

Belgian CRS Guidance – Version 2

In comparison to version 1 the main modifications are the following ones:

- Modifications have been made to points 5.7 and 7.1 to emphasize the need for Financial Institutions, to always obtain, when opening an account, a valid self-certification.
- Reference has been made to the Royal Decree of 14 June 2017, notably in points 2.4 and 10.3 (provisional list of “other reportable jurisdictions” and of “participating jurisdictions”)
- Other small corrections/precisions have been made (see definition of “undocumented account” in point 4.3), see also point 5.14.8 (organisations under constitution).

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1. Introduction

General context

A large-scale consensus has been reached at the international level these last few years to put an end to **international tax fraud and evasion**. Thanks to an automatic exchange of data, it will now be possible to enhance the efficiency of the fight against fraud in the form of non-declared financial investments made abroad, more particularly in ‘tax havens’.

At present, about one hundred States and jurisdictions are working on new standards. All of those jurisdictions have committed themselves to ensure the same level of transparency thanks to an automatic exchange of data.

Belgium is actively involved in the development and implementation of the **new financial standards which are applicable at the international level**. Several initiatives have been taken in this field:

- Belgium has signed a bilateral ‘FATCA’ agreement with the United States for an automatic exchange of data between both countries.
- The OECD and its members, including Belgium, have developed the international Common Reporting Standard (CRS) for the purpose of automatically exchanging fiscal information at the international level (AEOI – Automatic Exchange of Information).
- The principles laid down by the OECD have been transposed in the European Union by means of a new Directive on administrative cooperation (DAC 2014/107/EU) governing the automatic data exchange between the 28 Member States.

Through the active application of the new international standards, Belgium has gained access to additional tools for efficiently fighting against tax fraud. For those who scrupulously fulfil their tax obligations in each of the States concerned, the new standards will have no consequences whatsoever.

Role of the financial institutions

In accordance with the new standards, Belgium-based financial institutions will play a central role in gathering information they will pass on to the Belgian tax authorities, which, in their turn, will provide this information to their colleagues abroad. In practice, this means that the financial institutions will:

- **identify those customers** who have no fiscal residence in Belgium and consequently must declare their income and pay taxes in their home country;
- **make a list of the fiscal identification number (TIN)** of those customers;
- **provide** the Belgian tax authorities **with the information** pertaining to the situation and financial income of those customers **once a year**;
- organise a **permanent follow-up** of the situation of those customers so as to detect any potential change of fiscal residence (e.g. a change of address).

The Belgian regulation on the practical application of the new standards was published in the first edition of the 'Moniteur belge' of December 31, 2015 as a confirmation of the new legal framework (Belgian law of 16 December 2015)

Belgium and the United States have started their exchange of information.

As for the residents in the other countries participating in the automatic exchange, the period covered by the new transparency standard started on January 1, 2016. Data exchange will take place as of end-September 2017.

*These guidelines must be seen as practical recommendations for financial intermediaries about the rules based on the 'Common Reporting Standard' model of the OECD (CRS) and the Administrative Cooperation Directive (DAC). **They are not meant to be all-encompassing and do not imply that one can refrain from referring to the documents prepared by the OECD, i.e. the CRS and the comments that go with it, which are a source for interpretation according to preamble 13 of Directive 2014/107/EU.***

They are the result of a close collaboration between the FPS Finance, Febelfin, Assuralia and BEAMA and, by nature, are bound to evolve.

Although this scheme is different from the FATCA reporting system, the aim of the authorities is to ensure a maximum of consistency and uniformity in the application of the various reporting systems, in order to avoid a multiplicity of reporting obligations and schemes.

A specific CRS reporting portal is available on line: <https://finances.belgium.be/fr/E-services/crs>

2. Financial Institutions

2.1. Introduction

The first step to be undertaken by an entity or its representative is to establish whether, for the purposes of the CRS, the entity is a (Belgian) FI. This will determine the extent of the obligations that need to be undertaken.

The definition of FI refers to “Entities” (being a legal person or a legal arrangement such as a trust), meaning that individuals cannot qualify as FIs and that the type of activities performed by a given Entity shall be decisive for the purpose of determining the status of the said Entity.

Entities are regarded as Belgian FIs if they fall within one or more of the following categories:

- Depository Institution (Section 2.5),
- Custodial Institution (Section 2.6),
- Investment Entity (Section 2.7),
- Specified Insurance Company (Section 2.9).

Rules are laid out regarding the identification of subsidiaries and branches (Section 2.2) as well as for entities being Related Entities (Section 2.10).

Belgian FIs will be classified either as a Reporting FI or as a Non-Reporting FI (Section 2.11).

Section 2.12 describes entities with no / limited reporting obligations

In general, where an entity does not meet the criteria set in the CRS for any of the four categories of FIs, the entity shall be regarded as an NFE.

2.2. Applicable law

2.2.1. FI / NFE classification

The status of a Belgian resident entity / branch as a Financial Institution or nonfinancial entity (NFE) should be resolved under the laws of Belgium. Therefore, this chapter 2 will only apply to Belgian resident entities and Belgian branches of non-resident entities.

2.2.2. Branch and head office

If a non-Belgian entity has a branch located in Belgium which carries on a business, as a Custodial Institution, a Depository Institution, an Investment entity or a Specified

Insurance Company in Belgium, such branch will be a Belgian FI provided that, as far as a branch is concerned, the Belgian branch performs activities in Belgium that would qualify it as FI should it have been a separate legal entity.

Branches of Belgian FIs that are not located in Belgium will not be regarded as Belgian FIs. These entities will be covered by the relevant rules in the jurisdiction in which they are located. However, where such branches act as introducers with regard to a Financial Account and the relevant account is held and maintained in Belgium by a Belgian FI **and** is subject to Belgian regulatory requirements, the account will be within the scope of the Belgian legislation implementing the CRS. The Belgian FI maintaining the account(s) will be required to undertake the appropriate due diligence processes and report the appropriate details to the FPS Finances.

2.3. Reporting Financial Institutions

The term “Reporting Financial Institution” refers to “any Participating Jurisdiction Financial Institution that is not a Non-Reporting Financial Institution. Therefore, for a Financial Institution to be a Reporting Financial Institution, it needs, first, to be a Participating Jurisdiction Financial Institution and, then, not to be a Non-Reporting Financial Institution”. The term “Non-Reporting Financial Institution” is explained further below in section 2.11.

2.4. Participating Jurisdiction Financial Institutions – Generalities

The term “Participating Jurisdiction Financial Institution” means:

- any Financial Institution that is resident in a Participating Jurisdiction, but excluding any branch of that Financial Institution that is located outside such Participating Jurisdiction; and
- any branch located in a Participating Jurisdiction of a Financial Institution that itself is not resident in such Participating Jurisdiction.

A Participating Jurisdiction is a jurisdiction¹:

- (i) with which an agreement with Belgium is in place pursuant to which it will provide the information specified in Section I of the CRS, and
- (ii) which is identified in a published list.²

In any case, European Union member states will be Participating Jurisdictions. The Royal Decree of 14 June 2017 (MB/BS of 19 June 2017) establishes the (provisional) list of participating jurisdictions (all jurisdictions publicly committed to apply the CRS). See the updated list on <http://www.oecd.org/tax/automatic-exchange/commitment-and-monitoring-process/AEOI-commitments.pdf>

¹ OECD (2014), *Standard for Automatic Exchange of Financial Account Information in Tax Matters*, OECD Publishing, Section VIII, D(4).

² US is not considered as a Participating Jurisdiction under CRS.

A FI is an Entity which is either a Custodial Institution, a Depository Institution, an Investment Entity or a Specified Insurance Company³.

A Belgian FI is:

- any Entity resident in Belgium qualifying as a FI;
- any Belgian branch of a non-resident FI

Any branch of a Belgian FI that is located outside Belgium will not qualify as a Belgian FI for the purpose of CRS.

In addition, a Belgian FI may assume that a Belgian entity is a FI if such entity can be classified according to the following criteria, unless the entity concerned proves otherwise:

- (i) a NACE code (or Statistical Classification of Economic Activities in the European Community) which appears on the list (Appendix 1) of (with) NACE codes specific to FIs; or
- (ii) publicly available information, such as industry codes (e.g. GIIN, NACE, SIC, NAICS), or
- (iii) information otherwise available to the Belgian FI, indicating that such entity is a FI.

2.5. Depository Institution

For the purpose of the CRS, a Depository Institution is an Entity that accepts deposits in the ordinary course of a banking or similar business.

The FPS Finances will consider a Belgian resident Entity or a branch established in Belgium as a Depository Institution only if it falls under the Law of 25 April 2014 on the legal status and supervision of credit institutions (“**Wet** op het statuut van en het toezicht op kredietinstellingen /loi relative au statut et au contrôle des établissements de credit”).

2.6. Custodial Institution

A Custodial Institution is an institution which holds financial assets for the account of others as a substantial portion of its business.

A substantial proportion in this context means where 20 per cent or greater of the entities gross income from the shorter of the period of 3 years terminating on 31 December (or the final day of a non-calendar year accounting period), or the period during which it has been in existence, arises from the holding of financial assets for the benefit of others and from related financial services.

An entity with no operating history as of the date of the determination is considered to hold financial assets for the account of others as a substantial portion of its business

³ Commentary on Section VIII, subparagraph A(3) through (8), 7.

if the entity expects to meet the gross income threshold based on its anticipated functions, assets, and employees, with due consideration given to any purpose or functions for which the entity is licensed or regulated (including those of any predecessor).

Related services are any ancillary service directly related to the holding of assets by the institution on behalf of others. Income arising from holding financial assets and related services includes in this particularly context:

- 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; and
- fees for providing financial advice with respect to Financial Assets held in (or potentially to be held in) custody by the entity; and for clearance and settlement services.

Custodial Institutions could include brokers, custodial banks, trust companies, clearing organizations and nominees.

Insurance brokers and other insurance intermediaries defined under article 1, 6° of the Belgian Law (“Wet van 27 maart 1995 betreffende de verzekerings- en herverzekeringsbemiddeling en de distributie van verzekeringen”/“Loi du 27 mars 1995 relative à l’intermédiation en assurances et en réassurances et à la distribution d’assurances”) do not hold assets on behalf of clients and do not fall within the scope of this provision.

2.7. Investment Entity

2.7.1 General principles

The term “Investment Entity” means any Entity:

- a) that primarily⁴ conducts as a business one or more of the following activities or operations for or on behalf of a customer:

⁴ An Entity is treated as primarily conducting as a business one or more of the activities described above under (a), or an Entity’s gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets as described above under (b), if the Entity’s gross income attributable to the relevant activities equals or exceeds 50% of the Entity’s gross income during the shorter of:

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

- 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;
- individual and collective portfolio management; or
- otherwise investing, administering, or managing Financial Assets⁵ or money on behalf of other persons.

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

- b) the gross income of which is primarily ⁴ attributable to investing, reinvesting, or trading in Financial Assets⁵, if the Entity is managed⁶ by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described above under (a).

The term “Investment Entity”, as defined above, does not include an Entity that is an Active NFE because it meets any of the criteria in section [3.1.1 d) to g)] (i.e. holding NFEs of nonfinancial subsidiaries and treasury centres that are members of a nonfinancial group; start-up NFEs; and NFEs that are liquidating or emerging from bankruptcy).

An Investment Entity described in subparagraph A(6)(b) of Section VIII of the CRS that is not a Participating Jurisdiction Financial Institution will be considered as a passive NFE (see below).⁷

The term “Investment Entity” is to 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.

⁵ The term “Financial Asset” 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 or commodity that is a physical good, such as wheat.

Negotiable debt instruments that are traded on a regulated market or over-the-counter market and distributed and held through Financial Institutions, and shares or units in a real estate investment trust, would generally be considered Financial Assets (Commentary on section VIII, § 25, Subparagraph A.(3) through (8), p.161)

⁶ An Entity is “managed by” another Entity if the managing Entity performs, either directly or through another service provider, any of the activities or operations described above on behalf of the managed Entity. However, an Entity does not manage another Entity if it does not have discretionary authority to manage the Entity’s assets (in whole or part). Where an Entity is managed by a mix of Financial Institutions, NFEs or individuals, the Entity is considered to be managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described above, if any of the managing Entities is such another Entity. Where an Entity is managed by an individual who performs the activities described above the managed Entity will not be an Investment Entity.

⁷ Commentary on section VIII, Subparagraphs D(6) and (9), 123.

2.7.2. Application to Belgian Entities

SPF Finance will consider that the term “Investment Entity” referred to under A.6 (a) and (b) of the CRS covers only the following entities:

1. companies governed by Belgian law whose activities consist in giving investment advice or carrying out investment activities within the meaning of Article 46 of the Law of 6 April 1995 (on the legal status and supervision of investment firms) and which, pursuant to Article 47, § 1, of said Law, are licensed as: (a) stock broking firm; (b) a portfolio management and investment advice company, to the extent that they primarily conduct as a business one or more of the activities described in subparagraph A(6)(a) of Section VIII of the CRS;
2. the branches in Belgium of investment firms: (a) governed by the law of another country of the European Economic Area, as referred to in Article 110 of the aforementioned Law of 6 April 1995; (b) governed by the law of countries that are not a member of the European Economic Area, as referred to in Article 111 of the aforementioned Law of 6 April 1995 to the extent that they primarily conduct as a business one or more of the activities described in subparagraph A(6)(a) of Section VIII of the CRS;
3. collective investment vehicles and management companies of collective investment undertakings falling into the scope of Parts II and III of the Law of 3 August 2012 (on collective investment undertakings fulfilling the conditions of Directive 2009/65/EC and undertakings for investments in debt claims);
4. institutional collective investment vehicles in debt claims falling into the scope of Part IIIbis of the aforementioned Law of 3 August 2012;
5. public collective investment vehicles in debt claims as referred to in Article 505 of the Law of 19 April 2014 (on alternative collective investment undertakings and their managers);
6. alternative investment funds (AIFs) and managers of such AIFs as defined in articles 3,2° and 3,13° of the Law of 19 April 2014 (and not excluded under its article 7/1°); e.g. the Pricaf privée / Private privak.⁸
7. Any other entity that (i) is professionally managed by (as such concept is defined above - see footnote 6) a FI and (ii) meets the gross income threshold as defined in 2.7.1. (b) above.

⁸ An entity will not be considered as functioning or holding 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 Asset for the purpose of "Investment Entity" definition (as contemplated by §20 of the commentary on section VIII of CRS) and will not qualify as an Investment Entity if (i) it does not fall within the definition of articles 3,2° (or is excluded under article 7/1° as the case may be) and 3,13° of the Law of 19 April 2014 - irrespective of whether it is subject to this law - **and** (ii) it does not otherwise fall under any of the categories listed in (1) through (7) of section 2.7.2 above.

2.7.3. Exception for certain professionally managed entities

By way of an exception to (7) above, the FPS Finances will consider that an entity the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets will not qualify as an Investment Entity even if it has entered into a discretionary management agreement with a Financial Institution (e.g. a private bank or asset manager) provided that

- (i) it is held directly or indirectly exclusively by individuals who are “related” as defined in article 2 §1, 13°/1 indent 3 of the ITC92 or their heirs; and
- (ii) individuals other than those referred to in (i) are not granted any possibility to acquire directly or indirectly a debt or equity interest in the entity.

If those conditions are met, the Entity will qualify as a Passive NFE (unless it falls into an Active NFE category), which will – through the identification and reporting of Controlling Persons – more adequately achieve the purpose of the CRS than an FI classification.

2.7.4. Real property investments

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, will not be an Investment Entity. A SIR/GVV as contemplated by the Law of 12 May 2014 regarding regulated real estate investment companies does not qualify as an Investment Entity.

2.7.5. Compartments of funds and Collective Investment Vehicles

Each compartment or sub-fund of a single investment vehicle may, at the option of the investment vehicle, be treated as a separate Investment Entity. This means for example that a compartment of a fund may qualify as a Reporting FI whilst another compartment of the same vehicle may qualify as a Non-Reporting FI (each specific compartment must identify itself separately and clearly).

Section 2.8. provides further guidance on Collective Investment Vehicles.

2.8. Remarks about roles and mechanisms related to funds

This chapter is intended to provide illustrations of entities related to funds that may potentially fall into the definition of Financial Institution.

2.8.1. Collective investment vehicles

For the purposes of CRS, the notion Investment Entity (see above) may potentially comprise the following types of entities:

- fund managers,
- investment managers,
- fund administrators,
- transfer agents,

The only Financial Accounts that are relevant to Investment Entities are the Equity and debt Interests issued by such entities.

Where the Investment Entity is a collective investment vehicle, only the collective investment vehicle will have reporting responsibilities in relation to the Financial Accounts (the Equity and debt Interests) of that collective investment vehicle. This also applies to a GBF/FCP.

For example, a fund administrator will not be a Reporting FI by virtue of providing fund administration services to a collective investment vehicle.

Nevertheless an entity may have reporting responsibilities if it maintains Financial Accounts other than the equity and debt interests in the collective investment vehicle.

2.8.2. Fund distributors

Fund distributors, which may include, amongst others:

- financial advisers,
- fund platforms,
- wealth managers,
- brokers (including execution-only brokers), **and**
- banks

may fall within the definition of Investment Entity depending on their role in distributing a collective investment vehicle as defined for the purposes of CRS. In certain cases, they may also qualify as a custodial institution and/or depository institution.

Fund distributors may:

- act as an intermediary and be part of the ownership chain with respect to the equity or debt interests issued by the collective investment vehicle (such as a nominee); or
- act on an advisory only basis without being part of the ownership chain.

Example 1

Fund platforms may hold legal title to collective investment vehicle interests on behalf of their customers (the investors or other financial intermediaries) as nominees. The customers directly or indirectly access the platform in order to buy and sell investments and to manage their investment portfolio. The platform will back the holdings of investors and financial intermediaries with holdings in the collective investment vehicle but only the platform will appear on the shareholders' register of the collective investment vehicle. Where this is the case the platform will be responsible for reporting on the platform's Financial Accounts. If however the platform is not interposed in the ownership chain and merely operates or maintains the collective investment vehicle register or merely acts in an advisory capacity, it would not be viewed as the holder of the interest in the collective investment vehicle and instead regard must be had at the persons/entities recorded in the register to determine whether the collective investment vehicle qualifies as a Non-Reporting FI or whether any of the holders of the interests in the collective investment vehicle is a reportable person.

If the customer appears on the collective investment vehicle's register (whether the customer has invested in the collective investment vehicle via a fund platform or not), the responsibility to report on the customer lies with the fund. If the customer invests in the fund via a fund platform and the fund platform holds legal title to the fund interests on behalf of the customer, the responsibility to report on the customer lies with the platform.

Example 2

Where a FI acts in an advisory only capacity and simply advises its customers on a range of investments and intermediate between the collective investment vehicle, or fund platform and the customer, they will not hold legal title to the assets and therefore are not in the chain of legal ownership of a collective investment vehicle and will not be regarded as a FI in respect of the Financial Accounts they merely advise on.

2.8.3. Fund nominees - Distributors in the chain of legal ownership

Under both Belgian and foreign laws (please refer to the Circular ICB 4/2007 of the FSMA in this respect), interest in a collective investment vehicle may, under certain conditions, be held in the name of a nominee. In such case, the collective investment vehicle generally does not know who the beneficial owners are of those interests.

Distributors or nominees that hold legal title to the interests in collective investment vehicles on behalf of customers and are part of the legal chain of ownership of interests in collective investment vehicles are FIs. In most cases they will be Custodial Institutions because they will be holding assets on behalf of others.

In considering whether such a distributor meets the condition requiring 20 per cent of the entity's gross income to derive from holding financial assets and from related financial services, consideration should be given to the question as to whether the income derived from acting as nominee arises in another group company, or whether income is derived from commission, discounts or other sources.

The Belgian tax authorities will treat fund nominees, and fund platforms as Custodial Institutions unless specific factors indicate that their businesses are better

characterized as falling within the definition of an Investment Entity. Normally, the primary business of a fund nominee, fund intermediary or fund platform will be to hold financial assets for the accounts of others.

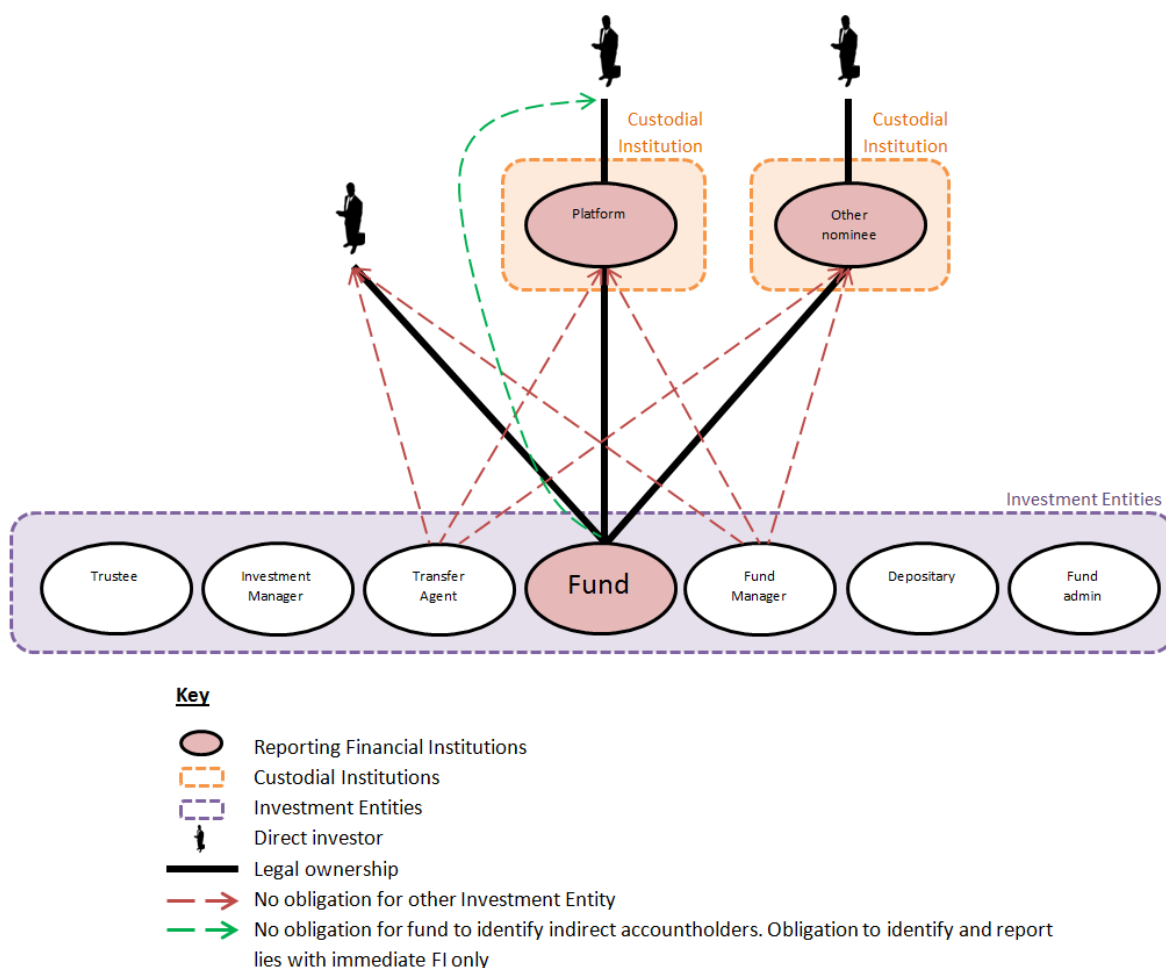
2.8.4. Advisory only distributors

Whilst distributors that act in an advisory only capacity are not considered to maintain the interests in the collective investment vehicle in respect of which they advise, they may nevertheless be asked by FIs to provide assistance in identifying Account Holders and obtaining required documentation, if any.

For example, wealth managers will often have the most in-depth knowledge of the investor and direct access to the investor so they may be best placed to obtain self-certifications. However, the Belgian tax authorities do not regard such advisory only distributors as FIs with respect to the investment assets on which they merely advise and they will only have obligations pursuant to contractual agreements with those FIs where they act as a third party service provider in relation to those Financial Accounts.

2.8.5. Identification and reporting of interests in a collective investment vehicle

The diagram below illustrates how the Belgian tax authorities believe the account identification and reporting obligations should work for collective investment vehicles.



Depending on how the fund is structured, various entities may fall within the definition of Investment Entity.

Example 1

Most Belgian funds are required to have a fund manager that acts as operator of the fund and is normally assigned responsibility for fulfilling the regulatory obligations of the fund.

Therefore, the fund manager will normally have contractual responsibilities for compliance with the obligations in relation to the Financial Accounts of the fund vis-à-vis the fund. In turn, fund operators typically use third party service providers to provide fund administration, including maintaining records of investors, account balances and transaction services provided by the transfer agent. In these cases the fund manager might appoint the third party service provider to fulfil account identification and reporting requirements as they will have the necessary records.

The fund's account identification and reporting obligations apply only to its immediate Account Holders. It is required to identify all direct Account Holders pursuant to the due diligence obligations outlined in this Guidance. It is not required to identify any indirect individual accounts held through a FI (for example a platform or other nominee). The fund's obligation is to identify the direct Account Holder (such as the FI) only. In turn the intermediary FI will have its own obligation to identify and report on its Account Holders.

In the diagram the fund would only need to identify any direct individual Account Holders (shown on left hand side), and the FIs on the share register. It would be required to report information on any of these that are Reportable Persons.

In turn Custodial Institutions that act as distributors (and not the fund) would be required to identify and report on their direct Account Holders. The fund has no obligation to identify and report on accounts held indirectly through other FIs.

2.9. Specified Insurance Company

A 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.

An “insurance company” is “an Entity (i) that is regulated as an insurance business under the laws, regulations, or practices of any jurisdiction in which the Entity does business; (ii) the gross income of which (for example, gross premiums and gross investment income) arising from insurance, reinsurance, and Annuity Contracts for the immediately preceding calendar year exceeds 50% of total gross income for such year; or (iii) the aggregate value of the assets of which associated with insurance, reinsurance, and Annuity Contracts at any time during the immediately preceding calendar year exceeds 50% of total assets at any time during such year.”⁹

A Specified Insurance Company can include both an insurance company and its holding company. However, the holding company itself will only be a Specified Insurance Company if it issues or is obligated to make payments with respect to Cash Value Insurance Contracts or Annuity Contracts. As only certain persons are permitted to provide Cash Value Insurance Contracts or Annuity Contracts, it is unlikely that an insurance holding company will in itself issue, or will be obligated to make payments with respect to Cash Value Insurance or Annuity Contracts.

Reinsurance companies¹⁰ are not FIs under this definition.

Insurance companies that only provide general insurance contracts of the classes 1 to 18¹¹ are not FIs under this definition, and neither the credit insurance companies nor the intermediaries.

⁹ Commentary on Section VIII, subparagraphs A(1) and (2), 27.

¹⁰ As defined among others in the Directive 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC.

¹¹ As defined in Annex I of the Royal Decree establishing general regulation regarding the control of insurance companies (“*Koninklijk besluit van 22 feburari 1991 houdende algemeen reglement betreffende de controle op de verzekeringsondernemingen*”/ “*Arrêté royal du 22 février 1991 portant règlement général relatif au contrôle des entreprises d’assurances*”).

According to the CRS Commentary, the “reserving activities of an insurance company will not cause the company to be a Custodial Institution, a Depository Institution, or an Investment Entity.”¹²

2.10. Related Entities

An Entity is a “Related Entity” of another Entity, if either Entity controls the other Entity, or the two Entities are under common control. For this purpose, control includes direct or indirect ownership of more than 50% of the vote **and** value in an Entity.¹³

Whether an Entity is a Related Entity of another Entity is principally relevant for the account balance aggregation rules set forth in paragraph C of Section VII of the CRS, the scope of the term “Reportable Person” described in Section VIII, subparagraph D(2)(ii) of the CRS, and the criteria described in subparagraph D(9)(b) of Section VIII of the CRS that an NFE can meet to be an Active NFE.

2.11. Non-Reporting Financial Institutions

2.11.1. Definitions

The following sets out the various categories of Non-Reporting Financial Institutions (i.e. Financial Institutions that are excluded from reporting).

A “Non-Reporting Financial Institution” means any Financial Institution that is:

- a) a Governmental Entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution;
- b) a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organisation or Central Bank; or a Qualified Credit Card Issuer;
- c) any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in section VIII, subparagraphs B(1)(a) and (b) of the CRS, and is defined in domestic law as a Non-Reporting Financial Institution, provided that the status of such Entity as a Non-Reporting Financial Institution does not frustrate the purposes of the Common Reporting Standard;
- d) an Exempt Collective Investment Vehicle; or

¹² Commentary on Section VIII, subparagraphs A(3) through 8, 29.

¹³ Commentary on section VIII of the CRS, subparagraph E(3) and (4), 145.

- e) a trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to Section I of the CRS with respect to all Reportable Accounts of the trust.
- f) Belgian savings fund referred to in article 145/16 ITC92

2.11.2. Governmental Entity, International Organisation or Central Bank

2.11.2.1. Preliminary

If any Governmental Entity, International Organisation or Central Bank (as defined below) makes or receives a payment that is derived from an obligation held in connection with a commercial financial activity of the type engaged in by a Specified Insurance Company, Custodial Institution or Depository Institution, it will no longer be treated as a non-reporting FI for that obligation.

2.11.2.2. Governmental Entity

The term “Governmental Entity” means the government of a jurisdiction, any political subdivision of a jurisdiction (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of a jurisdiction or of any one or more of the foregoing (each, a “Governmental Entity”). This category is comprised of the integral parts, controlled entities, and political subdivisions of a jurisdiction.¹⁴

In order to promote international trade and development, many jurisdictions have established export or development financing programmes or agencies which may either provide loans directly or insure or guarantee loans granted by commercial

¹⁴ An “integral part” of a jurisdiction means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of a jurisdiction. The net earnings of the governing authority must be credited to its own account or to other accounts of the jurisdiction, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity.

A controlled entity means an Entity that is separate in form from the jurisdiction or that otherwise constitutes a separate juridical entity, provided that:

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

Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of government. Notwithstanding the foregoing, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a governmental entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons.

lenders. Those agencies would generally be considered Governmental Entities and, thus, Non-Reporting Financial Institutions¹⁵.

For Belgium, the Belgian Government and the organizations listed (illustrative) below would be Non-Reporting FIs:

- the Belgian Government,
- any political subdivision of the Belgian Government (including, regions and communities (“gewesten en gemeenschappen/régions et communautés”), provinces, cities, or municipalities, **or**
- any wholly owned agency or instrumentality of the Belgian State, including but not limited to the entities listed by the National Bank of Belgium (“**NBB**”) in the document “de eenheden van de publieke sector/les unités du secteur public”.

2.11.2.3. National Bank of Belgium

The NBB and any of its wholly owned subsidiaries are Non-Reporting FIs.

2.11.2.4. International Organizations or any wholly owned agency or Instrumentality of such organizations

This category includes any intergovernmental organization (including a supranational organization) (1) that is comprised primarily of governments; (2) that has in effect a headquarters (or substantially similar) agreement with Belgium; and (3) the income of which does not inure to the benefit of private persons.

The organizations listed in the illustrative list below would be Non-Reporting FIs if they were FI:

Agence internationale de l'énergie atomique (AIEA);	Internationale Organisatie voor Atoomenergie (IAEA);
Agence interalliée des réparations (IARA)	Intergeallieerd Agentschap voor de Herstelbetalingen (IARA);
Agence multilatérale de garantie des investissements	Multilaterale Agentschap Investeringsgaranties;
Agence spatiale Européenne (ASE - ESA);	Europees Ruimte-agentschap (ERA);
Assemblée de l'Atlantique Nord;	Noord-Atlantische Vergadering;
Association internationale de développement (AID - IDA);	Internationale Ontwikkelingsassociatie (IDA);
Banque Africaine de développement;	Afrikaanse Ontwikkelingsbank;
Banque asiatique de développement;	Aziatische Ontwikkelingsbank;
Banque européenne d'investissement (BEI);	Europese Investeringsbank (EIB);

¹⁵ Commentary on section VIII, subparagraph B(2) through (4), §33, 167.

Banque Européenne pour la Reconstruction et le Développement (BERD);	Europese Bank voor Wederopbouw en Ontwikkeling;
Banque interaméricaine de développement;	Interamerikaanse ontwikkelingsbank;
Banque internationale pour la Reconstruction et le développement (BIRD);	Internationale Bank voor Wederopbouw en Economische Ontwikkeling (BIRD);
Centre pour le développement industriel;	Centrum voor Industriële Ontwikkeling (CID);
Centre européen pour les prévisions météorologiques à moyen terme;	Europees Centrum voor weervoorspellingen op middellange termijn;
Centre technique de Coopération agricole et rurale;	Technisch centrum voor Landbouwsamenwerking en Plattelandsontwikkeling;
Comité intergouvernemental pour les migrations européennes (CIME);	Intergouvernementale Commissie voor Europese Migratie (ICEM);
Commission tripartite pour la restitution de l'or monétaire;	Driedledige Commissie voor de teruggave van het monetaire goud;
Communauté économique européenne (CEE);	Europese Economische Gemeenschap (EEG);
Communauté européenne du charbon et de l'acier (CECA);	Europese Gemeenschap voor Kolen en Staal (EGKS);
Communauté européenne de l'énergie atomique (CEEA ou Euratom);	Europese Gemeenschap voor Atoomenergie (Euratom);
Conseil africain de l'arachide;	Afrikaanse Aardnootraad;
Conseil de coopération douanière;	Internationale Douaneraad;
Conseil de l'Europe;	Raad van Europa;
L'Ecole Européenne;	Europese School;
Fonds africain de développement;	Afrikaans Ontwikkelingsfonds;
Fonds belgo-congolais d'amortissement et de gestion;	Belgisch-Kongolees Fonds voor Delging en Beheer;
Fonds international de développement agricole (FIDA);	Internationaal Fonds voor Agrarische Ontwikkeling (FIDA);
Fonds européen d'Investissement;	Europees Investeringsfonds;
Fonds monétaire international (IMF - FMI);	Internationaal Muntfonds (IMF);
Fonds de rétablissement du Conseil de l'Europe;	Wedervestigingsfonds van de Raad van Europa;
Haut commissariat de l'ONU pour les réfugiés;	Hoog Commissariaat van de UNO voor de vluchtelingen;
Institut international du coton;	Internationaal Katoeninstituut;
Institut universitaire européen;	Europees Universitair Instituut;
Organisation de l'aviation civile internationale (OACI - ICAQ);	Internationale Burgerlijke Luchtvaartorganisatie (ICAO);

Organisation de coopération et de développement économiques (OCDE);	Organisatie voor Economische Samenwerking en Ontwikkeling (OESO);
Organisation Européenne pour l'Exploitation de Satellites Météorologiques (EUMETSAT);	Europese Organisatie voor de exploitatie van meteorologische satellieten (EUMETSAT);
Organisation Européenne de Télécommunication par Satellite (EUTELSAT);	Europese Organisatie voor Telecommunicatiesatellieten (EUTELSAT);
Organisation européenne des brevets;	Europese Octrooiorganisatie;
Organisation européenne pour la sécurité de la navigation aérienne (Euro control);	Europese Organisatie voor de veiligheid van de luchtvaart (Eurocontrol);
Organisation Intergouvernementale pour les transports internationaux ferroviaires (OTIF);	Intergouvernementele Organisatie voor het internationale spoorwegverkeer (OTIF);
Organisation Internationale de Télécommunication Maritimes par Satellites (IMMARSAT);	Internationale Organisatie voor Maritieme satellieten (INMARSAT);
Organisation Internationale de Télécommunications par Satellites (INTELSAT);	Internationale Organisatie voor Telecommunicatiesatellieten (INTELSAT);
Organisation internationale du travail (OIT - ILO);	Internationale Arbeidsorganisatie (ILO);
Organisation maritime consultative intergouvernementale - Organisation intergouvernementale consultative de la navigation maritime (OMCI - IMCO);	Intergouvernementele Maritieme Consultatieve Organisatie (IMCO);
Organisation météorologique mondiale (OMW - WMO);	Wereldorganisatie voor Weerkunde (WMO);
Organisation mondiale de la propriété intellectuelle (OMPI);	Wereldorganisatie voor intellectuele eigendom (OMPI);
Organisation mondiale de la santé (OMS - WHO);	Wereldorganisatie voor de Gezondheid (WHO);
Organisation des Nations-Unies (ONU);	Organisatie van de Verenigde Naties (UNO);
Organisation des Nations-Unies pour l'alimentation et l'agriculture (OAA -FAO);	Voedsels- en Landbouworganisatie van de Verenigde Naties (FAO);
Organisation des Nations-Unies pour l'éducation, la science et la culture (UNESCO);	Organisatie der Verenigde Naties voor Onderwijs, Wetenschap en Cultuur (UNESCO);
Organisation du Traité Atlantique Nord (OTAN);	Noord-Atlantische Verdragsorganisatie (NAVO - NATO);
Quartier général suprême des Forces Armées en Europe (SHAPE);	Algemeen Hoofdkwartier van de Geallieerde Strijdkrachten in Europa (SHAPE);

Société financière internationale (SFI - IFC);	Internationale Financieringsmaatschappij (IFC);
Union de l'Europe occidentale (UEO);	West-Europese Unie (WEU);
Union internationale des télécommunications (UIT - ITU);	Internationale Vereniging voor Verre Berichtgeving (ITU);
Union postale universelle (UPU).	Wereldpostvereniging (UPU);

Moreover, the list available on the following website (<http://ccff02.minfin.fgov.be/KMWeb/document.do?method=view&id=f7ad646b-9c76-4403-9131-f8e21fc45a97&documentLanguage=FR#findHighlighted>) could also be used as an illustrative list of entities that would qualify as Non-Reporting if they were FIs.

