Tax Administration Jamaica

Guidance Notes

Common Reporting Standard

These Guidance Notes are intended only as a general guide and will support users to understand the relevant international standard using plain English, identifying the most relevant information that must be divulged and using appropriate examples to simplify the requirements. These Guidance Notes are not legal advice and are not intended to replace the legislation (the Revenue Administration Act (RAA) as amended on January 22, 2021 for the implementation of the Common Reporting Standard (CRS)).

The Guidance Notes are developed with the international context in mind and will be updated where appropriate to ensure alignment with the international consensus that may emerge on the CRS. This guide must be read in conjunction with the Convention on Mutual Administrative Assistance in Tax Matters (MAAC) and its Commentaries. Reporting Financial Institutions (RFIs) are encouraged to visit the 'International Tax Matters' hub on Tax Administration Jamaica's (TAJ) website at www.jamaicatax.gov.jm to access useful links for detailed guidance on the requirements of the standard.

The OECD has developed a comprehensive Automatic Exchange Portal (https://www.oecd.org/tax/automatic-exchange/common-reporting-standard/) that is the principal source for CRS materials and resources. The Portal contains the due diligence and reporting rules for financial institutions and the Commentaries on CRS. The Commentaries form an integral part of the CRS, and are intended to illustrate and give guidance to interpret its provisions. The Commentaries on CRS and any updates will form an integral part of these Guidance Notes.

In addition to the Commentaries on CRS, financial institutions are encouraged to consult the CRS Implementation Handbook and CRS-related Frequently Asked Questions (FAQs), which are published on the OECD website.

Ainsley Powell
Commissioner General

February 1, 2026

Table of Contents

LIST OF ABBREVIATIONS AND GLOSSARY

Terms, abbreviations and acronyms used throughout this document will be explained in this section.

ABBREVIATIONS AND ACRONYMS

AEOI	Automatic Exchange of Information
AML	Anti-Money Laundering
CA	Competent Authority for Tax Matters
CAA	Competent Authority Agreement
CG	Commissioner General
CRS	Common Reporting Standard (also Standard for Automatic Exchange of Financial Account Information in Tax Matters)
D.O.B.	Date of Birth
EOI	Exchange of Information
FAQ	Frequently Asked Questions
FATF	Financial Action Task Force
FATCA	Foreign Account Tax Compliance Act
FI	Financial Institution
IGA	Intergovernmental Agreement
ITA	Income Tax Act of Jamaica
KYC	Know Your Customer
LTO	Large Taxpayer Office, Tax Administration Jamaica
OECD	Organization for Economic Co-operation and Development
MOF	Minister of Finance
MAAC	Convention on Mutual Administrative Assistance in Tax Matters
MCAA	Multilateral Competent Authority Agreement
NFE	Non-Financial Entity
RFI	Reporting Financial Institution
RAA	Revenue Administration Act
TAJ	Tax Administration Jamaica, established by section 4 of The Tax Administration Jamaica Act, 2013.
TIN	Taxpayer Identification Number
USA	United States of America

GLOSSARY & KEY TERMS

The definitions are based mainly on paragraph 2 of the Revenue Administration (Convention on Mutual Administrative Assistance in Tax Matters) Regulations 2020 in the Third Schedule to the Revenue Administration Act. For the purposes of this document, we hereafter refer to the Regulations as the CRS Regulations 2020.

Account Holder	In accordance with regulation 2 of the CRS Regulations 2020 this means *(a) "the person who is listed or identified as the holder of a financial account by the financial institution;* *(b) the person for whose benefit or to whose account another person, other than a financial institution, holds a financial account as an agent, custodian, nominee, signatory, investment adviser or intermediary;* *(c) for cash value insurance contract or annuity contract:* – *Any person who can access the cash value or change the beneficiary; or* – *If no one can access the cash value or change the beneficiary, any person named as the owner in the contract and any person with a vested entitlement to payment; or* – *Each person entitled to receive a payment under the contract upon maturity."*
Active Non-Financial Entity (NFE)	An entity is an Active Non-Financial Entity if less than 50% of its income is passive income and less than 50% of its assets produce or are held for the production of passive income.
AML/KYC procedures	In accordance with regulation 2 of the CRS Regulations 2020 this means *"The customer due diligence procedures of a reporting financial institution pursuant to anti-money laundering or similar requirements to which the reporting financial institution is subject."*
Controlling Person	In accordance with regulation 2 of the CRS Regulations 2020 the term means *"the natural person who exercises control over an entity and –* (a) *in the case of a trust, the term shall be construed as referring to the settlors, trustees, the protectors (if any), the beneficiaries or any classes of beneficiaries and any other natural person exercising ultimate effective control over the trust; and* (b) *in the case of legal arrangements other than a trust, means a person in an equivalent or similar position to a person referred to in paragraph (a)."*

Competent Authority	It is a term used in tax treaties to identify the person who represents the State in the implementation of the treaty, and is defined under Article 3 of such treaty. For Jamaica, the Minister responsible for Finance or his authorized representative is the Competent Authority. This role has been designated to the Commissioner General of Tax Administration Jamaica (TAJ) or any authorized representative of the CG, and for the other contracting jurisdictions a person with a similar designation.
Documentary Evidence	includes: • a certificate of residence, issued by an authorized government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the payee claims to be resident; • with respect to an individual, any valid identification issued by an authorized 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; • with respect to an entity, any official documentation issued by an authorized government body (for example, a government or agency thereof, or a municipality) that includes the name of the entity and either the address of its principal office in the jurisdiction in which it claims to be resident or the jurisdiction in which it was incorporated or organized; • any audited financial statement, third-party credit report, bankruptcy filing, or securities regulator's report.
Financial Account	As per regulation 2 of the CRS Regulations 2020 this *"has the meaning assigned to it by Section VIII of the Standard"*. A Financial Account is an account maintained by a Financial Institution, and includes a Depository Account, a Custodial Account and in the case of an Investment Entity - any equity or debt interest in the Financial Institution, also any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution with some exceptions.
Financial asset	The term "financial asset" includes: – a security, such as: • a share of the capital stock of a corporation, • an income or capital interest in a widely held or publicly traded trust, • a note, bond, debenture, or other evidence of indebtedness, – a partnership interest; – a commodity; – a swap, such as:

	• interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements, • an 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" is used in the definition of custodial institution, investment entities, custodial account, and excluded account. It includes any assets that can be held in an account maintained by a financial institution with the exception of a non-debt, direct interest in real or immovable property.
Investment Entity	*(a)* any entity *"that primarily conducts as a business one or more of the following operations or activities for or on behalf of a customer* *(i) trading in money market instruments (including cheques, bills, certificates of deposit and derivatives), foreign exchange, exchange, , interest rate and index instruments, transferable securities, or commodity futures trading;* *(ii) individual or collective portfolio management;* (iii) *otherwise investing, administering or managing financial assets or money on behalf of other persons";* (b) *the gross income of which is primarily attributable to investing, reinvesting, or trading in financial assets, if the entity is managed by another entity that is a depository institution, a custodial institution, a specified insurance company, or an investment entity described in paragraph (a); or* (c) *that, although not an Active NFE for the purposes of paragraph (2), meets any of the criteria in paragraph (2)(d), (e), (f) or (g);*
G20 or Group of 20	The G20 is an intergovernmental forum of countries that work together to address global economic issues. The G20 was established in 1999 as a forum for finance ministers and central bank governors to discuss economic and financial issues. After the 2007 global financial crisis, it was elevated to include heads of state and government. The G20 includes 19 countries, the European Union (EU), and the African Union (AU). The G20 countries are responsible for a large portion of the world's economy.
Multilateral Competent Authority Agreement (MCAA)	The MCAA is a multilateral framework agreement that specifies the details of what information will be exchanged between signatories and when the exchange will occur.
Non-Financial Entity	The term non-financial entity means an entity that is not a financial institution.

Participating Jurisdictions	Participating Jurisdiction means a jurisdiction specified in Part 1 of the Schedule to the CRS Regulations 2020.
Passive Non-Financial Entity (NFE)	• *"any NFE that is not an active NFE or* • *an investment entity as described in paragraph (b) of the definition of "investment entity", that is not a participating jurisdiction financial institution".*
Related Entity	• the definition specified in subsection E (4) of Section VIII of the Standard shall not apply; • an entity is a "related entity" of another entity if − either entity controls the other entity; − the two entities are under common control; or − the two entities are investment entities within the meaning of paragraph (b) of the definition of "investment entity", are under common management, and such management fulfils the due diligence obligations of such investment entities; and • in paragraph (b) in relation to a related entity, "control", includes direct or indirect ownership of more than 50% of the vote and value in that entity.
Reportable Account	• A reportable account refers to an account which has been identified pursuant to the due diligence procedure under regulation 4, as being held by: – one or more reportable persons; or – a Passive NFE with one or more controlling persons that is a reportable person(s).
Reportable jurisdictions	Reportable Jurisdictions means a jurisdiction *(a) "with which an agreement is in place pursuant to which there is an obligation in place to provide information specified in regulation 6: and* (b) *which is specified in Part II of the Schedule of these Regulations"*
Reportable Person	• A reportable person is: – an individual or entity that is resident in a reportable jurisdiction; – an estate of a decedent that was a resident of a reportable jurisdiction; or – a partnership, limited liability partnership or other similar legal arrangement that has no residence for tax purposes, that has its place of effective management in a reportable jurisdiction.

	• A reportable person does not include: – a corporation, the stock of which is regularly traded on one or more established securities markets; – any corporation that is a related entity of a corporation described above; – a Governmental entity; – an international organization; – central Bank; or – a financial institution
Reporting Financial Institution	This means any participating jurisdiction financial institution that is not a non-reporting financial institution. • A Participating Jurisdiction Financial Institution refers to a financial institution (other than a non-reporting financial institution) which is resident in Jamaica, but excludes any branch of such institution that is located outside Jamaica. • Any branch of financial Institution (other than a non-reporting financial institution) which is not resident in Jamaica, but that branch is located in Jamaica. • Non-Reporting Financial Institution means – (a) a financial institution as defined in subparagraph B (1) (a),(b),(d) and (e) of section VIII of the Standard; or (b) an entity to which these regulations, in whole or in part, do not apply, as declared under regulation 3.
The Convention on Mutual Administrative Assistance in Tax Matters	The Convention on Mutual Administrative Assistance in Tax Matters (hereinafter "MAAC") is a freestanding multilateral instrument which is designed to promote international co-operation for better operation of domestic tax laws while respecting the fundamental rights of taxpayers.
TIN	This means a taxpayer identification number or functional equivalent in the absence of a taxpayer identification number.
TAJ	This means Tax Administration Jamaica established by section 4 of The Tax Administration Jamaica Act, 2013.
The Standard	*"The Standard for Automatic Exchange of Financial Account Information in Tax Matter (the Common Reporting Standard), including the Commentaries thereon, approved by the Council of the Organization for Economic Co-operation and Development (OECD) on 15 July, 2014, and which contains reporting and due diligence procedures for the exchange of information on an automatic basis, as amended from time to time."*

CHAPTER 1 - INTRODUCTION

1.1 Purpose of this document

These Guidance Notes aim to provide practical assistance to Financial Institutions, businesses, their advisers and Tax Administration Jamaica (TAJ) officials dealing with the implementation of the Common Reporting Standard (CRS). The document will provide information on the due diligence and reporting obligations relating to the Common Reporting Standard (CRS), referred to as the "*Standard for Automatic Exchange of Financial Account Information in Tax Matters*". It will also provide guidance to TAJ officials in ensuring that the requirements under the international standards are upheld.

These Guidance Notes are also a notice to all stakeholders that fall within the scope of the CRS to comply with the requirements laid down under the Revenue Administration Act (RAA) through the insertion of the Revenue Administration (Convention on Mutual Administrative Assistance in Tax Matter) Regulations, 2020. Jamaica's implementation of the CRS will also be of interest to customers of Jamaican financial institutions. Individuals with an existing account, or opening a new account at a local financial institution, must certify or clarify their residence status for tax purposes. A financial institution must apply the RAA and the CRS in force at the time, using these Guidance Notes as a form of reference.

These Guidance Notes apply to, and are designed to, assist persons who may be affected by the Revenue Administration (Convention on Mutual Administrative Assistance in Tax Matter) Regulations, 2020. They are not intended to take the place of independent professional advice and therefore should not be treated as such. Independent professional advice should be sought when it is required as this document is not to be considered as legal advice and is not intended to replace the Revenue Administration (Convention on Mutual Administrative Assistance in Tax Matter) Regulations, 2020 or the Common Reporting Standard and the OECD Commentaries on them.

These Guidance Notes are also a notice to all stakeholders falling within the scope of the CRS to comply with the requirements laid down under the RAA, and specifically the CRS Regulations 2020 in the implementation of CRS. They will have to:

(i) establish, maintain and document such due diligence procedures as mentioned in these Guidance Notes;

(ii) provide the Commissioner General with information of the description specified in these Guidance Notes; and

(iii) provide those information to the Commissioner General at such time and in such form and manner as laid down in these Guidance Notes.

1.2 Scope

These Guidance Notes describe the due diligence and reporting obligations that arise under the amendments to the Revenue Administration Act, which inserted the Revenue Administration (Convention on Mutual Administrative Assistance in Tax Matter) Regulations, 2020 giving force of law to the CRS in Jamaica.

As the CRS is a global standard, the OECD has developed extensive and comprehensive materials for its consistent application and interpretation by all jurisdictions. These Guidance Notes are therefore limited to providing guidance on aspects of the CRS that are particular to Jamaica. These Guidance Notes are to be considered as purely supplementary to the OECD Commentaries to the CRS and the CRS Handbook and are not intended to replicate the information in the aforementioned OECD documents, which form the core of the Standard and its interpretation.

The Guidance Notes seek to convey principles that are applicable to various situations and circumstances that are of particularly significance to Jamaica. If further guidance is required, it may be sought from TAJ. This is a living document developed with the international context in mind and will be updated by TAJ, where appropriate to ensure alignment with the international consensus that may emerge on the CRS.

The OECD has developed a comprehensive Automatic Exchange Portal that is the principal source for CRS materials and resources. In particular, Financial Institutions may consult the following resources, issued by the OECD, as aids to applying the CRS:

1. CRS Implementation Handbook
2. CRS-related FAQs

(http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/CRS-related-FAQs).

1.3 Background – What is the Common Reporting Standard?

The advancements in technology has revolutionized international trade and commerce by enabling faster communication, easier movement of goods and services and facilitating the growth of cross-border collaboration thus making it easier for businesses to expand their operations and reach new markets. Offshore tax evasion is a concern all over the world. Currently, it is relatively easy for individuals and entities to hold investments outside their home jurisdiction. Whilst the majority of them are tax compliant, some may avail themselves of the opportunities inherent in globalisation with a view to evade taxes in their home jurisdiction, necessitating an increase in international tax transparency, cooperation and mutual assistance. A key aspect of that co-operation between tax administrations is exchange of information.

In February 2014, the OECD delivered the CRS, which was subsequently approved by the G20 as the global standard for AEOI. The CRS is the new global standard that reduces the possibility of tax evasion. It is the global standard for the automatic exchange of financial account information for tax purposes. It provides for the exchange of non-resident financial information with the tax authorities in the account holders' country of residence. The CRS builds on the intergovernmental approach adopted by many jurisdictions for the implementation of the United States Foreign Account Tax Compliance Act (FATCA) and is designed to maximise efficiency and minimise costs. Under the CRS, jurisdictions obtain specified financial account information from their Financial Institutions and automatically exchange that information with Reportable Jurisdictions on an annual basis via a common transmission platform. It calls on the jurisdictions to obtain information from their Financial Institutions and automatically exchange that information with other jurisdictions on an annual basis via a multilateral agreement.

Over 147 jurisdictions have now formally committed to implementing the CRS. The AEOI standard requires the annual exchange of information on financial accounts held by non-resident individuals and entities in a pre-defined format - an XML Schema. TAJ will need to ensure that the CRS information to be sent to each partner jurisdiction is compiled in the CRS XML Schema file and is properly sorted. As the CRS is continuously evolving, the list of jurisdictions with which Jamaica exchanges information changes is dynamic. The current list of jurisdictions with which Jamaica exchanges can be found using this link, https://www.oecd.org/tax/transparency/AEOI-commitments.pdf.

1.3.1 The Convention on Mutual Administrative Assistance in Tax Matters (MAAC)

The Revenue Administration Act (RAA) is the domestic law that incorporates international agreements such as the intergovernmental agreement with the United States to Improve International Tax Compliance and to Implement FATCA and the MAAC, under which CRS exchanges take place. The requirements in respect of the CRS were incorporated into the RAA by way of Regulations inserted into a Third Schedule. The MAAC was developed jointly by the OECD and the Council of Europe in 1988 and was amended by Protocol in 2010 and entered into force on 1 June 2011. It is a comprehensive multilateral instrument available for all forms of tax co-operation to tackle tax evasion and avoidance. The MAAC is designed to facilitate international co-operation for a better operation of national tax laws, while respecting the fundamental rights of taxpayers. It provides for all possible forms of administrative co-operation between States in the assessment and collection of taxes. This co-operation ranges from exchange of information, including automatic exchanges, to the recovery of foreign tax claims. Currently 147 countries have signed on to the MAAC and the number keeps growing. Jamaica signed the MAAC on 1 June 2016, which became effective 01 March 2019.

