procedures for the newly added reporting Jurisdictions.

2. **Non Reporting Financial Institutions**

The reporting financial institutions of Pakistan are required to start the due diligence procedures for identifying the reportable accounts from 1st July, 2017 onwards. However, as the CRS Rules provide certain exceptions to different types of accounts which are excluded from the ambit of the CRS Rules and also prescribe the non-reporting financial institutions, therefore, it is imperative to identify such financial institutions before the due diligence process is initiated.

Reference is drawn towards clauses (i) through (v) of sub-rule (i) of rule 78B which provide different categories of financial institutions which are not required to conduct due diligence or report under the CRS Rules. Sub clause (iii) prescribes that FBR will publish a list of such non-reporting financial institutions on recommendations of the SBP and SECP, as the case may be.

Accordingly, SBP and SECP have been requested to furnish a list of such entities with low risk of being used to evade tax and have substantially similar characteristics to any of entities described in sub clauses (i) and (ii) of clause (i) of rule 78B.The list so received shall be reviewed and published by FBR on its official website.

It may however, be clarified that no such financial institution shall treat itself as non reporting financial institution until it has been notified by FBR. As such, all financial institutions shall continue to adhere to the CRS Rules and carry out the due diligence process until they are notified by FBR as being non reporting financial institutions.

As the OECD has adopted a strict approach towards the domestic lists of non reporting financial institutions of every jurisdiction, therefore, stringent criteria should be adopted by SECP and SBP in determining the status of financial institutions as non reporting financial institutions so that such classification may not frustrate the purposes of the CRS Rules.

3. **Due date for Reporting by Financial Institutions to FBR**

The due date for reporting of financial information of reportable accounts by the reporting financial institutions of Pakistan to FBR is 31st May each year commencing from 31st May, 2018 onwards. Accordingly, every reporting Financial Institution is responsible to provide complete information on reportable accounts to FBR by the due date, in accordance with the prescribed procedure.

4. **Registration of Reporting Financial Institutions with FBR**

All the reporting Financial Institutions are required to register with FBR, for transmission of reportable financial accounts information under the CRS Rules. The

financial institutions will enroll with FBR through their respective regulators i.e. State Bank of Pakistan or Securities and Exchange Commission of Pakistan, as the case may be. Initially, the financial institutions will enroll manually by providing information under clause (c) of sub-rule (1) of Rule 78C of the CRS rules; however, at a later stage when the CRS compliant software is in place, the financial institutions will be linked into the system accordingly.

The financial institutions are required to get themselves registered with FBR through their respective regulators latest by 31st July, 2017. However, this does not preclude the reporting financial institutions to carry on with requirement of due diligence procedures for reportable financial accounts. All the reporting financial institutions will start the due diligence process by prescribed date i.e. 1st July, 2017 irrespective of the fact whether it is registered with FBR or not.

5. **Other Optional Provisions**:

Detail	Option	Reference
1. Alternative approach to calculating account balances. *"A jurisdiction that already requires Financial Institutions to report the average balance or value of the account may provide for the reporting of average balance or value instead of the reporting of the account balance or value as of the end of the calendar year or other reporting period. This option is likely only desirable to a jurisdiction that has provided for the reporting of average balance or value in its FATCA IGA. The EU Directive does not provide for the reporting of average balance or value."*	FBR does not opt for this provision.	OECD Commentaries given in the Standard for Automatic Exchange of Information Page 98
2. Use of other reporting period. *"A jurisdiction that already requires Financial Institutions to report information based on a designated reporting period other than the calendar year may provide for the reporting based on such reporting period. This option is likely only desirable to a jurisdiction that includes (or will include) a reporting period other than a calendar year in its FATCA implementing legislation. The period between the most recent contract anniversary date and the previous contract anniversary date (e.g. in*	FBR does not opt for alternative reporting periods. The reporting period as per CRS rules is the calendar year, except for the first year where the reportable period is 1st July, 2017 to 31st December, 2017.	OECD Commentaries given in the Standard for Automatic Exchange of Information Page 99