2.11.3. Certain Retirement Funds and Qualified Credit Card Issuers

2.11.3.1. Broad Participation Retirement Fund

A fund established in Belgium to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that the fund:

1. does not have a single beneficiary with a right to more than five percent of the fund's assets;
2. is subject to government regulation and provides information reporting to the tax authorities in Belgium; **and**
3. satisfies at least one of the following requirements:
 - a) the fund is generally exempt from tax in Belgium on investment income under the Laws of Belgium, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;
 - b) the fund receives at least 50 percent of its total contributions (other than transfers of assets from other plans described in Sections 2.11.3.1, 2.11.3.2 and 2.11.3.3. or from retirement and pension accounts from the sponsoring employers described in 4.10.1);
 - c) distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death (except rollover distributions to other retirement funds described in Sections 2.11.3.1, 2.11.3.2 and 2.11.3.3. or retirement and pension accounts described in 4.10.1), or penalties apply to distributions or withdrawals made before such specified events; **or**

- d) contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed \$50,000 annually applying the rules of account aggregation and currency translation.

2.11.3.2. Narrow Participation Retirement Fund

A fund established in Belgium to provide retirement, disability, or death benefits to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that:

1. the fund has fewer than 50 participants;
2. the fund is sponsored by one or more employers that are not Investment Entities or Passive NFEs;
3. the employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described in 4.10.1) are limited by reference to earned income and compensation of the employee, respectively;
4. participants that are not residents of Belgium are not entitled to more than 20 percent of the fund's assets; **and**
5. the fund is subject to government regulation and provides information reporting to the tax authorities in Belgium.

2.11.3.3. Pension fund of a Governmental Entity, International Organisation or Central Bank

A fund established in Belgium by a Governmental Entity, International Organisation or Central Bank to provide retirement, disability, or death benefits to beneficiaries or participants that are current or former employees of a Governmental Entity, International Organisation or Central Bank (or persons designated by such employees), or that are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services performed for the Governmental Entity, International Organisation or Central Bank .

2.11.3.4. Qualified Credit Card Issuer

A “Qualified Credit Card Issuer” is a Financial Institution satisfying the following requirements:

- a) the Financial Institution is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and

b) beginning on or before 01/01/2016, the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of USD 50 000, or to ensure that any customer overpayment in excess of USD 50 000 (and of the balance due with respect to the card) is refunded to the customer within 60 calendar days, in each case applying the rules for account aggregation and currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.

According to the CRS Commentary a “Reporting Financial Institution that does not satisfy the requirements to be a Qualified Credit Card Issuer, but accepts deposits when a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility, may still not report a Depository Account if it qualifies as an Excluded Account under paragraph C(17)(f).”¹⁶

2.11.4. Belgian Savings Funds

A collective investment vehicles (“Gemeenschappelijk Beleggingsfonds (“GBF”) or Fonds Communs de Placement” (“FCP”)) contemplated by Article 145/16 of the Income Tax Code 1992 (“ITC92”) (“Wetboek Inkomstenbelastingen 1992 (“WIB92”)/Code des Impôts sur les Revenus 1992” (“CIR92”)), established for the investment of monies through a so-called collective savings account as part of a tax-favoured pension savings scheme are considered a Non-Reporting FI.

2.11.5. Exempt Collective Investment Vehicles

The term “Exempt Collective Investment Vehicle” means an Investment Entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through individuals or Entities that are not Reportable Persons (e.g. because they are Financial Institutions), except a Passive NFE with Controlling Persons who are Reportable Persons.

Collective investment vehicles subject to the Law of 3 August 2012 or to the Law of 19 April 2014, including those which are not subject to prudential supervision of the FSMA are considered to be regulated as a Collective Investment Vehicle for the purposes of CRS in general and for this Non-reporting FI status more specifically.

As a practical matter, an Investment Entity all the interests in which are held by or through non-Reportable Persons would generally not have any reporting obligations, irrespective of whether or not it qualifies as an Exempt Collective Investment Vehicle. However, such qualification may be relevant to other obligations imposed on the Investment Entity, such as filing a nil return in the absence of Reportable Accounts.

¹⁶ Commentary on section VIII of the CRS, commentary on section VIII, subparagraph B(8), 42.

2.11.6. Trustee-Documented Trust

A trust that is a Financial Institution (e.g. because it is an Investment Entity) is a Non-Reporting Financial Institution to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported.

According to the CRS Commentary this “category of Non-Reporting Financial Institution reaches a similar result as under the paragraph where Reporting Financial Institutions may be allowed to rely on service providers to fulfil their reporting and due diligence obligations. The only difference between that paragraph and this category is that the reporting and due diligence obligations fulfilled by service providers remain the responsibility of the Reporting Financial Institution, while the responsibility of those fulfilled by the trustee of a Trustee-Documented Trust is transferred by the trust to its trustee. This category does not modify, however, the time and manner of the reporting and due diligence obligations which remain the same as if they still were the responsibility of the trust. For example, the trustee must not report the information with respect to a Reportable Account of the Trustee-Documented Trust as if it were a Reportable Account of the trustee. The trustee must report such information as the Trustee-Documented Trust would have reported (e.g. to the same jurisdiction) and identify the Trustee-Documented Trust with respect to which it fulfils the reporting and due diligence obligations. This category of Non-Reporting Financial Institution may also apply to a legal arrangement that is equivalent or similar to a trust, such as a fideicomiso.”

2.12. Entities with no/limited reporting obligations: applications

2.12.1. Investment Advisors and Investment Managers

Entities that (1) render investment advice to, and act on behalf of, or (2) manage portfolios for, and act on behalf of, a customer for the purposes of investing, managing or administering funds deposited in the name of the customer with a Financial Institution other than such Entity will be considered a Reporting Financial Institution for CRS purposes.

To the extent the activities rendered by such entity are limited to the above referenced activities, debt and equity interests in such entity will, however, not be considered Financial Accounts for the purposes of the CRS.

The reporting obligation of these entities will consequently be limited to the filing of an annual nil return with the Belgian SPF Finances.

2.12.2. Publicly traded Collective Investment Vehicle

There is no general provision in the CRS that excludes publicly traded collective investment vehicles from the definition of Reporting Financial Institution. Generally, such publicly traded collective investment vehicles nevertheless qualify as Non-

reporting FIs. This is because the debt and equity interests in such publicly traded collective investment vehicles will in most cases be held through one or more financial institutions such as CSDs and the vehicles should qualify as exempt Collective Investment Vehicles (cf. section 2.11.5.) .

2.12.3. Entities issuing certificates or depositary receipts

Certain Belgian companies issue, as their sole activity, International Depositary Receipts (“IDRs”) representing ownership of US or non-US shares held by the issuer of the IDRs in a fiduciary capacity. The holders of those IDRs are considered for tax purposes to be the holders of the underlying US or non-US shares. The issuers of these IDRs are considered Non-Reporting FIs.

2.12.4. Consumer Credit companies

This covers the Consumer Credit Institution registered under the Belgian Law of June 12, 1991 (“Wet van 12 juni 1991 op het consumentenkrediet”/“Loi du 12 juin 1991 relative au crédit à la consommation”).

These institutions grant consumers credits, defined as a contract whereby a lender agrees or commits itself to grant a credit to a consumer taking the legal form of a loan, deferral of payment or similar payment modalities.

Such institutions must hold a license number with the Belgian Ministry of Economy in order to carry on consumer credit transactions pursuant to the Consumers Credit Act of June 12, 1991 (Section 74 and seq.).

Such entities do not qualify as FI.

2.12.5. Mortgage Loan companies

This covers the Mortgage Loan Institutions under the Royal Decree of January 7, 1936 (“Koninklijk besluit van 7 januari 1936 tot reglementeering van de hypothecaire leningen en tot inrichting van de controle op de ondernemingen van hypothecaire leningen”/“Arrêté royal du 7 janvier 1936 réglementant les prêts hypothécaires et organisant le contrôle des entreprises de prêts hypothécaires”) and Belgian Law of August 4, 1992 (“Wet van 4 augustus 1992 op het hypothecair krediet”/“Loi du 4 août 1992 relative au crédit hypothécaire”).

These institutions grant mortgage loans which are defined as a loan secured either by a mortgage on a real estate situated in Belgium, on a ship, or on a boat registered in Belgium, or by the pledge of a receivable.

Such company must be registered with the Belgian regulator (FSMA) and falls under the prudential control of the Belgian regulator.

Such entities do not qualify as FI.

2.12.6. Leasing companies

This covers the leasing companies under Royal Decree n°55 of November, 10 1967. (“Koninklijk besluit 55 van 10 november 1967 tot regeling van het juridisch statuut der ondernemingen gespecialiseerd in financieringshuur”/“Arrêté royal 55 du 10 novembre 1967 organisant le statut juridique des entreprises pratiquant la location-financement”).

The mere fact that they may from time to time receive cash or securities as collateral does not amount to their qualification as FI.

2.12.7. Central securities Depositories exemption

In the case of securities registered in a Belgian entity acting as a central securities depository that are held by or through one or more other Financial institutions that are not nonparticipating financial institutions, the relevant financial accounts would be treated as being held by such other financial institutions, and such other financial institutions would be considered responsible for any reporting required with respect to such financial accounts. An entity acting as a Belgian central securities depository may report on behalf of such other financial institutions.

2.12.8. Institutional securitization investment companies

An institutional securitization investment company (institutionele VBS / SIC) subject to Part IIIbis of the aforementioned Law of 3 August 2012 would generally qualify as exempt CIV (see section 2.11.5) provided its debt interests are fully held by a compliant FI, or any of its affiliates, which also acted as originator of the securitization transaction.

2.12.9. Factoring companies

This paragraph refers to entities located in Belgium and offering factoring services. With a factoring solution, the factor agrees to pay an agreed percentage of approved debts as soon as the receivables are assigned to him. If credit protection is part of the factoring agreement, it is referred to as “non-recourse” factoring, while a factoring agreement where the credit risk on the debtor remains with the seller is called “with-recourse” factoring.

2.13. Low-risk Non-reporting Financial Institutions (to be further amended based on a Royal Decree to be adopted)

2.13.1. General

According to the CRS a “Financial Institution can also be a Non-Reporting Financial Institution provided that:

- a) the Financial Institution presents a low risk of being used to evade tax;

- b) the Financial Institution has substantially similar characteristics to any of the Non-Reporting Financial Institutions described above;
- c) the Financial Institution is defined in domestic law as a Non- Reporting Financial Institution; and;
- d) the status of the Financial Institution as a Non-Reporting Financial Institution does not frustrate the purposes of the CRS.”¹⁷

This “open” category of Non-Reporting Financial Institution is intended to accommodate jurisdiction-specific types of financial institutions that satisfy the requirements listed [above], and avoids the need to negotiate classes of Non-Reporting Financial Institutions when concluding an agreement on the automatic exchange of financial account information.”¹⁸

¹⁷ Commentary on section VIII of the CRS, commentary on section VIII, subparagraph B(1)C, 45.

¹⁸ Commentary on section VIII of the CRS, commentary on section VIII, subparagraph B(1)C, 46.

3. Non-Financial Entities

The section below contains general information on NFEs. For more details please consult the OECD commentary, section VIII, (subparagraphs D(6) through (9) – NFEs and Controlling Persons).

An NFE is any Entity that is not treated as a FI. There are two categories of NFEs, i.e. Active NFEs or Passive NFEs.

When determining an Entity's status as an active or passive NFE, the rules of the jurisdiction in which the account is maintained determine the Entity's status (CRS-related FAQs n° 15) Therefore, Belgian FI should apply this chapter 3 to NFE account holder irrespective of their residence. However, when determining the active or passive status of an NFE, Belgian FI may rely on the rules of the jurisdiction in which the account holder is resident provided that this jurisdiction has implemented the CRS.

3.1. Criteria for determining an Active or Passive NFE

3.1.1. Active NFEs

There are different categories of Active NFEs that can be summarized as follows.

- a) An NFE that meets the following, cumulative income and assets tests:
 - under the income test, less than 50 percent of the Entity's gross income for the preceding calendar year or other appropriate reporting period, is passive income **and**
 - under the asset test, less than 50 percent of the assets held by the Entity during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income¹⁹;
- b) The stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is traded on an established securities market;
- c) The NFE is a Governmental Entity, (a political subdivision of such government (which, for the avoidance of doubt, includes a state, province, county, or municipality), or a public body performing a function of such government or a political subdivision thereof), an International Organization, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
- d) Substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a FI, except that an Entity shall not qualify for Active NFE status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is

¹⁹ Please refer to appendix 4 for the formula to calculate the asset test and the income test.

to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;

- e) The NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a FI, provided that the NFE shall not qualify for this exception after the date that is 24 months after the date of the initial organization of the NFE;
- f) The NFE was not a FI in the past five years, and is in the process of liquidating its assets or is reorganizing with the intent to continue or recommence operations in a business other than that of a FI;
- g) The NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not FIs, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a FI;
- h) The NFE meets all of the following requirements:
 - (i) It is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organization, business league, chamber of commerce, labour organization, agricultural or horticultural organization, civic league or an organization operated exclusively for the promotion of social welfare;
 - (ii) It is exempt from income tax in its jurisdiction of residence;
 - (iii) It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - (iv) the applicable laws of the NFE’s jurisdiction of residence or the NFE’s formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE’s charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and
 - (v) the applicable laws of the NFE’s jurisdiction of residence or the NFE’s formation documents require that, upon the NFE’s liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organization, or escheat to the government of the NFE’s jurisdiction of residence or any political subdivision thereof.

3.1.2. Passive NFEs

The term “Passive NFE” means any:

- (i) NFE that is not an Active NFE; or
- (ii) an Investment Entity described in subparagraph A(6)(b) of the CRS that is not a Participating Jurisdiction Financial Institution.

As a result, Reporting Financial Institutions are required to look-through that type of Investment Entity. The OECD provides the following example as an illustration²⁰:

“Jurisdiction A has a reciprocal agreement on the automatic exchange of financial account information in place with Jurisdiction B, but has no agreement in place with Jurisdiction C. W, a Jurisdiction A Reporting Financial Institution, maintains Financial Accounts for Entities X and Y, both of which are Investment Entities as described in subparagraph A(6)(b) of section VIII of the CRS. Entity X is resident in Jurisdiction B and Entity Y is resident in Jurisdiction C. From the perspective of W, Entity X is a Participating Jurisdiction Financial Institution and Entity Y is not a Participating Jurisdiction Financial Institution. As a result, W must treat Entity Y as a Passive NFE.”

3.2. Active/Passive NFE List

In addition, a Belgian FI may assume, unless the entity concerned proves otherwise, that an entity is either a Passive or an Active NFE based on:

- a) The NBB "rechstvorm/forme juridique" code (see Appendix 2) is first applied to classify Active NFEs.
- b) Some NFE can then be classified as active by nature based on their NACE code (see Appendix 3)
- c) In order to determine if a Belgian NFE is Active or Passive, the so-called “NFE formula” as approved by the FPS Finances, can be used or may be applied by the FI itself. This formula is based on publicly available information issued by the Central Balance Sheet Office of the NBB and consists of 2 threshold tests: (1) on the gross income and (2) on the assets held by the NFE (see Appendix 4). The NBB will run this formula and will provide a yearly updated list of “Active” and “Passive” NFEs.
- d) In case the "NFE formula" cannot be applied easily (e.g. for foreign entities or when financial statements are not available in the Central Balance Sheet office of the NBB), then the Financial Institutions may use NACE codes listed in Appendix 5 to classify the NFE as passive "by default". In case the primary NACE code of the NFE is not on this list, the NFE will be classified as active.

For NFEs, the FI can rely on publicly available information, such as financial statements (e.g. Active/passive ratio), self-certification by the client or industry codes, or information in its possession, that enables the FI to reasonably determine that such NFE is either “Active” or “Passive”.

²⁰ Commentary on section VIII of CRS, subparagraphs D(6), through (9), 123.

3.3. Application to general insurance companies

A general insurance company should generally not be treated as a FI under CRS but will instead be classified as a NFE unless it maintains Financial Accounts.

This insurance company is a company that only proposes contracts of the classes 1 to 18 as defined in Annex 1 of the Royal Decree establishing general regulation regarding the control of insurance companies (“Koninklijk besluit van 22 februari 1991 houdende algemeen reglement betreffende de controle op de verzekeringsondernemingen”/“Arrêté royal du 22 février 1991 portant règlement général relatif au contrôle des entreprises d'assurances”).

3.4. Application to credit insurance companies

This covers credit insurance institutions authorized under the Belgian Law of July 9, 1975 (“Wet van 9 juli 1975 betreffende de controle der verzekeringsondernemingen”/“Loi du 9 juillet 1975 relative au contrôle des entreprises d'assurances”). These institutions offer insurance contracts which protect the underwriters from the default of payment of the debtor. These contracts are not cash value insurance contracts.

3.5. Intermediaries

Insurance brokers, insurance/banking agents only offering financial services as an intermediary on behalf of a FI are not considered to be FI's themselves under the application of the CRS.

4. Financial Accounts

4.1. Introduction

Under the CRS, Reporting Belgian FIs must provide information to the FPS Finances on an annual basis in relation to Financial Accounts held by Reportable Persons or by a Passive NFE of which the Controlling Person(s) is (are) Reportable Person(s) and on Account Holders not having provided the required documentation in due time.

A FI (unless a Non-Reporting FI) must determine whether it maintains any Financial Accounts, and which type of Financial Accounts (Depository Accounts, Custodial Accounts, Cash Value Insurance Contracts, Annuity Contracts, Equity and debt Interests). The FI will then identify the Account Holder in view of Reportable Persons or Passive NFEs of which a Controlling Person is a Reportable Person.

For the purpose of the CRS the term Financial Account is broadly defined and therefore may include products or obligations that would not normally be regarded as Financials Accounts either in other Belgian legislation or in everyday commercial use.

However, any social security benefits paid by the Belgian government, its government entities or public bodies under the Belgian social security shall in no situation be regarded as Financial Accounts. These benefits cannot be considered as a Financial Account, as they are neither an Equity or debt Interest, nor a Cash Value Insurance Contract, but an execution of Belgian social security Law. This also applies when a FIs responsible for the concrete administration and/or pay-out of the benefit on behalf of the Belgian government, its government entities or public bodies or an employer in the case of a collective agreement on early retirement.

Each category of Financial Account is subject to exclusions and exemptions and further details can be found in this section.

4.2. Accounts maintained by Financial Institutions (FIs)

In relation to each type of Financial Account, “maintained” has the following meaning:

- A Depository Account is maintained by the FI, which is obliged to make payments with respect to the account.
- A Custodial Account is maintained by the FI that holds custody over the assets in the account (including a FI that holds assets in the name of the broker (“in street name”) for an Account Holder).
- A Cash Value Insurance Contract or an Annuity Contract is maintained by the FI that is obliged to make payments with respect to the contract.
- Any Equity or debt Interest in a FI, where that Equity or debt Interest constitutes a Financial Account, is treated as being maintained by that FI where that FI is an Investment Entity (see Section 4.9.).

A FI may maintain more than one type of Financial Accounts. For example a Depository Institution may also maintain Custodial Accounts as well as Depository Accounts.

When a Financial Account is created it will depend on the type of account. An account will be created when the FI is required to recognize the account based on existing operating procedures or regulatory or legal requirements of the jurisdiction in which it operates.

Depository receipts representing securities issued by entities others than the issuer of the depository receipts do not constitute Financial Accounts maintained by the issuer of the depository receipts and do not qualify as interests in the issuing entity.

N.B.

Debt instruments (“kasbons/bons de caisse”, “achtergestelde certificaten/certificats subordonnés”, etc.) issued by a Belgian FI (other than an Investment Entity) and registered in the securities register of the FI (“register van effecten op naam/registre des titres nominatifs”) are no Financial Accounts. There is no reporting obligation for the Belgian FI relating to the payment of income generated by the registered debt interest issued by the Belgian FI. Of course, the obligation to report the balance of the account on which the income has been credited, remains. In addition, if the registered securities are mentioned on the Custodial Account (for information purposes) the Reporting FI may choose to include or not such registered securities when reporting the Custodial Account.

4.3. Reportable Accounts

A Financial Account is a Reportable Account where it is held by one or more Reportable Persons, or by a Passive NFE of which one or more the Controlling Persons is (are) Reportable Person(s).

An undocumented account is also reportable. An undocumented account is an account for which a “hold mail” instruction or “in-care-of” address is discovered in the electronic search, no other address and no other indicia listed in subparagraph B(2)(a) through (e) of section III of the CRS are found, the paper search fails to establish an indicium, and documentation has been requested but has not been provided in due time. See section III, B(5) of the CRS and point 6.3.2 below.

Reporting FIs with no Reportable Accounts will still be required to file a nil return to the FPS Finances.

4.4. Account Holders

In order to identify the person or entity that is the Account Holder under the terms of the CRS, a FI may need to consider the type of account and the capacity in which it is held. The Account Holder means in the first instance the person listed or identified as the holder of the Financial Account by the FI that maintains the account.

4.4.1. Joint Accounts and joint ownership

Where a Financial Account is jointly held, all Account Holders qualify as ‘Account Holders’.

The same rules apply also to joint ownerships such as “burgerlijke maatschap/société civile de droit commun” (see Section 11.2),

However, as regards life insurance contracts, the insurance company may consider that the Account Holder is the person who will receive a payment as a beneficiary in execution of the insurance contract, in case of death, life or surrender and this when this payment will be made.

4.4.2. Bare ownership-usufruct

In accordance with Belgian civil Law, the usufruct holder is entitled to receive income (interest, dividends, etc.) generated by the assets subject to the usufruct and the bare owner is entitled to receive the assets (capital) and the gross proceeds of the sale or redemption of these assets.

Both the bare owner and the usufruct holder are to be considered as Account Holders notwithstanding the operational implementation of such account within the FI’s system.

4.4.3. Accounts held by persons other than Financial Institutions

A person, other than a FI, that holds a Financial Account for the benefit of another person, as agent, custodian, nominee, signatory, investment advisor, intermediary or legal guardian is not treated as an Account Holder with respect to such account for purposes of the CRS. Instead, the person on whose behalf the account is held is the Account Holder.

Example 1

Where a parent opens an account in the name of a minor child, the minor child will be the Account Holder.

Example 2

"Een kind onder voogdijschap geplaatst- onder voogdij /un enfant placé sous tutelle" follows the same principles.

4.4.4. Undesignated Accounts (“derden rekeningen/comptes de tiers”)

Where a Financial Account held by a non-financial intermediary such as regulated professionals being among others lawyers, notaries and bailiffs, does not meet any of the conditions set out in Escrow Accounts²¹, but is an account, holding on a pooled basis, the funds of underlying clients of the non-financial intermediary where:

²¹ See section 4.10.4.

- the only person listed or identified on the Financial Account with the FI is the non-financial intermediary; **and**
- the non-financial intermediary is not required to disclose or pass their underlying client or clients' information to the FI for the purposes of AML/KYC or other regulatory requirements,

then the FI is only required to undertake the due diligence procedures in respect of the non-financial intermediary.

4.4.5. Cash Value Insurance Contracts and Annuity Contracts

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

However, when a payment is made by the Insurance Company in execution of the insurance contract, in case of death or life, the Account Holder is the person entitled to receive the payment.

With regards to Annuity Contracts, the Account Holder is the person entitled to receive the Annuity.

This means that in case of payment under the insurance contract or annuity contract, the beneficiary of the amounts paid will be the Account Holder.

However, when a policy becomes subject to a claim and an amount is payable to the beneficiary, this does not create a New Financial Account (it is still the same policy).

4.4.6. Joint life second death Cash Value Insurance Contracts²²

Joint life second death Cash Value Insurance Contracts are sometimes taken out by spouses. Such policies insure both parties, but do not pay out on the death of the first person. Instead the policy remains in force until the other person has died or the policy is surrendered.

Where one of the policyholders whose life is assured is a Reportable Person (and the other is not a Reportable person) this will be a Reportable Account which is reported annually. If the Reportable Person dies during the term of the insurance it will cease to be a Reportable Account.

4.5. Depository Account

The term "Depository Account" includes "any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar

²² These are known in Belgium as 'verzekeringen op twee hoofden'/'assurances sur deux têtes assurées'.

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.”²³

The account does not have to be an interest bearing account or to provide for a specific return.

The definition also includes an amount held by an Insurance Company under an agreement to pay or credit interest, as defined in art. 2, 6° of the Royal Decree of 14th of November 2003 in execution of capitalization contracts of the so-called “branch 26”. However, amounts held by an Insurance Company awaiting payment in relation to a Cash Value Insurance Contract where the term has ended will not constitute a Depository Account.

Cash collateral that is provided to a Belgian FI will not be treated as a Depository Account unless posted to a cash account opened in the name of the collateral provider, in which case the cash account would qualify as a Depository Account.

4.6. Custodial Account

A Custodial Account is an account that holds one or more Financial Assets (other than an Insurance Contract or Annuity Contract) for the benefit of another person. The Financial Account is the custodial relationship itself, not the underlying asset posted to the account.

Financial Assets which can be held in such accounts can include, but are not limited to²⁴:

- a share or stock in a corporation,
- a note, bond, debenture, or other evidence of indebtedness,
- a currency or commodity transaction,
- a credit default swap,

²³ CRS, Section VIII, C(2).

²⁴ The term “Financial Asset” 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.” CRS, section VIII, subparagraph 7.

- a swap based upon a non-financial index,
- a notional principal contract (in general, contracts that provide for the payment of amounts by one party to another at specified intervals. These are calculated by reference to a specified index upon a notional principal amount in exchange for specified consideration or a promise to pay similar amounts)
- an Insurance Contract or Annuity Contract, **and**
- any option or other derivative instrument for the benefit of another person.

A Cash Value Insurance Contract or an Annuity Contract is not considered to be a Custodial Account.

Financial instruments provided as collateral to a Belgian FI will not be treated as a Custodial Account in the case where the collateral is provided pursuant to a financial collateral arrangement transferring title to the collateral taker and giving the collateral taker the right to re-use or re-hypothecate the collateral.

4.7. Cash Value Insurance Contract

This section is further detailed in the OECD commentary on section VIII (Subparagraphs C(5) through (8))

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

A Cash Value Insurance Contract is an insurance contract that has a cash value which is the greater of (i) 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 (ii) the amount the policyholder can borrow under or with regard to (for example, pledging as collateral) the contract.

The term Cash Value does not include an amount payable:

- Solely by reason of the death of an individual insured under a life insurance contract;
- as a personal injury or sickness benefit or a benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;
- as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an insurance contract (other than a life insurance or annuity contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;

- as a policyholder dividend provided that the dividend relates to an Insurance Contract under which the only benefits payable are described in section VIII, C(8), d) of the CRS (other than a termination dividend), i.e. any dividend or similar distribution to policyholders in their capacity as such, including:
 -
 - an amount paid or credited (including as an increase in benefits) if the amount is not fixed in the contract but rather depends on the experience of the insurance company or the discretion of management;
 - a reduction in the premium that, but for the reduction, would have been required to be paid; and
 - an experience rated refund or credit based solely upon the claims experience of the contract or group involved.

A policyholder dividend cannot exceed the premiums previously paid for the contract, less the sum of the cost of insurance and expense changes (whether or not actually imposed) during the contract's existence and the aggregate amount of any prior dividends paid or credited with regard to the contract.

A policyholder dividend does not include any amount that is in the nature of interest that is paid or credited to a contract holder to the extent that such amount exceeds the minimum rate of interest required to be credited with respect to contract values under local law.

- 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.²⁵

Cash Value Insurance Contracts do not include, among others:

- 1st pillar insurance contracts;
- indemnity reinsurance contracts or reinsurance of annuity contracts between two insurance companies;
- all insurance contracts of the classes 1 to 18 defined in Annex 1 of the above mentioned Royal Decree of 22 February 1991 (see Section 2.9.).
- pure term life Insurance Contracts covering solely the risk of death (“tijdelijke overlijdensverzekeringen”/ “assurances temporaires en cas de décès”)²⁶. These contracts include all term life insurance contracts (regardless of whether they are linked to a loan) under which the issuer, in exchange for consideration, agrees to pay an amount upon the death of one or more individuals within a contractually defined coverage period. The fact that such a contract provides one or more payments (for example, for endowment benefits or disability benefits) in addition to a death benefit will not cause the contract to be other than a term life insurance contract;

²⁵ Commentary on section VIII, subparagraphs C(5) through (8), 75.

²⁶ Such as so-called « *schuldsaldoverzekeringen/assurances solde restant dû* ».

- credit insurance contracts.

Beside these contracts that do not qualify as “cash value insurance contracts”, other insurance contracts are also specifically excluded from the definition of “financial accounts” (see section 4.10).

4.8. Annuity Contract

This section is further detailed in the OECD commentary on section VIII (Subparagraphs C(5) through (8))

An Annuity Contract is 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 individuals²⁷.

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.

Pension annuities – as under Section 4.8. are not considered to be Annuity Contracts for the purposes of CRS.

Reinsurance of Annuity Contracts between two Insurance Companies are excluded from the definition of Annuity Contract.

In addition, the term “Financial Account” does not include certain Annuity Contracts described in subparagraph C(1), c) of section VIII of the CRS such as a non-investment-linked, non-transferable, immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an Excluded Account.

4.9. An Equity or debt Interest (in certain Investment Entities)

4.9.1. Definitions

“Financial Accounts” include:

- a) in the case of an Investment Entity, any equity or debt interest in the Financial Institution. Notwithstanding the foregoing, the term “Financial Account” does not include any equity or debt interest in an Entity that is an Investment Entity solely because it (i) renders investment advice to, and acts on behalf of, or (ii) manages portfolios for, and acts on behalf of, a customer for the purpose of investing, managing, or administering Financial Assets deposited in the name of the customer with a Financial Institution other than such Entity;

²⁷ This definition includes all kinds of annuities, such as immediate or deferred annuities, with or without abandonment of the capital. However, pension annuities are not considered to be annuity contracts.

- b) in the case of a Financial Institution not described in subparagraph C(1)(a) of section VIII of the CRS, any equity or debt interest in the Financial Institution, if the class of interests was established with a purpose of avoiding reporting in accordance with Section I of the CRS.

4.9.2. Debt or Equity Interests regularly traded on an established securities market

In contrast to FATCA, for CRS purposes, Debt or equity interests that are regularly traded are not as such excluded from the definition of Financial Account..

4.10. Excluded Accounts

A Financial Account does not include:

- Certain Savings Accounts (See Section 4.10.1);
- Certain Term Life Insurance Contracts (See Section 4.10.2);
- Account held by Estate (See Section 4.10.3);
- Certain Escrow Accounts (See Section 4.10.4);
- Depository Accounts due to not-returned overpayments (See Section 4.10.5);
- Low-risk Excluded Accounts (See Section 4.10.6).
- Undesignated account (derden rekeningen/comptes de tiers) as mentioned under section 4.4.4. (**for example**, kwaliteitsrekeningen/comptes de qualité as defined under the Law of 22 November 2013 “Wet van 22 november 2013 tot wijziging van de wet van 25 ventôse jaar XI op het notarisambt wat de kwaliteitsrekening van notarissen betreft en van de hypotheekwet van 16 december 1831 wat de kwaliteitsrekening van advocaten, notarissen en gerechtsdeurwaarders betreft/Loi du 22 novembre 2013 modifiant la loi du 25 ventôse an XI contenant organisation du notariat en ce qui concerne le compte de qualité des notaires et la loi hypothécaire du 16 décembre 1831 en ce qui concerne le compte de qualité des avocats, des notaires et des huissiers de justice)

4.10.1. Certain Savings Accounts

- **Retirement and Pension Account**

A retirement or pension account maintained in Belgium that satisfies the following requirements under the Laws of Belgium

- 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-favoured (i.e., contributions to the account that would otherwise be subject to tax under the laws of Belgium 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) (annual) information reporting is required to the tax authorities in Belgium 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 \$50,000 or less, or (ii) there is a maximum lifetime contribution limit to the account of \$1,000,000 or less, in each case applying the rules set forth in paragraph C of section VII for account aggregation and currency translation.

A Financial Account that otherwise satisfies the requirements of this subparagraph 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 subparagraph C(17)(a) or (b) of the CRS or from one or more retirement or pension funds that meet the requirements of any of subparagraphs B(5) through (7) of the CRS.

The Belgian excluded contracts as “retirement and pension accounts” are:

- All the occupational pensions subscribed by the employer, the enterprise or the self-employed as defined in or for the purpose of Belgian Laws (2nd pillar pension contracts):
 - Law of April 28, 2003 regarding complementary pensions and the tax regime for such pensions and of certain complementary social security benefits (“Wet van 28 april 2003 betreffende de aanvullende pensioenen en het belastingstelsel van die pensioenen en van sommige aanvullende voordelen inzake sociale ”/“Loi du 28 avril 2003 relative aux pensions complémentaires et au régime fiscal de celles-ci et de certains avantages

complémentaires en matière de sécurité sociale zekerheid – Moniteur belge du 15 mai 2003, 2ème édition »);

- Law of December 24, 2002 regarding complementary pensions for self-employed people (“Programmawet van 24 december 2002, Aanvullende pensioenen zelfstandigen »/“Loi-programme du 24 décembre 2002, Pensions complémentaires des indépendants”-Moniteur belge du 31 décembre 2012”);
- (Coordinated) Law of July 14, 1994 regarding compulsory medical insurance and medical care and allowances (“Gecoördineerde wet van 14 juli 1994 betreffende de verplichte verzekering voor geneeskundige verzorging en uitkeringen”/“Loi coordonnée du 14 juillet 1994 relative à l’assurance obligatoire soins de santé et indemnités”);
- Title 4. Additional pension for company directors of the Law of May 15, 2014 introducing various provisions (Titel 4. Aanvullend pensioen voor bedrijfsleiders van de Wet van 15 mei 2014 houdende diverse bepalingen / Titre 4. Pension complémentaire pour dirigeants d’entreprise de la Loi de 15 mai 2014 portant des dispositions diverses).
- Articles 43 to 61, 71 and 77 of the Royal Decree of November 14, 2003 regarding life-insurance activities (“Koninklijk besluit van 14 november 2003 betreffende de levensverzekeringsactiviteit”/“Arrêté royal du 14 novembre 2003 relatif à l’activité d’assurance sur la vie”);
- Article 34, 52, 3°, b, 52, 7° bis, 59, 145-1, 1°, 145-3 and 195 of the Income Tax Code 92.