The OECD, the G20 and other international bodies endorsed the CRS as the new international standard for the automatic exchange of tax information. Jurisdictions worldwide are committed to the CRS and look forward to the increased cooperation in tax matters it promotes.

1.3.2 The Multilateral Competent Authority Agreement (MCAA)

In addition to the international legal instrument for exchanges of tax information, automatic exchange relationships typically require an additional administrative agreement between Competent Authorities that further sets out the details of the information to be exchanged, as well as the timing and the operationalization of the automatic exchanges. The MCAA is concluded under Article 6 of the MAAC and provides the most efficient route to widespread exchange. This route saves the time and resources that would need to be invested in bilateral negotiations with each single intended exchange partner, while at the same time preserving the bilateral nature of the exchange relationships.

Although the MCAA is a multilateral agreement, exchange relationships under the Standard require that both jurisdictions provide a subsequent notification stating that they wish to exchange with each other. This is necessary since the MCAA is a framework agreement, and it does not become operational until domestic legislation is in place and the requirements on confidentiality and data protection are met.

1.3.3 Wider Approach

The default due diligence procedures in the CRS (in particular the indicia search procedures) are designed to identify accounts which are held by residents of jurisdictions that feature on the list of Reportable Jurisdictions at the moment the due diligence procedures are performed. It is intended to enable Financial Institutions to capture and maintain information on the tax residence of Account Holders irrespective of whether or not that Account Holder is a Reportable Person for any given reportable period. This would spare the Financial Institutions from carrying out additional review and on-boarding changes each time a new country is added to the list of Reportable Countries. They will only have to review change of circumstance, if any, relating to the Account Holder or Controlling Person's tax residence.

Jamaica has implemented the "wider approach" to the CRS by extending the due diligence procedures to cover all non-residents or residents of jurisdictions with which they have an exchange of information instrument in place. Accordingly, Jamaican RFIs are required to collect and retain the required information in relation to all accounts held or controlled by non-residents. The RFIs shall only be required to report annually with respect to accounts held or controlled by persons resident in Reportable Jurisdictions. A Jamaican RFI will not exchange any information obtained in respect of a person that is not resident in a Reportable Jurisdiction with the Competent Authority until the Competent Authority notifies it that such jurisdiction is a Reportable Jurisdiction.

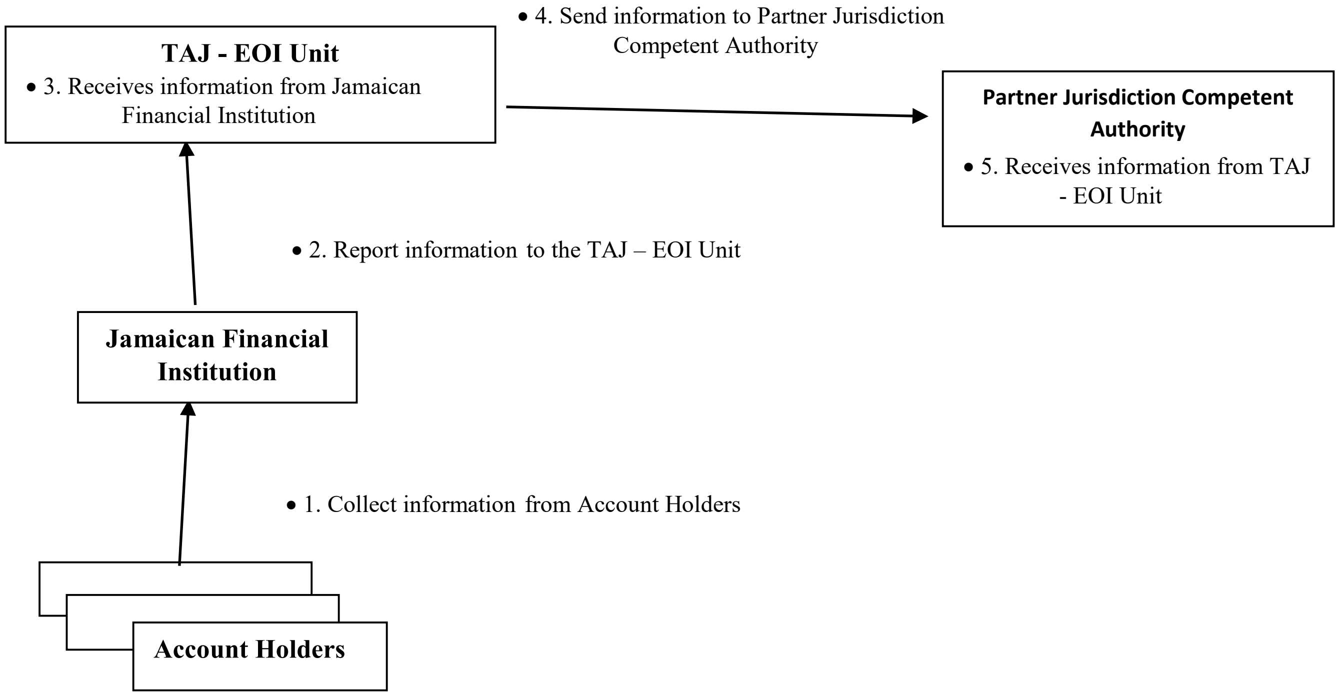
1.4 The Role of the Large Taxpayer Office – EOI Unit

The Competent Authority for Jamaica is the Minister of Finance and the Public Service. This role has been designated to the Commissioner General (CG) of TAJ, who has delegated the functions to any of his authorized representative. The delegated functions for the implementation and administration of the CRS are carried out by the designated officers and staff in the Exchange of Information (EOI) Unit that was created in the TAJ's Large Taxpayer Office (LTO).

Therefore, TAJ's EOI Unit in the LTO is responsible for the operation of all mechanisms for the exchange of information for tax purposes, which includes the information required to be disclosed by the RFIs (RFI) under the CRS. This information will then be exchanged with partner jurisdictions that have satisfied the requisite confidentiality and data safeguards standards, and have the appropriate legal instruments and legislative frameworks in place.

TAJ will periodically verify the compliance of RFIs. It is the responsibility of each RFI to adhere to the requirements of the standard and provide the correct information in the prescribed format to the EOI Unit. The EOI Unit will monitor compliance by Financial Institutions with domestic legal requirements and, will enforce the Revenue Administration (Convention on Mutual Administrative Assistance in Tax Matters) Regulations, 2020, including with respect to cases where significant non-compliance is brought to its notice by the partnering jurisdiction's Competent Authorities. The diagram overleaf outlines the process and role of the EOI Unit and Jamaican Financial Institutions in the transmission of data under the CRS.

Transmission of data under the CRS



For any further information on the CRS, TAJ may be contacted as follows:

Exchange of Information Unit
Large Taxpayer Office
Constant Spring Revenue Service Centre
191 Constant Spring Road
St. Andrew
Jamaica
Tel: 1 (876) 969-0000 ext. 65044
Email: eoi@taj.gov.jm

1.5 Privacy and Data Protection

Jamaica will not exchange information under the CRS until it is satisfied that a Reportable Jurisdiction has in place, adequate privacy and data protection measures in accordance with the OECD standards. This requirement is to ensure that any Reportable Jurisdiction that Jamaica intends to exchange information with meets the required confidentiality and data safeguards standard. The Global Forum on Transparency and Exchange of Information (Global Forum) evaluates jurisdictions against the confidentiality and data safeguards standards before they receive clearance to take part in multilateral exchanges of CRS information.

Where client confidentiality is breached or there is reason to believe that data that has been exchanged is being used for purposes other than which it was provided to the Competent Authority of the Reportable Jurisdiction, the agreement for automatic exchange will be subject to review and there is the possibility for exchanges to be suspended.

CHAPTER 2 - LEGAL AND OPERATIONAL FRAMEWORK

2.1 Legal Framework

In December 2020, the Revenue Administration Act (RAA) was amended to insert the Revenue Administration (Convention on Mutual Administrative Assistance in Tax Matters) Regulations, 2020. The legislation came into effect on 22 January 2021. The amendments to section 17ND (b) gave domestic legislative effect to the CRS of automatic exchange of financial information used internationally by over 100 jurisdictions to share information on taxpayers with their countries of residence. ***(Appendix 1- Extract from the Revenue Administration (Amendment) Act, 2020)***

The amendments were drafted in accordance with the OECD standards and aim to protect the integrity of tax systems by ensuring that all taxpayers are subject to tax on taxable income whether it is held within their country of residence or offshore. For ease of reference, the requirements in respect of the CRS were incorporated into the RAA by way of a Third Schedule and the text of the MAAC was inserted in the Fourth Schedule.

Arising from the amendment to the RAA for the calendar year 2021 and subsequent years all RFIs are required to:

- Identify reportable accounts through due diligence procedures outlined in the standard;
- File with TAJ, an Information Return in respect of every identified reportable account maintained by them in respect of the calendar year 2021 and subsequent years, including a NIL Return where applicable.

2.2 FATCA vs CRS

The CRS was modelled after the standardised solutions that jurisdictions previously developed for the purposes of the intergovernmental operationalisation of the USA Foreign Account Tax Compliance Act (FATCA). Both standards (CRS & FATCA) serve to encourage tax compliance by persons holding accounts and other financial assets offshore. The CRS is however broader in scope than FATCA, does not apply withholding tax and relies on a multilateral agreement. Whereas FATCA is based on citizenship, the CRS is based on tax residency and caters for multiple reporting in case of multiple residency. Unlike FATCA, the CRS does not include the minimum US$50,000 threshold, and thus all the Financial Institutions accounts are subject to review and potential reporting.

However, both are similar, and are incorporated into Jamaica's legislation in a similar manner to facilitate ease of compliance. While a large proportion of the CRS precisely mirrors the FATCA IGA, there are areas of difference. These differences are due to: the removal of USA specificities (such as the use of citizenship as an indicia of tax residence and the references to USA domestic law found in the FATCA IGA); or where certain approaches are less suited to the multilateral context of the Standard, as opposed to the bilateral context of the FATCA IGA.

The major differences are as follows:

FATCA	CRS
Define its Reporting Financial Institutions by using either the residence or the jurisdiction under which the Financial Institution is organised (or both, in the case of some Model 1 FATCA IGAs).	Uses the residence of the Reporting Financial Institution as the reporting nexus.
Reporting on financial transactions of US Citizens only.	Reporting on financial transactions of the signatories to the MAAC.
USA manages all compliance actions.	Compliance action is the responsibility of the reporting country.
Information not interrogated just validated, collated and sent to the USA.	Information is validated, interrogated and sorted prior to submission.
The IRS encourages compliance with its FATCA regulations by imposing sizable	The domestic law that gives effect to the CRS does not impose a withholding tax. However,

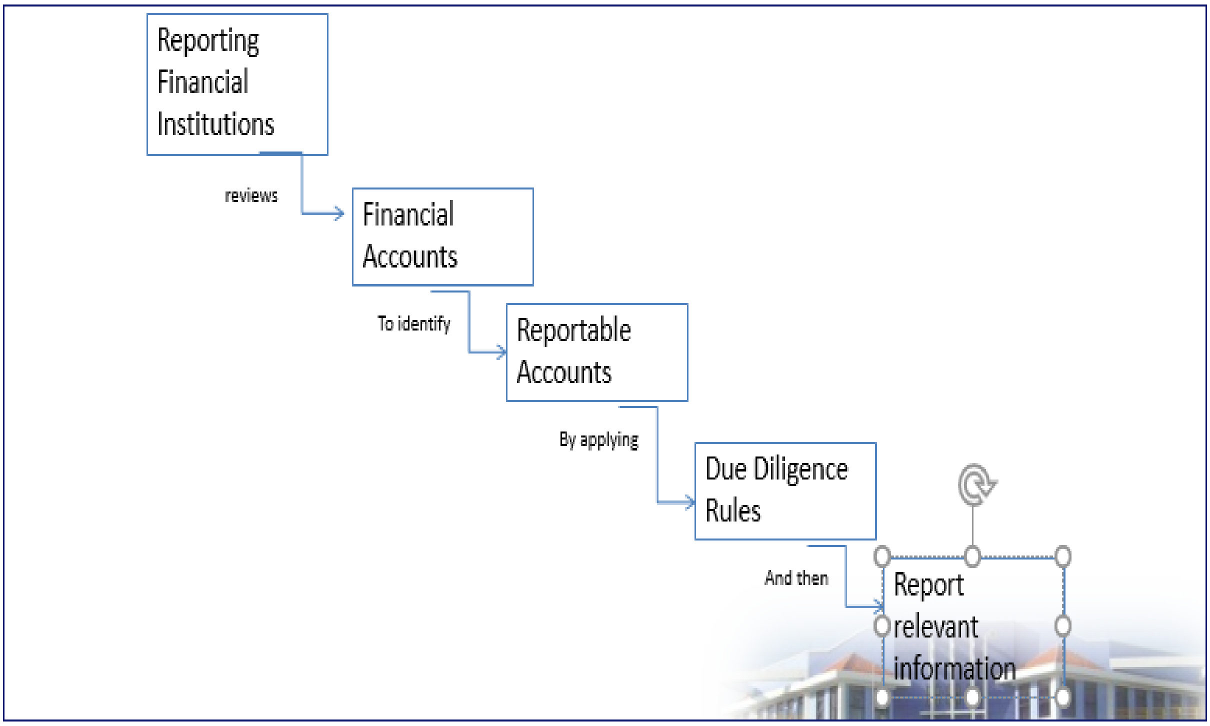
FATCA	CRS
penalties over those companies who fail to report their U.S. taxpayers. IRS will withhold 30% of gross U.S. source of income from FIs who fail to comply.	the penalties for a breach under the legislation can be found in Regulation 14 of the Third Schedule of the RAA.

CHAPTER 3 –REPORTING FINANCIAL INSTITUTIONS

3.1 Overview of the CRS

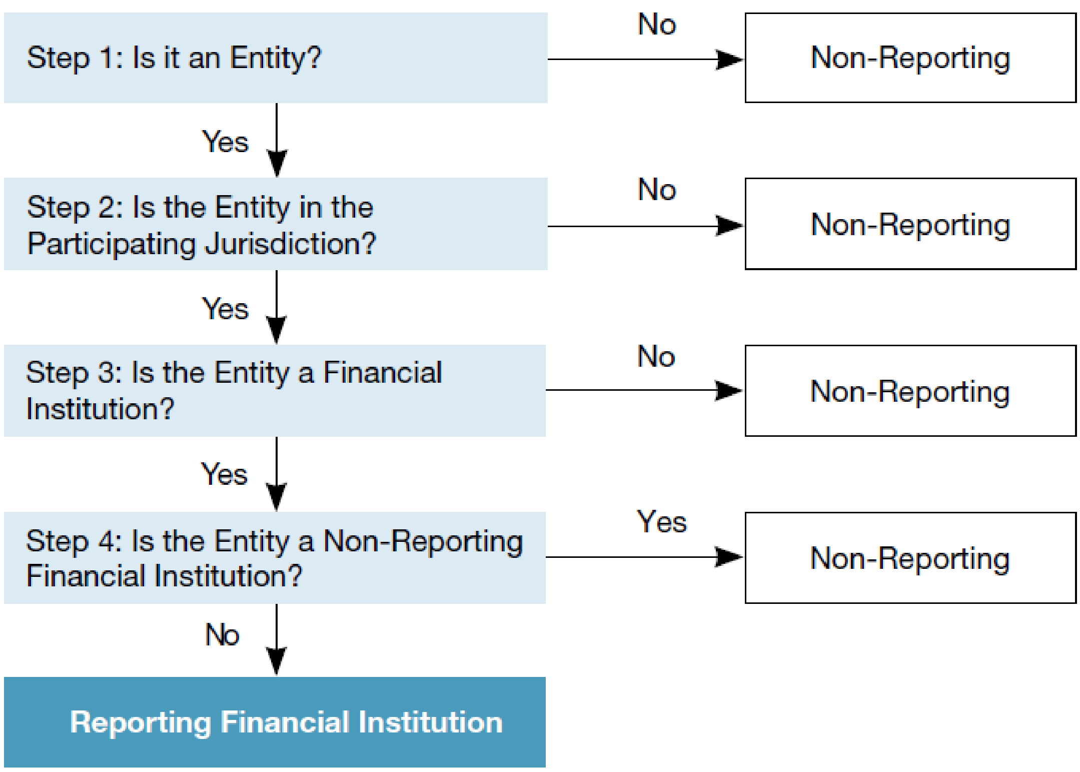
The CRS contains detailed rules and procedures that RFIs must follow in order to ensure that the relevant information is collected and reported. It is these rules that are incorporated into our domestic law to ensure the due diligence and reporting is performed correctly.

The following figure depicts the different steps for reporting of information to TAJ by Jamaican RFIs under the CRS.



3.2 Identifying a Reporting Financial Institution

In order to implement the reporting requirements as prescribed in the CRS it is critical to identify who the RFIs are. These are the persons required to collect and report the information in accordance with the rules as outlined in the CRS. The CRS contains detailed rules defining RFIs that are built around a four-step test, as shown below.



