

Explanatory note for Income Tax (Automatic Exchange of Financial Account Information) Regulations 2016

These regulations are made to implement the Common Reporting Standard (“CRS”) developed by the Organisation for Economic Co-Operation and Development, which has been agreed by the jurisdictions listed at the end of this explanatory note.

Regulation 1 relates to the Title.

Regulation 2 relates to commencement.

Regulation 3 defines certain terms used in the regulations.

Regulation 4 defines “reportable account” and makes provision for a reporting financial institution to elect for a calendar year to treat certain accounts as if they were not reportable accounts.

Regulation 5 requires reporting financial institutions to establish and maintain arrangements to identify reportable accounts and the tax residence of holders of accounts and to apply the appropriate due diligence requirements.

Regulation 6 enables the due diligence requirements to be modified in specified cases.

Regulation 7 requires compliance with the CRS reporting obligations.

Regulation 8 requires reporting financial institutions to make their regulation 7 returns electronically.

Regulation 9 imposes a notification obligation.

Regulation 10 is concerned with the position of reporting financial institutions that are not resident in the Cook Islands. In such a case the obligations of an institution are to be treated as if they were also the obligations of its Cook Islands representative or agent.

Regulation 11 permits the use of service providers to undertake the due diligence requirements under regulations 5 and 6, and the reporting obligations under regulations 7 and 8.

Regulation 12 creates offences and prescribes penalties for breach of obligations under these regulations.

Regulation 13 is an anti-avoidance provision.

The following table lists the places where expressions that apply for the purposes of these regulations are defined or otherwise explained—

Expression	Regulations	The CRS
Account holder	5(2)(a)	Section VIII(E)(1)
Annuity contract	4(2)(b)	Section VIII(C)(6)
Cash value insurance contract	3(1)	Section VIII(C)(7)
Controlling person	5(2)(a)	Section VIII(D)(6)
Entity	3(1)	Section VIII(E)(3)
Excluded accounts	4(2)(a)	Section VIII(C)(17)
Financial account	5(2)(c)	Section VIII(C)
New account	5(4), 6(a)	Section VIII(C)(10)
Participating jurisdiction	3(1)	Section VIII(D)(5)
Pre-existing account	5(4), 6(a)	Section VIII(C)(9)
Pre-existing entity account	4(1)(b)	Section VIII(C)(13)
Reportable account	4	Section VIII(D)(1)
Reporting financial institution	3 to 11	Section VIII(A)(1)
Reportable person	9	Section VIII(A)(1)

The participating jurisdictions for the purposes of the CRS include—

Albania

Andorra

Anguilla

Antigua and Barbuda

Argentina

Aruba

Austria

Australia

The Bahamas

Barbados

Belgium

Belize

Bermuda

Brazil

British Virgin Islands

Brunei Darussalam

Bulgaria

Canada

Cayman Islands

Chile

China

Colombia

Costa Rica

Croatia

Curacao

Cyprus

Czech Republic

Denmark

Dominica

Estonia

Faroe Islands

Finland

France

Germany

Gibraltar

Greece
Greenland
Grenada
Guernsey
Hong Kong (China)
Hungary
Iceland
India
Indonesia
Ireland
Isle of Man
Israel
Italy
Japan
Jersey
Korea
Latvia
Liechtenstein
Lithuania
Luxembourg
Macao (China)
Malaysia
Malta
Marshall Islands
Mauritius
Mexico
Monaco

Montserrat

Netherlands

New Zealand

Niue

Norway

Poland

Portugal

Qatar

Romania

Russian Federation

Saint Kitts and Nevis

Saint Lucia

Saint Vincent and the Grenadines

Samoa

San Marino

Saudi Arabia

Seychelles

Singapore

Sint Maarten

Slovak Republic

Slovenia

South Africa

Spain

Sweden

Switzerland

Trinidad and Tobago

Turkey

Turks and Caicos Islands

United Arab Emirates

Uruguay