These retirement and pension accounts includes all pensions linked to an occupation, even if the above mentioned requirement under e) is not met as all these contracts are subject to substitute requirements by virtue of the Belgian legislation.

The above exclusions are applicable regardless of whether the pay-outs of the insurance contract are liquidated in the form of a lump-sum or with the form of an annuity²⁸.

- Retirement Savings Account or Life Insurance Contract for the purpose of Articles 145-1, 5° and Articles 145-8 to 145-16 of the Income Tax Code 92 ;

²⁸ This is foreseen under article 28 of the Law of April 28, 2003; article 50 of Law of December 24, 2002; article 19 of the Royal Decree of November 14, 2003 and article 3 of the Royal Decree of January 12, 2007 and the explanatory memorandum of the Law of December 19, 2012.

- Long-term savings contracts for the purpose of articles 145-1, 2° and 145-4 and 145-37 to 145-46 of the Income Tax Code 92.

Furthermore it should be noted that there are several insurance products that are not considered to be Financial Accounts and as such are not subject to the CRS (see section 4.7.)

An overview of all insurance products and annuities that are, or are not considered as financial accounts or are excluded from the definition of a financial account for the application of the CRS can be found in Appendix 7.

- **Non-Retirement Savings Accounts**

An account maintained in Belgium that satisfies the following requirements under the laws of Belgium:

- a) the account is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market, or the account is subject to regulation as a savings vehicle for purposes other than for retirement;
- b) the account is tax-favoured (i.e., contributions to the account that would otherwise be subject to tax under the laws of Belgium 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 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 \$50,000 or less, applying the rules set forth in paragraph C of Section VII of the CRS for account aggregation and currency translation.

A Financial Account that otherwise satisfies the requirements of this subparagraph 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 subparagraph C(17)(a) or (b) of the CRS or from one or more retirement or pension funds that meet the requirements of any of subparagraphs B(5) through (7) of the CRS.

4.10.2. Certain Term Life Insurance Contracts

A life insurance contract maintained in Belgium with a coverage period that will end before the insured individual attains age 90, provided that the contract satisfies the following requirements:

- 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 90, 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.

4.10.3. Accounts held by Estate (“nalatenschap/succession”)

Accounts of deceased persons will not be treated as Financial Accounts on the condition that the Belgian FI has received and is in possession of a formal notification of the Account Holder's death (a copy of the deceased's death certificate or a copy of the will). The FI 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. An Estate Account is not reportable in the year of the Account Holder's death and subsequent years for as long that it qualifies as an account held by an Estate.

Example:

Reportable Person X deceases on June 15, 2017 and the FI is provided with the death certificate on June 20, 2017. As of June 20, 2017 the account will be treated as an estate account.

As long as an account remains an estate account, the account is not reportable. If the account is still an estate account on December 31, 2017, the account is not reportable for the whole year 2017.

As regards cash value insurance contracts, the specific rules described at 4.4.5, 7.3 and 10.4.3.2.3 are applicable.

4.10.4. Escrow Accounts ²⁹

These are accounts maintained in Belgium established in connection with any of the following:

1. A court order or judgment
2. A sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:
 - a) the account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the

²⁹ This term should not be interpreted as defined under level playing field.

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;

- b) 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. For example: “huurwaarborgrekening/garantie locative”;
- c) 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;
- d) the account is not a margin or similar account established in connection with a sale or exchange of a financial asset; **and**
- e) the account is not associated with a credit card account.

3. An obligation of a FI servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time.

4. An obligation of a FI solely to facilitate the payment of taxes at a later time.

4.10.5. Depository Accounts due to not-returned overpayments

The CRS Commentary clarifies that a “Reporting Financial Institution that does not satisfy the requirements to be a Qualified Credit Card Issuer, but accepts deposits when a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility, may still not report a Depository Account that qualifies as an Excluded Account to the extent that:

- 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 [xx/xx/xxxx], the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of USD 50 000, or to ensure that any customer overpayment in excess of USD 50 000 (and of the balance due with respect to the card or facility) is refunded to the customer within 60 calendar days, in each case applying the rules set forth in paragraph C of Section VII of the CRS 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.”³⁰

³⁰ Commentary on section VIII, subparagraphs C(5) through (8), 95.

4.10.6. Low-risk Excluded Accounts

An account can also be an Excluded Account provided that:

- a) the account presents a low risk of being used to evade tax;
- b) the account has substantially similar characteristics to any of the accounts described in subparagraphs C(17)(a) through (f) CRS standard;
- c) the account is defined in domestic law as an Excluded Account; and
- d) the status of the account as an Excluded Account does not frustrate the purposes of the Common Reporting Standard.

Low-risk excluded accounts include in particular:

- Stock-remuneration plans qualifying under the Belgian Law of 22 May 2001 (“Wet van 22 mei 2001 betreffende de werknemersparticipatie in het kapitaal en in de winst van de vennootschappen”/“Loi relative aux régimes de participation des travailleurs au capital et aux bénéfices des sociétés”);
- Stock-Options as referred under the Belgian Plan for Employment Act of 26 March 1999 (“Wet van 26 maart 1999 betreffende het Belgisch actieplan voor de werkgelegenheid 1998 en houdende diverse bepalingen”/ “Loi du 26 mars 1999 relative au plan d'action belge pour l'emploi 1998 et portant des dispositions diverses”);
- 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 the section 4.10 and is defined in domestic law as an excluded account provided that the status of such account as an excluded account does not frustrate the purposes of the CRS.

These accounts will not be subject to the due diligence procedures and are not Reportable Accounts.

4.10.7. Issuer’s share- or bondholders registers

An issuer’s share- or bondholders register does not qualify as a Financial Account, irrespective of whether the register is managed by a Financial Institution. The shares or bonds themselves qualify as respectively equity and debt interests and hence qualify as Financial Accounts maintained by the issuer in case the issuer is an Investment Entity contemplated by Section 2.7.1.,b) above.

4.11. Segregated Accounts

Where an investment manager or another FI is appointed to provide investment management services directly by the legal owner of assets, and posts these investments to a segregated account opened in the name of the said legal owner, then these are not Financial Accounts of the investment manager, but instead they will be Custodial Accounts maintained by the Custodial Institution

Note that in cases where a discretionary investment manager also holds assets on behalf of clients (by acting as Custodial Institution), reporting will be required on those accounts by virtue of the investment manager falling within the definition of a Custodial Institution. This also applies to discretionary investment managers who arrange for custody as agent on their clients' behalf, where the custody accounts are pooled nominee accounts opened in the name of the investment manager.

4.12. Dormant Accounts and dormant insurance contracts

Belgian FIs may apply their existing normal operating procedures to classify an account or an insurance contract as dormant in accordance with the Belgian Law of 24 July 2008 on dormant accounts.

Where normal operating procedures are not applicable, then the Belgian FI is to classify an account as dormant for the purpose of the CRS where:

- there has been no activity on the account in the past 5 years;
- the Account Holder has not contacted the FI regarding that account or any other account in the past 6 years;
- the account is not linked to an active account belonging to the same Account Holder.

The Belgian FI should classify the account or insurance contract based upon existing documentation it already has in its possession for the Account Holder. Where this review determines that the dormant account or insurance contract is reportable, then the Belgian FI should make the appropriate report notwithstanding that there has been no contact with the Account Holder.

An account will no longer be dormant where:

- under normal operating procedures the account is not considered dormant;
- the Account Holder contacts the FI in relation to that account or any other account held by the Account Holder with that FI;
- the Account Holder initiates a transaction with respect to the dormant account or any other account held by the Account Holder with that FI.

The FI would then have to ensure that it establishes the Account Holders' status, as if the account were a Pre-existing Account if not done previously.

Dormant collective investment vehicle

When a collective investment vehicle is closed but there remain residual debtors and recovery actions are being pursued, the collective investment vehicle will be not an Investment Entity for the purposes of CRS.

4.13. Rollovers

Where some or all of the proceeds of a maturing fixed term product qualifying as a Financial Account are rolled over, automatically or with the Account Holder's interaction, into a new fixed term product this shall not be deemed to be the creation of a New Account.

5. Due diligence

5.1. General Requirements

The purpose of DAC/CRS is to identify and report Reportable Accounts in scope of the latter. Such Reportable Accounts are accounts held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person. The DAC/CRS sets out that FIs are responsible for the identification and the reporting of such accounts.

However, a FI can rely on a third party service provider to fulfil its obligations under the legislation, but the obligations remain the responsibility of the FI and so any failure will be seen as a failure on the part of the FI.

Example 1

A collective investment scheme may use a transfer agent or distributor to fulfil its due diligence requirements or a Specified Insurance Company may use its brokers to fulfil its due diligence requirements. However, in the event of the transfer agent, distributor or broker failing to meet the legislative requirements, it will be the fund or Specified Insurance Company that will be held accountable.

DAC/CRS provides for a distinction between Financial Accounts maintained as of 31 December 2015 (“Pre-existing Accounts”) and those accounts opened on or after 1 January 2016 (“New Accounts”). A further distinction is made between accounts held by natural persons (“Individual Accounts”) and those accounts held by entities (“Entity Accounts”). Certain Financial Accounts opened after 1 January 2016 may, however, qualify as Pre-existing Accounts (see section 6).

- Indicia search

The FI can identify Reportable Accounts by searching for indicia (see Sections 6 and 8), by reference to documentation or information held or collected in accordance with maintaining or the opening of an account; this may include for example information held for the purposes of compliance with Belgian AML/KYC rules.

- Self-certification

A Self-certification is required in certain cases with respect to New Accounts and Pre-existing Accounts. This will be discussed in detail in Sections 6 to 9.

- Information in possession of the FI or Publicly available information

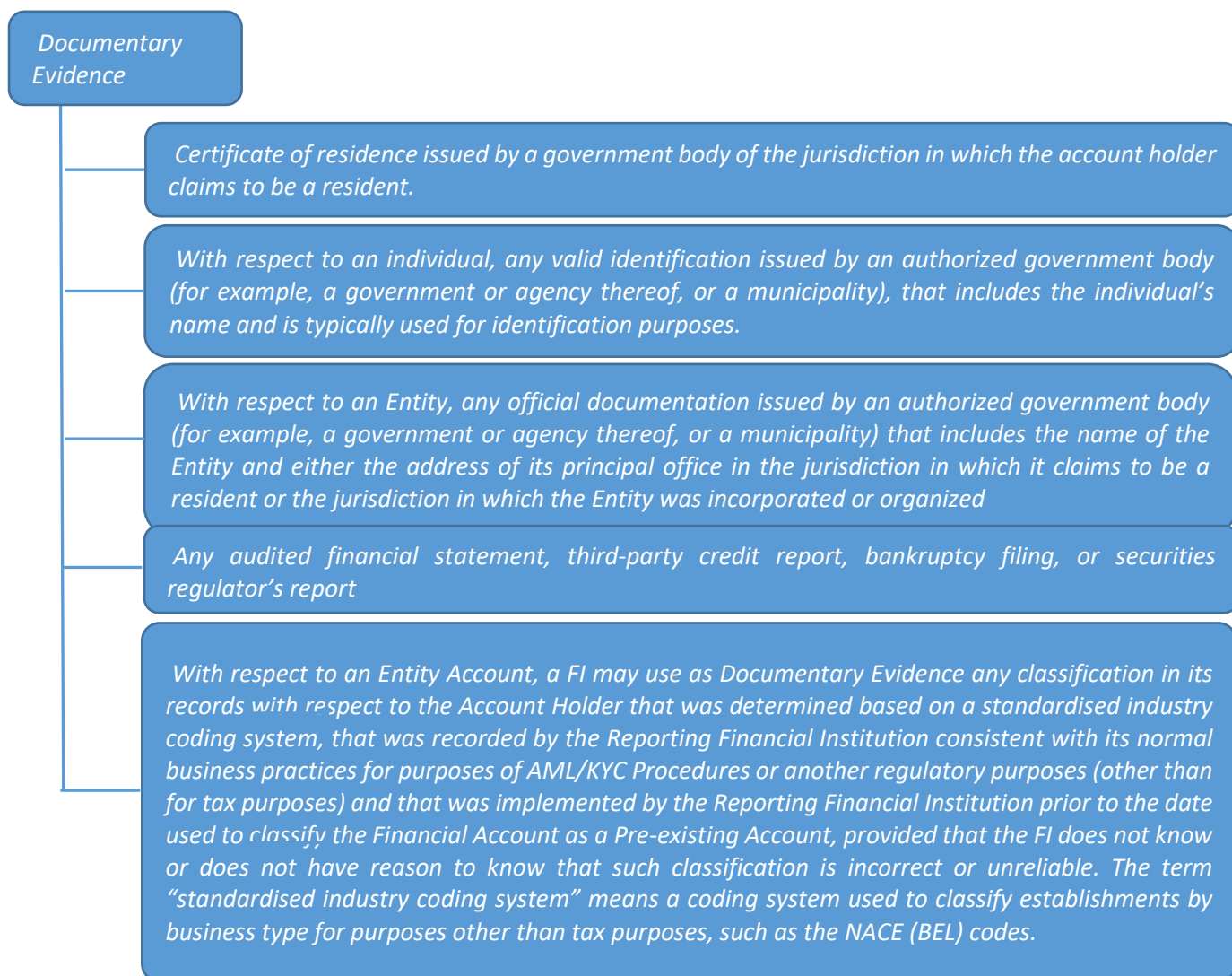
In certain cases, the FI may identify Reportable Accounts using information in its possession or publically available. This will be discussed in detail in Sections 6 to 9.

5.2. Documentation to support an account holder status

The type of documentation that the FI (or the third party service provider acting on behalf of the FI) should obtain in order to support an Account Holder status may vary.

The DAC/CRS refers to different notions such as ‘Self-certification’ and ‘Documentary Evidence’ to identify the type of documentation acceptable to support an Account Holder status.

The figure below provides examples of Documentary Evidence which can be used for DAC/CRS purposes:



5.2.1. Self-certification

The DAC/CRS do not impose a specific format for the Self-certification. An (optional) Self-certification template is included in annex.

5.3. Manner of obtaining Self-certification

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

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

- **Example 1:** Individual A completes an online application to open an account with Reporting Financial Institution K. All the information required for self-certification is entered by A on an electronic application (including a confirmation of A's jurisdiction of residence for tax purposes). A's information, as provided in the electronic self-certification, is confirmed by K's service provider to be reasonable based on the information it has collected pursuant to AML/KYC Procedures. A's self-certification is valid.
- **Example 2:** Individual B makes an application in person to open an account with bank L. B produces his identity card as proof of identification and provides all the information required for self-certification to an employee of L who enters the information into the L's systems. The application is subsequently signed by B. B's self-certification is valid.

A self-certification may be signed (or otherwise positively affirmed) by any person authorized to sign on behalf of the Account Holder under domestic law. A person authorized to sign a self-certification generally includes an executor of an estate, any equivalent of the former title, and any other person that has been provided written authorization by the Account Holder to sign documentation on such person's behalf.

5.4. Validity of Documentation

Documentary Evidence that contains an expiration date may be treated as valid on the later of that expiration date, or the last day of the fifth calendar year following the year in which the Documentary Evidence is provided to the Reporting Financial Institution. However, the following Documentary Evidence is considered to remain valid indefinitely:

- Documentary Evidence furnished by an authorized government body (such as a passport or an ID-card);
- Documentary Evidence that is not generally renewed or amended (such as a certificate of incorporation); or

- Documentary Evidence provided by a Non-Reporting Financial Institution or a Reportable Jurisdiction Person that is not a Reportable Person.

All other Documentary Evidence is valid until the last day of the fifth calendar year following the year in which the Documentary Evidence is provided to the Reporting Financial Institution.

5.5. Retention of Documentary Evidence

A FI or a third party undertaking due diligence procedures for a FI must retain records of the Documentary Evidence, **or** a notation or record of documents reviewed and used to support an account holder's status.

The required retention period is fully aligned with existing Belgian AML/KYC rules.

The documentary evidence can be retained as originals, photocopies or in an electronic format.

A FI that is not required to retain copies of documentation reviewed under AML due diligence procedures will be treated as having retained a notation or record of such documentation if it retains a record in its files noting:

- the date the documentation was reviewed,
- the type of the documentation,
- the document's identification number where present (for example, a passport number).

5.6. Document sharing

Documentation is required to support the status of each Financial Account held. However in the following circumstances documentation obtained by a FI can be used in relation to more than one Financial Account.

5.6.1. Single Branch System

A FI may rely on documentation furnished by a customer where an existing customer opens a new Financial Account with the same FI and where both accounts are treated as a single account or obligation for due diligence and reporting purposes.

5.6.2. Universal account systems

A FI may rely on documentation furnished by a customer for an account held at another branch location of the same FI or at a branch location of a related entity of the FI if:

- the FI treats all accounts that share documentation as a single account or obligations, **and**

- the FI and the other branch location or related entity are part of a universal account system that uses a customer identifier that can be used to retrieve systematically all other accounts of the customer.

In this scenario a FI must be able to produce to the FPS Finances the necessary records and documentation relevant to the status claimed (or a notation of the documentary evidence reviewed, if the FI is not required to retain copies of the documentary evidence for AML purposes).

5.6.3. Shared account systems

A FI may rely on documentation provided by a customer for an account held at another branch location of the same FI, if:

- the FI treats all accounts that share documentation as consolidated accounts, and
- the FI and the other branch location share an information system, electronic or otherwise, that is described below.

A shared account system must allow the FI to easily access data about the nature of the documentation, the information contained in the documentation (including a copy of the documentation itself), and the validity status of the documentation.

If the FI becomes aware of any fact that may affect the reliability of the documentation, the information system must allow the FI to easily record this data in the system.

Additionally the FI must be able to show how and when it transmitted data regarding such facts into the information system and demonstrate that any data it has transmitted to the information system has been processed and the validity of the documentation subjected to appropriate due diligence.

A FI that opts to rely upon the status designated for the Account Holder in the shared account system, without obtaining and reviewing copies of the documentation supporting the status, **must** be able to produce upon request by the FPS Finances all documentation (or a notation of the documentary evidence reviewed, if the FI is not required to retain copies of the documentary evidence for AML purposes) relevant to the status claimed.

5.7. Self-Certification

A Self-certification is required upon account opening. 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.

Where a self-certification is obtained at account opening but validation of the self-certification cannot be completed because it is a 'day two' process undertaken by a back-office function, the self-certification should be validated within a period of 90 days from the opening of the account

When the initial self-certification cannot be validated by the back-office function (e.g. missing TIN or signature), a new self-certification should be requested and validated within a period of 90 days from the opening of the account.

There are a limited number of instances, where due to the specificities of a business sector 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 be both obtained and validated as quickly as feasible, and in any case within a period of 90 days from the opening of the account. If a valid self-certification is not obtained within a period of 90 days from the opening of the account the financial institution shall block the account until a valid self-certification is obtained or end the relationship with the account holder.

5.7.1. Wording of self-certification

A FI can choose the form of wording it uses to determine the tax residence of an Account holder. However the wording must be sufficient for an account holder to confirm whether he is a Reportable Person (see Section 7.4.1).

5.7.2. Format of the self-certification

FIs may permit individuals to open accounts in various ways. For example individuals can make investments or purchase financial products by telephone, online or on paper application forms. They may even invest without using any of the FIs set application processes and instead send a payment with a covering letter (which is then followed up with required documentation). The method of self-certification does not necessarily have to follow the account application method.

Self-certifications can be obtained in any of these account opening procedures.

5.8. Confirming the Reasonableness of Self-Certification

A FI may not rely on a self- certification if it knows or has reason to know that the self-certification or Documentary Evidence is incorrect or unreliable.

5.8.1. Application of the reasonableness test

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

The following examples illustrate the application of the “reasonableness” test regarding New Individual Accounts:

- **Example 1:** A Reporting Financial Institution obtains a self-certification from the Account Holder upon account opening. The jurisdiction of the residence address contained in the self-certification conflicts with that contained in the documentation collected pursuant to AML/KYC Procedures. Because of the conflicting information, the self-certification is incorrect or unreliable and, as a consequence, it fails the reasonableness test.
- **Example 2:** A Reporting Financial Institution obtains a self-certification from the Account Holder upon account opening. The residence address contained in the self-certification is not in the jurisdiction in which the Account Holder claims to be resident for tax purposes. Because of the conflicting information, the self-certification fails the reasonableness test.

A FI knows or has reasons to know that a self-certification is unreliable if the self-certification does not contain a TIN and the information included on the OECD Automatic Exchange Portal (<http://www.oecd.org/tax/transparency/automaticexchangeofinformation.htm>)

indicates that the Reportable Jurisdiction issues a TIN to all tax residents. The FI is however not obliged to confirm the format or other specifications of the TIN.

A Reporting Financial Institution that maintains multiple accounts for a single person will have reason to know that a status for the person is inaccurate based on account information for another account held by the person only to the extent that the accounts are either required to be aggregated or otherwise treated as a single account.

When, where applicable, the self-certification cannot be validated by a back-office function in application of the reasonableness test a new self-certification should be requested and validated within a period of 90 days.

5.8.2. Limits on reasons to know

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

A Reporting FI does not know or have reason to know that a self-certification (or Documentary Evidence) is unreliable or incorrect solely because of a change of address in the same jurisdiction as that of the previous address. In addition, a Reporting FI does not know or have reason to know that a self-certification or Documentary Evidence is unreliable or incorrect solely because it discovers any of

the indicia (c) to (e) contained in sub-paragraph B(2) of Section III of the CRS and such indicia conflicts with the self-certification or Documentary Evidence. The following examples illustrate the application of the limits on the standards of knowledge:

- **Example 1:** A, a bank that is a Reporting FI, maintains a Depository Account for P, an individual Account Holder. The Depository Account is a Preexisting Account and A has relied on the address in its records for P, as supported by his passport and a utility bill collected upon opening of the account, to determine that P is resident for tax purposes in jurisdiction X (application of the residence address test). Five years later, P provides a power of attorney to his sister, who lives in jurisdiction Y, to operate his account. The fact that P has provided such power of attorney is not sufficient to give A reason to know that the Documentary Evidence relied upon to treat P as a resident of jurisdiction X is unreliable or incorrect.
- **Example 2:** B, an insurance company that is a Reporting Financial Institution, has entered into a Cash Value Insurance Contract with Q. Since the contract is a New Individual Account, B has obtained a self-certification from Q and confirmed its reasonableness on the basis of the AML/KYC documentation collected from Q. The self-certification confirms that Q is resident for tax purposes in jurisdiction V. Two years after B entered into the contract with Q, Q provides a telephone number in jurisdiction W to B. Although B did not previously have any telephone number in its records for Q, the sole receipt of a telephone number in jurisdiction W, does not constitute a reason to know that the original self-certification is unreliable or incorrect.

5.8.3. Requesting a new self-certification or a reasonable explanation and documentation

In the case of a self-certification that would otherwise fail the reasonableness test, it is expected that in the course of the account opening procedures the Reporting Financial Institution would obtain either (i) a valid self-certification, or (ii) a reasonable explanation and documentation (as appropriate) supporting the reasonableness of the self-certification (and retain a copy or a notation of such explanation and documentation). Examples of such “reasonable explanation” in case the residence address does not correspond to the tax residence contained in the self-certification, include a statement by the individual that he or she (1) is a student at an educational institution in the relevant jurisdiction and holds the appropriate visa (if applicable); (2) is a teacher, trainee, or intern at an educational institution in the relevant jurisdiction or a participant in an educational or cultural exchange visitor program, and holds the appropriate visa (if applicable); (3) is a foreign individual assigned to a diplomatic post or a position in a consulate or embassy in the relevant jurisdiction; (4) an EU official; or (5) a NATO/IMS/SHAPE official.

- **Example 1:** C, a bank that is a Reporting FI, opens a Depository Account for P, an individual Account Holder, who is a foreign diplomat. Since the account is a New Individual Account, C has obtained a self-certification from P which states that P has his tax residence in jurisdiction X and his legal address in

Belgium. P has not included any documentation supporting why his tax residence is not equal to his legal address. Hence, the self-certification provided by P is invalid. C requests from P a valid self-certification or a reasonable explanation why his tax residence is not equal to his legal address. P provides a copy of his diplomatic passport supporting his tax residence in jurisdiction X. Having received documentation supporting the reasonableness of the original self-certification, C accepts the original self-certification as valid.

- **Example 2:** C, a bank that is a Reporting FI, opens a Depository Account for P, an individual Account Holder, who is an EU official. Since the account is a New Individual Account, C has obtained a self-certification from P which states that P has his tax residence in jurisdiction X and his legal address in Belgium. P has not included any documentation supporting why his tax residence is not equal to his legal address. Hence, the self-certification provided by P is invalid. C requests from P a valid self-certification or a reasonable explanation why his tax residence is not equal to his legal address. P provides a form 276 EUR supporting his tax residence in jurisdiction X. Having received documentation supporting the reasonableness of the original self-certification, C accepts the original self-certification as valid.

A Reporting Financial Institution may treat a self-certification as valid, notwithstanding that the self-certification contains an inconsequential error, if the Reporting Financial Institution has sufficient documentation on file to supplement the information missing from the self-certification due to the error. In such case, the documentation relied upon to cure the inconsequential error must be conclusive. For example, a self-certification in which the individual submitting the form abbreviated the jurisdiction of residence may be treated as valid, notwithstanding the abbreviation, if the Reporting Financial Institution has government issued identification for the person from a jurisdiction that reasonably matches the abbreviation.

5.9. Aggregation

To identify whether the Accounts are Reportable, a FI will need to consider aggregation of accounts of both individuals and entities under certain circumstances.

5.9.1. When do the aggregation rules apply?

Both with regard to individuals and with regard to entities, a Reporting Financial Institution is required to aggregate (or take into account) 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 computerised systems link the Financial Accounts by reference to a data element such as client number or TIN, and allow account balances or values to be aggregated.

Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements.

- Example 1** (Reporting Financial Institution not required to aggregate accounts): An Entity, U, holds a depository account with AP, a commercial bank that is a Reporting Financial Institution. The balance in U's account at the end of Year 1 is USD 160 000. U also holds another depository account with AP, with a USD 165 000 balance at the end of Year 1. AP's retail banking businesses share computerised information management systems, but U's accounts are not associated with one another in the shared computerised information system. Because the accounts are not associated in AP's system, AP is not required to aggregate the accounts and both accounts are eligible for the exception described in paragraph A of Section V as neither account exceeds the USD 250 000 threshold.
- Example 2** (Reporting Financial Institution required to aggregate accounts): Same facts as Example 1, except that both of U's depository accounts are associated with U and with one another by reference to AP's internal identification number. The system shows the account balances for both accounts, and such balances may be electronically aggregated, though the system does not show a combined balance for the accounts. In determining whether such accounts meet the exception described in paragraph A of Section V for accounts with an aggregate balance or value of USD 250 000 or less, AP is required to aggregate the account balances of all depository accounts under the account aggregation rules. Under those rules, U is treated as holding depository accounts with AP with an aggregate balance of USD 325 000. Accordingly, neither account is eligible for the exception, because the accounts, when aggregated, exceed the USD 250 000 threshold.
- Example 3** (Aggregation rules for joint accounts maintained by a Reporting Financial Institution): In Year 1, an individual, U, holds a custodial account that is a preexisting account at custodial institution SH, a Reporting Financial Institution. The balance in U's SH custodial account at the end of Year 1 is USD 700 000. U also holds a joint custodial account that is a preexisting account with her sister, A, with another custodial institution, SH2. The balance in the joint account at the end of Year 1 is also USD 700 000. SH and SH2 are Related Entities and share computerised information management systems. Both U's custodial account at SH and U and A's custodial account at SH2 are associated with U and with one another by reference to SH's internal identification number and the system allows the balances to be aggregated. In determining whether such accounts meet the definition of "High Value Account", SH is required to aggregate the account balances of accounts held in whole or in part by the same account holder under the account aggregation rules. Under those rules, U is treated as having financial accounts with SH and SH2, each with an aggregate balance of USD 1 400 000. Accordingly, both of U's accounts are High Value Accounts. A is only treated as having a financial account with SH2 with a balance of USD 700 000 since she is not an Account Holder of U's custodial account at SH. Accordingly, A's account is a Lower Value Account

5.9.2. Special Aggregation Rule Applicable to Relationship Managers

In order to determine whether a Financial Account is a High Value Account, a Reporting Financial Institution is required to aggregate all Financial Accounts that a

Relationship Manager knows, or has reason to know, are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person. This requirement includes aggregating all accounts that the relationship manager has associated with one another through a name, relationship code, customer identification number, TIN, or similar indicator, or that the relationship manager would typically associate with each other under the procedures of the financial institution (or the department, division, or unit with which the relationship manager is associated).

- **Example 1** (Accounts held by a Passive NFE and by one of its Controlling Person): A Passive NFE, T, holds a depository account with A, a commercial bank that is a Reporting Financial Institution. One of T's Controlling Persons, N, also holds a depository account with A. Both accounts are associated with N and with one another by reference to A's internal identification number. In addition, A has assigned a relationship manager to N who has actual knowledge that the accounts are directly or indirectly owned, controlled, or opened (other than in a fiduciary capacity) by the same person. A is required to aggregate the accounts.
- **Example 2** (Accounts held by different Passive NFEs with a common Controlling Person): Same facts as Example 1. In addition, another Passive NFE, I, holds a depository account with A. N is also one of I's Controlling Persons. I's account is not associated with N nor with T's and N's accounts by reference to A's internal identification number. Because the accounts are associated by a relationship manager, A is required to aggregate the accounts.

5.9.3. Related Entities

Where a computer system links accounts across Related Entities, the FI will need to aggregate in considering whether any of the reporting thresholds apply. However, once it has considered the thresholds, the FI will only be responsible for reporting on the accounts it holds.

5.10. Currency Conversion

Where accounts or reportable items are denominated in a currency other than US dollars then the threshold limits must be converted into the currency in which the accounts are denominated before determining if they apply. It is permitted to round up the converted thresholds in euros.

The balance or valuation of a Financial Account is the balance or value calculated by the FI for purposes of reporting to the Account Holder.

The method of conversion may be based on a published exchange rate or the exchange rate used towards the client.

This method of conversion must be applied consistently to all Financial Accounts or to a clearly identifiable group of accounts, such as by line of business or the location of where the account is maintained.

In the case of closed accounts the exchange rate to be used is the rate on the date the account was closed or the rate that is the most readily available.

Alternatively a FI could convert non-US dollar balances into US dollars and then apply the thresholds. Regardless of the method of conversion, the rules for determining the exchange rate apply.

Examples of appropriate exchange rates are a.o., Reuters, Bloomberg, Financial Times and exchange rates published on the Belgian State website (www.fgov.be).

5.11. Taxpayer Identification Numbers

The TIN to be collected and reported with respect to an account is the TIN assigned to the Account Holder by its jurisdiction of residence (i.e. not by a jurisdiction of source). In 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 Belgian individual tax residents, the TIN corresponds to their national number. For entities which are Belgian tax resident, the TIN corresponds to their company number.

Belgian financial institutions may use the TIN from Belgian individuals obtained for other identification purposes for CRS purposes.

With respect to each Reportable Account that is a Pre-existing Account, the TIN(s) is not required to be reported if such TIN(s) is not in the records of the Reporting Financial Institution and is not otherwise required to be collected by such Reporting Financial Institution under domestic law. However, a Reporting Financial Institution is required to use reasonable efforts to obtain the TIN(s) and date of birth with respect to Pre-existing Accounts by the end of the second calendar year following the year in which Pre-existing Accounts were identified as Reportable Accounts.

The TIN is not required to be collected and reported if a TIN is not issued by the relevant Member State or other jurisdiction of residence.

5.12. Change of Circumstances

A "change in circumstances" includes any change that results in the addition of information relevant to a person's status or otherwise conflicts with such person's status. In addition, a change in circumstances includes any change or addition of information to the Account Holder's account (including the addition, substitution, or other change of an Account Holder) or any change or addition of information to any account associated with such account (applying the account aggregation rules) if such change or addition of information affects the status of the Account Holder. A change in the Active/Passive ratio (Appendix 4) does not of itself trigger a change of status but shall be reviewed at the occasion of the AML periodic review.

A self-certification becomes invalid on the date that the Reporting Financial Institution holding the self-certification knows or has reason to know that circumstances affecting

the correctness of the self-certification have changed. 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 establishes the residence(s) for tax purposes of the Account Holder, or (ii) a reasonable explanation and documentation (as appropriate) supporting the validity of the original self-certification (and retain a copy or a notation of such explanation and documentation). However, a Reporting Financial Institution may choose to treat a person as having the same status that it had prior to the change in circumstances until the earlier of 90 calendar days from the date that the self-certification became invalid due to the change in circumstances, the date that the validity of the self-certification is confirmed, or the date that a new self-certification is obtained.

If the Reporting Financial Institution cannot obtain a confirmation of the validity of the original self-certification or a valid self-certification during such 90-day period, the Reporting Financial Institution must treat the Account Holder as resident of the jurisdiction in which the Account Holder claimed to be resident in the original self-certification and the jurisdiction in which the Account Holder may be resident as a result of the change in circumstances.

A Reporting Financial Institution may rely on a self-certification, unless it knows or has reason to know that circumstances have changed. Therefore, a Reporting Financial Institution is expected to institute procedures to ensure that any change that constitutes a change in circumstances is identified by the Reporting Financial institution. In addition, 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

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 (or other equivalent documentation) 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 the electronic record search procedure.

5.13. Mergers or Bulk Acquisitions of Accounts

A Reporting Financial Institution that acquires an account from a predecessor or transferor in a merger or bulk acquisition of accounts for value is permitted to rely upon valid documentation (including a valid self-certification) or copies of valid documentation collected by the predecessor or transferor. In addition, a Reporting Financial Institution that acquires an account in a merger or bulk acquisition of accounts for value from another Reporting Financial Institution that has completed all the due diligence required with respect to the accounts transferred, is permitted to also rely upon the predecessor's or transferor's determination of status of an Account

Holder until the acquirer knows, or has reason to know, that the status is inaccurate or a change in circumstances occurs.

5.14 Special Cases

In this chapter an overview is provided of the CRS process for “special cases”. These cases are exceptions and do not follow the standard process (for all new individuals a self-certification is required, including the identification, fiscal address, tax residence, TIN and date, place, signature).

5.14.1 Minors

The process issue in case of minors is that not all countries provide a TIN for minors.

General principles

Request a self-certification with fiscal residence and TIN. Accept the properly completed self-certification signed by the legal representative without TIN, **if** a reasonable explanation (e.g. “minor”) is provided. The TIN of the parents is not accepted unless foreseen by the local tax authorities.

If a client does not answer within the 90 days, he is considered a reportable person by default in the jurisdiction where indicia were found.

Control

When a minor client with fiscal residence in a participating jurisdiction becomes a major (e.g. turns 18 in Belgium), the client has to sign a self-certification.

5.14.2 Students

The process issue with students is that not all countries provide a TIN for students (non-working population).

General principles

Request a self-certification with fiscal residence and TIN. Accept the properly completed self-certification signed by the student without TIN, **if** a reasonable explanation is provided (e.g. “student”). If a client does not answer within the 90 days, he is considered a reportable person by default in the jurisdiction where indicia were found.

Control

When a client with fiscal residence in a participating jurisdiction is no more student (e.g. change in profession), the client has to sign a new self-certification.