Only entities can be RFIs. The definition of entity is broad and consists of legal persons and legal arrangements, such as corporations, partnerships, trusts, and foundations. Individuals, including sole proprietorships, are therefore excluded from the definition of RFIs. The Standard targets entities within a Participating Jurisdiction as those that can be most effectively compelled to report the necessary information by that jurisdiction. This is the reporting nexus.

The general rule is that entities resident in a jurisdiction, their branches located in that jurisdiction and branches of foreign entities that are located in that jurisdiction are included within that jurisdiction's reporting nexus, while foreign entities, their foreign branches and foreign branches of domestic entities are not.

Similar to FATCA, there are four categories of FIs covered under the CRS:

(a) Depository Institution;

(b) Custodial Institution;

(c) Investment Entity; and

(d) Specified Insurance Company.

Where an entity does not meet the definition of a FI in any of the categories, then it will be classified as a Non-Financial Entity (NFE).

3.2.1 Depository Institutions

A 'Depository Institution' is any entity that accepts deposits in the ordinary course of a banking or similar business. Entities that fall within this definition include savings banks, commercial banks, savings and loan associations and credit unions. These would include those entities regulated in Jamaica as banks as listed on the website of the Bank of Jamaica at https://www.boj.jm/

3.2.2 Custodial Institutions

A 'Custodial Institution' is any entity that holds, as a substantial portion of its business, Financial Assets for the account of others.

A 'substantial portion' means 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 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 as Custodial Institutions.

Entities that do not hold Financial Assets for the account of others, such as insurance brokers, will not be Custodial Institutions.

Where an entity has no operating history at the time its status as a Custodial Institution is being assessed, it will be regarded as a Custodial Institution if it expects to meet the gross income threshold based on its anticipated functions, assets and employees. Consideration must be given to any purpose or function for which the entity is licensed or regulated (included those of any predecessor).

There may be circumstances where an entity holds Financial Assets for a customer where the income attributable to holding the Financial Assets or providing related financial services either belongs or is otherwise paid to a connected party such as another company in the same group of companies. This may be that the entity could hold assets for a customer of a related entity, or consideration is paid to a related entity, either as an identifiable payment or as one element of a consolidated payment. In such a case, consideration should be given on what would have been paid by an arm's length customer when applying the 20% test.

3.2.3 Investment Entity

The term 'Investment Entity' includes two types of entities:

- entities that primarily conduct as a business investment activities or operations on behalf of other persons, and
- entities that are managed by those Entities or other FIs.

Investment Entity is defined in section 2 of the Revenue Administration (Amendment) Act, 2020.

3.2.3.1 Investment Entity Conducting business on behalf of customers

The first type of "Investment Entity" is any entity that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:

- Trading in:
  - money market instruments (cheques, bills, certificates of deposit, derivatives, etc.);
  - foreign exchange, exchange, interest rate and index instruments;
  - transferable securities;
  - commodity futures trading
- Individual and collective portfolio management; or
- Otherwise investing, administering, or managing Financial Assets or money on behalf of other persons.

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

An entity will be regarded as primarily conducting the above mentioned activities as a business if its gross income from conducting those activities is at least 50% of its total gross income during the shorter of:

- The three-year period ending on 31 December in the year preceding that in which its status as an investment entity is to be determined; or

- The period in which the entity has been in existence.

3.2.3.2 Managed Investment Entity

This type of 'Investment Entity' is any entity whose gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the entity is managed by a FI and meets the Financial Asset test as described below.

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 if one of the entities so involved in the management of the entity is a FI as defined by the CRS.

An entity meets the Financial Assets test if its gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets. This test is similar to the one described above and requires that at least 50% of its income is attributable to investing, reinvesting, or trading in Financial Assets in 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.

3.2.4 Further Guidance

An entity would generally be considered as an Investment Entity if it functions or holds itself out as a collective investment vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leveraged buy-out fund or any similar investment vehicle established with an investment strategy of investing, reinvesting, or trading in Financial Assets.

An entity that primarily conducts as a business investing, administering, or managing non-debt, direct interests in real property on behalf of other persons, such as a type of real estate investment trust, will not be an Investment Entity.

The term 'Investment Entity' shall be interpreted in a manner consistent with similar language set forth in the definition of "Financial Institution" in the Financial Action Task Force Recommendations.

For the purposes of the 'managed by' test, a distinction should be made between one entity 'managing' another and one entity 'administering' another. For instance, the following services provided by an entity to another will not constitute the latter entity being 'managed by' the former:

- Provision of co-secretary and/or company secretarial services
- Provision of registered office
- Preparation of final financial statements (from company books and records)
- Preparation of Tax and/or VAT returns
- Provision of bookkeeping services including budgeting and cash-flow forecasts.

The following examples below illustrate the application of the tests described above:

Example 1-Investment Advisor

Advice Co Ltd, provides advice and management of securities held by a number of clients. The securities meet the definition of Financial Assets. Almost 80% of the gross income of Advice Co Ltd for the last three years has come from providing such services.

Advice Co Ltd primarily conducts a business of managing Financial Assets on behalf of clients and is, therefore, an Investment Entity.

Example 2 - Entity Carrying on Business Managed by a Financial Institution

Investment Fund C primarily invests in equities on behalf of customers. Invest Co Ltd, an FI, manages Fund C. Fund C was formed two years ago since when it has earned 90% of its income from these activities. Fund C is an Investment Entity because it primarily conducts as a business one or more of the relevant activities or operations for or on behalf of a customer.

It is not relevant that it is managed by an FI as it is an Investment Entity by virtue of its own business activities.

Example 3- Entity Managed by a Financial Institution

Investment Partnership LLP is a vehicle set up to invest its members' contributions in Financial Assets, it invests in its own right and has no customers. Invest Co Ltd, an FI, manages the LLP. The LLP has been investing for several years and its income is derived exclusively from its investment activities.

As the LLP is managed by an FI and at least 50% of its income in the last three years is primarily attributable to investing, reinvesting or trading in Financial Assets it will be an Investment Entity.

Example 4-Entity Managed by a Foreign Financial Institution

The facts are the same as in example 3 except that Invest Co LLC, a UK financial institution, manages Investment Partnership LLP.

The fact that the LLP is managed by an FI resident in another jurisdiction does not alter its status. It will be an Investment Entity, because it is managed by an FI and more than 50% of its gross income is primarily attributable to investing, reinvesting or trading in Financial Assets.

Example 5-Property Fund Managed by a Financial Institution

Fund D is an investment fund that invests solely in non-debt direct interests in real property. Invest Co Ltd, an FI, manages fund D. Fund D has structured its holdings in property through a company, P Ltd, which has four wholly owned subsidiaries each of which has invested in a property.

Fund D will not be an Investment Entity as although it is managed by an FI, none of its gross income is attributable to investing, reinvesting or trading in Financial Assets as the assets it holds are non-debt direct interests in real property.

Example 6- Entity Managed by an Individual

James, an individual, runs a business providing advice to clients on investments in Financial Assets and has discretionary authority to manage Financial Assets on behalf of clients. One of his clients is a company, B Ltd that has earned more than 50% of its gross income in the last three years from investing, reinvesting and trading in Financial Assets. James primarily conducts investment-related activities on behalf of clients.

James is not an investment entity because he is an individual.

B Ltd, however, is nonetheless an investment entity because it primarily conducts as a business one or more of the relevant activities or operations for or on behalf of a customer (note: in practice, it is unlikely that such an entity would appoint an individual to manage its assets).

Example 7-Family Trust Managed by an Individual

See Example 6 above:

If James managed the assets of a family trust, the trust would not be an investment entity. It is neither primarily conducting as a business one or more of the relevant activities or operations for or on behalf of a customer. Although its gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets, it is not an entity that is managed by an FI (because James, as an individual, cannot be an FI). (Note: in practice, a trust holding assets on behalf of a family arrangement will typically appoint a company or partnership to manage its assets but some family trusts may instead appoint a suitably qualified individual).

Example 8- Family Trust with a Corporate Trustee

The ABC family trust's gross income is primarily attributable to investing, reinvesting or trading in Financial Assets. The trust was set up on the advice of a law firm and that firm's own corporate trustee is the trustee of the trust. The corporate trustee acts for the law firm's clients without itself charging any fees to the clients.

Even though the corporate trustee does not charge, it is an FI as its related entity (the law firm) is charging the clients for these services, it therefore primarily conducts as a business for or on behalf of a customer the prescribed activities. This in turn means that the ABC family trust is also an Investment Entity.

3.2.5 Investment Advisors and Investment Managers

An Investment Entity that is otherwise a RFI in Jamaica solely because it;

- renders investment advice to, and acts on behalf of, or
- manages portfolios for, and acts on behalf of, a customer for the purposes of investing, managing, or administering Financial Assets deposited in the name of the customer with a Financial Institution

will not be treated as maintaining Financial Accounts in the sense of the CRS as they do not have any Financial Accounts to report on.

3.2.6 Specified Insurance Companies

A Specified Insurance Company is 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:

1) that is regulated as an insurance business under the laws of Jamaica;

2) 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

3) 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.

Most life insurance companies would generally be considered Specified Insurance Companies. Entities that do not issue Cash Value Insurance Contracts or Annuity Contracts nor are obligated to make payments with respect to them, such as most non-life insurance companies, most holding companies of insurance companies, and insurance brokers, will not be Specified Insurance Companies.

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

3.3 Non-Reporting Financial Institutions

An entity falling within the Non-Reporting Financial Institutions category will not have any reporting obligation in relation to any Financial Account that it may maintain. RFIs will not be required to review or report on accounts held by such Non-Reporting Financial Institutions. Non-Reporting Financial Institutions are entities that fall within the following categories:

1. Government Entity and their pension funds;
2. International Organisations;
3. Central Bank of Jamaica;
4. Funds – Broad Participation Retirement Fund; and Narrow Participation Retirement Fund; Pension Funds of Non-Reporting Financial Institutions;
5. Qualified Credit Card Issuers;
6. Exempt Collective Investment Vehicles;
7. Other low-risk Financial Institutions; and

8. Trustee-Documented Trust[1]

3.4 Filing Requirements (Regulations 6 & 7)

RFIs are required to file an Information Return in accordance with the requirements of the CRS. In accordance with the amendments mentioned in section 2.1, the requirements are that:

- All RFIs must review their financial accounts to identify reportable accounts by applying due diligence procedures outlined in the Standard;
- All RFIs are required to file with TAJ an information return in respect of every identified reportable account maintained by them in respect of the relevant calendar year;
- If a RFI applies the due diligence procedures as required for a calendar year, and the institution as a RFI identifies no account, the institution shall file an information return that informs that the institution maintains no such reportable accounts in respect of that year. These are Nil Returns.
- The information return must be filed by May 31 of the subsequent calendar year to which the 'Information Return' relates; and

[1] ***Paragraphs 55 & 56 of the CRS Commentaries***
A trust that is a Financial Institution (e.g. because it is an Investment Entity) is a Non-Reporting Financial Institution, according to subparagraph B(1)(e), to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to Section I with respect to all Reportable Accounts of the trust.

This category of Non-Reporting Financial Institution reaches a similar result as that under paragraph D of Section II, according to which 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.

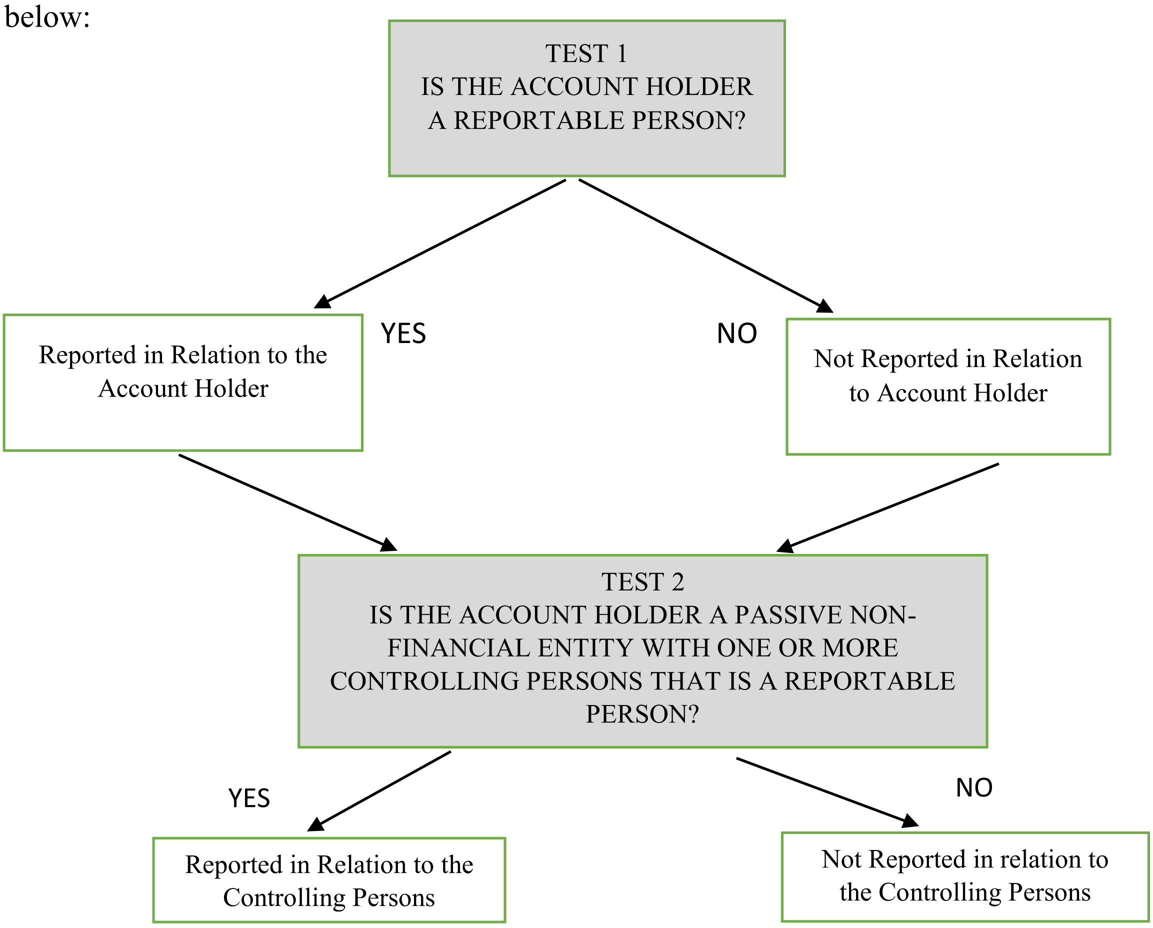
- All returns are required to be submitted electronically using technology approved or provided by the Authority, and in such form as the Authority may require.

CHAPTER 4 – REPORTABLE ACCOUNTS

4.1 Accounts which are Financial Accounts and should be reviewed

RFIs are required to review the Financial Accounts they maintain to identify whether any of them need to be reported to the tax authority. Once an RFI has identified the Financial Accounts it maintains, it needs to review all those accounts to identify the territory in which the Account Holder is tax resident and maintain the information for future use. This is the wider approach. To the extent that any of the Account Holders are identified as tax resident in one or more Reportable Jurisdictions (i.e. Jurisdictions with which agreements are in place to provide information under the CRS), the account will be a Reportable Account which must be reported to the TAJ.

To establish whether an account is a Reportable Account, two tests are required, as set out below:



Controlling Persons are defined as natural persons who exercise control over an entity and should be interpreted in line with FATF Recommendations (as adopted in February 2012).

In the case of a Trust this 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.

In the case of a legal arrangement other than a Trust, it means persons in equivalent or similar positions. The term “Controlling Persons” must be interpreted in a manner consistent with the Recommendations of the Financial Action Task Force.

General Information to be reported

In accordance with Regulations 6(2)(a) - (e)of the CRS Regulations, 2020 an information return filed by a RFI, shall, in respect of each reportable account, include –

- the name, address, jurisdiction of residence, TINs and date and place of birth (in the case of an individual) of each reportable person that is an account holder of the account; and
- in the case of an entity that is an account holder that, after application of the due diligence procedure consistent with Sections V, VI and VII of the Standard, is identified as having one or more controlling persons that is a reportable person –
    - (i) in the case of an entity, the name, address, jurisdiction of residence and TINs of the entity; and
    - (ii) in the case of an individual, the name, address, jurisdiction of residence, TINs and date and place of birth of each reportable person**;**
- the account number or functional equivalent in the absence of an account number;
- the name and identifying number, if any, of the RFI;

- the account balance or value , including in the case of a cash value insurance contract or annuity contract, the cash value or surrender value, as of the end of the relevant calendar year or, if the account was closed during such year, the closure of the account;

Type of Account	Information to be Reported Information to be Reported
Depository Account	• Total gross amount of interest paid or credited to the account
Custodial Account	• Total gross amount of interest, dividends and other income generated with respect to assets held in the account, paid or credit to or with respect to the account in the calendar year. • Total gross proceeds from the sale or redemption of financial assets paid or credited to the account, where the RFI acted as broker, nominee custodian or otherwise as agent for the account holder.
Any other Account	Total gross amount of interest paid or credited to the account holder with respect to the account where the RFI is the obligor or debtor including the aggregate amount of any redemption payments made to the account holder during the calendar year.

