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AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION (AMENDMENT) REGULATIONS, 2017

Arrangement of Regulations

Regulation

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MINISTRY OF FINANCE

S.I. No. 78 of 2017

**AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT
INFORMATION ACT, 2016**

(NO. 37 OF 2016)

**AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT
INFORMATION (AMENDMENT) REGULATIONS, 2017**

The Minister, in exercise of the powers conferred by section 16 of the Automatic Exchange of Financial Account Information Act, 2016, makes the following regulations —

1. Citation and commencement.

- (1) These Regulations, which amend the Automatic Exchange of Financial Account Information Regulations¹, may be cited as the Automatic Exchange of Financial Account Information (Amendment) Regulations, 2017.
- (2) These Regulations are deemed to have come into force on the 20th day of June, 2017.

2. Amendment of regulation 2 of the principal Regulations.

Regulation 2 of the principal Regulations is amended —

- (a) by deletion of the words “applicable date” and “effective date” and their respective definitions;
- (b) in the definition of “High Value Account”, by the deletion of the words “as of the applicable date” and the substitution of the words “as of 30th June, 2017 or 31st December of any subsequent year”;
- (c) in the definition of “Lower Value Account”, by the deletion of the words “as of the applicable date” and the substitution of the words “as of 30th June, 2017”;
- (d) in the definition of “New Account”, by the deletion of the words “After the applicable date” and the substitution of the words “on or after 1st July, 2017”;
- (e) in the definition of “Preexisting Account” —
 - (i) in subparagraph (a), by the deletion of the words “as of the applicable date” and the substitution of the words “as of 1st July, 2017”;

¹S.I. No. 16 of 2017.

- (ii) in subparagraph (b)(i), by the deletion of the words “with a Reporting Financial Institution” and the substitution of the words “with the Reporting Financial Institution”;
- (f) in the definition of “Related Entity”, by the deletion in subparagraph (b) of the words “, for this purpose control includes direct or indirect ownership of more than fifty per cent of the vote and value in an Entity”;
- (g) by the deletion of the definition “Reportable Jurisdiction” and the substitution of the following —
 - “**Reportable Jurisdiction**” —
 - (a) when applying the due diligence procedures in Sections II to VII of the CRS, and in regulations 3, 4 and 5 of these Regulations, and for interpretation of the definition in Section VIII, sub-paragraph D(4) of the CRS, means any jurisdiction other than the United States of America or The Bahamas;
 - (b) when applying section I of the CRS, and regulation 5 of these Regulations, and for interpretation of the definition in Section VIII, sub-paragraph D(4) of the CRS, means any jurisdiction which is listed in the Second Schedule to these Regulations;”;
 - (h) by the insertion in the appropriate alphabetical order of the following —
 - “**Common Reporting Standard**” or “**CRS**” has the same meaning ascribed to it as in section 2 of the Act;
 - “**Excluded Account**” —
 - (a) has the meanings described in Section VIII, sub-paragraph C(17) of the CRS; and
 - (b) the date specified in relation to a Depository Account in sub-paragraph C(17)(f)(ii) of Section VIII of the CRS is 30th June, 2017;
 - “**Exempt Collective Investment Vehicle**” means an Investment Entity —
 - (a) that is regulated as a collective investment vehicle; and
 - (b) in which all of the interests in the collective investment vehicle are held by or through individuals or Entities that are not Reportable Persons, except a Passive NFE with Controlling Persons who are Reportable Persons;”;

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- (i) by the deletion of paragraph (2) and the substitution of the following —

“(2) For the purposes of these Regulations —

- (a) the meaning of “**control**”, for the purposes of sub-paragraphs (a) and (b) of the definition of “Related Entity”, includes direct or indirect ownership of more than fifty per cent of the vote and value in an Entity;
- (b) an Investment Entity that is regulated as a collective investment vehicle does not fail to qualify as an Exempt Collective Investment Vehicle solely because the collective investment vehicle has issued physical shares in bearer form, provided that the collective investment vehicle —
 - (i) has not issued, and does not issue, any physical shares in bearer form after 30th June, 2017;
 - (ii) retires all such shares upon surrender;
 - (iii) performs the due diligence procedures set forth in Sections II through VII of the CRS and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment;
 - (iv) has in place policies and procedures to ensure that such shares are redeemed or immobilised as soon as possible, and in any event prior to 30th June, 2017; and
- (c) the date specified in the definition “Qualified Credit Card Issuer” in sub-paragraph B(8) of Section VIII of the CRS is as of 30th June, 2017.”.

3. Amendment of regulation 3 of the principal Regulations.

Regulation 3 of the principal Regulations is amended in paragraph (2)(b) by the deletion of the words “on the applicable date” and the substitution of the words “on 30th June, 2017”.

4. Amendment of regulation 5 of the principal Regulations.

Regulation 5 of the principal Regulations is amended —

- (a) in paragraph (1), by the deletion of the word “may” and the substitution of the word “shall”;

- (b) in paragraph (3), by the deletion of the words “, in respect of the applicable date and subsequent years after that date,”;
- (c) in paragraph (4), by the deletion of the words “on or before the effective date”;
- (d) in paragraph (5), by the deletion of the words “before the applicable date” and the substitution of the words “as of 30th June, 2017”; and
- (e) the deletion of paragraph (6).

5. Amendment of regulation 7 of the principal Regulations.

Regulation 7(2) of the principal Regulations is amended by the deletion of the words “or before 30th September of the year following the calendar year to which the return relates” and the substitution of the words “such date as is determined by the Competent Authority”.

6. Amendment of regulation 10 of the principal Regulations.

Regulation 10 of the principal Regulations is amended —

- (a) by the insertion of “(1)” immediately before the words “A Non-Reporting Financial Institution”; and
- (b) in paragraph (a), by the deletion of the words “solely for the purposes” and the substitution of the words “that solely performs the functions”;
- (c) by the insertion, immediately after paragraph (1), of a new paragraph (2) as follows —
 - “(2) An Entity is not a Non-Reporting Financial Institution when that Entity ceases to perform the functions under paragraph (1).”.

7. Amendment of First Schedule to the principal Regulations.

The First Schedule to the principal Regulations is amended by the deletion of item “97. United States of America”.

Dated this 6th day of December, 2017.

Signed
KEVIN PETER TURNQUEST
Minister responsible for Finance