5.14.3 “Children of the judge”

The process issue with “Children of the judge” is that they have no legal representation by a parent but rather by a judge and as a minor, they typically also have no TIN.

General principles

Request a self-certification with fiscal residence and TIN. Accept the properly completed self-certification signed by the judge without TIN, **if** a reasonable explanation is provided (e.g. it concerns a minor / prolonged minority).

A bank **may** apply an exceptional rule to the general principle above; in case there is a judgement of a Belgian court concerning a Belgian citizen **and** no foreign indicia are found, a self-certification is not required.

If self-certification is asked and not received within the 90 days, the “child of the judge” is considered a reportable person by default in the jurisdiction where indicia were found.

Control

When a minor “child of the judge” with fiscal residence in a participating jurisdiction becomes a major (e.g. turns 18 in Belgium), the client has to sign a self-certification.

5.14.4 Legally incapable individuals

The process issue with a legally incapable individual is that a temporary administrator (e.g. a lawyer) has to open the account for these clients.

General principles

Request a self-certification with fiscal residence and TIN. Accept the properly completed self-certification signed by the temporary administrator.

A bank **may** apply an exceptional rule to the general principle above, in case there is a verdict of a Belgian court concerning a Belgian citizen **and** no foreign indicia are found, a self-certification is not required.

If self-certification is asked and not received within the 90 days, the legally incapable individual is considered a reportable person by default in the jurisdiction where indicia were found.

Control

When the client is not ‘legally incapable individual’ anymore, the client has to sign a self-certification.

5.14.5 Third party accounts

The third party accounts are excluded for reporting under CRS.

5.14.6 Relocation

a. The process issue for relocation is that a relocation includes a change in the address.

General principles

Request a self-certification with fiscal residence and TIN. Accept the properly completed self-certification signed by the client/account holder, **if** it represents the situation that is applicable at the moment that the document is signed. If self-certification is asked and not received within the 90 days, the client is considered a reportable person by default in the jurisdiction where indicia were found.

b. Not all countries provide a TIN directly for people who just have relocated.

If the local tax authorities have not issued TIN yet, a bank may accept the self-certification without a TIN. As soon as the local tax authorities have issued a TIN for that client, the TIN has to be provided to the bank.

5.14.7 Asylum seekers

Belgian asylum seekers are not considered as Belgian tax resident (see article 4, 4° of the Belgium Tax Code as modified by the law of 25 December 2016 - MB/BS of 30/12/2016).

General principles

Request a self-certification with fiscal residence and TIN. Accept the properly completed self-certification signed by the client/account holder with conflicting countries for fiscal residence and address, **if** a reasonable explanation (e.g. “asylum seeker”) and documents to support their explanation why their fiscal residence and address conflict, are provided.

If a client does not answer within the 90 days, he is considered a reportable person by default in the jurisdiction where indicia were found.

5.14.8 Organisations under constitution

The process issue with organisations under constitution is that these organisations do not have a TIN yet.

General principles

Request a self-certification with fiscal residence and TIN. Accept the properly completed self-certification signed by the person with signing authority without TIN, **if** a reasonable explanation is provided (e.g. “organisation under constitution”).

Control

A TIN has to be provided by the company, when it has been received. It is recalled that for new accounts the rule is that a valid self-certification should always be validated within a period of 90 days from the opening of the account (see point 5.7). Where in exceptional circumstances no TIN number is available yet, Belgian FIs are required to report “000000000” as the TIN.

5.14.9 Individuals without fiscal residence

The process issue with clients without a fiscal residence is that they can't provide a fiscal residence on the self-certification.

General principles

Request a self-certification with fiscal residence and TIN. Accept the self-certification signed by the client without TIN, **if** an explanation (e.g. “client without fiscal residence”) is provided **and** formal evidence is provided to support the statement that the client has no fiscal residence. As long as no evidence is provided to remediate the indicia, the client remains reportable on the indicia.

If a client does not answer within the 90 days, he is considered a reportable person by default in the jurisdiction where indicia were found.

6. Pre-existing Individual Accounts Identification

The term “Pre-existing Individual Account” means:

a) a Financial Account held by one or more Reportable Persons, who are individuals, and in existence at the point that the various automatic exchange of information regimes ‘switch on’ under the timelines for due diligence and reporting (i.e. on 31 December 2015 for early adopting jurisdictions including all EU Member States with the exception of Austria)

b) any Financial Account held by one or more individuals and maintained by a Reporting FI, regardless of the date such Financial Account was opened, if:

i) the Account Holder also holds with the Reporting FI (or with a Related Entity within the same jurisdiction as the Reporting FI) a Financial Account that is a Pre-existing Account under a);

ii) the Reporting FI (and, as applicable, the Related Entity within the same jurisdiction as the Reporting FI) treats both of the aforementioned Financial Accounts, and any other Financial Accounts of the Account Holder that are treated as Pre-existing Accounts under b), as a single Financial Account for purposes of satisfying the standards of knowledge requirements set forth in paragraph A of Section VII of the CRS, 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 FI is permitted to satisfy such AML/KYC Procedures for the Financial Account by relying upon the AML/KYC Procedures performed for the Pre-existing Account described in a); **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 CRS.

Pre-existing Accounts will be considered as reportable if they are not excluded and the Reporting FI has identified CRS indicia (See Section 6.3.) and those indicia have not been cured or repaired.

Pre-existing Accounts will fall into one of three categories depending on the balance or value of the account. These are:

- Cash Value Insurance Contracts and Annuity Contracts provided that the Reporting FI is effectively prevented by law from selling such contracts to residents of a Reportable Jurisdiction (See Section 6.2)
- Lower Value Accounts (See Section 6.3)
- High Value Accounts (See Section 6.4)

Effects on finding CRS indicia are described in Section 6.5)

Timing of reviews is described in Section 6.6)

6.1. Reportable Accounts

Where it is established that the holder of a Pre-existing Individual Account is a resident in a Reportable Jurisdiction for tax purposes then the account must be treated as a Reportable Account.

An account is identified as a Reportable Account based on its status at the end of the calendar year or reporting period. Information with respect to that account must be reported as if it were a Reportable Account through the full calendar year or reporting period in which it was identified as such pursuant to the relevant due diligence procedures.

Once an account is a Reportable Account, it maintains such status until the date it ceases to be a Reportable Account and, unless otherwise provided, information with respect to a Reportable Account must be reported annually in the calendar year following the year to which the information relates.

The following examples illustrate, in general, the application of this Section:

Example 1 (Account that becomes a Reportable Account):

An account is opened on 28 May 00 and is identified as a Reportable Account on 3 December 01. Because the account was identified as a Reportable Account in calendar year 01, information with respect to that Reportable Account must be reported in calendar year 02 with respect to the full calendar year 01 and on an annual basis thereafter.

Example 2 (Account that ceases to be a Reportable Account):

The facts are the same as in Example 1. However, on 24 March 02, the Account Holder ceases to be a Reportable Person and, as a consequence, the account ceases to be a Reportable Account. Because the account ceased to be a Reportable Account on 24 March 02, information with respect to that account is not required to be reported in calendar year 03 nor afterwards, unless the account once again becomes a Reportable Account in calendar year 03 or any subsequent calendar year.

Example 3 (Account that is closed):

An account is opened on 9 September 04 and becomes a Reportable Account on 8 February 05. However, on 27 September 05, the Account Holder closes the account. Because the account was a Reportable Account between 8 February and 27 September 05 and was closed in calendar year 05, information with respect to that account (including the fact the account was closed, but not the balance of that account) must be reported in calendar year 06 with respect to the part of calendar year 05 between 1 January and 27 September.

Example 4 (Account that ceases to be a Reportable Account and is closed):

The facts are the same as in Example 2, except that on 4 July 02 the Account Holder closes the account. Because the account ceased to be a Reportable Account on 24 March 02, information with respect to that account is not required to be reported in calendar year 03. This example also covers the death of the person before the closing of the account.

6.2. Pre-existing Individual Cash Value Insurance Contracts or Annuity Contracts provided that the Reporting FI is effectively prevented by law from selling such contracts to residents of a Reportable Jurisdiction

Following to the CRS a Pre-existing individual Cash Value Insurance Contract or an Annuity Contract for which the Reporting FI is not required to be reviewed, identified or reported, provided the Reporting FI is effectively prevented by law from selling such Contract to residents of a Reportable Jurisdiction³¹.

The Commentary stipulates that is the case if:

- a) the law of the Reporting FI's jurisdiction prohibits or otherwise effectively prevents the sale of such contracts to residents in another jurisdiction; or
- b) the law of a Reportable Jurisdiction prohibit or otherwise effectively prevents the Reporting FI from selling such contracts to residents of such Reportable Jurisdiction.

Where the applicable law does not prohibit Reporting FI's from selling insurance or annuity contracts outright, but requires them to fulfil certain conditions prior to being able to sell such contracts to residents or the Reportable Jurisdiction (such as obtaining a license and registering the contracts, a Reporting FI that has not fulfilled the required conditions under the applicable law will be considered to be "effectively prevented by law" from selling such contracts to residents of such Reportable Jurisdiction³²

No existing Belgian Law prevents the sale of Cash Value Insurance products or Annuity Contracts to non-residents. However, the sale of contracts to residents of a Reportable Jurisdiction will be considered effectively prevented if the issuing Specified Insurance Company (not including any US branches) is not licensed to sell insurance in the Reportable Jurisdiction.

However, this tolerance is not stipulated in the European Directive 2014/107/EU of 9 December 2014 as regards mandatory automatic exchange of information in the field of taxation.

³¹ Annex I, Section III, A.

³² Commentary on Section III concerning Due Diligence for preexisting individual Accounts, Paragraph a.

Assignment of Pre-existing Insurance Contracts

When a Pre-existing Cash Value Insurance Contract or Annuity Contract is assigned to another person and the Insurance Company becomes aware of this assignment then the Insurance Company will need to carry out checks on the New Account Holder within the timescales for New Accounts following the rules on anti-money laundering.

6.3. Pre-Existing Lower Value Accounts Identification

Low value pre-existing accounts are accounts with an aggregated balance or value that does not exceed \$1,000,000 at the date that the pre-existing accounts first need to be reviewed or at any 31 December following the initial review date.

This Section contains the procedures that apply with respect to Lower Value Accounts. Such procedures are the residence address test (for tax purposes) and the electronic record search.

6.3.1. Residence address test

If the Reporting FI has in its records a current residence address for the individual Account Holder based on Documentary Evidence, the Reporting FI may 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 such individual Account Holder is a Reportable Person.

For purposes of determining whether an individual Account Holder is a Reportable Person, the Reporting FI may treat such individual as being a resident for tax purposes of the jurisdiction in which an address is located if:

- a) the Reporting FI has in its records a residence address for the individual Account Holder;
- b) such residence address is current; and
- c) such residence address is based on Documentary Evidence.

A residence address is considered to be “current” where it is the most recent residence address that was recorded by the Reporting Financial Institution with respect to the individual Account Holder. However, a residence address is not considered to be “current” if it has been used for mailing purposes and mail has been returned undeliverable as-addressed (other than due to an error). Notwithstanding the foregoing, a residence address associated with an account that is a dormant account would be considered to be “current” during the dormancy period. Further guidance on “dormant accounts” is provided in the CRS Commentary on Section III, subparagraph B.

Documentary Evidence entails:

- a) a certificate of residence issued by an authorised government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the payee claims to be a resident.
- b) any valid identification issued by an authorised government body (for example, a government or agency thereof, or a municipality), that includes the individual's name and is typically used for identification purposes.
- c) For diplomats and expats: see below

If a Reporting FI has relied on the Residence Address Test and there is a change in circumstances that causes the Reporting FI to know or have reason to know that the original Documentary Evidence [or other documentation as described in paragraph 10 of the CRS Commentary on Section III) above] is incorrect or unreliable, the Reporting FI must, by the later of the last day of the relevant calendar year or other appropriate reporting period, or 90 calendar days following the notice or discovery of such change in circumstances, obtain a Self-Certification and new Documentary Evidence to establish the residence(s) for tax purposes of the Account Holder. If the Reporting FI cannot obtain the Self-Certification and new Documentary Evidence by such date, the Reporting FI must apply the electronic record search procedure described below (Section 6.3.2)

In addition, a Reporting Financial Institution does not know or have reason to know that a Self-Certification or Documentary Evidence is unreliable or incorrect solely because it discovers any of the indicia listed in CRS indicia c) through (e) of section 6.3.2 and such indicia conflicts with the Self-Certification or Documentary Evidence. A Self-Certification should always pass the reasonableness test (see also section 5.8 and 7.2.2).

Example:

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

Civil servants of the European Union, civil servants of the NATO and diplomatic agents accredited to Belgium

The tax residence of the civil servants of the European Union, civil servants of the NATO and diplomatic agents accredited to Belgium is defined by respectively the "Protocol on Privileges and Immunities of the European Communities of 8 April 1965"; the "Agreement on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff of 20 September 1951" and the "Vienna Convention on diplomatic relations of 18 April 1961".

The tax residence is based on the following official documents:

- with respect to civil servants of the European Union, on the basis of an attestation HIS 276 issued by the competent services of the European Union;
- with respect to civil servants of the NATO, on the basis of an attestation 276 NATO/IMS/SHAPE issued by the competent services of the NATO;
- with respect to diplomatic agents accredited to Belgium, on the basis of the diplomat's identity card issued by the FPS Foreign Affairs, Foreign Trade and Development Co-operation of the accrediting State

The tax residence of the civil servants of the European Union, civil servants of the NATO and diplomatic agents accredited to Belgium, as determined by the Competent Authority and documented by official documents, is also:

- unique: the Reporting Belgian FI can solely exchange information with one state (i.e. the state in which the individual is a tax resident as determined under this section).
- immutable: the tax residency remains in principal the same unless in case of an exceptional occurrence (e.g. change of professional activity, dismissal or resignation) or retirement.

Expats employed in Belgium (Circular Letter dated 8 August 1983)

If there is no official document issued by a foreign or Belgian authority that demonstrates the country of which the expat is a tax resident and his foreign TIN, the Reporting FI may rely on an attestation of a third party (e.g. the employer or the advisor of the foreign executive). In this case, the attestation mentions the “state of origin” of the foreign executive as determined by the Belgian tax authorities (e.g. while investigating the request to apply the special tax regime for expats in Belgium) and the TIN.

Only the tax residency of the foreign executive as determined under this section shall be taken into account for the application of CRS.

The tax residence of expats employed in Belgium, as covered by the Circular Letter dated 8 August 1983, is also:

- unique: the Reporting Belgian FI can solely exchange information with one state (i.e. the state in which the individual is a tax resident as determined under this section).
- immutable: the tax residency remains in principal the same unless in case of an exceptional occurrence (e.g. change of professional activity, dismissal or resignation) or retirement.

6.3.2. Electronic Record Search

If the Reporting FI does not rely on a current residence address for the individual Account Holder based on Documentary Evidence as set forth in Section 6.3.1, the Reporting FI must review electronically searchable data maintained by the Reporting FI for any of the following CRS indicia.

Pre-existing Accounts will be reportable if they are not excluded and the Reporting FI has identified CRS indicia as defined hereafter and those indicia have not been cured or repaired. A Reporting FI must review its electronically searchable data for any of those CRS indicia.

CRS INDICIA	CURED BY
a) Identification of the Account Holder as a resident for tax purposes of a Reportable Jurisdiction ;	1) 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 (2) Documentary Evidence establishing the Account Holder's non-reportable status.
b) Current mailing or legal residence address (including a post office box) in a Reportable Jurisdiction	(1) 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 (2) Documentary Evidence (see Section 5.2) establishing the Account Holder's non-reportable status.
c) One or more current telephone numbers in a Reportable Jurisdiction and no telephone number in the jurisdiction of the Reporting FI	(1) 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
d) Standing instructions (other than with respect to a Depository Account) to transfer funds to an account maintained in a Reportable Jurisdiction	(2) Documentary Evidence establishing the Account Holder's non-reportable status.
e) Currently effective power of attorney or signatory authority granted to a person with an address in Reportable Jurisdiction	(1) A self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction; or

	(2) Documentary Evidence establishing the Account Holder's non-reportable status.
f)A "hold mail" instruction or "in-care-of "address in a Reportable Jurisdiction if the Reporting FI doesn't have any other address on file for the Account Holder ;	(1) the Paper Record Search or; (2) Self-Certification or Documentary Evidence to establish the residence(s) for tax purposes ³³

Where none of the CRS indicia listed above are discovered through an electronic search, no further action is required in respect of Lower Value Accounts, unless there is a subsequent change in circumstance that results in one or more CRS indicia being associated with the account or the account becomes a High Value Account. Where that happens the account will become reportable unless further action is taken by the Reporting FI to attempt to cure or repair the indicia.

If any of the indicia listed in subparagraph 6.3.2 above are discovered in the electronic search, or if there is a change in circumstances that results in one or more indicia being associated with the account, then the Reporting FI must treat the Account Holder as a resident for tax purposes of each Reportable Jurisdiction for which an indicium is identified, unless further action is taken by the Reporting FI to attempt to cure or repair the indicia with respect to that account.

A Reporting FI will not be treated as having reason to know that an account holder's status is incorrect because it retains information or documentation that may conflict with its review of the account holder's status if it was not necessary under the procedures described in this Section to review that information or documentation.

A self-certification or Documentary Evidence that has been previously reviewed may be relied upon for purposes of the curing procedure unless the Reporting FI knows or has reasons to know that the self-certification or Documentary Evidence is incorrect or unreliable. A Self-Certification should always pass reasonableness test (see also section 5.8 and 7.2.2).

The self-certification that is part of the curing procedure does not need to contain an express confirmation that an Account Holder is not resident in a given Reportable Jurisdiction provided the Account Holder confirms that it contains all its jurisdictions of residence (i.e. the information with respect to the Account Holder's jurisdiction(s) of residence is correct and complete). Documentary Evidence is sufficient to establish an Account Holder's non-reportable status if the Documentary Evidence (i) confirms that the Account Holder is resident in a jurisdiction other than the relevant Reportable Jurisdiction; (ii) contains a current residence address outside the relevant Reportable Jurisdiction; or (iii) is issued by an authorised government body of a jurisdiction other than the relevant Reportable Jurisdiction.

³³ In case the paper search fails to establish a CRS indicium and the attempt to obtain the Self-Certification or Documentary Evidence is not successful, the Reporting Financial Institution must report the account as an Undocumented Account.

6.4. Pre-Existing High Value Accounts Identification

High value pre-existing accounts are accounts with an aggregated balance or value that exceeds \$1,000,000 at the date that the pre-existing accounts first need to be reviewed or at any 31 December following the initial review date.

This Section contains the enhanced review procedures that apply with respect to High Value Accounts. Such procedures are the electronic record search, the paper record search and the relationship manager inquiry.

6.4.1. Electronic Record Search

A FI must review its electronically searchable data in the same manner as for Lower Value Accounts.

6.4.2. Paper Record Search

A paper record search will not be required where **all** the following information is electronically searchable:

1. the account holder's residence status;
2. the account holder's residence address currently on file with the Reporting FI;
3. the account holder's mailing address currently on file with the Reporting FI;
4. the account holder's telephone number(s) currently on file, if any with the Reporting FI;
5. in the case of Financial Accounts other than Depository Accounts, whether there are standing instructions to transfer funds to another account (including an account at another branch of the Reporting FI or another FI);
6. whether there is a current "in-care-of" address or "hold mail" address for the account holder; and
7. whether there is any power of attorney or signatory authority for the account.

The paper record search, where necessary, should include a review of the current customer master file and, to the extent they are not contained in the current master file, the following documents associated with the account and obtained by the FI within the last 5 years:

- the most recent Documentary Evidence collected with respect to the account;
- the most recent account opening contract or documentation;
- the most recent documentation obtained by the Reporting FI for AML/KYC procedures or for other regulatory purposes such as MiFID;

- any power of attorney or signature authority forms currently in effect; **and**
- any standing instructions (other than with respect to a Depository Account) to transfer funds currently in effect.

These should be reviewed for any CRS indicia.

A FI can rely on the review of High Value Accounts performed by third party distributors, on their behalf where there is a contract obligating the distributor to perform the review.

6.4.3. Relationship manager test

In addition to the electronic and Paper Record searches described above, the Reporting FI must treat as a Reportable Account any High Value Account assigned to a Relationship Manager (including any Financial Accounts aggregated with the High Value Account) if the Relationship Manager has actual knowledge that the Account Holder is a Reportable Person unless the CRS indicia can be cured

For these purposes a Relationship Manager is assumed to be any person who is an officer or other employee of the Reporting FI assigned responsibility for specific account holders on an ongoing basis, and who advises the Account Holders regarding their accounts and arranges for the overall provision of financial products, services and other related assistance. Following this definition self-employed insurance intermediaries cannot be considered as relationship managers.

A person is only a Relationship Manager for purposes of Section 6.4.4 with respect to an account that has an aggregate balance or value of more than USD 1 000 000, taking into account the account aggregation and currency translation rules described in Section 5.9). Thus, in determining whether an officer or employee of a Reporting FI is a relationship manager, (i) the employee must satisfy the definition of relationship manager and (ii) the aggregate balance or value the Account Holder's accounts must exceed USD 1,000,000.

If there is no relationship manager, the Belgian FI does not need to design a specific step for the High Value Accounts to undergo the "relationship manager inquiry" and does not need to apply the relationship manager aggregation rules.

A Reporting FI must also ensure that it has procedures in place to capture any change of circumstance in relation to a High Value Account made known to the Relationship Manager in respect of the Account Holder's status. However, a Reporting FI is not obliged to have or to appoint a Relationship Manager.

Once the FI applies the enhanced review procedures to a High Value Account, it is not required to re-apply such procedures, other than the relationship manager inquiry, in any subsequent year.

Example 1:

An individual, P, holds a custodial account with R, a bank that is a Reporting Financial Institution. The value in P's account at the end of year is USD 1 200 000. An employee of R's private banking department, O, oversees the account of P on an on-going basis. Because O satisfies the definition of "relationship manager" and the value in P's account is more than USD 1 000 000, O is a relationship manager with respect to P's account.

Example 2:

Same facts as Example 1, except that the value in P's custodial account at the end of year is USD 800 000. In addition, P also holds a depository account with R, the balance of which at the end of year is USD 400 000. Both accounts are associated with P and with one another by reference to R's internal identification number. Because O satisfies the definition of "relationship manager" and, once the account aggregation rules have been applied, the aggregated balance or value in P's accounts is more than USD 1 000 000, O is a relationship manager with respect to P's accounts.

Example 3:

Same facts as Example 2, except that O's functions do not involve direct contact with P. Because O does not satisfy the definition of "relationship manager", O is not a relationship manager with respect to P's accounts.

6.5. Effects of Finding Indicia

If none of the indicia listed in Section 6.3.2 are discovered in the enhanced review of High Value Accounts, and the account is not identified as held by a Reportable Person in Section 6.4.4, 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 Section 6.3.2 (a) through (e) are discovered in the enhanced review of High Value Accounts, or if there is a subsequent change in circumstances that results in one or more indicia being associated with the account, the Reporting FI must treat the account as a Reportable Account with respect to each Reportable Jurisdiction for which an indicium is identified unless it elects to apply the curing procedure and one of the exceptions applies with respect to that account. An indicium discovered in one review procedure, cannot be used to cure an indicium identified in another review procedure.

If a "hold mail" instruction or "in-care-of" address is discovered in the enhanced review of High Value Accounts, and no other address and none of the other indicia listed in Section 6.3.2 (a) through (e) are identified for the Account Holder, the Reporting FI must obtain from such Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of the Account Holder. If the Reporting FI cannot obtain such self-certification or Documentary Evidence, it must report the account as an undocumented account until such account ceases to be undocumented.

If there is a change in circumstances that results in one or more of the indicia listed in this Section being associated with the account and none of the cures or repairs can be applied, it must be treated as a Reportable Account for the year of change and all subsequent years.

Where a Reporting FI has started its review, indicia are found and attempts made to verify or cure those indicia by contacting the Account Holder, but the Account Holder does not respond, the account should be treated as reportable after the final deadline communicated by the Reporting FI to its client. This timeframe is to allow the Account Holder sufficient time to respond to requests for information.

6.6. Timing of reviews

Lower Value Accounts

The review of Pre-existing Accounts that are Lower Value Accounts at 31 December 2015 must be completed at 31 December 2017 or at any 31 December following the initial review date.

Pre-existing Lower Value Accounts that are identified as a Reportable Account are only reportable from the year in which they are identified as such and must be treated as a Reportable Account in all subsequent years, unless the Account Holder ceases to be a Reportable Person.

Example 1

The due diligence procedures are carried out on a Lower Value Account during March 2016 and the account is determined as reportable. The FI is only required to report on the account information for the year ending 31 December 2016 onwards.

High Value Accounts

The review of Pre-existing Accounts that are High Value Accounts at 31 December 2015 must be completed at 31 December 2016 or at any 31 December following the initial review date.

Where the balance or value of an account does not exceed \$1,000,000 as of 31 December 2015 (for early adopting jurisdictions including all EU Member States with the exception of Austria) or as of any later date as agreed between Belgium and the Reporting Jurisdiction), but does as of the last day of a subsequent calendar year, the Reporting FI must perform the procedures described for High Value Accounts by 31 December of the year following the year in which the balance or value exceeded \$1,000,000.

7. New Individual Accounts Identification

New accounts are those opened on or after the date that the various automatic exchange of information regimes ‘switch on’ under the timelines for due diligence and reporting purposes (i.e. on or after 1 January 2016 for early adopting jurisdictions including all EU Member States with the exception of Austria).

New Individual Accounts are accounts where the Reportable Person is an individual.

This Section contains the due diligence procedures for New Individual Accounts and provides for the collection of a Self-Certification (and confirmation of its reasonableness).

7.1 Reportable Accounts

With respect to New Individual Accounts, upon account opening, the Reporting FI 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 FI in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures.

Where a self-certification is obtained at account opening but validation of the self-certification cannot be completed because it is a ‘day two’ process undertaken by a back-office function, the self-certification should be validated within a period of 90 days from the opening of the account.

When the initial self-certification cannot be validated by the back-office function (e.g. missing TIN or signature), a new self-certification should be requested and validated within a period of 90 days from the opening of the account.

There are a limited number of instances, where due to the specificities of a business sector 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 be both obtained and validated as quickly as feasible, and in any case within a period of 90 days from the opening of the account

If a valid self-certification is not obtained within a period of 90 days from the opening of the account the financial institution shall block the account until a valid self-certification is obtained or end the relationship with the account holder.

If the self-certification establishes that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, then the Reporting FI must treat the account as a Reportable Account.

Where it is established that the holder of a New Individual Account is a resident in a Reportable Jurisdiction for tax purposes then the account must be treated as a Reportable Account.

The Self-Certification must allow determining the Account Holder's residence(s) for tax purposes. Generally, an individual will only have one jurisdiction of residence. However, an individual may be resident for tax purposes in two or more jurisdictions. Generally, an individual will be resident for tax purposes in a jurisdiction if, under the laws of that jurisdiction (including tax conventions), he pays or should be paying income tax therein by reason of his domicile, residence or any other criterion of a similar nature, and not only from sources in that jurisdiction. Dual resident individuals may rely on the tiebreaker rules contained in tax conventions (if applicable) to solve cases of double residence for determining their residence for tax purposes

The following examples illustrate how an individual's residence for tax purposes may be determined:

Example 1:

An individual has his permanent home in Jurisdiction A and is taxed as being a resident of Jurisdiction A. He has had a stay of more than six months in Jurisdiction B and according to the legislation of the latter Jurisdiction he is, in consequence of the length of the stay, taxed as being a resident of that Jurisdiction. Thus, he is resident of both Jurisdictions.

Example 2:

Same facts as Example 1, except that the individual only had a stay of eight weeks in Jurisdiction B and according to the legislation of that Jurisdiction he is not, by reason of the length of the stay, taxed as being a resident of Jurisdiction B. Thus, he is only resident of Jurisdiction A.

7.2 Collection of a Self-Certification

A "Self-Certification" is a certification by the Account Holder that provides the Account Holder's status and any other information that may be reasonably requested by the Reporting FI to fulfil its reporting and due diligence obligations, such as whether the Account Holder is resident for tax purposes in a Reportable Jurisdiction.

7.2.1 Requirements for validity of Self-Certification

With respect to New Individual Accounts, a Self-Certification is valid only if it is signed (or otherwise positively affirmed) by the Account Holder, it is dated at the latest at the date of receipt, and it contains the Account Holder's:

- a) name;
- b) residence address;
- c) jurisdiction(s) of residence for tax purposes;

- d) TIN with respect to each Reportable Jurisdiction, and
- e) date of birth
- f) place of birth³⁴

The Self-Certification may be provided in any manner and in any form.

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

Example 1:

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

Example 2:

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

A self-certification may be signed (or otherwise positively affirmed) by any person authorised to sign on behalf of the Account Holder under Belgian law.

A self-certification remains valid until there is a change of circumstances that causes the Reporting FI to know, or have reason to know, that the original Self-Certification is incorrect or unreliable. When that is the case, the Reporting FI cannot rely on the original self-certification and must obtain either:

- (i) a valid Self-Certification that establishes the residence(s) for tax purposes of the Account Holder, or
- (ii) a reasonable explanation and documentation (as appropriate) supporting the validity of the original Self-Certification (and retain a copy or a notation of such explanation and documentation).

A change in circumstances affecting the Self-Certification provided to the Reporting FI will terminate the validity of the self-certification with respect to the information that is no longer reliable, until the information is updated.

A self-certification becomes invalid on the date that the Reporting FI holding the self-certification knows or has reason to know that circumstances affecting the correctness of the Self-Certification have changed.

³⁴ The place of birth is not required to be reported for both Preexisting and New Accounts unless the Reporting FI is otherwise required to obtain and report it under domestic law and it is available in the electronically searchable data maintained by the Reporting FI.

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

If the Reporting FI cannot obtain a confirmation of the validity of the original Self-Certification or a valid self-certification during such 90-day period, the Reporting FI must treat the Account Holder as resident of the jurisdiction in which the Account Holder claimed to be resident in the original Self-Certification and the jurisdiction in which the Account Holder may be resident as a result of the change in circumstances.

7.2.2 Reasonableness of Self-Certification

Once the Reporting FI has obtained a Self-Certification that allows it to determine the Account Holder's residence(s) for tax purposes, the Reporting FI must confirm the reasonableness of such Self-Certification based on the information obtained in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures.

A Reporting FI is considered to have confirmed the "reasonableness" of a Self-Certification if, in the course of account opening procedures and upon review of the information obtained in connection with the opening of the account (including any documentation collected pursuant to AML/KYC Procedures), it does not know or have reason to know that the Self-Certification is incorrect or unreliable. Reporting FI are not expected to carry out an independent legal analysis of relevant tax laws to confirm the reasonableness of a Self-Certification.

A Reporting FI has reason to know that a Self-Certification or Documentary Evidence is unreliable or incorrect if its knowledge of relevant facts or statements contained in the Self-Certification or other documentation, including the knowledge of the relevant relationship managers, if any (see paragraphs 38-42 and 50 of the CRS Commentary on Section III), is such that a reasonably prudent person in the position of the Reporting Financial Institution would question the claim being made. A Reporting FI also has reason to know that a Self-Certification or Documentary Evidence is unreliable or incorrect if there is information in the documentation or in the Reporting FI's account files that conflicts with the person's claim regarding its status.

In addition, a Reporting FI does not know or have reason to know that a Self-Certification or Documentary Evidence is unreliable or incorrect solely because it discovers any of the CRS indicia listed in Section 6.3.2 (c) through (e) and such indicia conflicts with the Self-Certification or Documentary Evidence.

The following examples illustrate the application of the "reasonableness" test:

Example 1:

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

Example 2:

A Reporting FI obtains a Self-Certification from the Account Holder upon account opening. The residence address contained in the self-certification is not in the jurisdiction in which the Account Holder claims to be resident for tax purposes. Because of the conflicting information, the self-certification fails the reasonableness test.

When, where applicable, the self-certification cannot be validated by a back-office function in application of the reasonableness test a new self-certification should be requested and validated within a period of 90 days.

7.3 Accounts held by beneficiaries of a Cash Value Insurance Contract that is a Life Insurance Contract

A FI can treat an individual beneficiary (other than the owner) who receives a death or life benefit under a Cash Value Insurance Contract that is a Life Insurance Contract as a non-resident of a Reportable Jurisdiction and treat such account as a non-reportable account unless the Participating FI has knowledge or reason to know that the beneficiary is a resident of a Reportable Jurisdiction on the basis of the identification according to the rules on anti-money laundering.

When the beneficiary of an insurance contract is determined to be the legal estate³⁵ of the Account Holder and the insurance company pays out to the notary it (the insurance company) thus has no knowledge or reason to know that the individual beneficiary(ies) is (are) resident(s) of a Reportable Jurisdiction.

³⁵ Including the “wettige erfgenamen”/“héritiers légaux” (cfr. Art. 110/1 of the “Wet op de landverzekeringsovereenkomst” (WLVO)/*loi sur le contrat d’assurance terrestre* (LCAT) of 25 June 1992).

8. Pre-existing Entity Accounts Identification

Pre-existing Entity Accounts are those accounts that are in existence on 31 December 2015.

However, under DAC (and under CRS if so provided under the relevant CRS Agreement) any account will be deemed to be Pre-existing, regardless of the date such Financial Account was opened, if:

- (i) the Account Holder also holds with the Reporting Financial Institution (or with a Related Entity within the same Member State as the Reporting Financial Institution) a Financial Account that is a Pre-existing Account;
- (ii) the Reporting Financial Institution (and, as applicable, the Related Entity within the same Member State as the Reporting Financial Institution) treats both of the aforementioned Financial Accounts, and any other Financial Accounts of the Account Holder that are treated as Pre-existing Accounts under this section, as a single Financial Account for purposes of satisfying the standards of knowledge requirements set forth in paragraph A of Section VII of the Annex I of the Directive 2014/107/EU, 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 Pre-existing Account described 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 the purposes of the Directive 2014/107/EU.

8.1. Threshold Exemptions that apply to Pre-existing Entity Accounts

The Belgian legislation allows for FIs to elect whether to apply the threshold exemptions when reviewing and identifying Pre-existing Entity Accounts. The election can apply to all Financial Accounts or to a clearly identifiable group of accounts, such as accounts held by a line of business or specific classes of accounts.

If the threshold exemption has been applied and when the aggregate account balance or value exceeds **USD 250.000** as of the last day of any subsequent calendar year, the Entity Account must be reviewed within the calendar year following the year in which the aggregate account balance or value exceeds such amount.

For example, if an entity has a checking account with a value of USD 100.000 on December 31, 2015, the Reporting Financial Institution will not review this account (default de minimis rule). If the balance is USD 300.000 on December 31, 2017, this account must be reviewed during calendar year 2018.

8.2. Reportable Accounts

A Reportable Account refers to a Financial Account that is maintained by a Belgian Reporting FI and is 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 the applicable due diligence procedures.

A Reportable Person is defined as a Member State or participating jurisdiction person other than: (i) a corporation the stock of which is regularly traded on one or more established securities markets; (ii) any corporation that is a Related Entity of a corporation described in clause (i); (iii) a Governmental Entity; (iv) an International Organisation; (v) a Central Bank; or (vi) a Financial Institution.

For an Entity that is a legal person, the term “Controlling Persons” means the natural person(s) who exercises control over the Entity. “Control” over an Entity is generally exercised by the natural person(s) who ultimately has a controlling ownership interest in the Entity. Where no natural person(s) exercises control through ownership interests, the Controlling Person(s) of the Entity will be the natural person(s) who exercises control of the Entity through other means. Where no natural person(s) is identified as exercising control of the Entity, the Controlling Person(s) of the Entity will be the natural person(s) who holds the position of senior managing official.