4.2 DEPOSITORY ACCOUNT

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

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

An account that is evidenced by a passbook would generally be considered a Depository Account. However, negotiable debt instruments that are traded on a regulated market or over-the-counter market and distributed and held through FIs would not generally be considered Depository Accounts, but Financial Assets.

A Depository Account does not have to be an interest bearing account.

A Depository Account will include a credit balance on a credit card, for example where a purchase has been refunded, provided the credit card has been issued by a credit card company engaged in banking or a similar business. Credit cards will not be reportable as Depository Accounts if the credit card issuer meets the conditions to be a qualified credit card issuer and is therefore a Non Reporting FI. Similarly, where an FI 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, it may still not have to report the account as a Depository Account if it qualifies as an Excluded Account.

4.3 CUSTODIAL ACCOUNT

- A Custodial Account is an account (other than an Insurance Contract or Annuity Contract) that holds one or more Financial Assets for the benefit of another person. Financial instruments/contracts which can be held in such accounts can include, but are not limited to –
  - 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;
  - 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 Custodial Accounts, but such contracts could be assets that are held in a Custodial

Account. When they are assets in a Custodial Account, the insurer will only need to provide the Custodian with the cash/ surrender value of the contracts for any reporting as required by law.

- A Custodial Account does not include financial instruments/ contracts (for example, a share or stock in a corporation) held in a nominee sponsored by the issuer of its own shares, which are in every other respect analogous to those held on the issuer's share register.

4.4. COLLATERAL

Collateral accounts are accounts which are maintained for the benefit of another, or arrangements pursuant to which an obligation exists to return cash or assets to another.

Transactions which include the collection of margin or collateral on behalf of a counterparty may fall within the definition of Custodial Account. The exact terms of the contractual arrangements will be relevant in applying this interpretation. However, if collateral is provided on a full title transfer basis, so that the collateral holder becomes the full legal and beneficial owner of the collateral during the term of the contract, this will not constitute a Custodial Account for the purposes of the CRS.

4.5 CASH VALUE INSURANCE CONTRACT

A Cash Value Insurance Contract is an investment product that has an element of life insurance attached to it. The life insurance element is often small compared to the investment element of the contract. General insurance products, such as term life insurance, property or motor insurance, that do not carry any investment element are not financial accounts.

A Cash Value Insurance Contract is an insurance contract where the policyholder is entitled to receive payment on surrender or termination of the contract. The cash value of such a contract is the greater of:

1. the amount that the policyholder is entitled to receive on the surrender or termination of the contract without reduction for any surrender charge or loans outstanding against the policy, for example, where the policyholder receives an annual statement of the value of the policy that will be the cash value in that year, and

2. the amount the policyholder can borrow against or with regard to the policy. Note that the policyholder does not need to have pledged the account as collateral for borrowing for this second test to apply. It is the amount that the policyholder could expect to borrow against the Cash Value Insurance Contract should they choose to use it as collateral for a loan.

The cash value does not include any amount payable under an insurance contract:

1. solely by reason of the death of an individual insured under a life insurance contract;
2. as a personal injury, sickness or other benefit providing indemnification of an economic loss arising from an event that has been insured against;
3. as a refund of premium due to the cancellation or termination of an insurance contract, a reduction in the amount insured or a correction of a posting or similar error in relation to the premium;
4. as a policyholder dividend, other than a termination dividend, provided that the insurance contract pays only the benefits in b) above. A policyholder dividend is the return of premium, under the terms of the policy, resulting from an excess of income over losses and expenses.
5. as a return of an advance premium or premium deposit for an insurance contract where the premium is payable at least annually. In this case the advance premium or premium deposit must not exceed the amount due as the next annual premium payable under the contract.

Cash Value Insurance Contracts do **not** include:

1. Indemnity insurance contracts between insurance companies.
2. Term life insurance contracts.
3. Policies indemnifying against economic loss arising from specified circumstances, for example personal injury, theft, etc.
4. Micro insurance contracts that do not have a cash value.

4.6 ANNUITY CONTRACT

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 individuals. However, the term ‘Financial Account’ does not include certain Annuity Contracts, i.e. a noninvestment-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.

A ‘noninvestment-linked, non-transferable, immediate life annuity’ is a non-transferable Annuity Contract that:

1. is not an investment-linked annuity contract;
2. is an immediate annuity; and
3. is a life annuity contract.

The term ‘investment-linked annuity contract’ means an Annuity Contract under which benefits or premiums are adjusted to reflect the investment return or market value of assets associated with the contract.

The term ‘immediate annuity’ means an Annuity Contract that (i) is purchased with a single premium or annuity consideration; and (ii) no later than one year from the purchase date of the contract commences to pay annually or more frequently substantially equal periodic payments.

The term 'life annuity contract' means an Annuity Contract that provides for payments over the life or lives of one or more individuals.

4.7 EQUITY OR DEBT INTEREST IN AN INVESTMENT ENTITY

Equity and debt interests are Financial Accounts if they are interests in an Investment Entity. Where an entity is an Investment Entity solely because it acts on behalf of a customer by investing, managing or administering Financial Assets in the name of the customer, the debt and equity interest in the Investment Entity are not Financial Assets provided it renders only investment advice to, or manages portfolios for, the customer.

An equity interest may vary depending on the nature of the Investment Entity. In the case of an Investment Entity that is a partnership, an equity interest is either a capital or profits interest in the partnership.

In the case of a trust, an equity interest is any interest held by a person who is treated as a settlor, protector or beneficiary of all or any part of the trust, or any other natural person exercising ultimate effective control over the trust.

A Reportable Person will be treated as being a beneficiary of a trust if such a person:

- has the right to receive a mandatory distribution from the trust. This distribution can be received either directly or indirectly, for example through a nominee; or
- receives a discretionary payment from the trust. Again this receipt can be either directly or indirectly from the trust.

4.8 EXCLUDED ACCOUNTS

The CRS allows for various categories of accounts to be excluded from being Reportable Financial Accounts. These are excluded because they have been identified as carrying a low risk of use for tax evasion, generally because of the regulatory regimes under which they function.

4.8.1 Retirement & Pension Accounts

A retirement or pension account can be an Excluded Account, provided that it satisfies all the requirements listed in Section VIII subparagraph C (17) (a) of the CRS.

Those requirements must be satisfied under the laws of Jamaica. In summary, it is required that:

a) the account is subject to regulation;

b) the account is tax-favoured;

c) information reporting is required to the tax authorities 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 USD 50,000.00 or less, or
   ii. there is a maximum lifetime contribution limit to the account of USD1 Million or less, excluding rollovers.

4.8.2 Estate Accounts

An account that is held solely by the estate of a deceased person will not be a Financial Account where the FI that maintains the account is in possession of a formal notification of the Account Holder's death. The formal notification would include a copy of the deceased's death certificate or a copy of the deceased's will.

The account must be treated as having the same status as prior to the Account Holder's death until such documentation has been provided. Once the documentation has been provided, the account is not reportable in the year of the Account Holder's death or any subsequent year.

4.8.3 Escrow Accounts

An escrow account is an account held by a third party on behalf of the beneficial owner of the money in the account. Such accounts are Excluded Accounts where they are established in connection with any of the following:

1. a court order or judgement
2. a sale, exchange, or lease of real or personal property where it also meets the following conditions:
   (a) The account holds only the monies appropriate to secure an obligation of one of the parties directly related to the transaction, or a similar payment, or with a Financial Asset that is deposited in the account in connection with the transaction.

   (b) The account is established and used solely to secure the obligation of the parties to the transaction.

   (c) The assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the parties when the transaction is completed.

   (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 an 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 an FI solely to facilitate the payment of taxes at a later time. Accounts provided by a non-financial intermediary acting in that capacity (such as non-legal escrow type accounts) that meet the conditions above will also be Excluded Accounts. Periodic payment orders in connection with an escrow account are not considered to be reportable Annuity Contracts.

4.8.3 Non-retirement tax-favoured accounts

A non-retirement account can be an Excluded Account, provided that it satisfies all the requirements listed in subparagraph C(17)(b). Those requirements must be satisfied under the laws of the jurisdiction where the account is maintained. In summary, it is required that:

(a) the account is subject to regulation, and in the case of an investment vehicle is regularly traded on an established securities market;
(b) the account is tax-favoured;
(c) withdrawals are conditioned on meeting specified criteria, or penalties apply to withdrawals made before such criteria are met; and
(d) annual contributions are limited to USD 50 000 or less, excluding rollovers.

4.8.4 Depository Accounts due to not-returned overpayments

A RFI 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 under subparagraph C(17)(f). This subparagraph requires 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) 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 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.

While the selection of the date referred to in subparagraph C(17)(f)(ii) is a decision of the jurisdiction implementing the Common Reporting Standard, it is expected that the date elected for that purpose is the same date as the date selected for the term "New Account". For this purpose, a Financial Institution that is formed or organised after the selected date must satisfy the requirement described in subparagraph C(17)(f)(ii) within six months after the date such Financial Institution was formed or organised.

CHAPTER 5 –REPORTABLE INFORMATION

5.1 General Reporting Requirements

The CRS requires certain information to be reported in respect of Account Holders who are identified by FIs as holding Reportable Accounts. The information required to be reported by Financial Institutions in accordance with the CRS in respect of each reporting year ending 31 December is noted below:

- The name of the account holder
- Address
- Jurisdiction(s) of residence,
- TIN(s) and date of birth
- Place of birth (in the case of an individual) or place of incorporation
- The account number (or functional equivalent in the absence of an account number)
- The name and identifying number of the RFI
- The account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year.

5.2 Account number

The account number to be reported is the unique identifying number or code that the RFI has assigned to the Reportable Account. This will include identifiers such as bank account numbers and policy numbers for insurance contracts as well as other non-traditional unique identifiers. The unique identifier should be sufficient to enable the RFI to identify the Reportable Account in future.

Where there is not a unique identifying number or code, the RFI should report any functional equivalent that they use to identify the account. This may include non-unique identifiers that relate to a class of interests, which, along with the name of the Account Holder, enable the account to be identified.

Exceptionally, if the Reportable Account does not have any form of identifying number or code, the RFI should report a description of the account sufficient to identify the account held by the named Account Holder in future.

5.3 Address

Individual Account Holders

Where the Reportable Person is an individual who is an Account Holder or is a Controlling Person of an entity, the address to be reported is the individual's current residence address. If the FI does not hold this address in its records, then it should report the mailing address it has on file for that person.

In general, an 'in-care-of' address or a post office box is not a residence address. A post office box that forms part of an address that also includes details such as a street, apartment or suite number or a rural route such that a place of residence can be clearly identified can be accepted as a residence address.

Entity Account Holders

Where the Reportable Person is an entity the address to be reported is the address that the Financial Institution holds on file for that entity.

5.4 Place and Date of Birth

Place of Birth

The place of birth to be reported is the town or city and the country of birth of the Account Holder. The place of birth is not required to be reported unless the RFI is otherwise required to obtain and report it under domestic law and it is available in the electronically searchable data maintained by the RFI. Thus, the place of birth is required to be reported if, with respect to the relevant Account Holder;

1. The RFI is otherwise required to obtain the place of birth and report it under domestic law; and
2. The place of birth is available in the electronically searchable information maintained by the RFI.

Date of Birth

The date of birth is reportable for all new accounts. It is only reportable for pre-existing accounts to the extent that it is already held in records maintained by the RFI or the RFI is otherwise obliged to collect it. Where the date of birth is not held in respect of pre-existing accounts, the RFI must use reasonable efforts to obtain it by the end of the second calendar year following the year in which the accounts are identified as Reportable Accounts.

5.5 Tax Identification Number (TIN)

Where it has been established that an Account Holder is resident in a Reportable Jurisdiction, an FI is required to obtain a TIN and date of birth. When referred to, a TIN means a Taxpayer Identification Number used by the receiving tax administration to identify the individual Account Holder. The TIN (if available) should be supplied as specified in the CRS. It is a unique combination of letters and/or numbers used to identify an individual or entity for the purposes of administering the tax laws of that jurisdiction.

For those jurisdictions that do not issue a TIN, or do not issue a TIN to all residents, and where no TIN has been issued there will be nothing to report unless they use other high integrity numbers with an equivalent level of identification. For individuals these include:

- social security number;
- national insurance number;

- citizen or personal identification code or number;
- resident registration number;

For entities, jurisdictions may use a business/company registration code or number where no TIN has been issued. Some jurisdictions that issue TINs have domestic law that does not require the collection of the TIN for domestic reporting purposes, Australia for example. There is a standard approach in international tax treaties that stops the sending jurisdiction from requesting information from local sources if the receiving jurisdiction could not ask for such information under its own domestic rules. The RFI is not required to collect the TIN for those jurisdictions. Details of the jurisdictions where this applies will be published on the OECD website.

The TIN must be reported for all new accounts. For pre-existing accounts, the TIN is reportable to the extent that it is already held in records maintained by the RFI or the RFI is otherwise obliged to collect it. Where the TIN is not held in respect of pre-existing accounts, the RFI must use reasonable efforts to obtain it by the end of the second calendar year following the year in which the accounts are identified as Reportable Accounts.

A Reportable Person may be resident in more than one jurisdiction, they may have two or more TINs that the FI must report.

5.6 Jurisdiction of Residence(s)

Jamaica applies the wider approach which requires RFIs to retain data on the jurisdiction of residence of Account Holders, irrespective of whether or not that jurisdiction is a Reportable Jurisdiction.

FIs must carry out the due diligence procedures required and where a person is identified as a Reportable Person include the jurisdiction of residence in the information return filed with TAJ. Where a Reportable Person is identified as having more than one Reportable Jurisdiction of residence, the FI is required to report all of the identified Reportable Jurisdictions to TAJ.

The jurisdictions of residence identified as a result of carrying out the due diligence procedures are without prejudice to any residence determination made by the FI for any other tax purpose.

Reportable Account data is to be sent to TAJ where the Account Holder is a resident of a Reportable Jurisdiction.

5.7 Reporting Financial Institution Identifying Number

The RFI must report its name and identifying number. This is to enable the jurisdiction receiving the information to easily identify the source of it in the event that they have any follow-up questions in respect of the data reported.

5.8 Account Balance or Value

The CRS provides options to the jurisdictions to either report the average balance or value of the account or the account balance or value as at the end of the calendar year. Jamaica has opted for FIs to report the balance or value of reportable financial accounts as at the end of each calendar year. This will be 31 December in each year unless it is not possible or usual to value an account at that date. The value of the account should be reported in the currency in which the account is denominated.

In general, the balance or value to be reported is that which the RFI calculates for the purpose of reporting to the Account Holder. Where the balance or value of an account is nil or a negative amount, for example where an account is overdrawn, the RFI must report the balance or value as nil.

For Cash Value Insurance Contracts or Annuity Contracts, the amount to be reported is the cash value or surrender value of the contract.

For an equity interest in an investment entity, the amount to be reported is the value calculated by the RFI for the purpose that requires the most frequent determination of value.

For a debt interest in an investment entity, the balance or value is the principal amount of the debt.

The balance or value of an account must not 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.

5.9 Accounts Balance or Value - Joint Account

Each holder of a jointly held account is attributed the entire balance or value of the joint account as well as the entire amounts paid or credited to the account. For example, where a jointly held account has a balance or value of JA$10M and one of the Account Holders is resident in Country X, the amount attributable to that person in the report to Country X will be JA$10M. If both Account Holders in the above example were resident in Country X, then each would be attributed JA$10M in the report to Country X.

5.10 Resident in Multiple Jurisdiction

Where a Reportable Person is either an Account Holder or the Controlling Person of a passive NFE and is identified as having more than one jurisdiction of residence, the entire balance or value of the Reportable Account, as well as the entire amount paid or credited to the Reportable Account must be reported to each jurisdiction of residence of the Account Holder or Controlling Person.

5.11 Account Closure

An account is regarded as closed according to the normal operating procedures of the RFI that are consistently applied for all accounts that it maintains. For example, an equity interest in an investment entity would be considered closed when that interest is terminated by the transfer, surrender, redemption or cancellation of the interest or the liquidation of the entity. Under CRS, the RFI only has to report the fact that the account was closed. This differs from FATCA where the balance or value prior to the closure of the account has to be reported. An account with a balance or value equal to zero or which is negative will not be a closed account solely by reason of such a balance or value.

CHAPTER 6 – GENERAL DUE DILIGENCE PROCEDURES

6.1 General Due Diligence Requirements (Regulation 4)

- An account is treated as a reportable account starting as of the date it is identified as such pursuant to the due diligence procedure in the CRS, 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 balance or value of an account is determined as of the last day of the calendar year.
- Where a balance or value threshold is to be determined as of the last day of a calendar year, the relevant balance or value must be determined as of the last day of the reporting period that ends with that calendar year.
- An account with a negative balance is deemed to have a nil balance.
- In the case of an account denominated in a currency other than US$, whether the account meets a US$ threshold in the CRS, is determined by calculating the value of the currency in which the account is denominated in US$ by applying the rate of exchange for that currency in relation to the US$ as at the date on which the threshold is to be determined.
- A financial account held by an individual as a partner of a partnership is deemed to be a financial account of the entity.