the case of a Cash Value Insurance Contract), and a fiscal year other than the calendar year, would generally be considered appropriate reporting periods. The EU Directive allows a jurisdiction to designate a reporting period other than a calendar year."		
3. Phasing in the requirement to report gross proceeds. *"A jurisdiction may provide for the reporting of gross proceeds to begin in a later year. If this option is provided a Reporting Financial Institution would report all the information required with respect to a Reportable Account. This will allow Reporting Financial Institutions additional time to implement systems and procedures to capture gross proceeds for the sale or redemption of Financial Assets. This option is contained in the Model FATCA IGAs, with reporting required beginning in 2016 and thus Financial Institutions may not need additional time for reporting of gross proceeds for the CRS. The MCAA and the EU Directive do not provide this option."*	FBR does not opt for this provision.	CRS rule78C(6) OECD Commentaries given in the Standard for Automatic Exchange of Information Page 105
4. Filing of nil returns. *"A jurisdiction may require the filing of a nil return by a Reporting Financial Institution to indicate that it did not maintain any Reportable Accounts during the calendar year or other reporting period. The Model FATCA IGAs do not require nil returns but this could be required by local law."*	FBR opts for this provision. A financial institutions is required to file a return to the effect that it did not have any reportable account(s) during the relevant reporting period by 31st May each year commencing from 31st May, 2018.	
5. Allowing third party service providers to fulfill the obligations on behalf of the financial institutions. *"A jurisdiction may allow Reporting Financial Institutions to use service providers to fulfill the Reporting Financial Institution's reporting and due diligence obligations. The Reporting Financial Institution remains responsible for fulfilling these requirements and the actions of the service provider are imputed to the Reporting Financial Institution. This option is available for FATCA. The EU Directive includes this option."*	FBR opts to allow a reporting Financial Institutions to use service providers to fulfill their reporting or due diligence obligations, or both. However, the reporting Financial Institutions remains responsible for its reporting and due diligence obligations and the actions of the service provider shall be imputed to the financial institutions.	CRS rule 78D(4) OECD Commentaries given in the Standard for Automatic Exchange of Information Page 108
6. Allowing the due diligence procedures for New Accounts to be	FBR opts to allow a reporting financial institution to apply the	CRS rule 78D(5)

used for Preexisting Accounts. *"A jurisdiction may allow a Financial Institution to apply the due diligence procedures for New Accounts to Preexisting Accounts. This means, for example, a Financial Institution may elect to obtain a self- certification for all Preexisting accounts held by individuals consistent with the due diligence procedures for New Individual Accounts. If a jurisdiction allows a Financial Institution to apply the due diligence procedures for New Accounts to Preexisting Accounts, a jurisdiction may allow a Reporting Financial Institution to make an election to apply such exclusion with respect to (1) all Preexisting Accounts; or (2) with respect to any clearly identified group of such accounts (such as by line of business or location where the account is maintained). This option may also be applied under FATCA and the EU Directive."*	due diligence procedures for new accounts to pre existing accounts.. This option will provide an opportunity to obtain a self-certification together with additional or amended customer information. However, where a reporting financial institution uses the new account due diligence procedures for pre-existing accounts, the rules otherwise applicable to pre-existing accounts continue to apply.	OECD Commentaries given in the Standard for Automatic Exchange of Information Page 108
7. Allowing the due diligence procedures for High Value Accounts to be used for Lower Value Accounts. *"A jurisdiction may allow a Financial Institution to apply the due diligence procedures for High Value Accounts to Lower Value Accounts. A Financial Institution may wish to make such election because otherwise they must apply the due diligence procedure for Lower Value Accounts and then at the end of a subsequent calendar year when the account balance of value exceeds $1 million, apply the due diligence procedures for High Value Accounts. This option may also be applied under FATCA and the EU Directive."*	FBR opts to adopt this option. The financial institutions are allowed to apply the due diligence procedures for High Value Accounts to be used for Lower Value Accounts.	CRS rule 78D (5) OECD Commentaries given in the Standard for Automatic Exchange of Information Page 108
8. Residence address test for Lower Value Accounts. *"A jurisdiction may allow Financial Institutions to determine an Account Holder's residence based on the residence address provided by the account holder so long as the address is current and based on Documentary Evidence. The residence address test may apply to Preexisting Lower Value Accounts (less than $1 million) held by Individual Account Holders. This test is an alternative to the electronic*	FBR allows the Financial Institutions to opt for applying the 'residence address test' for Pre-existing Lower Value Accounts. In order to apply this test, following conditions must be fulfilled: ▪ The Reporting Financial Institution has in its records a residence address for the	CRS rule 78E(2) OECD Commentaries given in the Standard for Automatic Exchange of Information Page 111