In the case of a trust, the term “Controlling Persons” means the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) exercising ultimate effective control over the trust. The settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries must always be treated as Controlling Persons of a trust, regardless of whether or not any of them exercises control over the trust (see paragraph 134 of CRS commentary on section VIII).

In the case of a legal arrangement other than a trust, the term “Controlling Persons” means persons in equivalent or similar positions as those that are Controlling Persons of a trust. In relation to legal persons that are functionally similar to trusts (e.g. foundations), Reporting Financial Institutions should identify Controlling Persons through similar customer due diligence procedures as those required for trusts, with a view to achieving appropriate levels of reporting.

For purposes of determining the Controlling Persons of a Pre-existing Entity Account Holder, a Reporting Financial Institution may refer to the UBOs pursuant to the Reporting Financial Institution’s AML/KYC Procedures.

8.3. Standardized Industry Codes for Identifying Pre-existing Entities

A FI can rely on information previously recorded in its files in addition to standardized industry codes, in determining the status of an entity. For these purposes, a standardized industry code may be any coding system employed by the FI (such as NACE codes, SIC codes, etc.).

Industry code means a code that is part of a coding system used by the FI to classify Account Holders by business type.

8.4. Identification of an Entity as a Reportable Person

The due diligence for Pre-existing Entity Accounts requires two steps:

1. First (**Step 1**), the Reporting Financial Institution must establish whether the Entity is a Reportable Person. If so, the account is then a Reportable Account.
2. Second (**Step 2**), for certain Entity Account Holders (Passive NFEs), the Reporting Financial Institution must establish whether the Entity is controlled by a Reportable Person(s).

Step 1. Review procedure for the Account Holder (Is the Account Holder a Reportable Person?)

If the threshold exemption has been applied and when the aggregate account balance or value does not exceed **USD 250.000** as of the last day of any subsequent calendar year, the Entity Account is not reportable.

To determine if the Account Holder is resident in a Member State, the Reporting Financial Institution must review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures). For this purpose, information indicating that the Account Holder is resident in a Reportable Jurisdiction includes:

- a place of incorporation or organisation in a Reportable Jurisdiction;
- an address in a Reportable Jurisdiction (for example, this would be likely to apply for Entities treated as fiscally transparent and could reflect the registered address, principal office, or place of effective management); or
- an address of one or more of the trustees of a trust in a Reportable Jurisdiction.
a place of incorporation or organisation in a Reportable Jurisdiction;

However, the existence of a permanent establishment (including a branch) in a Reportable Jurisdiction (including an address of a permanent establishment) is not by itself an indication of residence for this purpose.

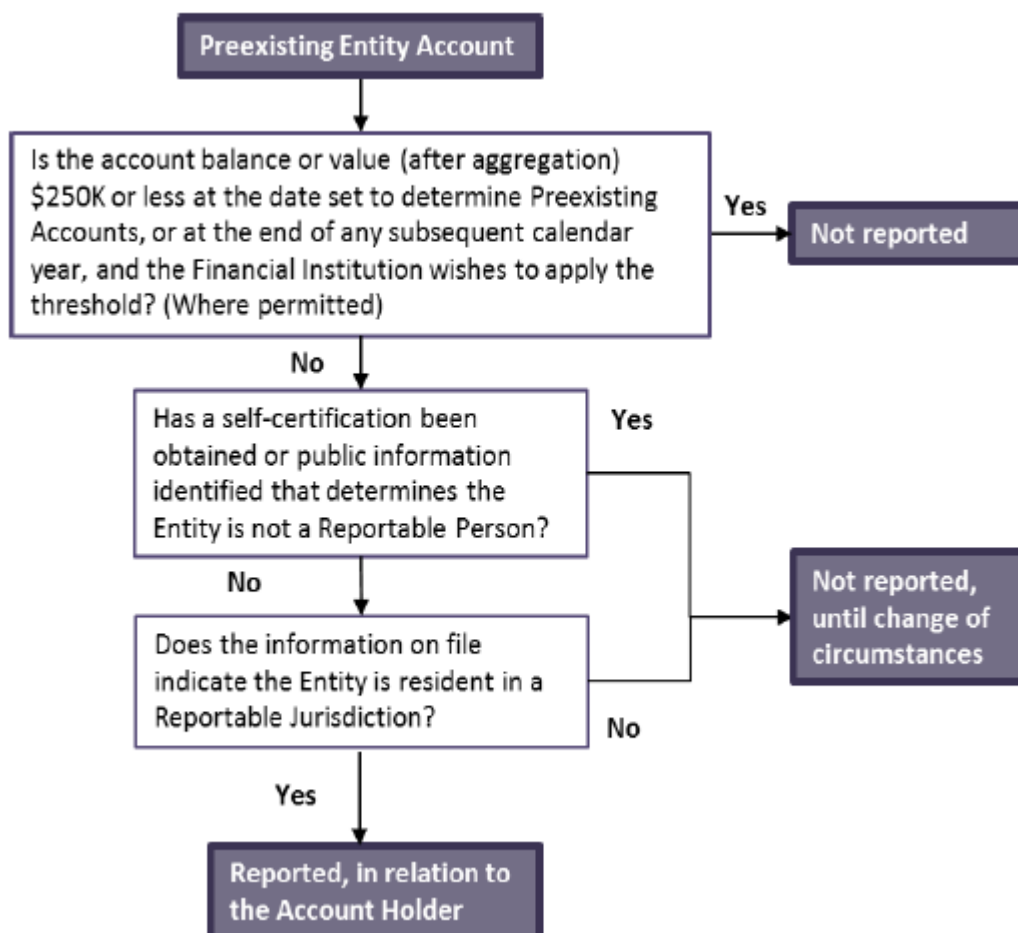
If the information indicates that the Account Holder is resident in a Reportable Jurisdiction, then, the Reporting Financial Institution must treat the account as a Reportable Account unless it obtains a self-certification from the Account Holder, or reasonably determines based on information in its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

In determining whether a Pre-existing Entity Account is held by a Reportable Person, the Reportable Financial Institution may follow the guidance in the order the most appropriate³⁶. This would allow a Reporting Financial Institution, for example, to determine that a Pre-existing Entity Account is held by an Entity that is not a Reportable Person (e.g. a corporation that is publicly traded) and, thus, the account is not a Reportable Account. On the other hand, the Reporting Financial Institution

³⁶ Comm. on Section V, page 138

could also opt to starting the process by establishing that the Entity is not resident in a Reportable Jurisdiction and is therefore not a Reportable Person.

Step 1 can be illustrated as follows:



Step 2. Review Procedure for Controlling Persons

Regardless of the outcome of Step 1, Step 2 needs to be performed to identify whether the Entity is a Passive NFE and if so, identify the Controlling Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account.

The Reporting Financial Institution must determine (in the order the most appropriate):

- Whether the Account Holder is a Passive NFE
- The Controlling Persons of such Passive NFE
- Whether any of such Controlling Persons is a Reportable Person

For more information on the notion of Controlling Person, reference is made to Section 8.2.

Is the Account Holder a Passive NFE?

The Reporting Financial Institution may obtain a **Self-certification** from the Account Holder to establish its status.

It may also rely on **information in its possession** (such as information collected pursuant to AML/KYC procedures) or on information 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 non-participating professionally managed investment entity that is not a Participating Jurisdiction Financial Institution – see below). Reference is made to Section 8.5 and 8.6 which explain how a Reporting Financial Institution may determine the status of an Entity as Active NFE or a Financial Institution.

If the Entity does not qualify as a Passive NFE, no reporting is required in relation to Controlling Persons.

The CRS contains a so-called “look through” provision pursuant to which Reporting Financial Institutions must treat an Account Holder that is an Investment Entity described in Section VIII, subparagraph (A)(6)(b) (or branch thereof) of the CRS that is not a Participating Jurisdiction Financial Institution as a Passive nonfinancial entity (NFE) and report the Controlling Persons of such Entity that are Reportable Persons. For purpose of this provision, a Participating Jurisdiction is a jurisdiction that has publicly and at government level committed to adopt the CRS by 2018 (“Committed Jurisdictions”). Committed Jurisdictions are those that have committed in the context of the Global Forum process but also those non-financial center developing countries that have expressed that commitment by signing the Multilateral Competent Authority Agreement or an equivalent exchange instrument. The US is not considered as a Participating Jurisdiction under CRS (see Royal decree of 14 June 2017, MB/BS of 19 June 2017).

Identifying the Controlling Persons of the Passive NFE

A distinction must be made between the Pre-existing Entity Account having an aggregate balance or value exceeding an amount of USD 1.000.000 and the one that do not exceed that amount.

In case the account balance or value exceeds USD 1 000 000, the collection of a self-certification from either the Account Holder or the Controlling Person is required (may be provided in the same self-certification as the one provided by the Account Holder to certify its own status). If the Self Certification by the Entity or the Controlling Persons show the Controlling Persons are resident in a Reportable Jurisdiction, the Controlling Persons will be reported. If not, no reporting is required until a change of circumstances.

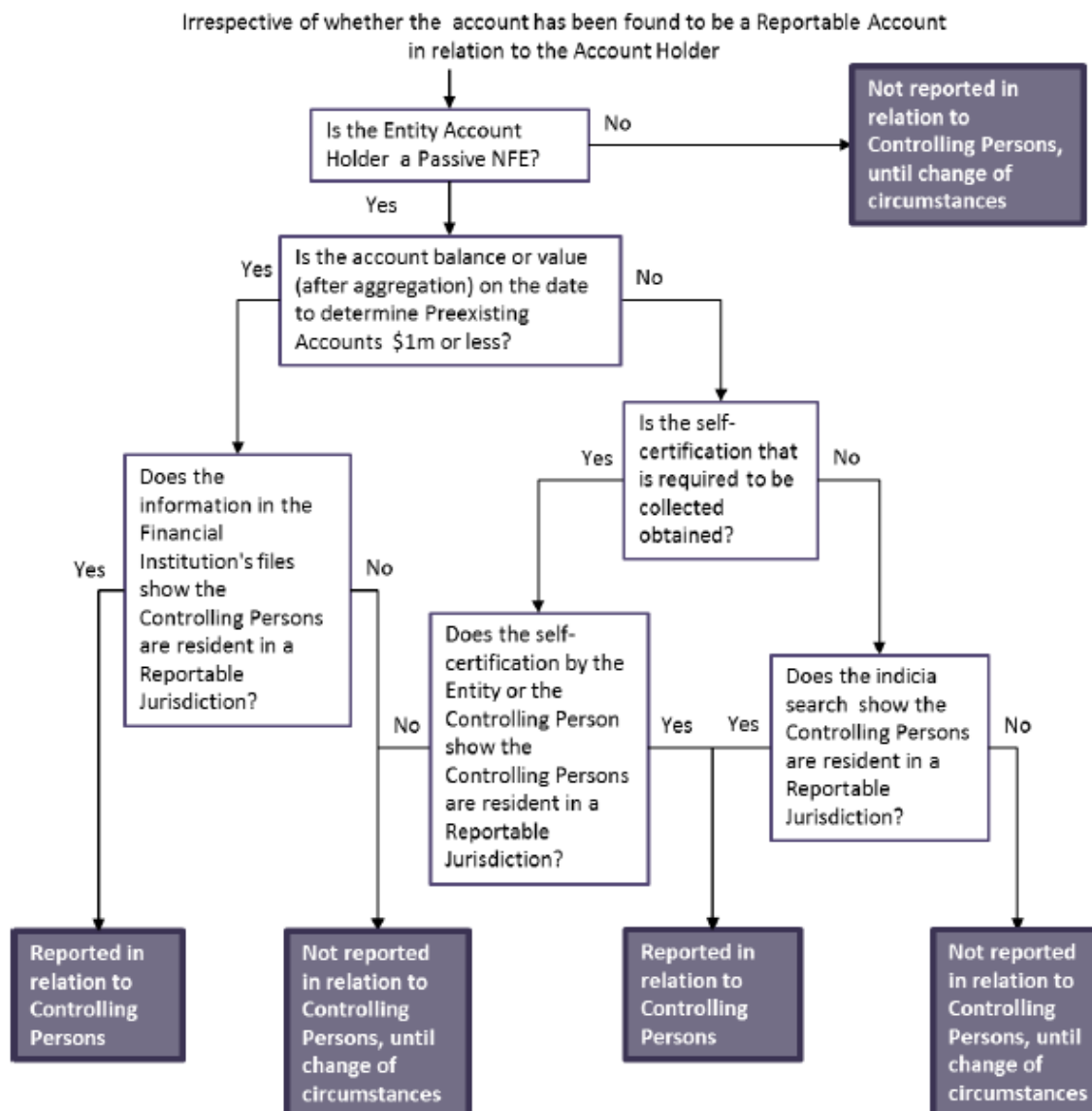
The self-certification with respect to the Controlling Person is valid only if it is signed (or otherwise positively affirmed) by the Controlling Person or a person with authority

to sign for the Account Holder or the Controlling Person, it is dated at the latest at the date of receipt, and it contains each Controlling Person's

- a) name;
- b) address;
- c) jurisdiction(s) of residence for tax purposes;
- d) TIN with respect to each Reportable Jurisdiction, and
- e) date of birth.

In case such Self-certification is not provided, the Reporting Financial Institution must rely on the indicia that it has in its records for such Controlling Person in order to determine whether it is a Reportable Person. If the Reporting Financial Institution has none of such indicia in its records, then no further action is needed until there is a change of circumstances.

In the case the account balance or value does not exceed USD 1.000.000, the Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KYC procedures to determine whether the Controlling Persons are Reportable Persons. If the information show the Controlling Persons are resident in a Reportable Jurisdiction, reporting of the Controlling Persons will be due. If not, no reporting is required until a change of circumstances.



8.5. Identification of an Entity as a Financial Institution

In order to identify whether an entity is a FI, information maintained for regulatory or customer relationship purposes (including information collected as part of any AML/KYC procedure) can be relied upon.

Reporting Belgian FIs may use industry codes (including but not limited to NACE codes, SIC codes) to classify the accounts of Active NFEs, Participating Financial Institutions or Belgian or Participating Jurisdiction FIs, possibly supported, when necessary, by other information in their possession.

Reporting Financial Institutions may rely on the FI NACE Codes published by the FPS Finances to classify an entity as Financial Institution. The NACE code to be taken into account should be (in principle) the primary NACE code.

If the entity is a FI, including Non-Reporting FIs listed in Section VIII, B, 1 of the CRS, then the account is not a Reportable Account.

8.6. Identification of an Entity as a Non-Financial Entity

For the identification of an Entity as Non-Financial Entity, the following steps are recommended:

- a) The NBB "rechtvorm/forme juridique" code (see Appendix 2) is first applied to classify exempted, excepted and Active NFEs.
- b) Some NFE can then be classified as active by nature based on their NACE code (see Appendix 3)
- c) In order to determine if a Belgian NFE is Active or Passive, the so-called "NFE formula" as approved by the FPS Finances, translating the requirements under the Model I IGA into Belgian GAAP standards, can be used or may be applied by the FI itself. This formula is based on publicly available information issued by the Central Balance Sheet Office of the NBB and consists of 2 threshold tests: (1) on the gross income and (2) on the assets held by the NFE (see Appendix 4). The NBB will run this formula and will provide a yearly updated list of "Active" and "Passive" NFEs.
- d) In case the "NFE formula" cannot be applied easily (e.g. for foreign entities or when financial statements are not available in the Central Balance Sheet office of the NBB), then the Financial Institutions may use NACE codes listed in Appendix 5 to classify the NFE potentially as passive ". In case the primary NACE code of the NFE is not on this list, the NFE will be classified as active.

For NFEs, the FI can rely on publicly available information, such as financial statements (e.g. Active/passive ratio), self-certification by the client or industry codes, or information in its possession, that enables the FI to reasonably determine that such NFE is either "Active" or "Passive".

In all cases, the NFE concerned can prove otherwise with a self-certification.

To identify the Controlling Persons of a Passive NFE, a FI may rely on information collected and maintained pursuant to AML/KYC procedures.

8.7. Timing of reviews

Review of Pre-existing Entity Accounts with an aggregate account balance or value that exceeds, as of 31 December 2015, an amount denominated in euros that corresponds to USD 250 000, must be completed by 31 December 2017.

Review of Pre-existing Entity Accounts with an aggregate account balance or value that does not exceed, as of 31 December 2015, an amount denominated in euros that corresponds to USD 250 000 but exceeds that amount as of 31 December of a subsequent year, must be completed within the calendar year following the year in which the aggregate account balance or value exceeds such amount.

The aforementioned dates are applicable with regard to Financial Accounts held by tax residents of jurisdictions falling within the scope of the DAC and jurisdictions with

regard to which Belgium must apply the CRS as of 1 January 2016 further to an agreement concluded with such jurisdiction. For jurisdictions with regard to which Belgium must apply the CRS as of 1 January of a later year, the dates above should be read as referring to such later year.

If there is a change of circumstances with respect to a Preexisting Entity Account that causes the reporting Financial Institution to know, or to have reason to know, that the self-certification or other documentation associated with the account is incorrect or unreliable, the reporting Financial Institution must re-determine the status of the account in accordance with the procedures set forth in this chapter 8 (Annex III, part III, point D of the Belgian law).

9. New Entity Accounts Identification

New Entity Accounts are those accounts that are opened on or after 1 January 2016, unless they are treated as a Pre-existing Accounts (see definition of Pre-existing Account in section 8).

9.1. Threshold exemptions that apply to New Entity Accounts

CRS does not provide for any threshold exemption(s) with respect to New Entity Accounts. Hence, there is no need to apply aggregation or currency conversion rules.

9.2. Reportable Accounts

For the notion Reportable Account and Controlling Person, reference is made to section 8.2.

Where a Reporting Financial Institution relies on information collected and maintained pursuant to AML/KYC Procedures for purposes of determining the Controlling Persons of an Account Holder of a new entity Account, such AML/KYC procedures must be consistent with recommendations 10 and 25 of the FATF recommendations (as adopted in February 2012), including always treating the settlor(s) of a trust as a Controlling person of the trust and the founder(s) of a foundation as a Controlling Person of the foundation. Hence, in the case of a trust (or a legal arrangement other than a trust), the “Controlling Persons” include all of the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries (or their equivalents in case of a legal arrangement other than a trust), and any other natural person(s) exercising ultimate effective control over the trust. For beneficiaries of trusts that are designated by characteristics or by class Reporting Financial Institutions should obtain sufficient information concerning the beneficiary(ies) to satisfy the Reporting Financial Institution that it will be able to establish the identity of the beneficiary(ies) at the time of the pay-out or when the beneficiary(ies) intends to exercise vested rights. Therefore, that occasion will constitute a change in circumstances and will trigger the relevant procedures.

9.3. Identification of an Entity as a Reportable Person

The due diligence for Pre-existing Entity Accounts requires two steps:

1. First (**Step 1**), the Reporting Financial Institution must establish whether the Entity is a Reportable Person. If so, the account is then a Reportable Account.
2. Second (**Step 2**), for certain Entity Account Holders (Passive NFEs), the Reporting Financial Institution must establish whether the Entity is controlled by a Reportable Person(s).

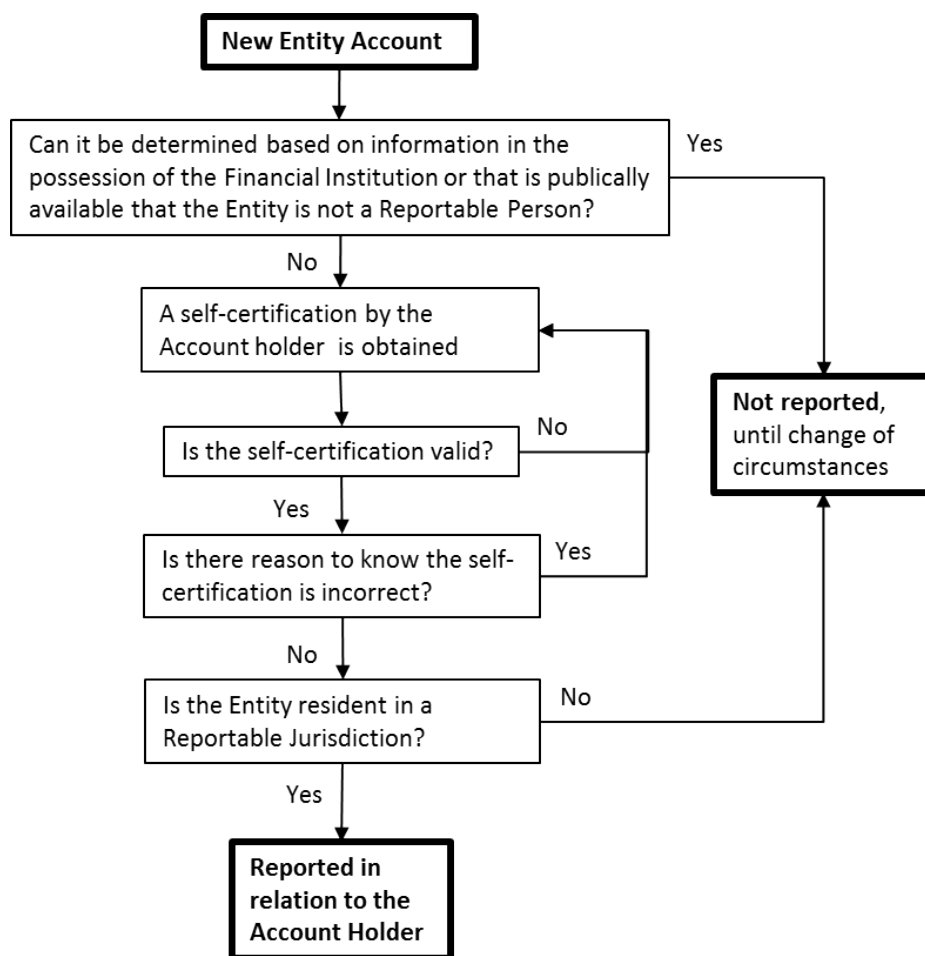
STEP 1: Is the account holder a Reportable Person?

In order to determine whether an Entity is a Reportable Person, the Reporting Financial Institution should:

- obtain a self-certification 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 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 it reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person with respect to such Reportable Jurisdiction (e.g. a corporation that is publicly traded or a Governmental Entity).

In determining whether a New Entity Account is held by one or more Entities that are Reportable Persons, the Reporting Financial Institution may follow the procedures in the order most appropriate under the circumstances. Hence, a FI may rely on publicly available information or information within the FI's possession to identify whether an account holder to establish the account holder's status a non-Reportable Person. FIs may use industry codes (including but not limited to NACE codes, SIC codes) to classify the above-described accounts, possibly supported, when necessary, by other information in their possession or that is publicly available.

Step 1 can be illustrated as follows:



STEP 2: Controlling Persons for New Entity Accounts

Regardless of the outcome of Step 1, Step 2 needs to be performed to identify whether the Entity is a Passive NFE and if so, identify the Controlling Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account (even if the Controlling Person is resident in the same jurisdiction as the Passive NFE).

The Reporting Financial Institution must determine (in the order the most appropriate):

- Whether the Account Holder is a Passive NFE
- The Controlling Persons of such Passive NFE
- Whether any of such Controlling Persons is a Reportable Person

For more information on the notion of Controlling Person, reference is made to Section 9.2.

Is the Account Holder a Passive NFE?

For purposes of determining whether the Account Holder is a Passive NFE the Reporting Financial Institution may use any of the following information 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 which is always treated as a Passive NFE (i.e., that is, an Investment Entity that is not a Participating Jurisdiction Financial Institution):

- **information in its possession** (such as information collected pursuant to AML/KYC procedures); **or**
- **Information that is publicly available** (such as information published by an authorised government body or standardised industry coding system).

If the Reporting Financial Institution cannot determine that the entity is an Active NFE or a Financial Institution (other than a professionally managed Investment Entity that is not a Participating Jurisdiction FI – see below), it must obtain a **self-certification** from the Account Holder to establish its status. Hence, a self-certification is always required to establish that an entity is a passive NFE.

The CRS contains a so-called “look through” provision pursuant to which Reporting Financial Institutions must treat an Account Holder that is an Investment Entity described in Section VIII, subparagraph (A)(6)(b) (or branch thereof) of the CRS, that is not a Participating Jurisdiction Financial Institution, as a Passive nonfinancial entity (NFE) and report the Controlling Persons of such Entity that are Reportable Persons. For purpose of this provision, a Participating Jurisdiction is a jurisdiction that has publicly and at government level committed to adopt the CRS by 2018 (“Committed Jurisdictions”). Committed Jurisdictions are those that have committed in the context of the Global Forum process but also those non-financial center developing countries that have expressed that commitment by signing the Multilateral Competent Authority Agreement or an equivalent exchange instrument.

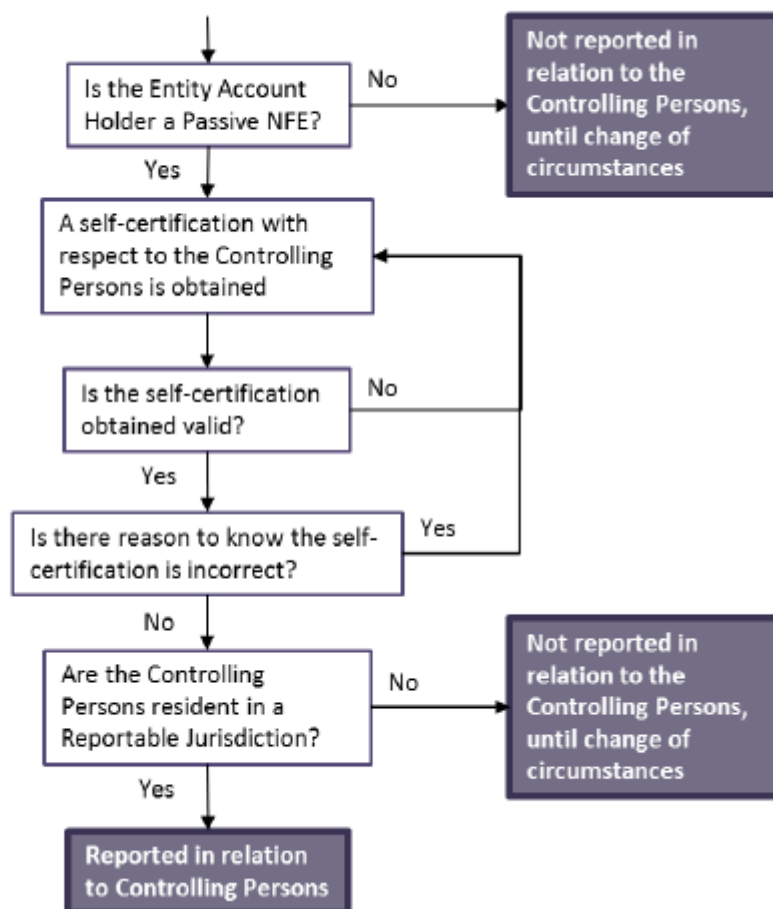
Identifying the Controlling Persons of the Passive NFE

For the purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Financial Institution may only rely on a **self-certification** from either the Account Holder or the Controlling Person.

If there is a change in circumstances with respect to a New Entity Account that causes the reporting financial Institution to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the Reporting Financial Institution must re-determine the status of the account in accordance with the procedures set forth below (schema)

Step 2 can be illustrated as follows:

Irrespective of whether the account has been found to be a Reportable Account in relation to the Account Holder



9.4. Identification of an Entity as a Financial Institution

A FI may rely on publicly available information or information within the FI's possession to identify whether an account holder is a Participating FI.

Reporting Belgian FIs may use industry codes (including but not limited to NACE codes, SIC codes) to classify the accounts of Active NFEs, Participating Financial Institutions or Belgian or Participating Jurisdiction FIs, possibly supported, when necessary, by other information in their possession.

Reporting Financial Institutions may rely on the FI NACE Codes published by the FPS Finances to classify an entity as Financial Institution. The NACE code to be taken into account should be (in principle) the primary NACE code.

If the entity is a FI, including Non-Reporting FIs listed in Section VIII, B, 1 of the CRS, then the account is not a Reportable Account.

9.5 Identification of an Entity as non-financial foreign entity

For the identification of an Entity as Non-Financial Entity, the following steps are recommended:

- a) The NBB "rechtvorm/forme juridique" code (see Appendix 2) is first applied to classify exempted, excepted and Active NFFEs.
- b) Some NFFE can then be classified as active by nature based on their NACE code (see Appendix 3)
- c) In order to determine if a Belgian NFE is Active or Passive, the so-called "NFE formula" as approved by the FPS Finances, translating the requirements under the Model I IGA into Belgian GAAP standards, can be used or may be applied by the FI itself. This formula is based on publicly available information issued by the Central Balance Sheet Office of the NBB and consists of 2 threshold tests: (1) on the gross income and (2) on the assets held by the NFE (see Appendix 4). The NBB will run this formula and will provide a yearly updated list of "Active" and "Passive" NFEs.
- d) In case the "NFE formula" cannot be applied easily (e.g. for foreign entities or when financial statements are not available in the Central Balance Sheet office of the NBB), then the Financial Institutions may use NACE codes listed in Appendix 5 to classify the NFE potentially as passive ". In case the primary NACE code of the NFE is not on this list, the NFE will be classified as active.

For NFEs, the FI can rely on publicly available information, such as financial statements (e.g. Active/passive ratio), self-certification by the client or industry codes, or information in its possession, that enables the FI to reasonably determine that such NFE is either "Active" or "Passive".

In all cases, the NFE concerned can prove otherwise with a self-certification.

To identify the Controlling Persons of a Passive NFFE, a FI may rely on information collected and maintained pursuant to AML/KYC procedures.

An entity will be a Passive NFE generally if it is not an Active NFE and the reporting FI must obtain a Self-certification from the Account Holder to establish such Account Holder's status. The Reporting FI must identify the Controlling Persons of a Passive NFE.

10. CRS REPORTING

Once a FI has applied the procedure and due diligence in respect of the accounts it holds and has identified Reportable Accounts then it must report certain information regarding those accounts to the FPS Finances in accordance with the timetable in section 10.4.6.

Reporting FI with no Reportable Accounts will be required to make a nil return to FPS Finances.

10.1. CRS Reportable Account

A CRS Reportable Account is a Financial Account held by one or more Reportable Persons, or by a Passive NFE of which one or more of the Controlling Persons are a Reportable Person.

An undocumented pre-existing individual account also qualifies as a Reportable Account. An undocumented pre-existing individual account is (i) an account for which a “hold mail” instruction or “in-care-of” address in the Reportable Jurisdiction is discovered in the electronic search, (ii) for which no other address and none of the other indicia are identified for the Account Holder; and (iii) that has not been cured. The curing for such account must be done through the paper record search or by collecting a self-certification or Documentary Evidence. Qualifying accounts must be reported as “undocumented accounts”.

Accounts for which indicia have been found that are cured within the deadline communicated by the Belgian Reporting FI to the Account Holder, must not be reported.

Example

In the case of an account identified as a potentially Reportable Account before 31 December 2016, the Reporting FI is not required to report information about such account with respect to 2016, if this account is cured before 31 December 2016.

FI's, who have chosen to apply the “de minimis rule” (250.000 USD exemption) for their pre-existing entity accounts don't have to consider these accounts as “reportable accounts”.

10.2. CRS Reportable Period

A CRS Reportable Period is a defined duration in time during which a Financial Account must be treated as a CRS Reportable Account (see section 10.1.).

10.2.1. General rule

A Financial Account is treated as a Reportable Account if it is identified as a Reportable Account based on the status of the Account Holder at the end of the calendar year (or reporting period) in which it was identified as such.

This means that the Financial Accounts held by an Account Holder that qualifies as a Reportable Person during a given calendar year (or alternative reporting period) but that is no longer a reportable Person on 31 December of the same calendar year (or at the end of the reporting period) do not qualify as Reportable Accounts.

Income and Proceeds are reportable over the full calendar year unless another appropriate CRS Reportable period would apply in function of the Reportable status of the account.

10.2.2. Exceptions to the general rule

10.2.2.1. Closure account

In case a Reportable Account is closed during the calendar year (or alternative reporting period), information with respect to that account (including the closure of that account) must be reported with respect to (part of) the calendar year (or reporting period) of the closure, regardless of whether the account was closed before or after the end of the remediation period (31 December 2016 for pre-existing high value individual accounts and– 31 December 2017 for pre-existing low value individual accounts and entity accounts),

10.2.2.2. Specific Financial Accounts

The balance or value will either be that shown on 31 December of the year to be reported or where it is not possible or customary to value an account at 31 December, the normal valuation point for the account that is nearest to 31 December is to be used. That other reporting period must be consistently applied for a reasonable number of years.

Example

When a Specified Insurance Company has chosen to use the anniversary date of a policy for valuation purposes, if for example the policy was opened on 3 July 2015, it will be valued on 2 July 2016. It is the 2 July 2016 value that will be reported for the year ending 31 December 2016. This will be reported to the FPS Finances in 2017.

10.2.3. Examples

Example 1

An account opened on 28 May 2015 is identified as a Reportable Account on 3 December 2017. Because the account was identified as a Reportable Account in calendar year 2017, information with respect to that Reportable Account must be reported in calendar year 2018 with respect to the full calendar year 2017 and on an annual basis thereafter.

Example 2

An account is opened on 2 February 2016 and becomes a Reportable Account on 1 March 2016. The account ceases to be a Reportable Account on 25 October 2016. Because the account ceased to be a Reportable Account before 31 December 2016 it is not required to be reported in 2017 (with respect to the year 2016) or afterwards.

Example 3

On 1 December 2016, an account becomes a potential Reportable Account due to a change in circumstances (e. g. a Belgian Account Holder moves to Germany and becomes a German tax resident). The Account does not become a Reportable Account until 90 calendar days following 1 December 2016 (unless cured and confirmed before that date). As a result, the account is not reportable for the year 2016.

Example 4

An account is opened on 9 September 2016 and becomes a Reportable Account on 8 February 2017. However, on 27 September 2017, the Account Holder closes the account. Because the account was a Reportable Account between 8 February 2017 and 27 September 2017 and was closed in calendar year 2017, information with respect to that account (including the closure of that account) must be reported in calendar year 2018 with respect to the part of calendar year 2017 between the first of January and 27 September.

Example 5

An account is opened on 1 January 2015 and becomes a Reportable Account on 10 March 2017 due to a change in circumstances. However, on 1 October 2017, the Account Holder ceases to be a Reportable Account Holder and the account is closed on 1 December 2017. As the Account Holder ceased to be a Reportable Account Holder before the account was closed, the account is not required to be reported in calendar year 2018 (with respect to the year 2017).

Example 6

On 1 July 2016, a Reporting Financial Institution identifies a Pre-existing Lower Value Account as a Reportable Account. Because the account was identified as a Reportable Account in calendar year 2016, information with respect to that Reportable Account must be reported in calendar year 2017 with respect to the full calendar year 2016 and on an annual basis thereafter. This is because Financial Accounts must be reported from the moment they have been identified as such.

Example 7. Residence for tax purposes

If the insurance contract still exists on December 31st of the income year, then the last known residence for tax purposes on December 31st is determining for the reporting. In the case of an account closure during the income year (death/end of term/complete redemption), the last known residence for tax purposes at the moment of payment is determining for the reporting.

Exemple 8. Payments after account closure

These will always be reported, even if the effective payment only takes place in the year following the account closure.

For example payment upon death: death insured person on December 20th 2016 – payment to the beneficiary (= CRS-relevant) on January 7th 2017

=> Reporting in 2017 for the year of income 2016 – for the policyholder

Reportable period January 1st 2016 – December 20th 2016

Gross amount of eventual intermediary partial redemptions

0-account balance + fact of account closure

=> Reporting in 2018 for the year of income 2017 – for the beneficiary

Reportable period January 7th 2017

Gross amount of the payment”

10.3. CRS Reportable Jurisdiction

A CRS Reportable Jurisdiction means another Member State of the European Union (*DAC 2014/107/EU*), or another jurisdiction with which an agreement is in place pursuant to which there is an obligation to provide the information specified in the CRS and which is identified in a published list.