6.2 Modification of Due Diligence Procedures (Regulation 5)

- An RFI may apply the residence address procedure (CRS Section III B (1)) to a lower value account.
- An RFI may apply the due diligence procedures for a high value account (CRS Section III C) to a lower value account.

- A RFI may apply paragraphs A-C of Section V of the CRS (Due diligence for pre-existing accounts) to determine whether a pre-existing entity account is subject to the diligence procedures in section V of the CRS.
- A RFI may apply for a calendar year the due diligence procedures for a new individual or new entity account to the respective pre-existing account. However, this should only be done where the RFI applies the procedures to all pre-existing accounts or a clearly identifiable group of such accounts.
- Where a RFI applies the due diligence procedures for a new account to a pre-existing account the due diligence procedures described in CRS Section III B (1) (residence address test), CRS Section I C (reasonable efforts to obtain TIN and DOB by end of second calendar year in which accounts identified as reportable), CRS Section III A (accounts not required to be reviewed, identified and reported), Section V A (entity accounts not required to be reviewed, identified, reported) shall apply to new account.

Individual beneficiary (other than owner) of a cash value insurance contract or annuity contract receiving a death benefit may be deemed to be not reportable unless the RFI knows or has reason to know otherwise.

- RFIs may treat a financial account that is a member's interest in a group cash value insurance contract or group annuity contract as not reportable until date of payment provided certain conditions are met.
- RFI may with respect to a pre-existing account use classification based on standardized industry coding system.

6.3 Other Definitions and General Due Diligence Rules

6.3.1 Reliance on self-certifications and documentary evidence

Where information already held by a RFI, including knowledge about the customer held by a relationship manager, conflicts with any statements or self-certification, or the RFI has reason to know that the self-certification or other Documentary Evidence is incorrect, it may not rely on that evidence or self-certification. An RFI will be considered to have reason to know that a self-certification or other documentation associated with an account is unreliable or incorrect if, based on the relevant facts, a reasonably prudent person would know this to be the case.

6.3.2 Reliance upon an audited financial statement

RFIs may rely upon an audited financial statement to establish that an Account Holder meets a certain income or asset threshold, but are not obliged to where the entity's status can be established from other information or documentation that it holds. If an RFI does rely upon an audited financial statement to establish a status for an Account Holder, it has reason to know that the status claimed is unreliable or incorrect only if the audited financial statement for the Account Holder or the notes or footnotes to the financial statement conflicts with the self-certification provided to it.

A RFI will only be required to review the notes or footnotes to the financial statement where establishing the status for an Account Holder does not require the Account Holder to meet an asset or income threshold. If an RFI does rely upon other documentation to establish the Account Holder's status there is no need to review any financial statements that may have been provided to it as part of the account opening.

6.3.3 Reliance upon other documentation

Where a RFI relies on organisational documents to establish that an Account Holder has a particular status, it will only be required to review the documents to the extent needed to establish that the requirements applicable to the particular status are met and that the document was executed.

6.3.4 Pre-existing entity accounts

For the purposes of determining whether an RFI that maintains a pre-existing entity account has reason to know that the status applied to the entity is unreliable or incorrect, the RFI is only required to review information that may contradict the status claimed if such information is contained in:

- the most recent self-certification and Documentary Evidence;
- the current customer master file;
- the most recent account opening contract; and
- the most recent documentation obtained for AML/KYC procedures or for other regulatory purposes.

6.3.5 Multiple accounts

An RFI that maintains multiple accounts for a single Account Holder will have reason to know that a claimed 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 because of any other 'reason to know'; for example, knowledge of a relationship manager.

6.3.6 Change of address within same jurisdiction

A change of address in the same jurisdiction as that of the previous address is not a reason to know that the self-certification or Documentary Evidence provided is inaccurate.

6.3.7 Aggregation of individual accounts and entity accounts

Identical rules apply to aggregation for individual and entity accounts. An account held by one or more individuals as a partner(s) of a partnership is treated as an entity account and is not treated as an individual account. RFIs are required to aggregate all financial accounts maintained by it or by a related entity, but only to the extent that the RFI'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 joint holder of a Financial Account must be attributed the entire balance or value of the account for purposes of applying the aggregation requirements.

6.3.8 Special aggregation rule applicable to relationship managers – all accounts

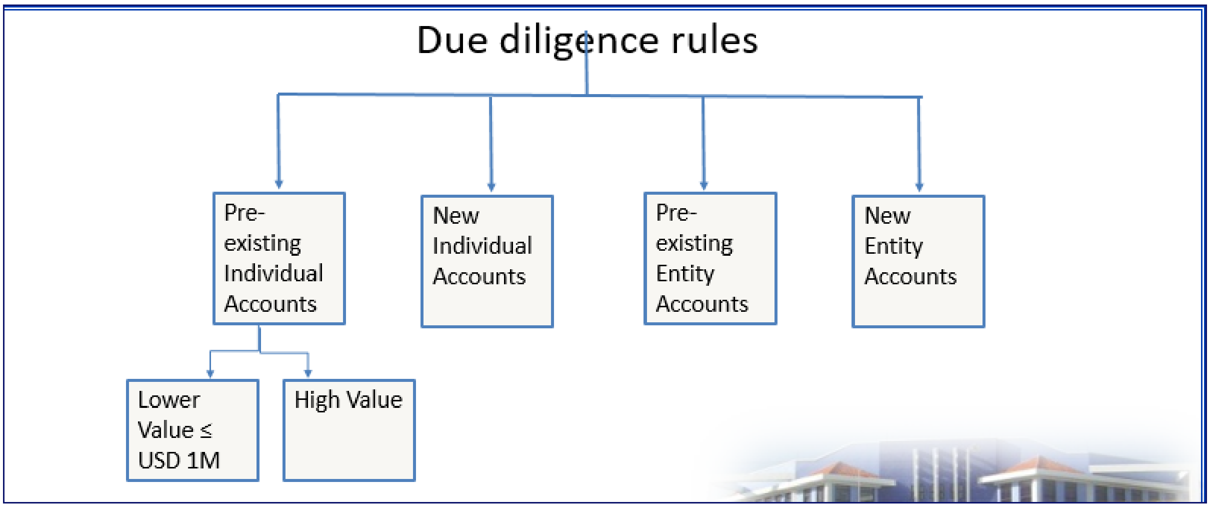
In determining the aggregate balance or value of financial accounts held by a person to determine whether a Financial Account is a High Value Account, a RFI is also required to aggregate all accounts held by that person which a relationship manager knows, or has reason to know, are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by that person.

6.3.9 Currency Translation

Where accounts are denominated in a currency other than US dollars, then FIs have the option to convert the threshold limits into the currency in which the accounts are denominated before determining if they apply. This should be done using a published spot rate for the 31 December of the year being reported or in the case of an insurance contract or Annuity Contract, the date of the most recent contract valuation.

CHAPTER 7 – DUE DILIGENCE RULES

The Standard prescribes detailed rules for Financial Institutions to follow to establish whether a Financial Account is held by a Reportable Person and is therefore a Reportable Account. This standardised approach ensures a consistent quality of information is reported and exchanged. There are different rules for accounts held by Individuals and Entities as well as for Pre-existing and New Accounts, reflecting the differing characteristics between the different types of accounts.



7.1 What to look for?

The search is for the following indicia:

- ID of account holder in Reportable Jurisdiction;
- current mailing or residence address (including P.O. box) in a Reportable Jurisdiction;
- one/more telephone numbers in a Reportable Jurisdiction and no Jamaican telephone number;
- standing instructions (except for a depository account) to transfer funds to an account maintained in a Reportable Jurisdiction;

- currently effective power of attorney or signatory authority granted to a person with an address in a Reportable Jurisdiction; or
- a “hold mail” instruction or “in-care-of” address in a Reportable Jurisdiction if the financial institution does not have any other address on file for the account holder.

Regulations 4, 5 & 6 of the CRS Regulations 2020 outline the due diligence and reporting obligations of the CRS in Jamaica. The reporting obligation in section 6 applies to a person or legal arrangement, such as a corporation, a trust, or a partnership (hereinafter referred to as "entity" or "entities").

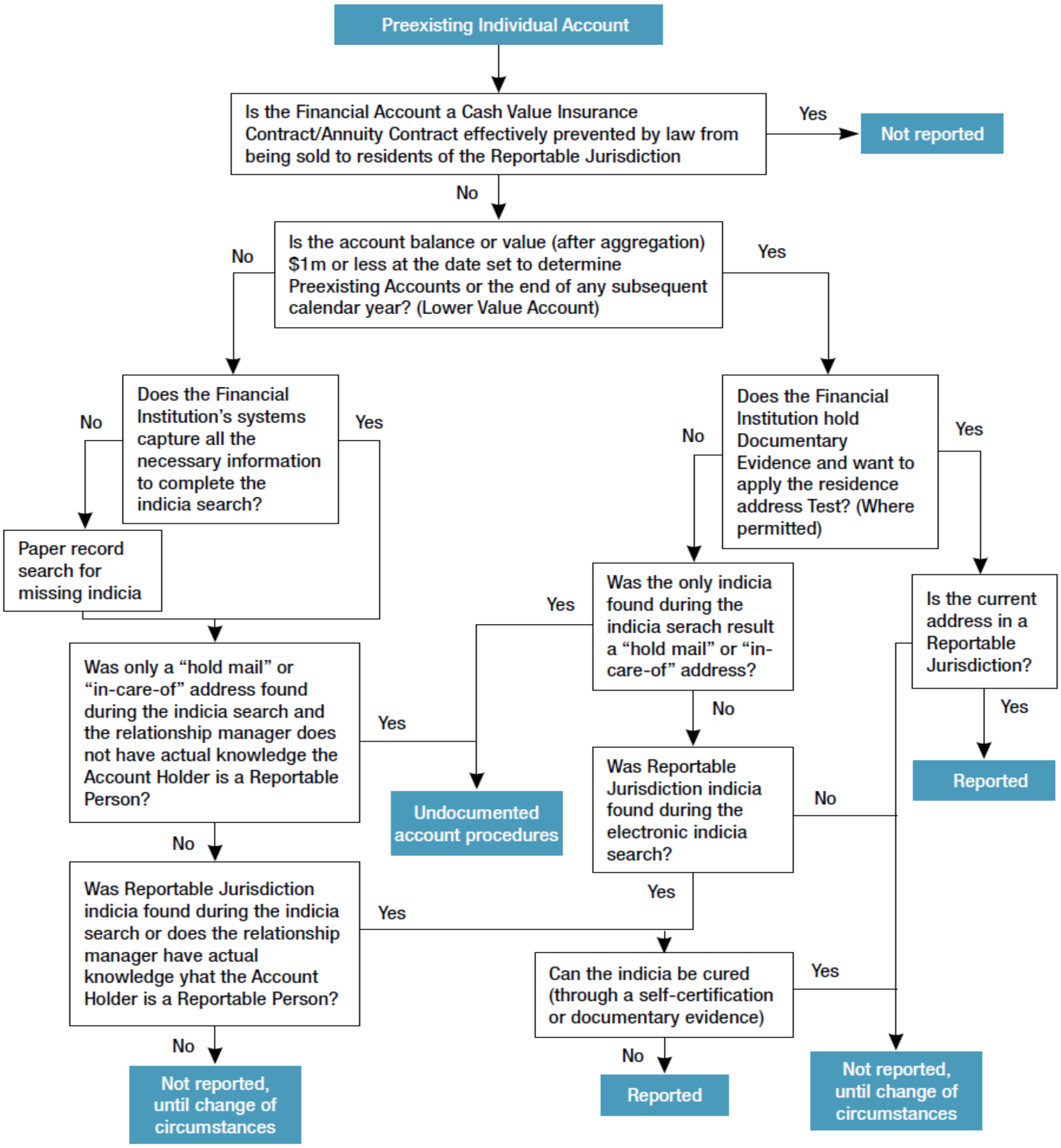
7.2 Three Step Process

Using a three-step process, you can determine whether an entity has a potential reporting obligation in Jamaica under Regulation 6.

- **1st Step:** Determine whether the entity is a financial institution for the purposes of CRS. If an entity is a financial institution;
- **2nd Step:** Determine whether it is a financial institution resident in Jamaica. If that is the case;
- **3rd Step:** Determine whether it is a RFI.

CHAPTER 8 – DUE DILIGENCE PROCEDURES: PRE-EXISTING INDIVIDUALS (Regulation 4)

The diagram below from the OECD CRS Handbook depicts the due diligence rules for Pre-existing Individual Accounts from the perspective of the Financial Institution. This chapter then describes each aspect of the procedures in more detail.



Pre-existing Individual Accounts are accounts held by a Reportable Person who is an individual as at 31 December 2020. These may be ***High Value Accounts*** or ***Lower Value Accounts*** and there are different due diligence procedures for each type.

8.1 High Value Pre-existing Individual Accounts

These are accounts with an aggregate balance or value that exceeds an amount equivalent to US$1 million as at the end of the calendar year that is the subject of the report. Thus, for reporting under the CRS, the accounts in scope are those Reportable Accounts in existence as at 31 December 2020 and any other subsequent year.

8.2 Lower Value Pre-existing Individual Accounts

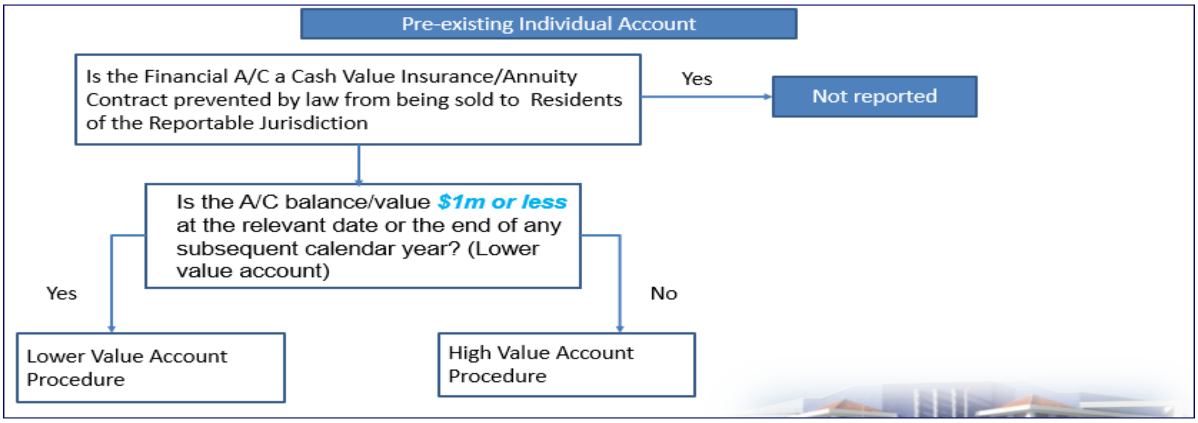
These are accounts with an account balance or value that does not exceed an amount equivalent to US$1 million at the end of the calendar year. Thus, for reporting under the CRS, the accounts in scope are those Reportable Accounts in existence as at 31 December 2020 and any other subsequent year.

Lower Value Accounts that are identified as Reportable Accounts in a calendar year are reportable for that calendar year.

For Example: The due diligence procedures are carried out on a Lower Value Account in May 2023 and the account is determined as reportable. The RFI is required to report on the account information for the year ending 31 December 2023 onwards. The first reporting would be done in 2024.

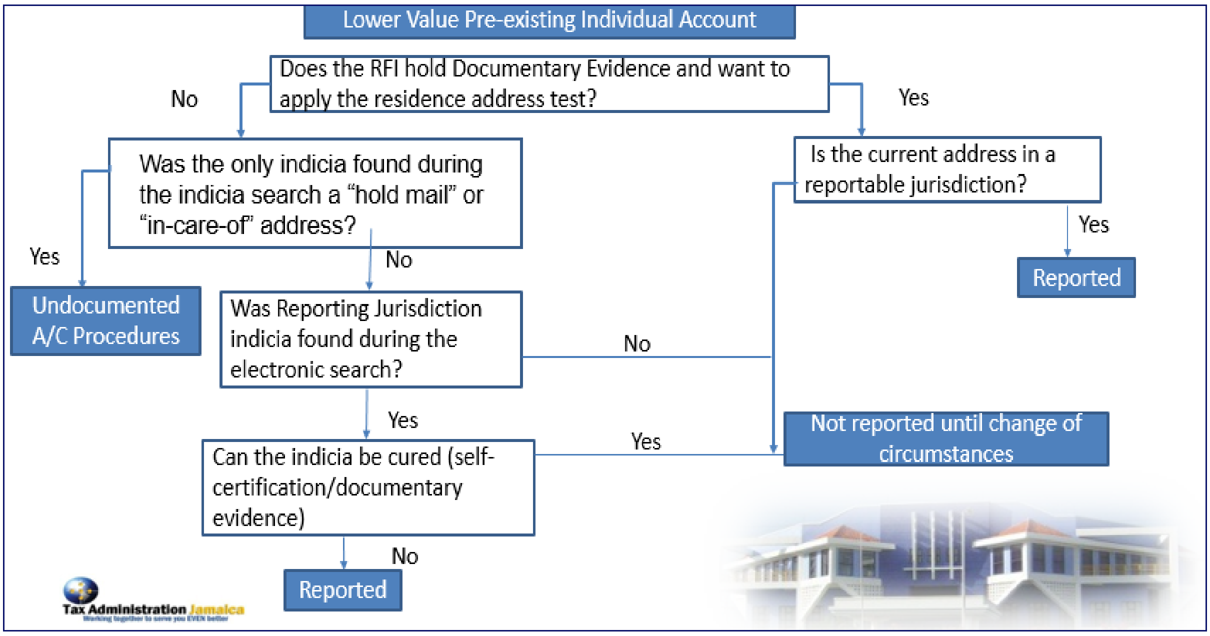
8.3 Determining Lower Value & High Value Pre-existing Individual Accounts

The diagram below gives a summary of how to determine the Lower Value and High Value Accounts.