indicia search for establishing residence and if the residence address test cannot be applied, because, for example, the only address on file is an "in-care of" address, the Financial Institution must perform the electronic indicia search. The residence address test option is not available for FATCA. The EU Directive includes the residence address test."	Individual Account Holder, ▪ Such residence address is current, and ▪ Such residence address is based on documentary evidence. ▪ A PO Box and 'Care-Of' address are not considered to be a residence address. A residence address is considered to be 'current' where it is the most recent residence address recorded by the Financial Institution but it cannot be considered where mail has been returned undelivered from it.	
9. Optional Exclusion from Due Diligence for Preexisting Entity Accounts of less than $250,000. *"A jurisdiction may allow Financial Institutions to exclude from its due diligence procedures pre-existing Entity Accounts with an aggregate account balance or value of $250,000 or less as of a specified date. If, at the end of a subsequent calendar year, the aggregate account balance or value exceeds $250,000, the Financial Institution must apply the due diligence procedures to identify whether the account is a Reportable Account. If this option is not adopted, a Financial Institution must apply the due diligence procedures to all Preexisting Entity Accounts. A similar exception exists for FATCA, however, FATCA allows the review to be delayed until the aggregate account balance or value exceeds $1 million. This option is foreseen by the EU Directive."*	FBR opts for this provision. The financial institutions may opt not to apply the Due Diligence procedures for Preexisting Entity Accounts of less than $250,000. This threshold is provided to reduce the compliance burden for financial institutions.	CRS rule 78G(1) OECD Commentaries given in the Standard for Automatic Exchange of Information Page 135
10. Alternative documentation procedure for certain employer sponsored group insurance contracts or annuity contracts. *"With respect to a group cash value insurance contract or annuity contract that is issued to an employer and individual employees, a jurisdiction may allow a Reporting Financial Institution to treat such*	FBR does not opt for this provision.	CRS rule 78 I(2) OECD Commentaries given in the Standard for Automatic Exchange of

contract as a Financial Account that is not a Reportable Account until the date on which an amount is payable to an employee/certificate holder or beneficiary provided that certain conditions are met. These conditions are: (1) the group cash value insurance contract or group annuity contract is issued to an employer and covers twenty-five or more employees/certificate holders; (2) The employees/certificate holders are entitled to receive any contract value related to their interest and to name beneficiaries for the benefit payable upon the employee's death; and (3) the aggregate amount payable to any employee/certificate holder or beneficiary does not exceed $1 million. This provision is provided because the Financial Institution does not have a direct relationship with the employee/certificate holder at inception of the contract and thus may not be able to obtain documentation regarding their residence. This option is not contained in the FATCA IGA but may be available through adopting the due diligence procedures of the US FATCA regulations. The EU Directive includes this option."		Information Page 153
11. Allowing financial institutions to make greater use of existing standardized industry coding systems for the due diligence process. *"A jurisdiction may define documentary evidence to include any classification in the Reporting Financial Institution's records based on a standard industry coding system provided that certain conditions are met. With respect to a pre-existing entity account, when a Financial Institution is applying its due diligence procedures and accordingly required to maintained a record of documentary evidence, this option would permit the Financial Institution to rely on the standard industry code contained in its records. This option is not contained in the FATCA IGAs, but similar requirements may be adopted for FATCA by using the definition of documentary evidence in the US FATCA regulations. This option is contained in the EU Directive."*	FBR opts to allow financial institutions to use standardized industry coding systems for classification of reportable accounts. This applies to pre existing entities accounts only.	OECD Commentaries given in the Standard for Automatic Exchange of Information Page 203

12. Currency translation. *"All amounts in the Standard are stated in US dollars and the Standard provides for the use of equivalent amounts in other currencies as provided by domestic law. For example, a lower value account is an account with an aggregate account balance or value of less than $1 million. The Standard permits jurisdictions to include amounts that are equivalent (or approximately equivalent) in their currency to the US dollars amounts as part of their domestic legislation. Further, a jurisdiction may allow a Financial Institution to apply the US dollar amount or the equivalent amounts. This allows a multinational Financial Institution to apply the amounts in the same currency in all jurisdictions in which they operate. Both these options are available for FATCA. The EU Directive allows for this option.*	FBR opts to allow the financial institutions to use equivalent amounts of currencies other than US dollar. In determining the balance or value financial institutions must translate the relevant USD threshold amount into local currency by reference to the spot rate of exchange on the date for which the financial institutions is determining the threshold.	CRS rule 78 I (3) OECD Commentaries given in the Standard for Automatic Exchange of Information Page 156
13. Expanded definition of Preexisting Account. *"A jurisdiction may, by modifying the definition of Preexisting Account, allow a Financial Institution to treat certain new accounts held by preexisting customers as a Preexisting Account for due diligence purposes. A customer is treated as pre-existing if it holds a Financial Account with the Reporting Financial Institution or a Related Entity. Thus, if a preexisting customer opens a new account, the Financial Institution may rely on the due diligence procedures it (or its Related Entity) applied to the customer's Preexisting Account to determine whether the account is a Reportable Account. A requirement for applying this rule is that the Reporting Financial Institution must be permitted to satisfy its AML/KYC procedures for such account by relying on the AML/KYC performed for the Preexisting Account and the opening of the account does not require new, additional, or amended customer information. This option is not contained in the FATCA IGAs, but similar requirements may be adopted for FATCA by using the definition of pre-existing account in the US FATCA regulations. The EU Directive includes this option."*	FBR opts to adopt the expanded definition of pre existing accounts. For the purposes of CRS Rules the term "Pre existing Accounts" means: a) a Financial Account maintained by a Reporting Financial Institution as of **[30/06/2017]**. b) any Financial Account of an Account Holder, regardless of the date such Financial Account was opened, if: i) the Account Holder also holds with the Reporting Financial Institutions (or with a Related Entity within the same jurisdiction as the Reporting Financial Institution) a Financial Account that is a Preexisting Account under para (a) above; ii) the Reporting Financial Institution (and, as applicable, the Related Entity within the same jurisdiction as the Reporting Financial Institution) treats both of the aforementioned Financial Accounts, and any other	OECD Commentaries given in the Standard for Automatic Exchange of Information Page 181