The Royal Decree of 14 June 2017 (MB/BS of 19 June 2017) establishes the (provisional) list of “other reportable jurisdictions” (reportable jurisdictions other than the EU Member States). FPS will publish each year an updated list of Reportable jurisdictions

10.3.1. General rule

The CRS Reportable Jurisdiction to which the CRS Reportable Information (see section 10.4.) has to be communicated is the country where the Reportable Person is a resident for tax purposes under the law of that Jurisdiction on 31 December of the calendar year (or at the end of the reporting period).

In case a Reportable Person has a tax residency in more than one CRS Reportable Jurisdiction on 31 December of the calendar year (or at the end of the reporting period), the CRS Reportable Information has to be sent to each CRS Reportable Jurisdiction where his/her tax residency is established.

10.3.2. Exception to the general rule

In case a Reportable Person has closed one of his/her accounts and afterwards moved from a CRS Reportable Jurisdiction to another CRS Reportable Jurisdiction during the same calendar year (or alternative reporting period), the closure of the

account and Reportable Information associated with the closed account must be communicated to the country where the Reportable Person was a resident for tax purposes under the law of the Reportable Jurisdiction on the date of the closure.

10.3.3. Examples

Example 1

A Financial Account is opened on 8 February 2017 and the Account Holder certifies to have his tax residency in two different CRS Reportable Jurisdictions, for example Italia and Spain. There is no change in circumstances during the year 2017. On 31 December 2017 the tax residencies of the client are still Italia and Spain. Information with respect to that Reportable Account must be reported in calendar year 2018 taking into consideration Italia and Spain, both as CRS Reportable Jurisdictions.

Example 2

A Financial Account is opened on 8 February 2017 and the Account Holder certifies to have his tax residency in one CRS Reportable Jurisdiction, for example France. On 10 October 2017 the client moves to Germany and certifies to have his tax residency in Germany, not in France anymore. On 31 December 2017, the tax residency of the client is Germany only. Information with respect to that Reportable Account must be reported in calendar year 2018 taking into consideration Germany as the only CRS Reportable Jurisdiction.

Example 3

Two Financial Accounts are opened on 8 February 2016 and the Account Holder certifies to have his tax residency in the UK. On 26 June 2016, the client closes one of his two Financial Accounts. On 10 October 2016 the client moves to France and certifies to have his tax residency in France, no longer in the UK . On 31 December 2016, the tax residency of the client is France only. Information with respect to the closed account must be reported in calendar year 2017 taking into consideration UK as the CRS Reportable Jurisdiction. Information with respect to the account that has remained open must be reported in calendar year 2017 taking into consideration France as the CRS Reportable Jurisdiction.

10.4. CRS Reportable Information

10.4.1. Reportable Information related to the Reportable Persons and the Controlling person(s) of Passive NFE's that are Reportable Persons

10.4.1.1. Generalities

10.4.1.1.1. Reportable Persons

In relation to each Reportable Person that is the holder of a Reportable Account the information to be reported is :

- 1) Name of Reportable Person. In case the Reporting FI does not have a complete first name for an individual, an initial or NFN ('No First Name') may be used instead;
- 2) Address of Reportable Person ;
- 3) Jurisdiction(s) of Residence of Reportable Person;
- 4) TIN(s) (where applicable);
- 5) The TIN issuing jurisdiction (if known);
- 6) Date and place of birth (for individuals (where required));
- 7) The account number or functional equivalent;
- 8) The name and identifying number (if any) of the Reporting FI.

10.4.1.1.2. Controlling Persons of Passive NFE that are Reportable Persons

Controlling Persons are the natural persons who exercise control over an Entity. This definition corresponds to the term "beneficial owner" as described in Recommendation 10 of the Financial Action Task Force Recommendations (as adopted in February 2012). "Control" over an Entity is generally exercised by the natural person(s) who ultimately has a controlling ownership interest in the Entity. A "control ownership interest" depends on the ownership structure of the legal person and is usually identified on the basis of a threshold applying a risk-based approach (e.g. any person(s) owning more than a certain percentage of the legal person, such as 25%).

Where no natural person(s) exercises control through ownership interests, the Controlling Person(s) of the Entity will be the natural person(s) who exercises control of the Entity through other means.

Where no natural person(s) is identified as exercising control over the Entity, the Controlling Person(s) of the Entity will be the natural person(s) who holds the position of senior managing official. It is required to indicate the Controlling Person Type when this information is available. A list of the different options in this respect can be found in annex 3 of the Common Reporting Standard User Guide.

In respect to the Controlling Persons the below information is to be reported :

- 1) Name. In case the Reporting FI does not have a complete first name for an individual, an initial or NFN ('No First Name') may be used instead) ;
- 2) Address ;
- 3) Jurisdiction(s) of residence ;
- 4) TIN(s) (if any) ;
- 5) Date and place of birth ;
- 6) Controlling Person Type (required when this information is available).

In respect to the Passive NFE (or entity assimilated thereto):

- 1) Legal name ;
- 2) Address ;
- 3) Jurisdiction(s) of residence ;
- 4) Identification Number (IN) of the Entity (i.e. a TIN, a company registration number, EIN or other similar identifying number specified by the tax administration) (used by the sending and/or receiving tax administration ;

- 5) The account number or functional equivalent ;
- 6) The name and identifying number (if any) of the Reporting FI.

10.4.1.2. Explanation of information required

10.4.1.2.1. Account number

The account number to be reported with respect to an account is the identifying number assigned to the account or other number that is used to identify the account within the FI.

As a general rule, for interest and dividend payments, the number of the account to be reported is that of the account to which the assets generating the income or gross proceeds are posted.

Example

A current account (Depository Account) holding a cash balance in respect of which interest is paid or credited. The account number to report is the current account's number.

Where income is generated by assets held in an account, whilst the payment is made to another account, such income should be reported in relation to the account in which the income-generating assets are held.

Example

Bonds on a Custodial Account generate interest paid or credited to a current account. The account number to report is the Custodial Account number.

This would also be the case where the account is held in bare ownership-usufruct (see section 10.2.5.)

10.4.1.2.2. Name

In case the reporting FI does not have a complete first name for an individual, an initial or NFN ("No First Name") may be used instead.

10.4.1.2.3. Address

The address to be reported with respect to an account held by a Reportable Person is the latest residence address recorded by the Reporting FI for the Account Holder or, if no residence address is associated with the Account Holder, the address used for mailing or other purposes by the Reporting FI.

In the case of a Passive NFE with Controlling Persons that are Reportable Persons, the address required will be the address of each Controlling Person who is reportable and the address of the Passive NFE.

10.4.1.2.4. Taxpayer Identification Numbers and date of birth of Account Holders or Controlling Persons

Where it has been established that an Account Holder is a Reportable Person or a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Financial Institution is required to obtain a TIN and date of birth. When referred to, a TIN means a Taxpayer Identification Number.

For Pre-existing Individual Accounts that are Reportable Accounts, the TIN or date of birth need only be provided if it is in the records of the Reporting Financial Institution or are otherwise required to be collected by such Reporting Financial Institution under domestic law (e.g. AML/KYC procedures). However, a Reporting FI is required to use reasonable efforts to obtain the TIN(s) 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.

For all New Accounts that are identified as Reportable Accounts, the Reporting Institution **must** obtain a self-certification from each Reportable person that includes a TIN of each Reportable Person. Controlling Persons of a Passive NFE that are Reportable Persons may provide a TIN and date of birth, either a self-certificate provided by the Controlling Persons or a self-certificate provided by the Passive NFE.

Where for a New Account the proposed Account Holder fails to provide a TIN or evidence of non-Reportable status before the deadline communicated by the FI the account cannot be opened, or when opened it should be blocked or reported. There is no requirement for a FI to verify that the TIN provided is correct. A FI will not be held accountable where information supplied by an Individual proves to be inaccurate and the FI had no reason to know if the information is incorrect.

For minors where no TIN number is available, Belgian FIs are required to report “000000000” as the TIN (see section 5.14.1.).

No TIN must be obtained if a TIN is not issued by the relevant Reportable Jurisdiction or if the Reportable Jurisdiction does not require the TIN to be reported.

10.4.1.2.5. Place of birth of the Account Holders or Controlling Persons

The place of birth is not required to be reported for both Preexisting and New Accounts unless it is available in the electronically searchable data maintained by the Reporting Financial Institution.

10.4.1.2.6. Change of Controlling Persons

All Controlling Persons should be reported only if they are still Controlling Persons on the last day of the Reportable Year or on the day of the account closure when the account is closed during the year.

Example

In case there are two Controlling Persons that are Reportable Persons at the beginning of the year and one of them sells all his shares to the other one in the course of the reportable period, the selling Controlling Person will not have to be reported as Controlling Person on the account of the Passive NFE.

If at the time the Passive NFE is no longer held by any Reportable Controlling Person on 31 December or at the last day of the relevant reporting year, then for that reporting year and any subsequent year the relevant Controlling Persons of the Passive NFE are no longer reportable.

10.4.2. Reportable Information related to the Assets**10.4.2.1. Open account****10.4.2.1.1. General rules**

The balance or value will be that shown on 31 December of the previous calendar year (or other appropriate period - for example for certain insurance contracts).

Example

For a reportable Depository Account the balance to be reported will be the balance or value as of 31 December 2016. This will be reported in 2017.

Where 31 December falls on a weekend or bank holiday, one can use the last working day before 31 December.

The balance or valuation of a Financial Account is the balance or value calculated by the Belgian Reporting FI for purposes of reporting to the Account Holder.

The balance or value of an Equity Interest is the value calculated by the FI for the purpose that requires the most frequent determination of value, and the balance or value of a Debt Interest is its principal amount.

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 and is not to be reduced by any fees, penalties or other charges for which the Account Holder may be liable upon terminating, transferring, surrendering, liquidating or withdrawing cash from the account.

10.4.2.1.2. Zero or negative account balance

Even if the account balance or value is equal to “0,00” or is negative, such an account is still a Reportable Account.

In case of a negative account balance, the amount to be reported is “0,00”.

10.4.2.1.3. Currency conversion principles

The account balance or value of a Financial Account may be reported in the currency in which the account is denominated and the currency may be identified in the information reported.

The balance or valuation of a Financial Account is the balance or value calculated by the Reporting FI for purposes of reporting to the Account Holder.

The method of conversion, which may be based on a published exchange rate or the exchange rate used for the client, must be applied consistently to all Financial Accounts or to a clearly identifiable group of accounts, such as by line of business or the location of where the account is maintained.

10.4.2.2. Closed account

In the case of a “pre-existing account” closure and the closed account is a reportable account, the Reporting FI must report “0,00” as the account balance and must specify that the reporting is related to a closed account.

In the case of a “new account” closure, the Reporting FI must report “0,00” as the account balance and must specify that the reporting is related to a closed account.

Remark : term deposits at maturity date, which roll over are not considered as closed accounts

10.4.3. Reportable Information related to Income and Proceeds (“payments”)

10.4.3.1. Preliminary remark

Where the Reporting FI has only a passive role in the payment process and either no knowledge of the facts that give rise to the payment or no control over the payment or no custody of the property which relates to the payment (e.g. processing a cheque or arranging for the electronic transfer of funds on behalf of one of its customers, or receives payments credited to a customer’s account) or does not have custody of property which relates to the payment, the FI is not required to report such payments.

10.4.3.2. General rules

10.4.3.2.1. Custodial Accounts

Where the account is a Custodial Account the following information is also required :

- the total gross amount of interest generated with respect to the assets held in the account, (paid or credited to the account or with respect to the account);

- the total gross amount of dividends 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 or other appropriate period);
- 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 or other appropriate period);
- the total gross proceeds from the sale or redemption of Financial Assets (paid or credited to the account or with respect to the account) with respect to assets held on the Custodial account, with respect to which the Reporting Financial Institution acts as custodian, broker, nominee or otherwise as an agent for the account holder.

10.4.3.2.2. Depository Accounts

Where the Reportable Account is a Depository Account the following information is also required :

- the total amount of gross interest paid or credited to the account in the calendar year or other appropriate reporting period³⁷.

10.4.3.2.3. Cash Value Insurance Contracts

If the Cash Value Insurance Contract is still in existence at the end of the year the following information must be reported each year :

- the annual amount reported to the policyholder as the "surrender value"³⁸ of the account; or
- the "surrender value" calculated by the Specified Insurance Company as at 31 December; and
- any partial surrenders taken throughout the policy year.³⁹

If the Cash Value Insurance Contract is no longer in existence at the end of the year, see section 10.2.2.2. Account closure.

³⁷ This requirement also applies to interest paid in respect of an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon (i.e. a so-called *'tak 26''branche 26 contract as contemplated by* article 2, 6° of the Royal Decree of 14th November, 2003. Each insurer must report either:

- the reserves of the contract at 31st of December without the profit sharing that has been attributed to the contract in the last year, but has not yet been approved by the General Shareholders Meeting; or
- the reserves of the contract at 31st of December including the profit sharing that has been attributed to the contract in the last year, but has not yet been approved by the General Shareholders Meeting;

Insurers are bound by the reporting option chosen for future reporting. This means that consecutive reporting have to be done in the same way.

³⁸ This is the surrender value that is reported yearly in accordance with article 19, §1, 3° and article 20, §1, 6° of the Royal Decree of 14th of November 2003.

³⁹ Reference is made to the partial surrender value that is reported yearly in accordance with article 19, §1, 2° and article 20, §1, 5° of the Royal Decree of 14th of November 2003.

Immediate Annuities :

if an Annuity Contract does not have a cash/surrender value to which the Account Holder has access, there is no account balance to report. A Specified Insurance Company will only be required to report the amount paid out or credited to the Account Holder (the beneficiary of the Annuity). In any other case, the contract is similar to a Cash Value Insurance Contract and should be treated as such for reporting as set out above.

Deferred Annuities :

In Belgium, deferred annuities have two stages :

- the accumulation phase where the Annuity Contract is similar to a Cash Value Insurance Contract and should be treated as such for reporting as set out above ;
- the pay-out phase where the Annuity Contract becomes an immediate annuity and should be treated as such for reporting as set out above.

10.4.3.2.4. Other Financial Accounts

For Reportable Accounts other than Custodial Accounts or Depository Accounts, the following information is also required :

- the total gross amount paid or credited to the Account Holder with respect to the account with respect to which the Reporting Belgian FI is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder.

10.4.3.3. Connecting factor with the CRS Reportable Period

The date on which interests, dividends, proceeds of a sale or redemption of securities, etc. are credited to the Reportable Account of the beneficiary determines to which CRS reportable period that payment is related.

Example 1

Total amount of interest from a regulated savings account paid by a Belgian Bank and credited on 3 January 2016 on the account of the beneficiary are related to the CRS reporting period 2016 (reporting in 2017) and must be reported for calendar year 2016 even when it relates to a cash balance held in 2015.

Example 2

Total amount of dividends paid on shares posted to a custodial account maintained by a Belgian bank and credited on 30 December 2015 on the account of the beneficiary does not have to be reported.

Example 3

Total amount of dividends distributed on shares posted to a custodial account maintained by a Belgian bank and credited to the said account on 30 May 2016 is related to the CRS reporting period 2016 (reporting in 2017) and must be reported for that reporting period.

Example 4

Total amount of interest from a 5-year term account paid by a Belgian Bank and credited on 2 January 2016 on the account of the beneficiary is related to the CRS reporting period 2016 (reporting in 2017) and has to be reported for that reporting period.

10.4.3.4. Amount and characterization of the Income and Proceeds to be reported

The amount and characterization of payments made with respect to a reportable account may be determined in accordance with the principles of the Belgian tax laws.

10.4.3.4.1. Amount of the payments to be reported

(i) The gross amount of income and proceeds gross of any Belgian withholding tax (for example, the Belgian withholding tax - “roerende voorheffing/précompte mobilier”) as well as fees payable in connection with the collection of such income or proceeds.

(ii) When credit interest and debit interest are calculated for the same interest closure period in relation to the same Depository Account, the amount which has to be reported is the positive difference between the credit interest and the debit interest paid or credited to the account, for that period.

Example

A current account calculates debit interest on a monthly basis and credit interest on a yearly basis. On 31 December Year X, the total amount of credit interest for the Year X is 1.000 EUR and the total amount of debit interest for the month December of Year X is 150 EUR. With respect to the interest closure period on 31 December Year X, the total amount of interest to be reported is 850 EUR (= amount of interest which has been paid and credited to the current account of the client).

(iii) In case of negative credit rates the banks will charge negative credit interest: instead of receiving money on deposits, depositors must pay regularly to keep their money with the banks. Negative credit interest is never to be reported as “income” within the meaning of CRS. Only positive credit interest is reportable as “income”. Compensation between negative credit interest and positive credit interest is not allowed: the amount of positive credit interest has to be reported as “income” without deduction of any possible amount of negative credit interest paid by the reportable person related to his/her cash accounts.

10.4.3.4.2. Characterization of the payments to be reported

(i) When there is no movable income (interest, dividend, etc.) within the meaning of the Belgian tax Law generated with respect to the assets held in the Custodial Account, there is no CRS reporting to be done with respect to these payments.

For example, there is no payment of income within the meaning of the Belgian tax Law in the following cases :

- the distribution of bonus shares (“bonusaandelen /actions de bonus”);
- the distribution of additional shares in the case of a stock split (without payment of fractional shares);
- the distribution of warrants (subscription rights).

(ii) In the case of sale or redemption of securities, the Reporting Belgian FI has to report the total gross proceeds from the sale or redemption irrespective of whether the distribution qualifies as “movable income” within the meaning of the Belgian tax Law.

For example, the following amounts are subject to CRS reporting:

- the reduction of capital (regardless the application of article 18, 2°, ITC 1992) ;
- the sale or redemption of shares/units of funds (FCP/GBF or SICAV/BEVEK) (regardless the application of articles 19bis or 21,2°, ITC 1992 for example). Regarding the sale, liquidation or repurchase of shares/units of funds (FCP/GBF or SICAV/BEVEK) which fall in scope of art. 19bis, ITC 1992, the movable income (= interest) is included in the amount of proceeds. The Reporting Belgian FI must only report the total gross proceeds from the sale, liquidation or repurchase of the shares (which includes the amount of interest within the meaning of article 19bis, ITC 1992).

(iii) In the case of sale or redemption of securities whereby the sales proceeds include accrued interest or a dividend , the Reporting Belgian FI has no obligation to split the proceeds and the interest of dividend income. Instead it may choose to report the total amount that had been paid or credited as sales proceeds.

For example, when a bonds are repurchased/redeemed, interest/original issue discount/redemption premium may be included in the proceeds.

For example, in the case of a sale of bonds on the secondary market, the Reporting Belgian FI may report the amount paid (“dirty price”) as the total gross proceeds from the sale of the bonds.

In that case, the Reporting Belgian FI has no obligation to split the proceeds and the interest income: it may choose to report the total amount that had been paid or credited as sales proceeds ;

(iv) The concept of “sale” of securities should be interpreted broadly and encompasses not only sales but also repurchases, contributions, liquidations, exchanges, etc.) and covers in principle a “transfer of ownership for consideration (à titre onéreux/ten bezwarende titel) ;

(v) For simplification purposes, the payment of a coupon by a FCP/GBF may be reported as “interest” (with or without application of article 19ter, ITC 1992 and irrespective of the underlying income). The redemption or sale (of the certificates in a FCP) will be reported as a gross proceed irrespective of the underlying income.

See reporting table in Appendix 8.

10.4.3.4.3. Non reportable income

Amounts (“credit transfers”) credited or paid to a Belgian account in furtherance of a domestic or international cash transfer are not required to be reported.

Example :

A Reportable Person has a cash account maintained by a Belgian bank and is also a shareholder of a French company which decides to distribute dividends. The French shares are not held on a Custodial Account maintained by the Belgian bank. The French company pays the amount of the distributed dividends through a credit transfer from its bank account held in a French bank to the Belgian bank maintaining the account of shareholder A. In that case, there is no reporting obligation for the Belgian bank relating to the payment of that income. Of course, the obligation to report the balance of the account on which the income has been credited, remains.

Collection of a dividend-check or a coupon cut of a bearer bond at the counter of a Belgian bank.

In that case, there is no CRS reporting obligation for the Belgian bank relating to the payment of that income. However, the obligation to report the balance of the account on which the income has been credited, remains.

10.4.4. Joint Accounts - Joint ownership

Where a Financial Account is jointly held, the balance or value in the account is to be attributed in full to all joint holders of the account.

Example

Where a jointly held account has a balance or value of \$100,000 and one of the Account Holders is a Reportable Person then the amount to be attributed to that person would be \$100,000.

If both account holders were Reportable Persons then each would be attributed the \$100,000 and reports would be made for both.

This will apply for both aggregation and reporting purposes.

If an account is jointly held by an Individual and an Entity, the FI will need to apply separately both the Individual and Entity due diligence requirements in relation to that account.

The same principles (full allocation) apply also to joint ownerships where the members are entitled to a part of the income paid to the joint ownership, such as the partners of a “burgerlijke maatschap/société de droit commun”, see Section 11.

10.4.5. Bare ownership - usufruct

In accordance with Belgian civil Law, the usufruct is generally entitled to receive income (interest, dividends, etc.) generated by the assets held in bare ownership-usufruct and the bare owner is entitled to receive the assets (capital) and the gross proceeds of the sale or redemption of the assets held in bare ownership-usufruct.

The capital, account balance or value and the gross proceeds of the sale or redemption will be reported in name of the bare owner.

The income (interest, dividends,..) paid or credited with respect to the assets will be reported in name of the usufruct holder.

In that case the Belgian Reporting FI may choose to report either the generating account number or the account on which the income is received.

10.4.6. Timetable for CRS Reporting

Reporting Year	In respect of	Information to be reported	Reporting date to FPS Finances
2016 and onwards	Each Reportable Individual, Entity Or Controlling Person of an Passive NFE Account Or Undocumented Account, i.e. for which a “hold mail” instruction or “in-care-of” address in the Reportable Jurisdiction is discovered in the electronic search and no other address has been identified within such an electronic search. Furthermore, such an account has not	In respect to the Reportable Entity 1) Name; 2) Address; 3) Jurisdiction(s) of residence; 4) Taxpayer Identification Number (if any); 5) The account number or functional equivalent of the account; 6) The name and identifying number of the Reporting FI; 7) The account balance or value of the account as of the end of the previous	Within six months following the civil year to which the income relates

	<p>been cured through the paper search or the attempt to obtain the self-certification was not successful</p>	<p>calendar year or other appropriate period.</p> <p>In respect to the Reportable Individuals:</p> <ol style="list-style-type: none"> 1) Name; 2) Address; 3) Jurisdiction(s) or residence; 4) TIN (if any); 5) Date of birth; 6) Place of birth; 7) The account number or functional equivalent of the account; 8) The name and identifying number of the Reporting FI; 9) The account balance or value of the account as of the end of the previous calendar year or other appropriate period. <p>In respect to the Reportable Controlling Persons</p> <ol style="list-style-type: none"> 1) Name(s); 2) Address; 3) Jurisdiction(s) or residence; 4) TIN (if any); 5) Date of birth; 6) Place of birth; 7) Controlling Person type 	
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		(when available).	
	Custodial Accounts	<ul style="list-style-type: none"> • The total gross amount of interest; • The total gross amount of dividends; • The total gross amount of other income generated with respect to the assets held in the account paid or credited to the account • The total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account 	Within six months following the civil year to which the income relates
	Depository Accounts	The total amount of gross interest paid or credited to the account in the calendar year or other reporting period	
	Other accounts	The total gross amount paid or credited to the account including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period	
	Gross Proceeds	The total gross proceeds from the sale or redemption of	Within six months following the civil

		property credited account	paid to	or the	year to which the income relates
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10.4.7. Central Securities Depository Reporting

In the case of securities held in the clearing system operated by the NBB (acting as a Central Securities Depository) or Euroclear Belgium (“NV”/ “Caisse Interprofessionnelle de Dépôts et de Interprofessionnelle Effectendepositen Girokas Virements de Titres SA”) that are held by or through one or more other FIs, the relevant Financial Accounts will be treated as being held by such FIs, and such FIs will be responsible for any reporting required with respect to such Financial Accounts.

Notwithstanding the foregoing, the NBB and Euroclear Belgium may report on behalf of such other FIs.

10.4.8. Exceptions

The following do not need to be reported:

- 1) Payments for the following: services (including wages and other forms of employee compensation (such as stock options)), the use of property, office and equipment leases, software licenses, transportation, freight, gambling winnings, awards, prizes, scholarships, and interest on outstanding accounts payable arising from the acquisition of goods or services;
- 2) Payments where the Reporting FI has only a passive role in the payment process and so, alternatively either no knowledge of the facts that give rise to the payment or no control over the payment or no custody of the property which relates to the payment (e.g. processing a cheque or arranging for the electronic transfer of funds on behalf of one of its customers, or receives payments credited to a customer’s account) or does not have custody of property which relates to the payment;

10.4.9. Format

The format in which reporting will be required is the specific XML template (and associated validation rules) provided by the Belgian FPS Finances. Details can be found on the FPS Finances website at <https://finances.belgium.be/fr/E-services/>(Common Reporting Standard (CRS))

10.4.10. Transmission

Details about the electronic way in which Financial Institutions will submit the CRS information to the FPS Finances can be found on the FPS Finances website at <http://finances.belgium.be/fr/E-services/>(Common Reporting Standard (CRS)) .

11. Specific constructions

11.1. De facto association

A de facto association (“feitelijke vereniging/association de fait”) is a group of two or more individuals (members of the de facto association), without proper legal personality, established and maintained for a specific purpose, without any intention to provide any gain or income to their members.

Examples:

Sports club, youth movement, alumni associations.

The members of a de facto association are not entitled to receive any part of the gains or income realized and collected by the de facto association (for example, interest from a current account or proceeds from the sale of securities). Furthermore, the members of a de facto association have no right of return on the assets held by the association, even when they leave the association. On the death of a member, the heirs of the deceased member have no right to receive any assets held by the de facto association.

Such de facto associations are qualified as “Active NFEs”.

11.2. Burgerlijke maatschap / Société civile

A non-trading partnership under common Law (“burgerlijke maatschap/société civile de droit commun”) is a contract whereby two or more persons (the partners) form a partnership to set up a partnership without legal personality by injecting capital (movable assets, real estate, etc.) into it in order to develop a non-trading activity.

Examples:

Association of accountants, association of Lawyers, association of tax consultants, association of notaries, association of family members for “family estate management”, etc.

A non-trading partnership must have at least two partners, who are jointly but not severally liable for all the obligations of the non-trading partnership. It may be established by notarial deed or by private instrument for a limited or unlimited period. No minimum contribution is prescribed by the Law, but each partner must contribute or promise to contribute to the non-trading partnership.

A non-trading partnership has no legal personality which means that the non-trading partnership has no own property. The assets used by the non-trading partnership do not belong to the partnership but are jointly held by the partners. The partners are

legally entitled to a part of the income paid to the non-trading partnership in proportion to their respective shares.

The liquidation of a non-trading partnership results in the distribution of the joint assets between the partners. On the death of a partner and if the non-trading partnership is not wound up on that death, the shares held by the deceased partner will be shared between the heirs who will pay death duties on the deceased partner's shares they receive as inheritors.

A non-trading partnership is treated as “transparent” for tax purposes in Belgium. Consequently, for tax purposes, the income of a non-trading partnership is considered as the income of the partners. Such income is taxed as such as far as the partners are concerned.

A non-trading partnership is treated as joint ownership (“onverdeeldheid /indivision”) for tax purposes in Belgium.

Therefore, each partner of a non-trading partnership is subject to the CRS requirements as holder of the “Financial account”

However, as regards cash value insurance contracts, the insurance company may consider the account holder is the person who will receive a payment as a beneficiary in execution of the cash value insurance contract, in case of death, life or surrender and this when this payment will be made.

11.3. Co-owners association (« Vereniging van mede-eigenaars/ Association de copropriétaires »)

Co-owner associations with legal personality (managing real estate) as defined by Civil Belgian Law (article 577-5,§1 of the “Burgelijk Wetboek/Code Civil”) are considered as Active NFEs.

11.4. Certification vehicle (“Effecten certificaten Vehicle / Véhicule de certification de titres”)

Entities issuing certificates in accordance with the Law of July, 15, 1998 and art. 503 and following of the Belgian Company Code are contemplated by this Section and are referred to as certification entities.

A certification entity is an entity that issues certificates which represent certain financial instruments. The holder of the certificate is beneficially entitled to all income produced by the underlying financial instruments and bears all of the economics risk attached to these financial instruments, but cannot generally exercise the voting rights attached to

the financial instruments. Such entities are mainly used to prevent hostile take overs and for estate planning purposes.

On the Belgian market, there are two main types of certification entities to be considered in the context of the Agreement:

- (a) Certification entities having legal personality as well as entities taking the form of foundations governed as and established by the Belgian Law of May 2, 2002 governing non-profit associations and foundations.
- (b) Certification entities governed by Dutch Law are the Stichting Administratiekantoor or the STAK commonly used in Belgium and indirectly covered by Belgian Law.

Are a.o. in scope of this category a Stichting Administratiekantoor under Dutch Law (STAK) and a « belgische private stichting/fondation privée de droit belge»⁴⁰.

Such certification vehicles are treated as Passive NFEs unless the certificates issued by the vehicles are regularly traded on an established securities market, in which case they are treated as Active NFEs

11.5. Trust under UK Law

As a trust is considered to be an Entity in the CRS, it may be a Financial Institution or a nonfinancial Entity (NFE). The most likely scenario in which a trust will be a Financial Institution is if it falls within the definition of Investment Entity as described in Section VIII, paragraph A.6)(b) of the CRS. This is the case when a trust has gross income primarily attributable to investing, reinvesting, or trading in Financial Assets and is managed by another Entity that is a Financial Institution (FI). This would also include trusts that are collective investment vehicles or other similar investment vehicle established with an investment strategy of investing, reinvesting, or trading in Financial Assets.

If a trust is not a Financial Institution, it will be a nonfinancial Entity. Although perhaps less common in practice, a trust could qualify as an Active NFE, such as a trust that is a regulated charity or a trading trust carrying on an active business.

If a trust is not an Active NFE, it will be a Passive NFE. In addition, if a trust is holding a Financial Account with a Reporting Financial Institution, such Reporting Financial Institution must treat the trust as a Passive NFE if it is an Investment Entity described

⁴⁰ Wet van 2 mei 2002 betreffende de verenigingen zonder winstoogmerk, de internationale verenigingen zonder winstoogmerk en de stichtingen/Loi du 2 mai 2002 sur les associations sans but lucratif, les associations internationales sans but lucratif et les fondations

in Section VIII, subparagraph A(6)(b) that is not resident or located in a Participating Jurisdiction.

More information regarding the treatment of trusts in the CRS can be found in Part II of the CRS Implementation Handbook.

11.6. Tijdelijke handelsvennootschap / Société momentanée

If the entity is an active or passive NFE, it may be considered as having no residence for tax purposes. In that case the entity shall be treated as resident in the jurisdiction in which its place of effective management is situated, as explained in paragraph 10 of the Commentary on section VI CRS.

11.7. Stille handelsvennootschap / Société interne

If the entity is an active or passive NFE, it may be considered as having no residence for tax purposes. In that case the entity shall be treated as resident in the jurisdiction in which its place of effective management is situated, as explained in paragraph 10 of the Commentary on section VI CRS.

11.8. (Europees) Economisch samenwerkingsverband / Groupement (Européen) d'intérêt économique

If the entity is an active or passive NFE, it may be considered as having no residence for tax purposes. In that case the entity shall be treated as resident in the jurisdiction in which its place of effective management is situated, as explained in paragraph 10 of the Commentary on section VI CRS.