8.4 Due Diligence Procedures for Lower Value Account

The diagram below gives a summary of the due diligence procedures for the Lower Value Accounts.



The following due diligence procedures apply with respect to Lower Value Accounts:

a. Residence address test or
b. Electronic record search.

In the event that the RFI applies the residence address test and this does not determine the residence of the individual Account Holder, then it must also apply the electronic record search. RFIs can apply the residence address test to all Lower Value Accounts or, separately, to any clearly identified group of such accounts. A group of accounts may, for example, be those maintained by a particular line of business or those maintained in a particular location.
RFIs may also opt to go straight to an electronic record search for indicia of tax residence without first applying the residence address test.

8.4.1 Residence Address Test

If the RFI has in its records a current residence address for the individual Account Holder based on Documentary Evidence, the RFI 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.

The Residence Address Test is an alternative to the Electronic Indicia Search for establishing residence. RFIs can use either of these two tests.

The residence address held by a RFI must be sufficiently detailed to identify where the Account Holder resides and will generally be in a form that identifies the street and the town, city or area where the individual lives in sufficient detail for the RFI to determine the jurisdiction in which the residence is located.

In general, an 'in-care-of' address or a post office box is not a residence address. However, a post office box can be part of a residence address where the address also contains a street, an apartment or suite number, or a rural route and thus clearly identifies the actual residence of the Account Holder.

An ‘in-care-of’ address is unlikely to provide sufficient detail to identify the residence of the Account Holder as the address is that of the person receiving mail on behalf of the Account Holder. Additionally, an ‘in-care-of’ address may be relied on where it forms part of an address together with, e.g. a street, an apartment or suite number, or a rural route, and thus clearly identifies the actual residence of the Account Holder. Similarly, in special circumstances such as that of military personnel, an ‘in-care-of’ address may constitute a residence address.

The residence address held by a RFI must be current. A residence address is considered to be current where it is the most recent address that the RFI has recorded for the Account Holder. Such an address will not be regarded as current if it has been used for mailing purposes and mail has been returned undeliverable as addressed other than due to an error. If mail has been returned and the account (other than an Annuity Contract) is dormant then the residence address may continue to be regarded as current in certain circumstances.

8.4.2 Dormant/Inactive Account

A residence address associated with an account (other than an Annuity Contract) may be considered current even though mail has been returned undeliverable as addressed and the account is regarded as dormant.

An account is considered to be dormant for this purpose if:

a) The Account Holder has not initiated a transaction in the past three years on that account or any other account he or she holds with the RFI;
b) The Account Holder has not communicated in the past six years with the RFI that maintains the account regarding that account or any other account he or she holds with the RFI; and
c) The account is considered to be dormant under the normal operating procedures of the RFI that are applied for all accounts maintained by it provided these procedures are substantially similar to the requirements in (a) and (b) above.

There is an additional requirement for Cash Value Insurance Contracts to be regarded as dormant. As well as the tests above, the RFI has not communicated with the Account Holder in the past six years regarding the account or any other account he or she holds with the RFI. An account ceases to be dormant on the earliest of any of the following events occurring:

a) The Account Holder initiates a transaction on the dormant account or any other account he or she holds with the RFI;
b) The Account Holder communicates with the RFI about the dormant account or any other account he or she holds with it; or
c) The account ceases to be a dormant account under the normal operating procedures of the RFI.

8.4.3 Residence Address Based on Documentary Evidence

RFIs are generally required to carry out due diligence checks, often referred to as AML/KYC procedures. RFIs are required to verify the customer's identity based on documents, data or information obtained from a reliable and independent source.

The types of document that meet this requirement are those included in the definition of Documentary Evidence[2] in the CRS. The determinations made by the RFI must be "based on" such Documentary Evidence.

Consequently, where an RFI has identified the residence address of an Account Holder by following the policies and procedures it has in place for AML/KYC procedures the RFI may rely on that address when applying the residence address test.

Alternatively, in the case of a Cash Value Insurance Contract the RFI may rely on the current residence address in its records until:

- There is a change in circumstances that causes the RFI to know or have reason to know that the address held is incorrect or unreliable, or

[2] See subparagraph E(6) of the CRS and paragraph 150 of the Commentaries on Section VIII

- The time of pay-out, whether full or partial, or maturity of the contract. The pay-out or maturity of the contract will trigger a change of circumstances requiring the RFI to update its records.

In the event that an RFI has been notified of a change of address by the Account Holder, supported by documentation from the Account Holder, and this does not result in any further AML/KYC processes, the RFI may still rely on the address that has been the subject of AML/KYC provided the new address is in the same jurisdiction.

If a RFI has relied on the residence address test and there is a change in circumstances that causes the RFI to know or have reason to know that the original Documentary Evidence is incorrect or unreliable, the RFI 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 RFI cannot obtain the self-certification and new Documentary Evidence by such date, the RFI must apply the electronic record search procedure.

The following examples illustrate the procedures to be followed in case of a change in circumstances:

• **Example 1**: I, a bank that is a RFI, has relied on the residence address test to treat an individual Account Holder, P, as a resident of Reportable Jurisdiction X. Five years later, P communicates to I that he has moved to jurisdiction Y, which is also a Reportable Jurisdiction, and provides his new address. I obtains from P a self-certification and new Documentary Evidence confirming that he is resident for tax purposes in jurisdiction Y.

I must treat P as a resident of Reportable Jurisdiction Y.

• **Example 2**: The facts are the same as in Example 1, except that I does not obtain a self-certification from P.

I must apply the electronic record search procedure and, as a result, treat P as a resident of, at least, jurisdiction Y (based on the new address provided by the Account Holder).

8.4.4 Electronic Record Search

If the RFI does not rely on a current residence address for the individual Account Holder based on Documentary Evidence as set forth above, the RFI must review electronically searchable data maintained by the RFI for any of the following indicia:

a) identification of the Account Holder as a resident of a Reportable Jurisdiction;
b) current mailing or residence address (including a post office box) in a Reportable Jurisdiction;
c) one or more telephone numbers in a Reportable Jurisdiction and no telephone number in Jamaica;
d) standing instructions (other than with respect to a Depository Account) to transfer funds to an account maintained in a Reportable Jurisdiction;
e) currently effective power of attorney or signatory authority granted to a person with an address in a Reportable Jurisdiction; or
f) a "hold mail" instruction or "in-care-of" address in a Reportable Jurisdiction if the RFI does not have any other address on file for the Account Holder.

If none of the above indicia are discovered through an electronic search, no further action is required in respect of Lower Value Accounts unless and until there is a subsequent change of circumstance that results in one or more of the above indicia being associated with the account or the Account Holder or the account becomes a High Value Account. Where such indicia arise the account becomes a Reportable Account unless the RFI takes steps to cure or repair the indicia. Only where the indicia remain in place after the cure or repair is completed will the account become a Reportable Account.

A change of circumstance includes any change to, or addition of, information in relation to an Account Holder's status and includes details of any addition, substitution or other change of an Account Holder as well as information in respect of any accounts associated with the Account Holder, that is, accounts associated through the aggregation rules or where a New Account has been treated as a pre-existing obligation for due diligence purposes.

In addition, where a number of the above indicia are present but provide contradictory evidence the RFI may take steps to cure or repair the indicia. For example, if the indicia, with the exception of a current telephone number in Country A, all point to the individual being resident in the Country B, the RFI can seek information from the individual to confirm where he or she is resident for tax purposes before treating the account as belonging to a Country B Reportable person.

Where the indicia found during the electronic search indicates that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, the account will be a Reportable Account subject to applying the curing procedure for this indicator.

Where the RFI has recorded two or more mailing or residence addresses in different Reportable Jurisdictions, the Account Holder and details of the account are potentially reportable to multiple jurisdictions. However, where one or more of those addresses is for a service provider of the Account Holder, for example, an asset manager, investment advisor or lawyer, the RFI is not required to treat the service provider's address as an indication of residence.

Where the indicia found during the electronic search indicates a current mailing or residence address (including a post office box) in a Reportable Jurisdiction the account will be a Reportable Account subject to applying the curing procedure for this indicium.

A mailing or residence address is considered to be current for this purpose where it is the most recent address recorded by the RFI with respect to the Account Holder.

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

8.4.5 Curing Indicia

There may be occasions when the electronic record search gives indications of residence in a Reportable Jurisdiction that the RFI considers may be incorrect. In such circumstances the RFI may take steps to ‘cure’ the information before treating the Account Holder as a Reportable Person.

Where the RFI holds information about the Account Holder that includes any of the following listed at (a) to (d) below, then the RFI must obtain a self-certification from the Account Holder to establish the jurisdiction of residence.

(a) A current mailing address in a Reportable Jurisdiction;

(b) One or more telephone numbers in a Reportable Jurisdiction;

(c) Standing instructions, to transfer funds to an account maintained in a Reportable Jurisdiction (other than a Depository Account); and

(d) current effective power of attorney or signatory authority granted to a person with an address in a Reportable Jurisdiction.

The RFI can rely on self-certifications it obtains, has previously reviewed and maintains a record of; however, self-certification must be supported by Documentary Evidence. If the self-certification supported by Documentary Evidence establishes that the Account Holder is not a Reportable Person, then the RFI is not required to treat the Account Holder as resident in a Reportable Jurisdiction.

The self-certification obtained as part of the curing procedure does not need to contain an express confirmation that an Account Holder is not resident in a particular jurisdiction. Provided the self-certification positively identifies the jurisdictions where the Account Holder is resident it can be taken that the Account Holder is not resident in any other jurisdiction.

Where a RFI has contacted an Account Holder for a self-certificate but the Account Holder has not responded, the account should be treated as undocumented 90 days after initiating contact. The 90-day period is to allow the Account Holder sufficient time to respond to the request for information. In such circumstances, the RFI must contact the Account Holder at least annually to obtain the self-certification.

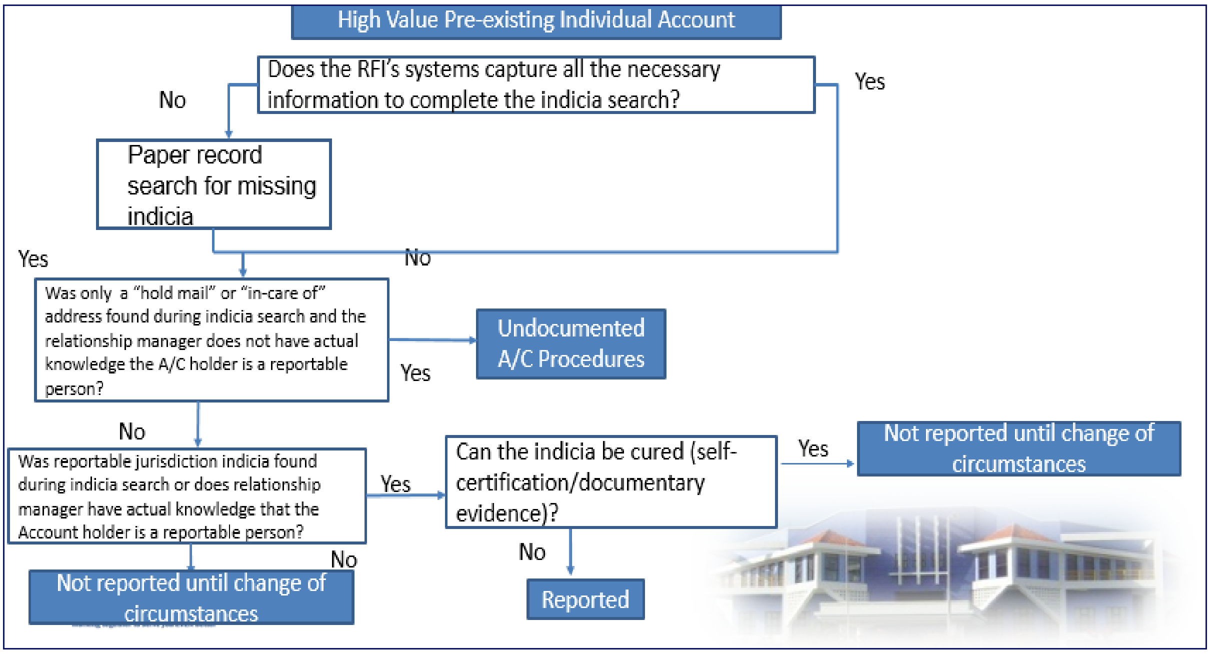
The information in (d) above may arise in circumstances where the Account Holder cannot provide a self-certification. In such a case the RFI may rely on Documentary Evidence that establishes the Account Holder's non-reportable status.

A jurisdiction must also have procedures in place to follow up with RFI when undocumented accounts are reported. An "undocumented account" generally arises when a RFI is unable to obtain information from an Account Holder in respect of a Pre-existing Account This could either be the result of inadequate procedures being implemented by a RFI to obtain the necessary information or the Account Holder is non-compliant. Either case is a cause for concern.

It is expected that a jurisdiction would follow up with any RFI that reports an undocumented account. In the case of a small number of undocumented accounts, a simple inquiry to the RFI may be sufficient. However, if such a RFI reports a larger than average number of undocumented accounts in any one year or the number of undocumented accounts reported continues to increase, a full audit of the RFI's due diligence procedures may be appropriate. In such a case, where possible and where feasible, it may be appropriate for the jurisdiction to advise the AML authorities in accordance with domestic law.

8.5 Due Diligence Procedures for High Value Account

The diagram below gives a summary of the due diligence procedures for the High Value Accounts.



The enhanced review procedures that apply with respect to High Value Accounts are:

- the electronic record search;
- the paper record search; and
- the relationship manager inquiry.

High Value Pre-existing Accounts are accounts with an aggregate balance or value that exceeds US$1million as at 31-December-2020 or any other subsequent year.

When an account is identified as a High Value Account the residence address test may not be used to establish the residence jurisdiction of the Account Holder. The RFI must start with the electronic record search and then continue, where appropriate, with a paper record search and a relationship manager inquiry.

The RFI has the option to apply the new account due diligence procedures and seek self-certifications from Account Holders rather than carry out the due diligence for Pre-existing High Value Accounts.

8.5.1 Electronic Record Search

For High Value Accounts, an RFI must review its electronically searchable data for indicia of the individual's residence.

8.5.2 Paper Record Search

An RFI must carry out a paper record search to the extent that the information on residence of an Account Holder is not captured by the electronic search. For example, where the electronically searchable databases contain all the required information except for details of standing instructions to transfer funds, the paper record search will only be required to look for that information.

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

a) The most recent Documentary Evidence collected with respect to the account;
b) The most recent account opening contract or documentation;
c) The most recent documentation obtained by the RFI for AML/KYC procedures or other regulatory purposes;
d) Any power of attorney or signatory authority currently in effect; and
e) Any standing instructions to transfer funds currently in effect (other than for a Depository Account).

These should be reviewed for any of the indicia of residence.

An RFI can rely on the review of High Value Accounts by third party service providers where there is a contract obliging the service provider to perform the review.

8.5.3 Relationship Manager Inquiry

The relationship manager enquiry is required for high value individual accounts in addition to the electronic search and the paper record search. The RFI must consider whether any relationship manager associated with an account, which includes any accounts aggregated with such an account, has actual knowledge that would identify the Account Holder as a Reportable Person.

A relationship manager is an employee or officer of the RFI who has been assigned responsibility for specific Account Holders on an ongoing basis. A relationship manager will provide advice to Account Holders regarding their accounts as well as recommending and arranging for the provision of financial products, services and other related assistance.

Relationship management must be more than ancillary or incidental to a person's job role. Thus a person with some contact with Account Holders, but whose functions are administrative or clerical in nature, is not considered to be a relationship manager.

The relationship manager also has an important role in identifying any change of circumstance in relation to a High Value Individual Account. An RFI must ensure that it has procedures in place to capture changes that are made known to the relationship manager in respect of the Account Holder's reportable status.

8.5.4 Change in Circumstance

Once the due diligence procedures have been completed the Account Holder will be identified as either a Non-Reportable Person or Reportable to one or more jurisdictions with which Jamaica has agreements to exchange information. That status will not change until such time as a change of circumstance is identified by the RFI.

A change of circumstance is only relevant if the new information affects the status of the Account Holder for the purposes of the exchange of information agreements, whether that is based on the due diligence procedures or from self-certification.