	Financial Accounts of the Account Holder that are treated as Preexisting Accounts under para (b) above, as a single Financial Account for purposes of satisfying the standards of knowledge requirements set forth in sub rule (1) of rule 78I, and for purposes of determining the balance or value of any of the Financial Accounts when applying any of the account thresholds; iii) with respect to a Financial Account that is subject to AML/KYC Procedures, the Reporting Financial Institution is permitted to satisfy such AML/KYC Procedures for the Financial Account by relying upon the AML/KYC Procedures performed for the Preexisting Account described in para (a) above; and iv) the opening of the Financial Account does not require the provision of new, additional or amended customer information by the Account Holder other than for purposes of the Common Reporting Standard.	
14. Expanded definition of Related Entity. "*Related Entities are generally defined as one entity that controls another entity or two or more entities that are under common control. Control is defined to include direct or indirect ownership of more than 50 percent of the vote and value in an Entity. As provided in the Commentary, most funds will likely not qualify as a Related Entity of another fund, and thus will not be able to apply the rules described above for treating certain New Accounts as Preexisting Accounts or apply the account aggregation rules to Financial Accounts*	FBR does not adopt this option and hence financial institutions will follow the definition of "Related Entity" as given in the CRS Rules.	OECD Commentaries given in the Standard for Automatic Exchange of Information Page 183

maintained by Related Entities. A jurisdiction may modify the definition of Related Entity so that a fund will qualify as a Related Entity of another fund by providing that control includes, with respect to Investment Entities described in subparagraph (A)(6)(b), two entities under common management, and such management fulfils the due diligence obligations of such Investment Entities. A similar approach can be achieved under FATCA by applying the Sponsoring Regime. The EU Directive also provides this modification."		
15. Grandfathering rule for bearer shares issued by Exempt Collective Investment Vehicle. *"With respect to an Exempt Collective Investment Vehicle, a jurisdiction may provide a grandfathering rule if the jurisdiction previously allowed collective investment vehicles to issue bearer shares. The Standard provides that a collective investment vehicle that has issued physical shares in bearer form will not fail to qualify as an Exempt Collective Investment Vehicle provided that: (1) it has not issued and does not issue any physical shares in bearer form after the date provided by the jurisdiction; (2) it retires all such shares upon surrender; (3) it performs the due diligence procedures and reports with respect to such shares when presented for redemption or payment; and (4) it has in place policies and procedures to ensure the shares are redeemed or immobilized as soon as possible and in any event prior to the date provided by the jurisdiction. FATCA contains this option and includes 31 December 2012 as the date after which bearer shares can no longer be issued and 1 January 2017 as the date to ensure redemption or immobilization. The EU Directive contains this option and includes 31 December 2015 as the date after which bearer shares can no longer be issued and 1 January 2018 as the date to ensure redemption or immobilization."*	FBR does not choose to apply this provision.	CRS rule 78B(q)
16. *Controlling Persons of a trust.* *"With respect to trusts that are Passive*	FBR does not opt for this provision to align the scope of	OECD Commentaries

NFEs, a jurisdiction may allow Reporting Financial Institutions to align the scope of the beneficiary(ies) of a trust treated as Controlling Person(s) of the trust with the scope of the beneficiary(ies) of a trust treated as Reportable Persons of a trust that is a Financial Institution. In such case the Reporting Financial Institutions would only need to report discretionary beneficiaries in the year they receive a distribution from the trust. Jurisdictions allowing their Financial Institutions to make use of this option must ensure that such Financial Institutions have appropriate safeguards and procedures in place to identify whether a distribution is made by their trust Account Holders in a given year. The EU Directive does not contain this option."	the beneficiary of a trust treated as Controlling Person of the trust with the scope of the beneficiary of a trust treated as Reportable Persons of a trust that is a Financial Institution.	given in the Standard for Automatic Exchange of Information Page 198

6. **Reference to Commentaries by OECD:**

In addition to the CRS Rules as notified by FBR, the Commentaries on the Common Reporting Standard as developed by the OECD and available on its website i.e. www.oecd.org are also required to be consulted for necessary action and further clarification. Rule 78J of the CRS Rules provide binding provision in this regard.

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