12. Appendix 1: FFI NACE codes list

NACEbel	NACEcred	Description
64100		Monetary intermediation
64190		Other monetary intermediation
64300		Trusts, funds and similar financial entities
64900		Other financial service activities, except insurance and pension funding n.e.c.
64990		Other financial service activities, except insurance and pension funding n.e.c.
64992		Securities houses
64999		Other financial services
65100		Insurance
65110		Life Insurance
65111		Direct life insurance
65112		Activities of mixed insurance companies, with life predominating
66110		Administration of financial markets
66120		Security and commodity contracts brokerage
66190		Other activities auxiliary to financial services, exc. Insurance, pension funds
66199		Other support activities relating to financial services, excluding insurance, pension funds
66300		Asset management (“vermogensbeheer/gestionnaire de portefeuille”)

Legend:

In Scope to Classify FFIs

13. Appendix 2: Active NFE (NBB codes)

List of BNB codes "forme juridique" as found in following document:

FR: https://www.nbb.be/doc/ba/consulting/cnd_f_abin_cndtechn_v201502.pdf

NL: https://www.nbb.be/doc/ba/consulting/cnd_n_abin_cndtechn_v201502.pdf

13.1. Active NFE – Reportable Person if resident in a reportable jurisdiction

Code	Denomination
017	Association sans but lucratif (ASBL) Vereniging zonder winstoogmerk (VZW)
506	Société coopérative à responsabilité illimitée et à finalité sociale Coöperatieve vennootschap met onbeperkte aansprakelijkheid met sociaal oogmerk
508	Société coopérative à responsabilité limitée à finalité sociale Coöperatieve vennootschap met beperkte aansprakelijkheid met sociaal oogmerk
511	Société en nom collectif à finalité sociale Vennootschap onder firma met sociaal oogmerk
512	Société en commandite simple à finalité sociale Gewone commanditaire vennootschap met sociaal oogmerk
513	Société en commandite par actions à finalité sociale Commanditaire vennootschap op aandelen met sociaal oogmerk
514	Société anonyme à finalité sociale Naamloze vennootschap met sociaal oogmerk
515	Société privée à responsabilité limitée à finalité sociale Besloten vennootschap met beperkte aansprakelijkheid met sociaal oogmerk
560	Groupement d'intérêt économique à finalité sociale Economisch samenwerkingsverband met sociaal oogmerk
651	Autre forme à finalité sociale (de droit public) Andere publiekrechtelijke vormen met sociaal oogmerk

13.2. Active NFE – Excluded from being a Reportable Person

Code	Denomination
002	Organisme de financement des pensions Organisme voor de financiering van pensioenen

- 019 Mutualité / Société mutualiste de prévoyance
Mutualiteit / Onderlinge ziekenfondsverzekeringen
- 020 Union professionnelle
Beroepsvereniging
- 022 Organisation scientifique internationale de droit belge (jusqu'au 23/04/2004)
Internationale wetenschappelijke organisatie naar Belgisch recht (tot 23/04/2004)
- 106 Société coopérative à responsabilité illimitée de droit public (jusqu'au 01/07/1996)
Publiekrechtelijke coöperatieve vennootschap met onbeperkte aansprakelijkheid (tot 01/07/1996)
- 107 Coopérative à responsabilité illimitée, coopérative de participation, de droit public
Publiekrechtelijke coöperatieve vennootschap met onbeperkte aansprakelijkheid, bij wijze van deelneming
- 108 Coopérative à responsabilité limitée de droit public
Publiekrechtelijke coöperatieve vennootschap met beperkte aansprakelijkheid
- 109 Société coopérative à responsabilité limitée, coopérative de participation, de droit public (jusqu'au 01/07/1996)
Publiekrechtelijke coöperatieve vennootschap met beperkte aansprakelijkheid, bij wijze van deelneming (tot 01/07/1996)
- 110 Etat, Province, Région, Communauté (jusqu'au 30/06/2003)
Rijk, Provincie, Gewest, Gemeenschap (tot 30/06/2003)
- 114 Société anonyme de droit public
Publiekrechtelijke naamloze vennootschap
- 116 Société coopérative de droit public (ancien statut) ((jusqu'au 30/10/1993)
Publiekrechtelijke coöperatieve vennootschap (oud statuut) (tot 30/10/1993)
- 117 Association sans but lucratif de droit public
Publiekrechtelijke vereniging zonder winstoogmerk
- 121 Société d'assurance mutuelle (de droit public)
Publiekrechtelijke onderlinge verzekeringsmaatschappij
- 123 Corporations professionnelles - Ordres (jusqu'au 30/06/2003)
Beroepsverenigingen - Orden (tot 30/06/2003)
- 124 Etablissement public
Openbare instelling
- 125 Association internationale sans but lucratif
Internationale vereniging zonder winstoogmerk
- 126 Centre public d'action sociale

- Openbaar centrum voor maatschappelijk welzijn
- 127 Monts-de-Piété
Berg van Barmhartigheid
- 128 Temporel des cultes / Etablissement culturel public (jusqu'au30/06/2003)
Eredienst / Openbare culturele instelling (tot 30/06/2003)
- 129 Polders et wateringues
Polders en Wateringen
- 155 Police locale (jusqu'au 30/06/2003)
Lokale politiezone (tot 30/06/2003)
- 160 Organismes publics étrangers ou internationaux
Buitenlandse of internationale publieke organisaties
- 301 Service public fédéral
Federale overheidsdienst
- 302 Service public fédéral de programmation
Programmatorische federale overheidsdienst
- 303 Autres services fédéraux
Andere federale diensten
- 310 Autorités de la Région flamande et de la Communauté flamande
Overheden van het Vlaams Gewest en de Vlaamse Gemeenschap
- 320 Autorités de la Région Wallonne
Overheden van het Waals Gewest
- 330 Autorités de la Région de Bruxelles-Capitale
Overheden van het Brussels Hoofdstedelijk Gewest
- 340 Autorités de la Communauté française
Overheden van de Franse Gemeenschap
- 350 Autorités de la Communauté germanophone
Overheden van de Duitstalige Gemeenschap
- 370 Ministère des Affaires économiques (jusqu'au30/06/2003)
Ministerie van Economische Zaken (tot 30/06/2003)
- 371 Ministère des Affaires étrangères, du commerce extérieur et de la Coopération
Développementtt (jusqu'au30/06/2003)
Ministerie van Buitenlandse Zaken, Buitenlandse Handel en Ontwikkelingssamenwerking
(tot 30/06/2003)
- 372 Ministère de l'Agriculture (jusqu'au30/06/2003)

- Ministerie van Landbouw (tot 30/06/2003)
- 373 Ministère des Classes moyennes (jusqu'au30/06/2003)
Ministerie van Middenstand (tot 30/06/2003)
- 374 Ministère des Communications (jusqu'au30/06/2003)
Ministerie van Verkeerswerken (tot 30/06/2003)
- 375 Ministère de la Défense nationale (jusqu'au30/06/2003)
Ministerie van Landsverdediging (tot 30/06/2003)
- 376 Ministère de l'Education nationale et de la Culture (jusqu'au30/06/2003)
Ministerie van Nationale Opvoeding en Cultuur (tot 30/06/2003)
- 377 Ministère de l'Emploi et du Travail (jusqu'au30/06/2003)
Ministerie van Tewerkstelling en Arbeid (tot 30/06/2003)
- 378 Ministère des Finances (jusqu'au30/06/2003)
Ministerie van Financiën (tot 30/06/2003)
- 379 Ministère de l'Intérieur (jusqu'au30/06/2003)
Ministerie van Binnenlandse Zaken (tot 30/06/2003)
- 380 Ministère de la Justice (jusqu'au30/06/2003)
Ministerie van Justitie (tot 30/06/2003)
- 381 Ministère de la Prévoyance sociale (jusqu'au30/06/2003)
Ministerie van Sociale Voorzorg (tot 30/06/2003)
- 382 Ministère de la Santé publique et de la Famille (jusqu'au30/06/2003)
Ministerie van Volksgezondheid en Gezin (tot 30/06/2003)
- 383 Services du Premier Ministre (jusqu'au30/06/2003)
Diensten van de Eerste Minister (tot 30/06/2003)
- 384 Ministère des Communications et de l'Infrastructure (jusqu'au30/06/2003)
Ministerie van Verkeer en Infrastructuur (tot 30/06/2003)
- 385 Ministère de la Communauté flamande (jusqu'au30/06/2003)
Ministerie van de Vlaamse Gemeenschap (tot 30/06/2003)
- 386 Ministère de la Communauté française (jusqu'au30/06/2003)
Ministerie van de Franse Gemeenschap (tot 30/06/2003)
- 387 Ministère de la Région de Bruxelles-Capitale (jusqu'au30/06/2003)
Ministerie van het Brussels Hoofdstedelijk Gewest (tot 30/06/2003)
- 388 Ministère de la Région wallonne (jusqu'au30/06/2003)
Ministerie van het Waalse Gewest (tot 30/06/2003)

- 389 Ministère de la Communauté germanophone (jusqu'au30/06/2003)
 Ministerie van de Duitse Gemeenschap (tot 30/06/2003)
- 390 Ministère de la Fonction publique (jusqu'au30/06/2003)
 Ministerie van Ambtenarenzaken (tot 30/06/2003)
- 391 Ministère des Classes moyennes et de l'Agriculture (jusqu'au30/06/2003)
 Ministerie van Middenstand en Landbouw (tot 30/06/2003)
- 392 Ministère des Affaires sociales, de la Santé publique et de l'Environnement (jusqu'au30/06/2003)
 Ministerie van Sociale Zaken, Volksgezondheid en Leefmilieu (tot 30/06/2003)
- 400 Autorités provinciales
 Provinciale Overheden
- 401 Organismes immatriculés par l'ONSS-APL (jusqu'au31/12/2006)
 Organismen ingeschreven door de RSZ PPO (tot 31/12/2006)
- 411 Villes et Communes
 Steden en gemeenten
- 412 Centre public d'action sociale
 Openbaar centrum voor maatschappelijk welzijn
- 413 Police locale
 Lokale politie
- 414 Intercommunale
 Intercommunale
- 415 Association de projet
 Projectvereniging
- 416 Association prestataire de services (Région flamande)
 Dienstverlenende vereniging (Vlaams Gewest)
- 417 Association chargée de mission (Région flamande)
 Opdrachthoudende vereniging (Vlaams Gewest)
- 418 Régie communale autonome
 Autonoom gemeentebedrijf
- 419 Régie provinciale autonome
 Autonoom provinciebedrijf
- 420 Association de cpas
 Vereniging van openbare centra voor maatschappelijk welzijn

14. Appendix 3: Active NFE per nature

66210	Risk and damage evaluation
66220	Activities of insurance agents and brokers
68300	Real estate activities on a fee or contract basis
68310	Real estate agencies
68311	Intermediation in purchase, sale and hiring of real goods for account of third
68312	Estimate and evaluation of real goods for account of third
68320	Management of real estate on a fee or contract basis
68321	Administration of residential real goods for account of third
68322	Administration of nonresidential real goods for account of third
69000	Legal and accounting activities
69100	Legal activities
69101	Activities of Lawyers
69102	Activities of the notaries
69103	Activities of the bailiffs
69109	Other legal activities
69200	Accounting, bookkeeping and auditing activities, tax consultancy
69201	Activities of the experts-accountants and the auditors
69202	Activities of the accountants and the accountant-fiscalists
69203	Activities of the auditors
70200	Management consultancy activities
70210	Public relations and communication activities
70220	Business and other management consultancy activities

15. Appendix 4: Financial ratio formula

Definitions

An “**Active Non Financial Entity (NFE)**” means any NFE that meets a.o. the following criterium:
 Less than 50 percent of the NFE’s gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50 percent of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;

In general terms, **passive income** means the portion of gross income that consists of

- (1) Dividends, including substitute dividend amounts;
- (2) Interest;
- (3) Income equivalent to interest, including substitute interest and amounts received from or with respect to a pool of insurance contracts if the amounts received depend in whole or part upon the performance of the pool;
- (4) Rents and royalties, other than rents and royalties derived in the active conduct of a trade or business conducted, at least in part, by employees of the NFE;
- (5) Annuities;
- (6) The excess of gains over losses from the sale or exchange of property that gives rise to passive income;
- (7) The excess of gains over losses from transactions (including futures, forwards, and similar transactions) in any financial assets;
- (8) The excess of foreign currency gains over foreign currency losses;
- (9) Net income from notional principal contracts;
- (10) Amounts received under cash value insurance contracts;

Verkort Model

CODE	French Name	Dutch Name
[No code, it's 75-65]		
75	Produits financiers	Financiële opbrengsten
65	Charges financières	Financiële kosten
9901	Bénéfice (perte) d'exploitation	Bedrijfswinst (Bedrijfsverlies)
[No code, it's 76-66]		
76	Produits exceptionnels	Uitzonderlijke opbrengsten
66	Charges exceptionnelles	Uitzonderlijke kosten
6061	Approvisionnements, marchandises, services et biens divers	Handelsgoederen, grond- en hulpstoffen, diensten en diverse goederen
62	Rémunérations, charges sociales et pensions	Bezoldigingen, sociale lasten en pensioenen
630	Amortissements et réductions de valeur sur frais d'établissement, sur immobilisations incorporelles et corporelles	Afschrijvingen en waardeverminderingen op oprichtingskosten, op immateriële en materiële vaste activa

6314	Amortissements et réductions de valeur sur frais d'établissement, sur immobilisations incorporelles et corporelles	Waardeverminderingen op voorraden, op bestellingen in uitvoering en op handelsvorderingen: toevoegingen (terugnemingen)
6357	Provisions pour risques et charges: dotations (utilisations et reprises)	Voorzieningen voor risico's en kosten: toevoegingen (bestedingen en terugnemingen)
6408	Autres charges d'exploitation	Andere bedrijfskosten
649	Charges d'exploitation portées à l'actif au titre de frais de restructuration	Als herstructureringskosten geactiveerde bedrijfskosten
9960	Amortissements sur écarts de consolidation positifs	Afschrijvingen op positieve consolidatieverschillen
28	Immobilisations financières	Financiële vaste activa
50/53	Placements de Trésorerie	Geldbeleggingen
54/58	Valeurs disponibles	Beschikbare waarden
20/58	Total de l'actif	Totaal van de activa

Ratio's to be calculated**Formula****Ratio 1**

Financial Income

75

$$\frac{\text{Financial Income} + \text{Operating P/L} + \text{Extraordinary Income}}{\text{Total Assets}}$$

$$\frac{(9901+6061+62+630+6314+6357+6408+649+9960+75+76)}{20/58}$$
Ratio 2

$$\frac{\text{Financial Assets} + \text{Investments} + \text{Cash at bank and in hand}}{\text{Total Assets}}$$
28+50/53+54/58

Total Assets

20/58**FATCA Status**

if Ratio 1 < 50% AND Ratio 2 < 50%

=> Active NFE

Code 6061 Replaced by the sum of code 60 and 61 or by zero when unavailable.

Code 9960 Used only when consolidated accounts are considered. Not used when calculated by the National Bank of Belgium.

A negative ratio is considered to be below 50%.

16. Appendix 5: Rest category: Potentially Passive NFE NACE code list where no financial ratio can be applied

NACE-code	Description
64200	Activities of holding companies
66290	Other activities auxiliary to insurance and pension funding
70000	Activities of head offices, management consultancy activities
70100	Activities of head offices
82900	Business support service activities n.e.c.
82910	Activities of collection agencies and credit bureaus
82990	Other business support service activities n.e.c.
92000	Gambling and betting activities
99000	Activities of extraterritorial organisations and bodies
99990	Undefined activities
99999	Undefined activities

17. Appendix 6: Example of self-certification

INDIVIDUALS SELF-CERTIFICATION									
I – IDENTIFICATION									
Last name									
First name									
Permanent residence address	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">Number, Street</td> <td style="border: 1px solid black; height: 25px;"></td> </tr> <tr> <td style="padding: 5px;">Postal Code</td> <td style="border: 1px solid black; height: 25px;"></td> </tr> <tr> <td style="padding: 5px;">City/Province/State</td> <td style="border: 1px solid black; height: 25px;"></td> </tr> <tr> <td style="padding: 5px;">Country</td> <td style="border: 1px solid black; height: 25px;"></td> </tr> </table>	Number, Street		Postal Code		City/Province/State		Country	
Number, Street									
Postal Code									
City/Province/State									
Country									
Date of birth (DD/MM/YYYY):									
City and country of birth:									
II – TAX RESIDENCY									
<input type="checkbox"/> If you are sole resident for tax purposes in Belgium AND are not a US Citizen or US Resident, please tick this box and go directly to Section III.									
<input type="checkbox"/> Otherwise, please provide in the table below the list of ALL the countries, including Belgium if applicable, where you are considered as a resident for tax purposes and your TIN (Taxpayer Identification Numbers) in those countries. Do not mention your Belgian TIN.									
<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr style="background-color: #cccccc;"> <th style="padding: 5px;">COUNTRY/COUNTRIES OF TAX RESIDENCE</th> <th style="padding: 5px;">TAXPAYER IDENTIFICATION NUMBER(S) (TIN)*</th> </tr> </thead> <tbody> <tr> <td style="border: 1px solid black; height: 25px;"></td> <td style="border: 1px solid black; height: 25px;"></td> </tr> <tr> <td style="border: 1px solid black; height: 25px;"></td> <td style="border: 1px solid black; height: 25px;"></td> </tr> <tr> <td style="border: 1px solid black; height: 25px;"></td> <td style="border: 1px solid black; height: 25px;"></td> </tr> </tbody> </table>		COUNTRY/COUNTRIES OF TAX RESIDENCE	TAXPAYER IDENTIFICATION NUMBER(S) (TIN)*						
COUNTRY/COUNTRIES OF TAX RESIDENCE	TAXPAYER IDENTIFICATION NUMBER(S) (TIN)*								
If you were unable to obtain a TIN although your Tax Residence(s) issue(s) TINs, please state the reason below:									
*Please indicate N/A if the Country of Tax Residence does not issue a TIN.									
<table style="width: 100%; border-collapse: collapse;"> <tr style="background-color: #cccccc;"> <td style="width: 70%; padding: 5px;">Are you a US Person (US Citizen or US Resident) ?</td> <td style="padding: 5px;">YES <input type="checkbox"/> NO <input type="checkbox"/></td> </tr> <tr> <td colspan="2" style="padding: 5px;">If Yes, please additionally fill a W-9 IRS Form</td> </tr> </table>		Are you a US Person (US Citizen or US Resident) ?	YES <input type="checkbox"/> NO <input type="checkbox"/>	If Yes, please additionally fill a W-9 IRS Form					
Are you a US Person (US Citizen or US Resident) ?	YES <input type="checkbox"/> NO <input type="checkbox"/>								
If Yes, please additionally fill a W-9 IRS Form									

III – PRIVACY NOTICE AND CONFIDENTIALITY

In order to comply with its obligations under national laws and regulations and international tax information exchange agreements, the Bank, the data controller, may be required to collect, process and disclose your personal information and information regarding your account(s) to the national tax authority or other competent authorities which may provide such information to the country or countries where you are resident for tax purposes.

The requested personal information, except TINs issued by countries which are not Reportable Jurisdictions as of the date hereof, is compulsory and failure to complete this form could mean that the Bank may not be able to process your application.

In accordance with the Belgian legislation, you have a right of access, rectification and objection that may be exercised by writing to our head office, contacting your branch or the contact centre.

IV - CERTIFICATION SECTION

I declare that the information provided in this form is, to the best of my knowledge and belief, true, accurate and complete.

I acknowledge and agree to the collection, processing and disclosure of my personal data, including TINs issued by countries which are not Reportable Jurisdictions as of the date hereof, and information regarding my account(s) for the purposes indicated in Section III above.

I undertake to notify the Bank promptly of any change in circumstances which causes the information contained herein to become incorrect and to provide a new self-declaration within 30 days of such change in circumstances.

Signature:

Date: . . / . . /

Name and capacity in which acting (if form is not signed by the account holder):

.....

.....

ENTITIES SELF-CERTIFICATION

Section I – IDENTIFICATION

Legal Name of entity

Country of incorporation or organisation

Permanent address

Number, Street

Postal Code

City/Province/State

Country

Mailing address

(Please complete if different to the address shown in section "Permanent Address" above, other than a P.O. Box address [unless this is your registered address] or a "Care of" address)

Number, Street

Postal Code

City/Province/State

Country

Section II – TAX RESIDENCY

Tax regulations require the Bank to collect certain information on their client's tax status.

Please provide in the table below the list of ALL the Countries where the entity is resident for tax purposes and indicate its TIN (Taxpayer Identification Numbers) or its functional equivalent in those countries.

COUNTRY/COUNTRIES OF TAX RESIDENCE	TAXPAYER IDENTIFICATION NUMBER(S) (TIN)*

* Please indicate N/A if the Country of Tax Residence does not issue a TIN. Your [country where the account is held] TIN is not mandatory. If you were unable to obtain a TIN although your Tax Residence(s) issue(s) TINs, please state the reason below:

Is the Entity incorporated, organized or resident in the US ?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<p>If Yes, please:</p> <ul style="list-style-type: none"> • Additionally fill a W-9 IRS Form, and • Indicate whether the entity is a: <ul style="list-style-type: none"> <input type="checkbox"/> a FATCA Specified US person <input type="checkbox"/> a FATCA Non-specified US person 		

Section III – FATCA AND CRS/AEOI STATUSES

Please indicate the status of the entity by ticking one single type of entity below (A, B , C or D) and provide the additional information required (where applicable) for the selected type.

(A) Financial Institution

FATCA TYPE OF FINANCIAL INSTITUTION (PLEASE TICK ONLY ONE BOX)
<input type="checkbox"/> US Financial Institution (US FI) (Please submit additionally an IRS W9 form)
<ul style="list-style-type: none"> • Foreign Financial Institution (FFI) <ul style="list-style-type: none"> • Registered FFI: <ul style="list-style-type: none"> <input type="checkbox"/> Participating FFI (Final Regulations environment) <input type="checkbox"/> Reporting Model 1 FFI (IGA 1 environment) <input type="checkbox"/> Reporting Model 2 FFI (IGA 2 environment) <p>For any of the three types of Registered FFI above, please provide it's the Global Intermediary Identification Number ("GIIN") below :</p> <p> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> </p>
<input type="checkbox"/> Non-Reporting IGA FFI (including IGA Exempted Pension Funds, Registered Deemed Compliant FFI,...)
<input type="checkbox"/> Non-Participating FFI (NPFFI)

Other FFI (certified deemed-compliant FFI, sponsored FFI, FI with a Local Client Base...): Please submit additionally a W-8 series IRS Form

Is the Entity An Investment Entity and managed by another Financial Institution ? YES NO

If Yes, is the Entity located in a Non-Participating Jurisdiction? (see list in form guidance): YES NO

- If Yes, then the Entity is considered as a Passive NFE under the CRS/AEOI and the Section IV and the Table in “Appendix A” must be completed.

(B) Entity Exempted from FATCA and CRS/AEOI Reporting

TYPE OF EXEMPTED ENTITY

- Corporation that is publicly traded or an affiliate of a publicly traded corporation
Please specify below one of the securities exchange upon which the stock is regularly traded :

- Governmental entity (or their wholly owned Entities)
- Central Bank (or their wholly owned Entities)
- International Organisation (or their wholly owned Entities)

(C) Active Non-Financial Entity (Active NFE)

TYPE OF ACTIVE NFE (OTHER THAN (A) OR (B))

- Active NFE by reason of income and assets
- Non-Profit Organisation
- Holding NFEs that are members of a nonfinancial group;

- Start-up NFEs;
- NFEs that are liquidating or emerging from bankruptcy;
- Treasury Centres that are members of a nonfinancial group;
- Other Active NFE (local law specificities): _____

(D) Passive Non-Financial Entity (Passive NFE) (other than (A) and (B))

- Please complete Section IV below and Appendix A (List of Entity’s Controlling Persons).
- If the Entity is a FATCA Direct reporting Passive NFFE, please provide its GIIN below :

- - -

If the Direct Reporting Passive NFFE does not have any GIIN, **please tick this box** and submit additionally a W-8BEN-E IRS Form.

Section IV – INFORMATION ON CONTROLLING PERSONS

Using the **table presented in Appendix A**, please indicate the Controlling Persons of the entity if the Entity is any of the following:

- Passive Non-Financial Entity (**Status D of Section III**)
- Investment Entity (**A**) meeting all the following criteria:
 - It is an Investment entity whose gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets, **AND**
 - It is managed by a Financial Institution, **AND**
 - At least one of the countries of Tax Residence declared in section II is not an CRS/AEOI Participating Jurisdiction (see list in form guidance)

Section V – PRIVACY NOTICE AND CONFIDENTIALITY

In order to comply with its obligations under national laws and regulations and international tax information exchange agreements the Bank, the data controller, may be required to collect, process and disclose information contained in this form and information regarding the entity’s account(s) to the national tax authority or other competent authorities which may provide such information to the country or countries where the entity and/or Controlling Persons is/are resident for tax purposes.

The requested information is compulsory and failure to complete this form could mean that the Bank may not be able to process your application.

In accordance with FATCA & CRS/AEOI, Controlling Persons may have a right of access, rectification and objection that may be exercised by writing to/contacting the Bank.

Section VI - CERTIFICATION SECTION

[I or we] declare that [I or we] have examined the information on this form and that to the best of [my/our] knowledge and belief, it is true, correct and complete.

[I or we] undertake to notify the Bank promptly of any change in circumstances which causes the information contained herein to become incorrect and to provide the Bank with a new self-certification within 30 days of such change in circumstances.

[I or we] acknowledge and agree to the collection, processing and disclosure of information contained in this form, including TINs of Controlling Persons issued by countries which are not considered as reportable as of the date hereof, and information regarding the entity’s account(s) for the purposes indicated in Section V above.

[I or we] certify that [I or we] are authorized by law to disclose the information or that the entity has obtained consent of each Controlling Person, to the collection, processing and disclosure of his/her personal information indicated in Appendix A and undertake to inform each Controlling Person about his/her data protection rights as set out in Section V above.

[I or we] declare that [I or we] have received and examined the FATCA – CRS/AEOI information notice and the related Glossary. Therefore, [I or we] give [my or our] consent, whenever needed, to the treatment and communication of [my or our] personal data required according to the international tax information exchange agreements and the national legislation currently in force. Furthermore, [I or we] give my consent, whenever needed, to the treatment and communication of the above-mentioned data to other entities from the Bank and/or to third parties outsourcers.

Date: ____ - ____ - _____

City: _____

Authorised representative 1	Authorised representative 2
First name and surname in block capitals:	First name and surname in block capitals:
Capacity in which acting:	Capacity in which acting:

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SECTION I – IDENTIFICATION

- Enter the legal name of the beneficial owner of the account, for which this self-certification is being requested.
- Enter the country of incorporation or organization and the residence address. It is the address in the country where the entity is considered a resident for tax purposes.
- If the entity does not have a tax residence in any country, enter the address where you maintain your principal office.

SECTION II – TAX RESIDENCY

- Enter the list of countries where the entity is considered a resident for tax purposes and enter the local tax identification number (TIN) for that country.
- If the country has not issued a TIN to its taxpayers, please enter “N/A” for “not applicable”.
- If the entity is incorporated, organized or resident in the US please submit a W-9 withholding certificate along with your self-certification. There is no need to provide the TIN on the self-certification since it will be contained in your W-9 form. You are then asked to declare whether the entity is a Specified US Person or a Non-specified US Person. For the definition of these terms, please refer to the Definitions section.

SECTION III – FATCA AND CRS/AEOI STATUSES

Based on the main activity of the entity, the proper CRS/AEOI and FATCA statuses should be selected.

The self-certification distinguishes 4 main categories:

- **Financial Institution (FI)** – you will then be asked to give more details on the FATCA status of the FI
- **Exempted Entity** - the type of Exempted Entity is then required
- **Active Non-Financial Entity (Active NFE)** – the type of Active NFE is then required
- **Passive Non-Financial Entity** – the list of controlling persons will be required

In the form, please tick the box corresponding to one of the 4 status above and fill the information requested for that status (such as the sub-status of the Entity)

In most cases, the FATCA IGA and CRS/AEOI status definitions are aligned. When this is not the case, the text below provides both the FATCA and CRS/AEOI definitions.

(A) Financial Institution (FI)

Financial Institutions are entities belonging to any of the 4 categories below (more details in the Definitions section):

- **Depository Institutions**
- **Custodial institutions**
- **Investment Entity** (in some cases, such entities will be classified as Passive NFEs under the CRS/AEOI)
- **Insurance Companies**

If the Entity qualifies for any of the FI types above, then please provide its FATCA Status.

- For a **Registered FFI**, please provide your GIIN in the dedicated space. A GIIN, or Global Intermediary Identification Number, was assigned to you by the IRS upon finalizing the registration process on the IRS portal. Then you are asked to select your status:
 - **Participating FFI** (if your country of incorporation has not signed a FATCA intergovernmental agreement with the IRS)
 - **Reporting Model 1 FFI** (for countries having signed a Model 1 IGA agreement), **or**
 - **Reporting Model 2 FFI** (for countries having signed a Model 2 IGA agreement).
- **Non-Reporting IGA FFI** are financial institutions in IGA countries that are exempt from reporting obligations and that do not need to register with the IRS in IGA 1 countries. In IGA 2 countries, these entities need to register with the IRS.
- A **Non-Participating FFI (NPFFI)** is a non US financial institution that will not be compliant with FATCA and would be reported as such to the IRS or to the local tax administration.
- For **other FFI statuses**, and due to specific requirements, please submit a W-8 series IRS withholding certificate along with your self-certification.

(B) Exempted Entity

- Exempted Entities are Entities that are exempt from Reporting under FATCA and the CRS/AEOI. Exempted Entities include “publicly traded entities or their affiliates”, “Governmental entities”, “Central Banks” and “International organizations”.

(C) Active Non-Financial Entity (Active NFE) (other than (B))

- A non-financial entity’s activity is by definition any entity that is not a financial institution (see definition).
- You are required to select between the proposed Active NFE statuses (Active NFE by reason of income and assets, Non-Profit Organisation, etc.). The definition for the “Active NFE by reason of income and assets” is provided in the Definition Section.

(D) Passive Non-Financial Entity (Passive NFE)

- A Non-Financial Entity that is not an Active NFE is classified as Passive NFE, which is an NFE receiving Passive Income (see definition of Passive Income). You are then required to complete the questionnaire provided in the appendix of the self-certification for the list of the entity’s controlling persons.
- Besides, if the FATCA status of the Entity is Direct Reporting Passive NFFE, please provide its GIIN (or the GIIN of the Sponsoring Entity in the case of a Sponsored Direct Reporting Passive NFFE).

SECTION IV - INFORMATION ON CONTROLLING PERSONS

If the entity is a Passive Non-Financial Entity or if it’s an Investment Entity satisfying all the conditions listed in Section IV (A) of the form, please:

- Complete the table in Appendix A of the self-certification, **and**
- Certify either that the Entity has no US Controlling Person, or that all the information regarding the Entity’s US Controlling Persons have been filled in Appendix A.

SECTION VI – CERTIFICATION SECTION

Any change that might render this form obsolete or outdated should be notified to the [Requesting FI] within 30 days of such change of circumstances. This includes, but is not limited to, the following:

- A change the main activity of the entity,
- A change in the Entity Tax Residence(s)
- Presence of a Controlling Person,
- Change of address

- List of countries where the entity is a tax resident
- Tax Identification Number changes

Finally, please date and sign the form.

APPENDIX A: LIST OF THE ENTITY'S CONTROLLING PERSONS

This appendix A only has to be filled if the Entity is a Passive Non-Financial Entity or if it's an Investment Entity satisfying all the conditions listed in Section IV of the form (the Definition of Controlling Persons is available in the Definitions Section).

Please provide all the requested details regarding each Controlling Person of the Entity, including ALL the Jurisdictions where he is Resident for Tax Purposes and his Taxpayer Identification Number in each of those Jurisdictions.

If you do not know some of the information requested with respect to a given Controlling Person, please obtain an individual Self-Certification directly from the Controlling Person.

Regarding the column "type of Controlling Person", please fill-in the code corresponding to the role of the Controlling Person.

Code	Role of the Controlling Person
CRS801	CP of legal person – ownership
CRS802	CP of legal person – other means
CRS803	CP of legal person – senior managing official
CRS804	CP of legal arrangement – trust – settlor
CRS805	CP of legal arrangement – trust – trustee
CRS806	CP of legal arrangement – trust – protector
CRS807	CP of legal arrangement – trust – beneficiary
CRS808	CP of legal arrangement – trust – other
CRS809	CP of legal arrangement – other – settlor-equivalent
CRS810	CP of legal arrangement – other – trustee-equivalent
CRS811	CP of legal arrangement – other – protector-equivalent
CRS812	CP of legal arrangement – other – beneficiary-equivalent
CRS813	CP of legal arrangement – other – other-equivalent

DEFINITIONS

RESIDENT FOR TAX PURPOSES

Generally, an Entity will be resident for tax purposes in a jurisdiction if, under the laws of that jurisdiction (including tax conventions), it pays or should be paying tax therein by reason of his domicile, residence, place of management or incorporation, or any other criterion of a similar nature, and not only from sources in that jurisdiction. Dual resident Entities may rely on the tiebreaker rules contained in tax conventions (if applicable) to solve cases of double residence for determining their residence for tax purposes. 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. A trust is treated as resident where one or more of its trustees is resident.

SPECIFIED US PERSON

FATCA Notion – a Specified US Person means any US Person other than a Non Specified US Person

NON-SPECIFIED US PERSON

FATCA Notion – a Non Specified US Person is any US Person that is either

- A corporation the stock of which is regularly traded on one or more established securities markets or an affiliate of a publicly traded corporation;
- Any organization exempt from taxation under section 501(a) IRC or an individual retirement plan as defined in section 7701(a)(37) IRC;
- The United States or any wholly owned agency or instrumentality thereof;
- Any State, the District of Columbia, any possession of the United States, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing;
- Any bank as defined in section 581 IRC;
- Any real estate investment trust as defined in section 856 IRC;
- Any regulated investment company as defined in section 851 or any entity registered with the Securities Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-64);
- Any common trust fund as defined in section 584(a) IRC;
- Any trust that is exempt from tax under section 664(c) IRC or is described in section 4947(a)(1) IRC;
- A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any State; and
- A broker as defined in section 6045(c) and §1.6045-1(a)(1) IRC
- Addition of tax exempt trusts under section 403(b) plan or section 457(g) plan

FINANCIAL INSTITUTION (FI)

FATCA definition

The term FFI used in FATCA terminology, refers to Foreign FI (non US). We distinguish the following types of institutions:

- **Depository institutions** – Any entity which accepts deposits in the ordinary course of a banking or similar business. Definition of banking or similar business:
 - an entity is a depository institution if, in the ordinary course of its business with customer, 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 negotiate drafts drawn thereunder
 - Provides trust or fiduciary services
 - Finances foreign exchange transactions
 - Enters into, purchases, or disposes of finance leases or leased assets
 - Exception for certain lessors and lenders: an entity which solely accepts deposits from persons as collateral or security pursuant to a sale or lease of property or a similar financing arrangement between such entity and the person holding the deposit with the entity is not considered as a depository institution
- **Custodial Institution** – Any entity which holds, as a substantial portion of its business, financial assets for the benefit of one or more other persons.
 - Definition of “substantial portion of its business”: an entity is considered as a custodial institution if the entity’s gross income attributable to holding financial assets and related financial services equals or exceeds 20% of the entity’s gross income during the shorter of:
 - the 3 years period ending on December 31 of the year preceding the year in which the determination is made ; or
 - the period during which the entity has been in existence before the determination is made
 - Income attributable to holding financial assets and related financial services: custody, account maintenance, and transfer fees; commissions and fees earned from executing and pricing securities transactions; income earned from extending credit to customers with respect to financial assets held in custody by the entity (or acquired through such extension of credit), fees for providing financial advice with respect to financial assets held in (or to be held in) custody, and fees for clearance and settlement services
- **Investment Entity** – An investment entity is any entity that meets one of the 3 definitions below
 - Which primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
 - (1) trading in money markets instruments (checks, bills, certificates of deposit, derivatives, etc.); foreign currency; foreign exchange, interest rate, and index instruments; transferable securities; or commodity futures;
 - (2) individual or collective portfolio management; or
 - (3) investing, administering or managing funds, money or financial assets on behalf of other persons
 - Whose gross income is primarily attributable to investing, reinvesting or trading in financial assets and which is managed by an investment entity, a depository institution, a custodial institution or an insurance company (“professionally managed”)
 - Which functions or holds itself out as a collective investment vehicle, mutual fund, ETF, private equity fund, hedge fund, venture capital fund, LBO fund or any similar investment vehicle established with an investment strategy of investing, reinvesting, or trading in financial assets.
- **Insurance companies** – Any entity which is
 - an insurance company or a holding that is a member of an expanded affiliated group that includes an insurance company; and
 - issues, or is obligated to make payments with respect to, a cash value insurance or annuity contract

CRS/AEOI definition

The CRS/AEOI distinguish the following types of Financial Institutions:

- **Depository Institutions** - 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, instalment 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.
 - 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.

- **Custodial Institution** - 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 20% of the Entity’s gross income during the shorter of:
 - the three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or
 - 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; and fees for providing financial advice with respect to Financial Assets held in (or potentially to be held in) custody by the entity; and for clearance and settlement services.
 - 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.

- **Investment Entity** – An investment entity is any entity that meets one of the 2 definitions below:
 - Which primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
 - i) 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;
 - ii) individual and collective portfolio management; or
 - iii) otherwise investing, administering, or managing Financial Assets or money on behalf of other persons; or.
 - Whose gross income 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 in the paragraph above.
 - **Exceptions:**
 - Rendering non-binding investment advice to a customer is not sufficient to make an entity an investment entity

- Any entity matching the investment entity requirement will still be classified as Active NFE if it belongs to any of the following categories:
 - holding NFEs and treasury centers that are members of a nonfinancial group
 - start-up NFEs
 - NFEs that are liquidating or emerging from bankruptcy
- An Investment Entity will be a passive NFE instead of an FI provided that:
 - The Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets AND the entity is managed by an Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity; and
 - The Entity is not a Participating Jurisdiction Financial Institution.
- Real property
 - 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, will not be an Investment Entity.
 - This exception covers real estate and leasing entities but not funds of funds of real properties.
- **Insurance companies** – 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.

PUBLICLY TRADED CORPORATION AND AFFILIATE

FATCA definition

A Corporation stock is **regularly traded** on one or more established securities markets for the calendar year if:

- One or more classes of stock of the corporation that, in the aggregate, represent more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote and of the total value of the stock of such corporation are listed on such market or markets during the prior calendar year; and
- With respect to each class relied on to meet the more-than-50 % threshold
 - Trades in each such class are effected, other than in de minimis quantities, on such market or markets on at least 60 days during the prior calendar year; and
 - The aggregate number of shares in each such class that are traded on such market or markets during the prior year are at least 10 percent of the average number of shares outstanding in that class during the prior calendar year

An affiliate of a publicly traded corporation is any corporation that is a member of the same EAG as a publicly traded corporation.