Once a change of circumstance has been identified the RFI must request a self-certification or other documentation from the Account Holder to establish whether the individual is a Reportable Person and, if so, to which jurisdiction the reportable information should be sent. If the Account Holder fails to respond to the request the RFI should treat the Account Holder as reportable to each jurisdiction for which it holds indicia unless it can apply the curing procedure.

8.5.5 Lower Value Account becomes High Value

If a Pre-existing Individual Account is a Lower Value Account as at 31 December 2020, it will need to be monitored at the end of each subsequent reporting period to see if it has become a High Value Account.

If the balance or value of the account on the last day of the appropriate reporting period, after taking account of any aggregation, exceeds an amount equivalent to US$1million, the RFI must complete the enhanced review for High Value Accounts within the calendar year following the year that the account becomes a High Value Account. If, as a result of the enhanced review, the account is identified as a Reportable Account, following this review it is reportable with respect to the year in which it is so identified and remains reportable in all subsequent years unless and until the Account Holder ceases to be a Reportable Person.

If there is a change of circumstances with respect to a High Value Account that results in one or more indicia being associated with the account, then the RFI 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 subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.

However, a RFI may choose to treat a person as having the same status that it had prior to the change in circumstances during the 90 calendar days following the date that the indicium was identified due to the change in 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
if such change or addition of information affects the status of the account holder.

8.5.6 Effect of Finding Indicia

Where the enhanced due diligence procedures for High Value Individual Accounts have been carried out and any of the indicators are found, the account must be treated as a Reportable Account. The account will be a Reportable Account for each Reportable Jurisdiction identified from the due diligence procedure.

Where the information arising from the due diligence procedures contains potentially conflicting information, for example, the electronic search identifies a residential address in Germany but the relationship manager has knowledge of an address in the UK, the RFI may attempt to cure the information by seeking a self-certification from the Account Holder.

If no indicators of residence in a Reportable Jurisdiction are found in any of the enhanced due diligence procedures, then no further action is required unless and until there is a change in circumstances.

Jamaican RFIs were required to complete the due diligence review of all their pre-existing individual high value accounts by December 31, 2021 and their pre-existing individual low value accounts by December 31, 2022.[3]

[3] Regulation 4(2)(b)(ii) of the Revenue Administration (Convention on Mutual Administrative Assistance in Tax Matters) Regulations, 2020.

CHAPTER 9 – DUE DILIGENCE PROCEDURES NEW INDIVIDUALS (Regulation 4)

9.1 General Rules

New Individual accounts are those opened on or after 1 January 2021. New Individual Accounts are accounts where the Reportable Person is an individual. The due diligence procedures for New Individual Accounts require that a self-certification be obtained from the Account Holder. An individual that opens an account must provide a self-certification to the RFI that establishes where the individual is resident for tax purposes. If the self-certification establishes that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, then the RFI must treat the account as a Reportable Account.

The wider approach requires RFIs to identify the territory in which an individual is tax resident, irrespective of whether or not that territory is a Reportable Jurisdiction. It applies to New Accounts as well as Pre-existing Accounts. The self-certification process can be used for this purpose. This information must be maintained by the RFI for a period of 7 years from the end of the period in which the territory is identified.

The procedures that apply for the purposes of identifying Reportable Accounts among New Individual Accounts are described hereunder:

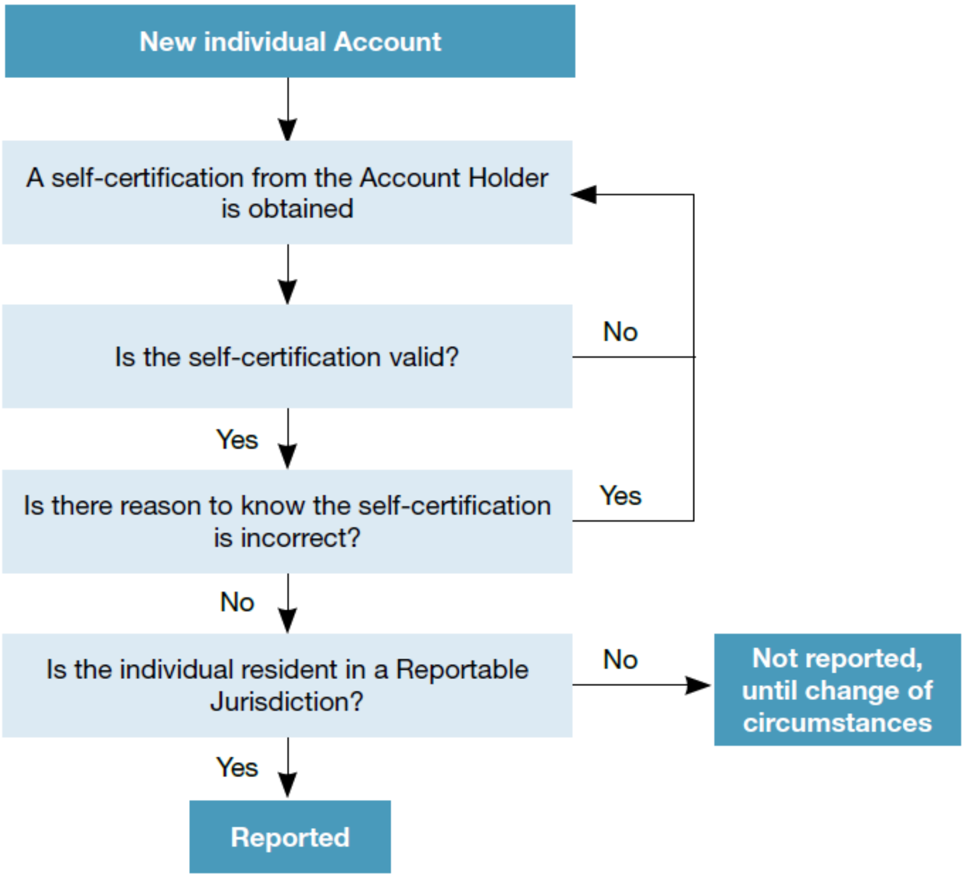
Upon account opening, the RFI must:

- obtain a self-certification, which may be part of the account opening documentation, that allows the RFI 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 RFI in connection with the opening of the account, including any documentation collected pursuant to AML/KYC procedures (the "reasonableness" test). In other words, an RFI is considered to have confirmed the "reasonableness" of a self-certification if, in the course of the account opening procedures and upon review of the

information obtained in connection with the opening of the account (including documentation collected to fulfil AML/KYC obligations) it does not know or have reason to that the self-certification is incorrect or unreliable.

9.2 Due Diligence Procedures New Individual

The figure below sets out the Due Diligence process for New Individual Accounts:



9.3 Self-certification

It is expected that RFIs will maintain account opening processes that facilitate collection of a self-certification at the time of the account opening, whether that process is done face-to-face, online or by telephone. There may be circumstances where, exceptionally, it is not possible or practical 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, it is expected that the self-certification should be obtained within a period of 90 days or such reasonable time as the circumstances dictate.

An RFI must obtain a self-certification upon account opening. 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.

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. 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.

In Jamaica, there's no specific "Day 2" rule for opening bank accounts, but there are general requirements and procedures that apply. Each application will follow the standard bank procedures, which can include providing identification, proof of address, and other documents. As per the Regulations of the Jamaican (Proceeds of Crime) POC Act (6 and 7)

6. (1) No regulated business shall form a business relationship, or carry out a one-off transaction, with or for another person unless the regulated business –

(a) maintains the following procedures in relation to that business relationship or one-off transaction –

(i) identification procedures and transaction verification procedures in accordance with regulations 7 and 11;

(ii) record-keeping procedures in accordance with regulation 14;

(iii) procedures of internal control and communication in accordance with regulation 15;

(iv) procedures to assess the risk of money laundering arising from –

(A) its products and business practices (whether new or existing); and

(B) developing technologies applied or used in such products or practices, and shall not commence or continue any such product or practice without implementing measures to identify, manage or mitigate those risks;

(b) takes appropriate measures from time to time for the purpose of making employees whose duties include the handling of relevant financial business aware of -

(i) the procedures under sub-paragraph (a) which relate to the relevant financial business in question; and

(ii) the provisions of the Act and any regulations made thereunder; and

(c) provides such employees from time to time with training in the recognition and handling of transactions carried out by, or on behalf of, any person who is, or appears to be, engaged in money laundering.

(2) Subject to paragraph (3), a person who fails to comply with paragraph (1) commits an offence and is liable upon conviction –

(a) before a Resident Magistrate –

(i) in the case of an individual, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment;

(ii) in the case of a body corporate, to a fine not exceeding three million dollars;

(b) in a Circuit Court –

(i) in the case of an individual, to a fine or to imprisonment for a term not exceeding twenty years, or to both such fine and imprisonment;

(ii) in the case of a body corporate, to a fine

(3) Proceedings for an offence under paragraph (2) shall not be taken against a person for failure to comply with paragraph (l)(c) where another enactment provides for disciplinary or regulatory action that may be taken by the competent authority concerned in respect of the failure and the competent authority opts to take such action in the particular case.

7 - (1) Subject to regulation 8, identification procedures maintained by a regulated business are in accordance with this regulation if such procedures require that –

(a) as soon as is practicable after contact is first made between the regulated business and an applicant for business concerning any particular business relationship or one-off transaction –

(i) the applicant for business produces satisfactory evidence of his identity to the regulated business; and

(ii) the regulated business takes such measures as are specified in its identification procedures as will verify the applicant's identity; and

(b) where the regulated business is unable to verify the applicant's identity, the business relationship or one-off transaction in question shall not proceed any further, and the regulated business shall make an assessment as to whether any disclosure is required under section 94 of the Act (disclosure as to transactions which constitute or are related to money laundering);

(c) as concerns any business relationship, customer information is kept under review with a view to ensuring its accuracy and is updated –

(i) at least once in every seven years during the course of the business relationship or at more frequent intervals as warranted by the risk profile of the business relationship as determined by the regulated business in accordance with regulation 7 A; and

(ii) whenever there is any doubt about the veracity or adequacy of previously obtained customer information;

(d) where customer information is not updated as required under subparagraph (c), the business relationship in question shall not proceed any further, and the regulated business shall make an assessment as to whether any disclosure is required under section 94 of the Act (disclosure as to transactions which could constitute or be related to money laundering).Financial Institutions have to ensure that self-certifications are obtained and validated in accordance with the rules set out in the CRS. In that light, measures that either foresee the closure or freezing of the account after the expiry of 90 days should be implemented. In all cases, RFIs shall ensure that they have obtained and validated the self-certification in time to be able to meet their due diligence and reporting obligations with respect to the reporting period during which the account was opened.

There is no prescribed format for a self-certification but it may, for example, form part of the account opening documentation. Whatever form it takes, it must allow the RFI 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 RFI in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures.

The self-certification must also include the Account Holder's TIN and date of birth. A self-certification must be signed by the Account Holder (or a person authorised to do so for her/him under domestic law), or in the case of an account opened by telephone or the internet, the self-certification must be positively affirmed – that is, the Account Holder must confirm the information provided. The self-certification must be dated no earlier than the date the Account Holder received the form; updated self-certifications may be date stamped by the receiving RFI on receipt and that date will be taken as the date of signature.

Self-certifications may take a two stage process so that, if it is established that an Account Holder is a Jamaica tax resident and not tax resident elsewhere, then it will not be necessary to gather further information beyond the first three bullet points below. Otherwise, self-certifications must include all of the following information for the Account Holder:

- name;
- residence address;
- jurisdiction(s) of residence for tax purposes;
- TIN with respect to each Reportable Jurisdiction (see above); and
- date of birth.

The domestic laws of the various Reportable Jurisdictions define the conditions for when an individual is considered resident for tax purposes. Usually an individual is only resident in one jurisdiction but may be resident for tax purposes in two or more jurisdictions. The criteria for residence covers various forms of attachment that result in comprehensive, global or worldwide taxation which means the individual is subject to full liability to tax in that jurisdiction. Generally an individual will be resident for tax purposes where in accordance with the domestic laws of that jurisdiction (including tax conventions), the individual pays or should pay tax by reason of domicile, residence or any other criterion of a similar nature and not only from sources in that jurisdiction.

The self-certification does not need to include the place of birth of the Account Holder even where the RFI is otherwise required to obtain and report it under domestic law. This is because if that information is already required to be reported it will be held by the RFI. The self-certification may be pre-populated by the reporting RFI to include the Account Holder's information, except for the jurisdiction(s) of residence for tax purposes, to the extent already available in its records.

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

Where an Account Holder provides a paper self-certification an RFI may retain an original, certified copy, or photocopy (including a microfiche, electronic scan, or similar means of electronic storage) of the self-certification. Any documentation that is stored electronically must be made available by the RFI in hard copy form to TAJ upon request.

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

Example 1
Individual A completes an online application to open an account with RFI B. 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 positively confirms the information provided as part of the application. A's information, as provided in the electronic self-certification, is confirmed by B'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 J. B produces his driving licence as proof of identification and provides all the information required for self-certification to an employee of J who enters the information into J's systems. The application is subsequently signed by B. The self-certification for B is valid.

9.4 Validity of self-certification

A self-certification remains valid unless the RFI knows, or has reason to know, that the original self-certification is incorrect or unreliable. This might be the case either at the time a new account is opened by an existing customer, or as a result of a change of circumstances reported by the Account Holder, for example, a change of address.

Whatever the cause, where the RFI cannot rely on the original self-certification
it 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).

An RFI may have reason to know that a self-certification or Documentary Evidence is unreliable or incorrect. It may have information in its possession that suggest different facts pertaining to the Account Holder than those on the self-certification. This will include the knowledge of the relevant relationship managers. A reasonably prudent person in the position of the RFI would question the information provided he/she has reason to know that the information may be incorrect or unreliable.

An RFI 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 RFI's account files that conflicts with the person’s claim regarding his/her status.

9.5 STANDARDS OF KNOWLEDGE APPLICABLE TO SELF-CERTIFICATIONS AND DOCUMENTARY EVIDENCE

A self-certification provided by a person is considered 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 RFI has other account information that is inconsistent with the person's claim.

A RFI 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.

A RFI may not rely on documentary evidence provided by a person if:

- the documentary evidence does not reasonably establish the identity of the person presenting it.
- the documentary evidence contains information that is inconsistent with the person's claim as to its status,

- the RFI has other account information that is inconsistent with the person's status, or
- the documentary evidence lacks information necessary to establish the person's status.

A RFI 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 RFI cannot obtain a confirmation of the validity of the original self-certification or a valid self-certification during such 90-day period, the RFI 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 they may be resident as a result of the change in circumstances.

A self-certification can become invalid as a result of a change of the Account Holder's circumstances. RFIs need to have procedures to ensure that any change that constitutes a change in circumstances is identified.

An RFI is expected to notify any person providing a self-certification of the person's obligation to notify the RFI of a change in circumstances. A change in circumstances affecting the self-certification provided to the RFI will invalidate the self-certification, with respect to the information that is no longer reliable, until the information is updated.

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

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

A RFI 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 RFI cannot obtain a confirmation of the validity of the original self-certification or a valid self-certification during the 90-day period, the RFI must continue to treat the Account Holder as resident in the jurisdiction identified in the original self-certification and must also treat the Account Holder as resident in the jurisdiction indicated by the change of circumstance.

CHAPTER 10 – DUE DILIGENCE PROCEDURES PRE-EXISTING ENTITY (Regulation 4)

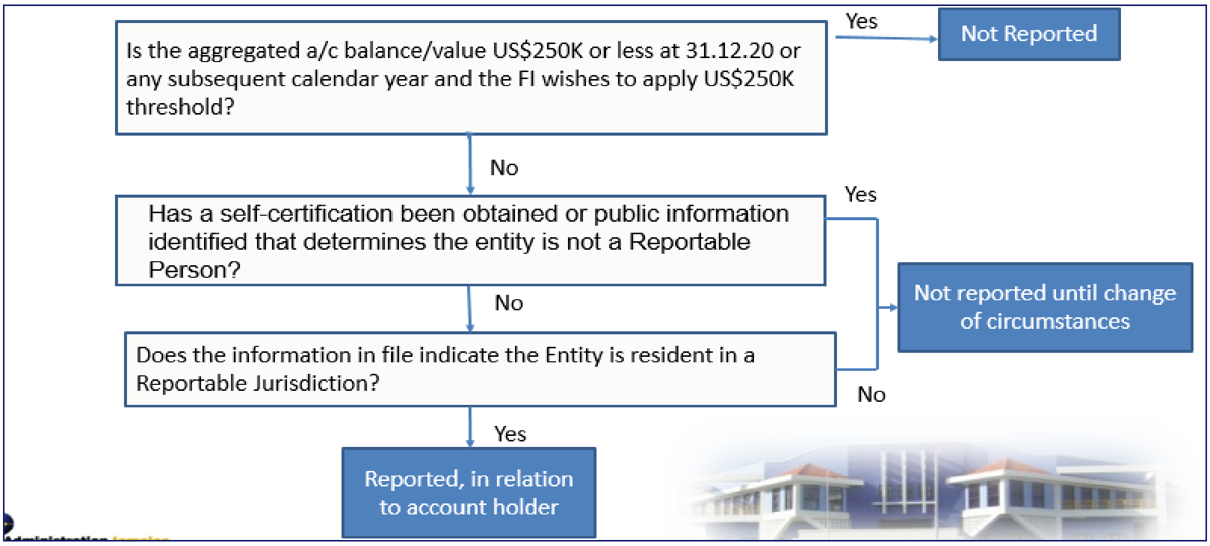
10.1 General Rules

A Pre-existing Entity Account is a Financial Account maintained by an RFI as at 31 December 2020.