There are special rules for the **regularly traded requirement**

- Year of initial public offering
 - For the calendar year in which a corporation initiates a public offering of a class of stock for trading on one or more established securities markets, the stock is regularly traded in more than de minimis quantities on 1/6 of the days remaining after the date of the offering in the quarter during which the offering occurs, and on at least 15 days during each remaining quarter of the calendar year
 - If a corporation initiates a public offering of a class of stock in the fourth quarter of the calendar year, the stock is regularly traded on such established securities market, other than in de minimis quantities, on the greater of 1/6 of the days remaining after the date of the offering in the quarter during which the offering occurs, or 5 days
- Classes of stock treated as meeting the regularly traded requirement

- A class of stock meets the trading requirements for a calendar year if the stock is traded during such year on an established securities market located in the US and is regularly quoted by dealers making a market in the stock
- A dealer makes a market in a stock only if the dealer regularly and actively offers to, and in fact does, purchase the stock from, and sell the stock to, customers who are not related persons with respect to the dealer in the ordinary course of a trade or business
- Anti-abuse rule
 - Any trade conducted with a principal purpose of meeting the regularly traded requirements shall be disregarded
 - Further, a class of stock shall not be treated as regularly traded if there is a pattern of trades conducted to meet the trading requirements
 - Similarly, the special rule regarding the year of initial public offering shall not apply to a public offering of stock that has as one of its principal purposes qualification of the class of stock as regularly traded under the reduced regularly traded requirements for the calendar year of an initial public offering (consideration will be given to whether the regularly traded requirements are satisfied in the calendar year immediately following the initial public offering)

CRS/AEOI definition

A Corporation stock is **regularly traded** on one or more established securities markets for the calendar year if:

- Stock is “regularly traded” if there is a meaningful volume of trading with respect to the stock on an on-going basis, and an “established securities market” means an exchange that is officially recognised and supervised by a governmental authority in which the market is located and that has a meaningful annual value of shares traded on the exchange.
- With respect to each class of stock of the corporation, there is a “meaningful volume of trading on an on-going basis” if
 - trades in each such class are effected, other than in de minimis quantities, on one or more established securities markets on at least 60 business days during the prior calendar year; and
 - the aggregate number of shares in each such class that are traded on such market or markets during the prior year are at least 10% of the average number of shares outstanding in that class during the prior calendar year.
- A class of stock would generally be treated as meeting the “regularly traded” requirement for a calendar year if the stock is traded during such year on an established securities market and is regularly quoted by dealers making a market in the stock. A dealer makes a market in a stock only if the dealer regularly and actively offers to, and in fact does, purchase the stock from, and sell the stock to, customers who are not related persons with respect to the dealer in the ordinary course of a business.
- An exchange has a “meaningful annual value of shares traded on the exchange” if it has an annual value of shares traded on the exchange (or a predecessor exchange) exceeding USD 1 000 000 000 during each of the three calendar years immediately preceding the calendar year in which the determination is being made. If an exchange has more than one tier of market level on which stock may be separately listed or traded, each such tier must be treated as a separate exchange.

ACTIVE NFE

For the purpose of this form, an Active NFE is usually a(n):

- Active NFE by reason of income (see definition below) and assets
- Non-Profit Organisation.
- Holding NFEs that are members of a nonfinancial group;
- Treasury Centres that are members of a nonfinancial group;
- Start-up NFEs; or
- NFEs that are liquidating or emerging from bankruptcy.

ACTIVE NFE BY REASON OF INCOME AND ASSETS

An active NFE by reason of income and assets is an entity that satisfies the following conditions

- Less than 50 % of its gross income for the preceding calendar year is passive income

AND

- Less than 50 % of the weighted average percentage of assets (tested quarterly) held by it are assets that produce or are held for the production of passive income
- The value of an NFFE 's assets is determined based on the fair market value or book value of the assets that is reflected on the NFFE's balance sheet

PASSIVE INCOME

The following is a list of revenues considered as passive income

- Dividends, including substitute dividend amounts
- Interests
- Incomes equivalent to interests, including substitute interests and amounts received from or with respect to a pool of insurance contracts if the amounts received depend in whole or part upon the performance of the pool
- Rents and royalties, other than rents and royalties derived in the active conduct of a trade or business conducted, at least in part, by employees of the NFFE
- Annuities
- The excess of gains over losses from the sale or exchange of property that gives rise to passive income (as described in the 5 categories above)
- The excess of gains over losses from transactions (including futures, forwards, and similar transactions) in any financial assets.
- The excess of foreign currency gains over foreign currency losses attributable to any section 988 transaction
- Net income from notional principal contracts
- Amounts received under cash value insurance contracts; or

PASSIVE NON-FINANCIAL ENTITY (PASSIVE NFE)

A Passive NFE is an Entity that is neither a Financial Institution nor an Active NFE.

DIRECT REPORTING NFFE

A Direct Reporting NFFE is an NFFE that chose to report directly to the IRS under FATCA

A Direct Reporting NFFE will be treated as an Exempt Beneficial Owner under FATCA. It will be required to elect to, and report directly to the IRS certain information about its direct or indirect substantial US owners. The NFFE will also be required to register with the IRS to obtain its Global Intermediary Identification Number (GIIN).

CONTROLLING PERSONS

The term “Controlling Persons” means the natural persons who exercise control over an entity.

The term “Controlling Persons” shall be interpreted in a manner consistent with the Financial Action Task Force Recommendations:

- Natural persons who ultimately have a controlling ownership interest (Shareholder) in a legal person, and
- To the extent that there is doubt under (i), the natural persons (if any) exercising control of the legal person or arrangement through other means
- Where no natural person is identified under (i) or (ii) above, relevant natural person who holds the position of senior managing official.

Controlling ownership interest

- Depends on the ownership structure of the company
- It is usually based on a threshold, e.g. any person owning more than a certain percentage of the company
- Typically in AML, a risk based approach is used

In the case of a trust, the term Controlling Person 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.

18. Appendix 7: (NL) Insurance contracts and annuities that are not or are excluded financial accounts or are financial accounts

Wetgeving CRS is niet van toepassing	Contracten	Juridische basis
	Alle 1ste pijler verzekeringen	Geen "cash value insurance contracts" (cfr. 4.7.)
	Herverzekeringsovereenkomsten (zoals gedefinieerd o.m. in de richtlijn 2005/68/EC van 16/11/2005 van het Europees Parlement en de Raad betreffende herverzekering en houdende wijziging van Richtlijnen 73/239/EEG van de Raad en van Richtlijnen 98/78/EG en 2002/83/EG)	Geen "cash value insurance contracts" (cfr. 4.7.) - Herverzekaars zijn geen "Specified Insurance companies" (cfr. 2.2.5.)
	Alle tijdelijke overlijdensverzekeringen (m.i.v. schuldsaldo-verzekeringen) ongeacht de financieringswijze en de looptijd van het contract	Geen "cash value insurance contracts" (cfr. 4.7.)
	Levenslange overlijdensverzekeringen zonder afkoopwaarde	Geen "cash value insurance contracts" (cfr. 4.7.)
	Alle verzekeringscontracten van takken 1 t.e.m. 18 en 22, zoals gedefinieerd in bijlage 1 van het Koninklijk Besluit van 22/02/1991 betreffende de controle op de verzekeringsondernemingen	Geen "cash value insurance contracts" (cfr. 4.7.)
	Alle 2 ^{de} pijler levensverzekeringen, collectieve en individuele contracten, ongeacht de vorm waaronder de prestaties worden uitgekeerd (kapitaal of rente) en ongeacht het sociaal statuut van de begunstigde	Uitgesloten contracten: "Retirement and Pension Accounts" (cfr. 4.10.1.)
	Pensioenspaarverzekeringen (art. 145-1 en 145-8 tot 145-16 van het Wetboek van de inkomstenbelastingen 1992)	Uitgesloten contracten: "Retirement and Pension Accounts" (cfr. 4.10.1.)
	Langetermijnsparverzekeringen (art. 145-1, 2 ^o en 145-4 van het Wetboek van de inkomstenbelastingen 1992)	Uitgesloten contracten: "Retirement and Pension Accounts" (cfr. 4.10.1.)

Wetgeving CRS is wel van toepassing	Contracten	Juridische basis
	Alle klassieke levensverzekeringen zonder belastingvoordeel van tak 21	"Cash value insurance contracts" (cfr. 4.7.)
	Alle flexibele producten zonder belastingvoordeel van tak 21 en 23, met betaling van een eenmalige premie of vrije premies	"Cash value insurance contracts" (cfr. 4.7.)
	Levenslange overlijdensverzekeringen met afkoopwaarde	"Cash value insurance contracts" (cfr. 4.7.)
	Alle renteverzekeringen <u>voor zover</u> zijn niet vallen onder één van de categorieën van renten die buiten het toepassingsgebied vallen (bv.: renten van de 2 ^{de} pijler)	"Annuity contracts" (cfr. 4.8)
	Alle tak 26 kapitalisatieverrichtingen	"Depository accounts" (cfr. 4.5.)
	Alle andere levensverzekeringen met afkoopwaarde die niet vermeld worden in één van de bovenstaande categorieën	"Cash value insurance contracts" (cfr. 4.7.)

Appendix 7: (FR) Insurance contracts and annuities that are not or are excluded financial accounts or are financial accounts

Législation CRS non applicable	Contrats	Base juridique
	Toutes les assurances du 1er pilier	Ne sont pas des "cash value insurance contracts" (cfr. 4.7.)
	Les contrats de réassurance (tels que définis notamment dans la directive 2005/68/CE du Parlement européen et du Conseil du 16/11/2005 relative à la réassurance et modifiant les directives 73/239/CEE et 92/49/CEE du Conseil, ainsi que les directives 98/78/CE et 2002/83/CE)	Ne sont pas des "cash value insurance contracts" (cfr. 4.7.) – Les réassureurs ne sont pas des "Specified Insurance companies" (cfr. 2.2.5.)
	Toutes les assurances temporaires au décès (ex: solde restant dû), quel que soit le mode de financement et la durée du contrat	Ne sont pas des "cash value insurance contracts" (cfr. 4.7.)
	Les assurances vie entière sans valeur de rachat	Ne sont pas des "cash value insurance contracts" (cfr. 4.7.)
	Tous les contrats d'assurance des branches 1 à 18 et 22, tels que définis à l'annexe 1 de l'Arrêté Royal du 22/02/1991 portant règlement général relatif au contrôle des entreprises d'assurances	Ne sont pas des "cash value insurance contracts" (cfr. 4.7.)
	Toutes les assurances-vie du 2 ^{ème} pilier, contrats collectifs et individuels, quelle que soit la forme de la prestation (capital ou rente) et indépendamment du statut social du bénéficiaire	Contrats exclus : "Retirement and Pension Accounts" (cfr. 4.10.1.)
	Les assurances « épargne-pension » (art. 145-1, 5° et 145-8 à 145-16 du Code des impôts sur les revenus 1992)	Contrats exclus : "Retirement and Pension Accounts" (cfr. 4.10.1.)
	Les assurances « épargne à long terme » (art. 145-1, 2° et 145-4 du Code des impôts sur les revenus 1992)	Contrats exclus : "Retirement and Pension Accounts" (cfr. 4.10.1.)

Législation CRS applicable	Contrats	Base juridique
	Toutes les assurances-vie classiques sans avantage fiscal de la branche 21	"Cash value insurance contracts" (cfr. 4.7.)
	Tous les produits flexibles sans avantage fiscal des branches 21 et 23, avec paiement d'une prime unique ou de primes libres	"Cash value insurance contracts" (cfr. 4.7.)
	Les assurances décès vie entière avec valeur de rachat	"Cash value insurance contracts" (cfr. 4.7.)
	Toutes les assurances de rentes <u>à condition</u> qu'elles ne fassent pas partie d'une catégorie de contrats exclus (ex : rente du 2 ^{ème} pilier)	"Annuity contracts" (cfr. 4.8)
	Toutes les opérations de capitalisation de la branche 26	" Depository accounts" (cfr. 4.5.)
	Toutes les autres assurances-vie avec valeur de rachat qui ne sont pas mentionnées dans l'une des catégories ci-dessus.	"Cash value insurance contracts" (cfr. 4.7.)

19. Appendix 8: CRS reporting table

CRS REPORTING TABLE												
PRODUCTFACTORY	ACCOUNT TYPE NA (not applicable)	ACCOUNT SUBTYPE NA (not applicable)	CRS TYPE FIN ACCOUNT D: Depository account C: Custody account E: Equity or debt instr. EX: Exempt account	SECURITIES TYPE NA (not applicable)	TRANSACTION TYPE NA (not applicable)	INCOME/CAPITAL TYPE BALANCE INFORMATION NA (not applicable)	INCOME TYPE: DIV: Dividend INT: Interest OTH: other	GROSS PROCEEDS GRP	REPORTING ACCOUNT BALANCE: 31/12 BAL BAL= 0.00 (closed account)	REPORTING PAYMENT TYPE: CRS501:DIV CRS502:INT CRS503:GRP/R EDEMPTION CRS504: OTH	NO REPORTING	COMMENTS
ACCOUNTS	current account	NA	D	NA	Interest payment	accrued interest	INT			CRS502		
ACCOUNTS	current account	NA	D	NA	incoming transfer of money	NA				NA	X	1
ACCOUNTS	current account	NA	D	NA	Cash deposit	NA				NA	X	2
ACCOUNTS	current account	NA	D	NA	outgoing transfer of money	NA				NA	X	2
ACCOUNTS	current account	NA	D	NA	Cash withdrawal	NA				NA	X	2
ACCOUNTS	current account	NA	D	NA	end year balance	31/12 balance			31/12 BAL	NA		
ACCOUNTS	current account	NA	D	NA	closed account	balance is 0.00			BAL = 0.00	NA		
ACCOUNTS	current account	Deceased person on estate account	EX	NA	NA	NA				NA	X	3
ACCOUNTS	current account	Escrow/third party account (derdenrekening/kwaliteitsrekening)	EX	NA	NA	NA				NA	X	4
DEPOSITS	savings account	NA	D	NA	Interest payment	accrued interest	INT			CRS502		
DEPOSITS	savings account	NA	D	NA	incoming transfer of money	NA				NA	X	1
DEPOSITS	savings account	NA	D	NA	Cash deposit	NA				NA	X	2
DEPOSITS	savings account	NA	D	NA	Cash withdrawal	NA				NA	X	2
DEPOSITS	savings account	NA	D	NA	end year balance	31/12 balance			31/12 BAL	NA		
DEPOSITS	savings account	NA	D	NA	closed account	balance is 0.00			BAL = 0.00	NA		
DEPOSITS	savings account	Deceased person on estate account	EX	NA	NA	NA				NA	X	3
DEPOSITS	savings account	Escrow/third party account (derdenrekening/kwaliteitsrekening)	EX	NA	NA	NA				NA	X	4
DEPOSITS	savings account	retirement and pension account	EX	NA	NA	NA				NA	X	5
DEPOSITS	savings account	non retirement savings account	EX	NA	NA	NA				NA	X	5

DEPOSITS	savings account	huurwaarborg rekening/garantie locative	EX	NA	NA	NA				NA	X	4
DEPOSITS	time deposit account	NA	D	NA	Interest payment	accrued interest	INT			CRS502		
DEPOSITS	time deposit account	NA	D	NA	end year balance	31/12 balance			31/12 BAL	NA		
DEPOSITS	time deposit account	NA	D	NA	closed account	balance is 0.00			BAL = 0.00	NA		
DEPOSITS	time deposit account	NA	D	NA	(Early) redemption = closed account	balance is 0.00			BAL = 0.00	NA		6
DEPOSITS	time deposit account	NA	D	NA	Repurchase by the FI = closed account	balance is 0.00			BAL = 0.00	NA		
DEPOSITS	time deposit account	Deceased person on estate account	EX	NA	NA	NA				NA	X	3
DEPOSITS	time deposit account	Escrow/third party account (derdenrekening/kwaliteitsrekening)	EX	NA	NA	NA				NA	X	4
DEPOSITS	(savings) certificate	dematerialised	C	NA	Interest payment	accrued interest	INT			CRS502		
DEPOSITS	(savings) certificate	dematerialised	C	NA	end year balance	31/12 balance			31/12 BAL	NA		
DEPOSITS	(savings) certificate	dematerialised	C	NA	closed account	balance is 0.00			BAL = 0.00	NA		
SECURITIES	Custody account	NA	C	NA	end year balance	31/12 balance			31/12 BAL	NA		
SECURITIES	Custody account	NA	C	NA	closed account	balance is 0.00			BAL = 0.00	NA		
SECURITIES	Custody account	NA	C	debt securities(XN/not XN)	Issue	NA				NA	X	2
SECURITIES	Custody account	NA	C	debt securities(XN/not XN)	Purchase (secondary market)	NA				NA	X	2
SECURITIES	Custody account	NA	C	debt securities(XN/not XN)	Coupon payment	accrued interest	INT	GRP		CRS502/CRS503		7
SECURITIES	Custody account	NA	C	debt securities(XN/not XN)	Redemption at maturity date	accrued interest	INT	GRP		CRS502/CRS503		7
SECURITIES	Custody account	NA	C	debt securities(XN/not XN)	Redemption at maturity date	original issue discount	INT	GRP		CRS502/CRS503		7
SECURITIES	Custody account	NA	C	debt securities(XN/not XN)	Redemption at maturity date	redemption premium	INT	GRP		CRS502/CRS503		7
SECURITIES	Custody account	NA	C	debt securities(XN/not XN)	Redemption at maturity date	Principal		GRP		CRS503		
SECURITIES	Custody account	NA	C	debt securities(XN/not XN)	Repurchase by the issuer	accrued interest	INT	GRP		CRS502/CRS503		7
SECURITIES	Custody account	NA	C	debt securities(XN/not XN)	Repurchase by the issuer	original issue discount	INT	GRP		CRS502/CRS503		7
SECURITIES	Custody account	NA	C	debt securities(XN/not XN)	Repurchase by the issuer	redemption premium	INT	GRP		CRS502/CRS503		7
SECURITIES	Custody account	NA	C	debt securities(XN/not XN)	Repurchase by the issuer	Principal		GRP		CRS503		
SECURITIES	Custody account	NA	C	debt securities(XN/not XN)	Repurchase not by the issuer	accrued interest	INT	GRP		CRS502/CRS503		7
SECURITIES	Custody account	NA	C	debt securities(XN/not XN)	Repurchase not by the issuer	Principal+capital gain		GRP		CRS503		

SECURITIES	Custody account	NA	C	debt securities(XN/not XN)	Sale (secondary market)	accrued interest	INT	GRP		CRS502/CRS503		7
SECURITIES	Custody account	NA	C	debt securities(XN/not XN)	Sale (secondary market)	Principal+capital gain		GRP		CRS503		
SECURITIES	Custody account	NA	C	Real estate certificates	Issue	NA				NA	X	2
SECURITIES	Custody account	NA	C	Real estate certificates	Purchase (secondary market)	NA				NA	X	2
SECURITIES	Custody account	NA	C	Real estate certificates	Coupon payment	ordinary coupons	INT			CRS502		
SECURITIES	Custody account	NA	C	Real estate certificates	Coupon payment	Liquidation coupons	INT			CRS502		
SECURITIES	Custody account	NA	C	Real estate certificates	Redemption at maturity date	accrued interest	INT	GRP		CRS502/CRS503		7
SECURITIES	Custody account	NA	C	Real estate certificates	Redemption at maturity date	Principal + capital gain		GRP		CRS503		
SECURITIES	Custody account	NA	C	Real estate certificates	Repurchase by the issuer	accrued interest	INT	GRP		CRS502/CRS503		7
SECURITIES	Custody account	NA	C	Real estate certificates	Repurchase by the issuer	Principal		GRP		CRS503		
SECURITIES	Custody account	NA	C	Real estate certificates	Repurchase not by the issuer	accrued interest	INT	GRP		CRS502/CRS503		7
SECURITIES	Custody account	NA	C	Real estate certificates	Repurchase not by the issuer	Principal+capital gain		GRP		CRS503		
SECURITIES	Custody account	NA	C	Real estate certificates	Sale (secondary market)	accrued interest	INT	GRP		CRS502/CRS503		7
SECURITIES	Custody account	NA	C	Real estate certificates	Sale (secondary market)	Principal+capital gain		GRP		CRS503		
SECURITIES	Custody account	NA	C	Ordinary shares	Subscription	NA				NA	X	2
SECURITIES	Custody account	NA	C	Ordinary shares	Purchase (secondary market)	NA				NA	X	2
SECURITIES	Custody account	NA	C	Ordinary shares	Coupon payment	dividend	DIV			CRS501		
SECURITIES	Custody account	NA	C	Ordinary shares	Coupon payment	dividend in shares	DIV			CRS501		
SECURITIES	Custody account	NA	C	Ordinary shares	Capital reduction	dividend	DIV	GRP		CRS501/CRS503		7
SECURITIES	Custody account	NA	C	Ordinary shares	Capital reduction	real capital	DIV	GRP		CRS501/CRS503		7
SECURITIES	Custody account	NA	C	Ordinary shares	Repurchase by the issuer	Purchasebonus	DIV	GRP		CRS501/CRS503		7
SECURITIES	Custody account	NA	C	Ordinary shares	Repurchase by the issuer	Principal	DIV	GRP		CRS501/CRS503		7
SECURITIES	Custody account	NA	C	Ordinary shares	Liquidation	Liquidation bonus	DIV	GRP		CRS501/CRS503		7
SECURITIES	Custody account	NA	C	Ordinary shares	Liquidation	Principal		GRP		CRS503		
SECURITIES	Custody account	NA	C	Ordinary shares	Sale (secondary market)	Principal+capital gain		GRP		CRS503		
SECURITIES	Custody account	NA	C	Ordinary shares	CA	issue bonusshare				NA	X	2
SECURITIES	Custody account	NA	C	Ordinary shares	CA	stocksplit				NA	X	2
SECURITIES	Custody account	NA	C	Ordinary shares	CA	reverse stocksplit				NA	X	2
SECURITIES	Custody account	NA	C	Ordinary shares	CA	issue warrant				NA	X	2
SECURITIES	Custody account	NA	C	Ordinary shares	CA	warrant exercise:				NA	X	2

						purchase shares							
SECURITIES	Custody account	NA	C	Ordinary shares	CA	warrant sale		GRP		CRS503			
SECURITIES	Custody account	NA	C	Ordinary shares	CA	warrant repurchase		GRP		CRS503			
SECURITIES	Custody account	NA	C	Ordinary shares	CA	Merger (fusie)	DIV	GRP		CRS501/CRS503			7
SECURITIES	Custody account	NA	C	Ordinary shares	CA	Split	DIV	GRP		CRS501/CRS503			7
SECURITIES	Custody account	NA	C	Ordinary shares	CA	Delisting				NA	X		2
SECURITIES	Custody account	NA	C	Ordinary shares	CA	Bankruptcy	DIV	GRP		CRS501/CRS503			7
SECURITIES	Custody account	NA	C	Ordinary shares	CA	Share premium	DIV	GRP		CRS501/CRS503			7
SECURITIES	Custody account	NA	C	Ordinary shares	CA	Spin off	DIV	GRP		CRS501/CRS503			7
SECURITIES	Custody account	NA	C	Investment companies	Issue KAP/DIV	NA				NA	X		2
SECURITIES	Custody account	NA	C	Investment companies	Purchase (sec. market) KAP/DIV	NA				NA	X		2
SECURITIES	Custody account	NA	C	Investment companies	Couponpayment (DIV)	Dividends	DIV			CRS501			
SECURITIES	Custody account	NA	C	Investment companies	Couponpayment (DIV)	Dividends in shares	DIV			CRS501			
SECURITIES	Custody account	NA	C	Investment companies	Repurchase by the issuer(KAP/DIV)	Principal + Purchasebonus	DIV	GRP		CRS501/CRS503			8
SECURITIES	Custody account	NA	C	Investment companies	Redemption at maturity date (KAP/DIV)	Principal + capital gain	DIV	GRP		CRS501/CRS503			8
SECURITIES	Custody account	NA	C	Investment companies	Liquidation compartment (DIV/KAP)	Principal + capital gain+ Liquidation bonus	DIV	GRP		CRS501/CRS503			8
SECURITIES	Custody account	NA	C	Investment companies	Liquidation company (DIV/KAP)	Principal + capital gain+ Liquidation bonus	DIV	GRP		CRS501/CRS503			8
SECURITIES	Custody account	NA	C	Investment companies	Merger (fusie) (DIV/KAP)	Principal + capital gain	DIV	GRP		CRS501/CRS503			8
SECURITIES	Custody account	NA	C	Investment companies	Sale (sec. market) KAP/DIV	Principal + capital gain	DIV	GRP		CRS501/CRS503			8
SECURITIES	Custody account	NA	C	Investment funds	Issue KAP/DIV					NA	X		2
SECURITIES	Custody account	NA	C	Investment funds	Purchase (sec. market) KAP/DIV					NA	X		2
SECURITIES	Custody account	NA	C	Investment funds	Couponpayment (DIV)	couponpayment	INT			CRS502			9
SECURITIES	Custody account	NA	C	Investment funds	Couponpayment (DIV)	couponpayment in shares	INT			CRS502			9
SECURITIES	Custody account	NA	C	Investment funds	Repurchase by the issuer(KAP/DIV)	Principal + Purchasebonus	INT	GRP		CRS502/CRS503			8
SECURITIES	Custody account	NA	C	Investment funds	Redemption at maturity date (KAP/DIV)	Principal + capital gain	INT	GRP		CRS502/CRS503			8

			C	Investment funds	Liquidation compartment (DIV/KAP)	Principal + capital gain+ Liquidation bonus		GRP				8
SECURITIES	Custody account	NA					INT			CRS502/CRS503		
												8
SECURITIES	Custody account	NA	C	Investment funds	Liquidation company (DIV/KAP)	Principal + capital gain+ Liquidation bonus	INT	GRP		CRS502/CRS503		
SECURITIES	Custody account	NA	C	Investment funds	Merger (fusie) (DIV/KAP)	Principal + capital gain	INT	GRP		CRS502/CRS503		8
SECURITIES	Custody account	NA	C	Investment funds	Sale (sec. market) KAP/DIV	Principal + capital gain	INT	GRP		CRS502/CRS503		8
SECURITIES	Certificate of deposits	NA	C	NA	Interest payment	accrued interest	INT			CRS502		
SECURITIES	Certificate of deposits	NA	C	NA	end year balance	31/12 balance			31/12 BAL	NA		
SECURITIES	Certificate of deposits	NA	C	NA	closed account	balance is 0.00			BAL = 0.00	NA		
SECURITIES	LENDING	NA	C	NA	Payment of manufactured dividend	NA	OTH			CRS504		
SECURITIES	LENDING	NA	C	NA	Lending fee	NA	OTH			CRS504		
SECURITIES	Custody account	Stock option plans	EX	NA	NA	NA				NA	X	10
SECURITIES	Custody account	Stock remunerations plans	EX	NA	NA	NA				NA	X	11
SECURITIES	Custody account	Deceased person on estate account	EX	NA	NA	NA				NA	X	3
SECURITIES	Custody account	Escrow/third party account (derdenrekening/kwaliteitsrekening)	EX	NA	NA	NA				NA	X	4
FIN MARKETS	current account	NA	D	NA	Interest payment	accrued interest	INT			CRS502		
FIN MARKETS	current account	NA	D	NA	end year balance	NA			31/12 BAL	NA		
FIN MARKETS	current account	NA	D	NA	closed account	NA			BAL = 0.00	NA		
FIN MARKETS	deposits	NA	D	NA	Interest payment	accrued interest	INT			CRS502		
FIN MARKETS	deposits	NA	D	NA	end year balance	NA			31/12 BAL	NA		
FIN MARKETS	deposits	NA	D	NA	closed account	NA			BAL = 0.00	NA		
FIN MARKETS	OTC TRANS SEC IN CUSTODY WITH OTHER FI	NA	EX	Securities issued by the FI	Purchase	NA				NA	X	2
FIN MARKETS	OTC TRANS SEC IN CUSTODY WITH OTHER FI	NA	EX	Securities issued by the FI	Sale	Sale total price				NA	X	12
FIN MARKETS	OTC TRANS SEC IN CUSTODY IN OWN FI	NA	C	Securities issued by the FI	Purchase	NA				NA	X	2
FIN MARKETS	OTC TRANS SEC IN CUSTODY IN OWN FI	NA	C	Securities issued by the FI	Sale	Sale total price		GRP		CRS503		
FIN MARKETS	DELIVERY FREE OF PAYMENT	NA	EX	All securities	NA	NA				NA	X	2
FIN MARKETS	REPOS	NA	EX	NA	NA	NA				NA	X	2
FIN MARKETS	REVERSE REPOS	NA	EX	NA	NA	NA				NA	X	2
FIN MARKETS	SEC LENDING	NA	C	NA	Couponpayment	VOC payment	OTH			CRS504		
FIN MARKETS	SEC LENDING	NA	C	NA	Lendingfee payment	Lendingfee	OTH			CRS504		
NOMINEE ACCOUNTS	(saving) certificate ISSUED BY FI	NA	EX	NA	NA	NA				NA	X	13

NOMINEE ACCOUNTS	DEBT SECURITIES ISSUED BY FI	NA	EX	NA	NA	NA				NA	X	13
NOMINEE ACCOUNTS	EQUITY ISSUED BY THE FI (except investment entities section 2.7.1.,b)	NA	EX	NA	NA	NA				NA	X	13
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment companies	Issue KAP/DIV	NA				NA	X	2
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment companies	Purchase (sec. market) KAP/DIV	NA				NA	X	2
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment companies	Couponpayment (DIV)	Dividends	DIV			CRS501		
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment companies	Couponpayment (DIV)	Dividends in shares	DIV			CRS501		
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment companies	Repurchase by the issuer(KAP/DIV)	Principal + Purchasebonus	DIV	GRP		CRS501/CRS503		8
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment companies	Redemption at maturity date (KAP/DIV)	Principal + capital gain	DIV	GRP		CRS501/CRS503		8
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment companies	Liquidation compartment (DIV/KAP)	Principal + capital gain+ Liquidation bonus	DIV	GRP		CRS501/CRS503		8
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment companies	Liquidation company (DIV/KAP)	Principal + capital gain+ Liquidation bonus	DIV	GRP		CRS501/CRS503		8
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment companies	Merger (fusie) (DIV/KAP)	Principal + capital gain	DIV	GRP		CRS501/CRS503		8
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment companies	Sale (sec. market) KAP/DIV	Principal + capital gain	DIV	GRP		CRS501/CRS503		8
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment funds	Issue KAP/DIV					NA	X	2
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment funds	Purchase (sec. market) KAP/DIV					NA	X	2
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment funds	Couponpayment (DIV)	couponpayment	INT			CRS502		9
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment funds	Couponpayment (DIV)	couponpayment in shares	INT			CRS502		9
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment funds	Repurchase by the issuer(KAP/DIV)	Principal + Purchasebonus	INT	GRP		CRS502/CRS503		8
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment funds	Redemption at maturity date (KAP/DIV)	Principal + capital gain	INT	GRP		CRS502/CRS503		8
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment funds	Liquidation compartment (DIV/KAP)	Principal + capital gain+ Liquidation bonus	INT	GRP		CRS502/CRS503		8
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment funds	Liquidation company (DIV/KAP)	Principal + capital gain+ Liquidation bonus	INT	GRP		CRS502/CRS503		8

NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment funds	Merger (fusie) (DIV/KAP)	Principal + capital gain	INT	GRP		CRS502/CRS503		8
NOMINEE ACCOUNTS	Equity issued by investment entities (Section 2.7.1.,b)	NA	E	Investment funds	Sale (sec. market) KAP/DIV	Principal + capital gain	INT	GRP		CRS502/CRS503		8
BEARER SECURITIES	NA	NA	EX	NA	NA	NA				NA	X	14

NR	Comments
1	<p>Belgian Guidance Notes (10.4.3.4.3): Amounts (“credit transfers”) credited or paid to a Belgian account in furtherance of a domestic or international cash transfer are not required to be reported.</p>
2	<p>Belgian Guidance Notes (10.4.3.4.2 i): When there is no movable income (interest, dividend, , etc.) within the meaning of the Belgian tax Law generated with respect to the assets held in the Custodial Account, there is no CRS reporting to be done with respect to these payments.</p>
3	<p>Belgian Guidance Notes (4.10.3): An Estate Account is not reportable in the year of the Account Holder’s death and subsequent years for as long that it qualifies as an account held by an Estate.</p>
4	<p>Belgian guidance Notes (4.10.4): "Escrow" accounts are excluded from being a financial account and are out of scope of CRS. A third party account (derdenrekening/kwaliteitsrekening) of a notary, lawyer,... is also not considered as a reportable account. Huurwaarborgrekeningen (garantie locative) are also not considered as a reportable account.</p>
5	<p>Belgian Guidance Notes (4.10.1): Retirement and Pension accounts are not considered as financial accounts and are not considere as a reportable account.</p>
6	<p>Belgian Guidance Notes (10.4.2.2.): Term deposits at maturity date, which roll over are not considered as closed accounts.</p>
7	<p>Belgian Guidance Notes (10.4.3.4.2.iii): In the case of sale or redemption of securities whereby the sales proceeds include accrued interest or a dividend , the Reporting Belgian FI has no obligation to split the proceeds and the interest of dividend income. Instead it may choose to report the total amount that had been paid or credited as sales proceeds.</p>
8	<p>Belgian Guidance Notes (10.4.3.4.2.ii): In the case of sale or redemption of securities, the Reporting Belgian FI has to report the total gross proceeds from the sale or redemption irrespective of whether the distribution qualifies as “movable income” within the meaning of the Belgian tax Law. For example, the following amounts are subject to CRS reporting: - the sale or redemption of shares/units of funds (FCP/GBF or SICAV/BEVEK) (regardless the application of articles 19bis or 21,2°, ITC 1992 for example). Regarding the sale, liquidation or repurchase of shares/units of funds (FCP/GBF or SICAV/BEVEK) which fall in scope of art. 19bis, ITC 1992, the movable income (= interest) is included in the amount of proceeds. The Reporting Belgian FI must only report the total gross proceeds from the sale, liquidation or repurchase of the shares (which includes the amount of interest within the meaning of article 19bis, ITC 1992).</p>
9	<p>Belgian Guidance notes (10.4.3.4.2.v): For simplification purposes, the payment of a coupon by a FCP/GBF may be reported as “interest” (with or without application of article 19ter, ITC 1992 and irrespective of the underlying income). The redemption or sale (of the certificates in a FCP) will be reported as a gross proceed irrespective of the underlying income.</p>

10	<p>Belgian Guidance Notes (4.10.6) Stock-Options as referred under the Belgian Plan for Employment Act of 26 March 1999 (“Wet van 26 maart 1999 betreffende het Belgisch actieplan voor de werkgelegenheid 1998 en houdende diverse bepalingen”/ “Loi du 26 mars 1999 relative au plan d'action belge pour l'emploi 1998 et portant des dispositions diverses”); are not treated as financial accounts are not considered as reportable accounts.</p>
11	<p>Belgian Guidance Notes (4.10.6) Stock-remuneration plans qualifying under the Belgian Law of 22 May 2001 (“Wet van 22 mei 2001 betreffende de werknemersparticipatie in het kapitaal en in de winst van de vennootschappen”/“Loi relative aux régimes de participation des travailleurs au capital et aux bénéfices des sociétés”) are not considered as reportable accounts.</p>
12	<p>Belgian Guidance Notes (10.4.3.4.2.i): When there is no movable income (interest, dividend, , etc.) within the meaning of the Belgian tax Law generated with respect to the assets held in the Custodial Account, there is no CRS reporting to be done with respect to these payments. An OTC transaction with a sale of securities, which are in custody with another FI, no reporting has to be done because of the other FI has to report.</p>
13	<p>Belgian Guidance Notes (4.10.6) The definition of a financial account does not extend to shareholdings on an issuer’s share register (nominal share register) nor bonds or stock holdings (including shareholdings which have been the subject of an acquisition, as a result of which the original share register no longer exists). However shareholdings and bonds can be ‘financial instruments/contracts’ and are reportable if held in a Custodial Account (See Section 3.6). A nominee account (a shareholders register for nominal shares) is thus not considered as a reportable amount.</p>
14	<p>Belgian Guidance Notes (10.4.3.4.3): Collection of a dividend-check or a coupon cut of a bearer bond at the counter of a Belgian bank. Of course, the obligation to report the balance of the account on which the income has been credited, remains.</p>