An entity for the purposes of the CRS is a legal person. It covers any person other than an individual and includes legal persons such as a corporation, partnerships and trusts or foundations.

For reporting purposes, an entity will either be a FI or an NFE.

The diagram below summarises the process to establish whether the Entity Account Holder is a Reportable Person and therefore, whether the account is a Reportable Account by virtue of its Account Holder.



10.2 Threshold exemptions applying to Pre-existing Entity Accounts

For CRS, RFIs have the option to exclude from their due diligence procedures pre-existing entity accounts with an aggregate account balance or value of US$250,000 or less as at 31 December 2020. The effect of choosing this option is that the RFIs are not required to review any of its pre-existing entity accounts within the *de minimis* threshold. The *de minimis* threshold can be applied either to all pre-existing entity accounts or to a clearly identifiable group of such accounts (for example, accounts held by a particular line of business).

If an RFI chooses not to make an election to apply the threshold exemption, it will need to review all pre-existing entity accounts in order to identify Reportable Accounts. Where an election has been made to apply the *de minimis* threshold to an account, the RFI must review the account balance at 31 December each year to determine if the balance has exceeded the relevant threshold. Where the threshold is exceeded for an account it becomes reviewable (that is, the due diligence procedures for pre-existing entity accounts must be applied). Where the account is identified as a Reportable Account, it is reportable from the year in which it is so identified.

For CRS, accounts become reviewable once the balance has been established as exceeding $250,000 at a review date. The deadline for completing the account balance review is 31 December following the account balance review date.

A similar exception exists for FATCA. However, FATCA allows the review to be delayed until the aggregate account balance or value exceeds $1million.

10.3 Reportable Accounts

A pre-existing entity account is a Reportable Account where the review procedures identify the account as held by one or more entities that are Reportable Persons or which are passive NFEs with one or more Controlling Persons that are Reportable Persons. For example, the ABC Partnership is a passive NFE resident in Jamaica. It has three individuals who are identified as Controlling Persons of the partnership. Two of these are Jamaican tax resident but the third is tax resident in Canada which is a Reportable Jurisdiction. As a result, any accounts held by the partnership with a Jamaica FI will be Reportable Accounts by virtue of the entity having a Controlling Person that is a Reportable Person.

10.4 Review procedure for Account Holders

RFIs are required to determine whether a pre-existing account is held by one or more entities that are Reportable Persons or which are passive NFEs with one or more Controlling Persons that are Reportable Persons. Such entity accounts will be Reportable Accounts.

The RFI must review information maintained for regulatory or customer relationship purposes (including information collected as part of any AML/KYC procedure) to determine where the entity is tax resident, unless residence can be reasonably determined through the use of publicly available information. The entity will be reportable if the information indicates that the entity is tax resident in a Reportable Jurisdiction. Such information will include, but is not limited to:

- a place of incorporation or organisation in a Reportable Jurisdiction;
- an address in a Reportable Jurisdiction; or
- where the entity is a trust, an address of one or more of the trustees in a Reportable Jurisdiction.

As the definition of entity goes beyond corporate structures to include fiscally transparent vehicles such as trusts and partnerships, the address of the entity should be interpreted widely so as to include the registered office, principal office and/or the place of effective management.

The existence of a permanent establishment (including a branch) in a Reportable Jurisdiction is not, in isolation, an indication of residence for this purpose.

Although there is no exemption from a paper record search for pre-existing entity accounts, such a search is not required in areas where all the information is electronically searchable (for example, information held for AML/KYC purposes).

If the information indicates that the Account Holder is tax resident in a Reportable Jurisdiction then the account is a Reportable Account unless the RFI obtains a self-certification from the Account Holder, or determines, based on information in its possession or which is publicly available, that the Account Holder is not a Reportable Person.

10.5 Available Information

Where the RFI has carried out the review of regulatory and customer relationship information and has indications that the Account Holder is resident in a Reportable Jurisdiction it may take into account information in its possession, or which is publicly available, which reasonably determines that the Account Holder is not a Reportable Person with respect to such Reportable Jurisdiction.

Such information will include the following:

- information published by an authorised government body of a jurisdiction. For example, the list of Foreign Financial Institutions published by the US tax administration[4];
- information in a publicly accessible register maintained or authorised by an authorised government body of a jurisdiction;
- information disclosed on an established securities market;
- information previously recorded in the files of the RFI;

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

[4] Note: RFIs cannot rely on the definition of Investment Entity used in the Model 1 FATCA IGA for the purposes of implementing the CRS as the definition of Investment Entity in Article 1(1)(j) of the Model 1 FATCA IGA as it is less prescriptive than the definition of Investment Entity in Section VIII(A)(6) of the CRS. However, the definitions of the Model 1 FATCA IGA and the CRS can be read consistently, e.g. the CRS definition includes a gross income test to determine whether an Entity is treated as primarily conducting as a business one or more of the activities described in subparagraph A(6)(a), or an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of subparagraph A(6)(b), and could be used to interpret the less prescriptive aspects of the Model 1 FATCA IGA definition. The CRS definition is in fact based on the definition of Investment Entity in the US FATCA regulations, which may be used to interpret the Model 1 FATCA IGA definition.

10.6 Self-Certification

Where the RFI has carried out the review of regulatory and customer relationship information and has indications that the Account Holder is resident in a Reportable Jurisdiction it may obtain a self-certification from the Account Holder which reasonably determines that the Account Holder is not a Reportable Person with respect to such Reportable Jurisdiction.

A self-certification for an entity must be signed (or otherwise positively affirmed) by the person with authority to sign on behalf of the entity. This will include:

- an officer or director of a corporate entity;
- a partner of a partnership;
- a trustee of a trust;
- any person holding an equivalent title to any of the above; and
- any other person with written authorisation from the entity to sign documentation on behalf of the entity.

The self-certification must also be dated at the latest at the date of receipt by the RFI and must contain the following information in respect of the entity:

- the name;
- the address;
- the jurisdiction(s) of residence for tax purposes; and
- the TIN with respect to each Reportable Jurisdiction.

The RFI may also request the Account Holder entity to include its status in the self-certification as either a FI or a NFE. When requesting this information from an Account Holder the RFI is expected to provide the Account Holder with sufficient information to enable it to determine its status. RFIs may produce their own guidance for this purpose or they may reference the OECD Standard for Automatic Exchange of Financial Account Information in Tax Matters.

10.7 Self-Certification as a Financial Institution

The RFI may request the Account Holder entity to include its status in the self-certification as either a FI or a NFE. When requesting this information from an Account Holder the RFI is expected to provide the Account Holder with sufficient information to enable it to determine its status.

If the Account Holder entity falls within the definition of FI then, wherever it is resident, no further review, identification or reporting will normally be required. The exception to this under the CRS regime is where the FI is a managed investment entity resident in a jurisdiction that is not a Participating Jurisdiction. In that case the entity is deemed to be a passive NFE for reporting purposes.

10.8 Self-Certification as a Non-Financial Entity

The RFI may request the Account Holder entity to include its status in the self-certification as either an FI or an NFE. When requesting this information from an Account Holder the RFI is expected to provide the Account Holder with sufficient information to enable it to determine its status.

If the Account Holder entity falls within the definition of a NFE then the information to be reported will depend on whether the entity is an active NFE or a passive NFE.

10.9 Review Procedure For Controlling Persons

When an RFI has determined that an Account Holder is an NFE it must carry out review procedures to determine:

a. Whether the Account Holder is a passive NFE;
b. If so, the Controlling Persons of that passive NFE; and
c. Whether any of the Controlling Persons is a Reportable Person.

Is the Account Holder a passive NFE?

The RFI must obtain a self-certification from the Account Holder unless it has information in its possession, or that is publicly available, based on which it can reasonably determine the status of the Account Holder as an active NFE or an FI (other than a managed investment entity resident in a non-Participating Jurisdiction). If the RFI cannot determine the status of the Account Holder as an active NFE or an FI then the RFI must presume the Account Holder to be a passive NFE.

Identifying Controlling Persons.

To identify the Controlling Persons, the RFI may rely on information collected and maintained pursuant to AML/KYC procedures.

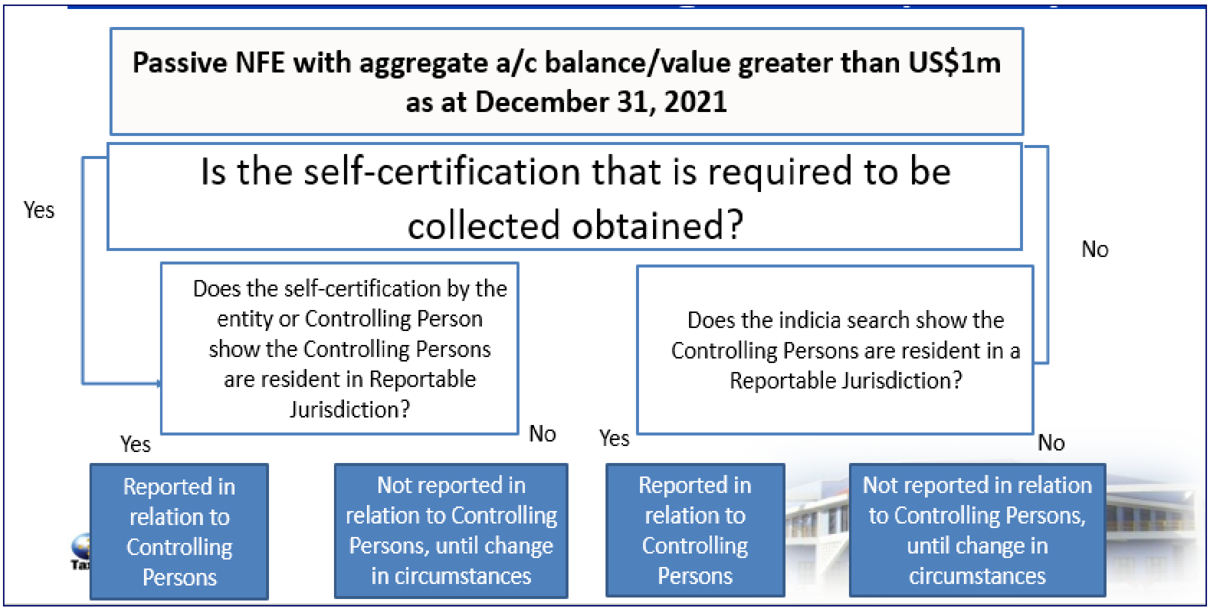
Are any of the Controlling Persons a Reportable Person?

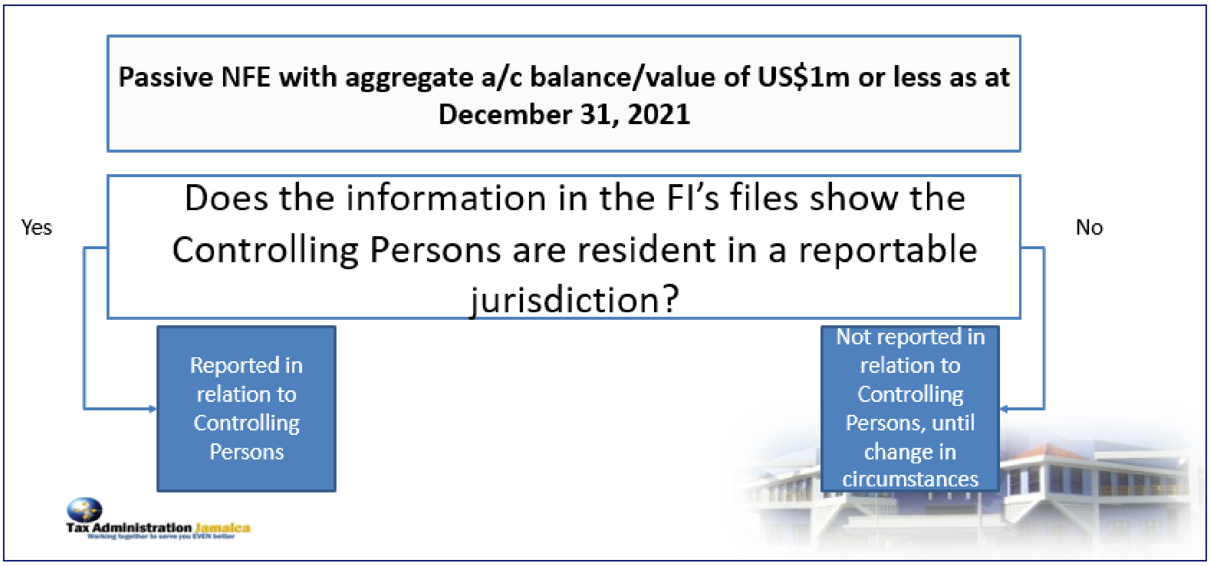
If the account balance or value does not exceed an amount equivalent to US$1million, the RFI may rely on information collected and maintained pursuant to AML/KYC procedures to determine whether the Controlling Person is a Reportable Person or it may choose to obtain a self-certification from the Account Holder or the Controlling Person.

If the account balance exceeds an amount equivalent to US$1 million the RFI must obtain a self-certification from either the Account Holder or the Controlling Person. This may be provided in the same self-certification as the one provided by the Account Holder to determine its own status. The self-certification requirements are the same as for New Individual Accounts.

If a self-certification is required but is not obtained the RFI must rely on the electronic record search for pre-existing individual accounts to determine if there are indicia present that can be used to determine the reportable status of the Controlling Person. If none is present in its records, the RFI need take no further action unless and until there is a change of circumstance with respect to the Controlling Person.

This can be summarised in the following diagram:





10.10 Due Diligence Procedures – Pre-Existing Entity Accounts Controlling Persons

- This step has to be undertaken regardless of whether the account has been found to be a reportable account with respect to the account holder.
- Is the entity a passive NFE? If no, the account is not reported in respect of the controlling persons until there is a change in circumstances.
- If the entity is a passive NFE, the procedures differs in respect to accounts below or above US$1m.

CHAPTER 11 – DUE DILIGENCE PROCEDURES NEW ENTITY (Regulation 4)

11.1 General Rules

A New Entity Account is an account that is not held by an individual and that is opened on or after 1 January 2020.

The due diligence procedures for New Entity Accounts require that a self-certification be obtained from the Account Holder. If the self-certification establishes that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, then the RFI must treat the account as a Reportable Account.

The wider approach requires RFIs to identify the territory in which an entity is tax resident, irrespective of whether or not that territory is a Reportable Jurisdiction. It applies to New Accounts as well as Pre-existing Accounts. The self-certification process can be used for this purpose. This information must be maintained by the RFI for a period of 7 years from the end of the period in which the territory is identified.

Where a New Account is opened by an entity Account Holder which already has a Pre-existing Account the RFI may treat both accounts as one account for the purposes of applying AML/KYC due diligence. In these circumstances, the FI may choose to apply the identification and documentation procedures for either Pre-existing or New Accounts to derive the CRS classification for any New Account opened on or after 1 January 2020 by the same entity. There is no *de minimis* threshold for New Entity Accounts as compared to Pre-Existing Accounts.

11.2 Determining whether the Entity is a Reportable Person

Where a New Entity Account is held by one or more Entities that are Reportable Persons, then the account must be treated as a Reportable Account.

11.2.1 Determining whether the Entity is a Reportable Person

To determine this, RFIs must obtain a self-certification as part of the account opening procedure and 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. In practice, this means the RFI must not know or have reason to know that the self-certification is incorrect or unreliable - if the self-certification fails the reasonableness test, a new valid self-certification must be obtained. RFIs are not, however, expected to carry out an independent legal analysis of relevant tax laws to confirm the reasonableness of a self-certification. Paragraph 14 of the Commentary on Section VI of the CRS contains examples illustrating the application of the “reasonableness” test.

The self-certification must allow for the determination of the Account Holder’s residence(s) for tax purposes.

With respect to New Entity Accounts, a self-certification is valid only if it complies with the requirements for the validity of self-certifications for Pre-existing Entity Accounts.

11.2.2 Timing of Self-Certification

It is expected that RFIs will maintain account opening processes that facilitate collection of a self-certification at the time of the account opening, whether that process is done face-to-face, online or by telephone. There may be circumstances, however, where it is not possible or practical 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, it is expected that the self-certification should be obtained within a period of 90 days or such reasonable time as the circumstances dictate. An RFI must obtain a self-certification upon account opening (Sections IV(A) and VI(A) of the Standard). 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.

Financial Institutions have to ensure that self-certifications are obtained and validated in accordance with the rules set out in the CRS. In that light, measures that either foresee the closure or freezing of the account after the expiry of 90 days should be implemented. In all cases, RFIs shall ensure that they have obtained and validated the self-certification in time to be able to meet their due diligence and reporting obligations with respect to the reporting period during which the account was opened.

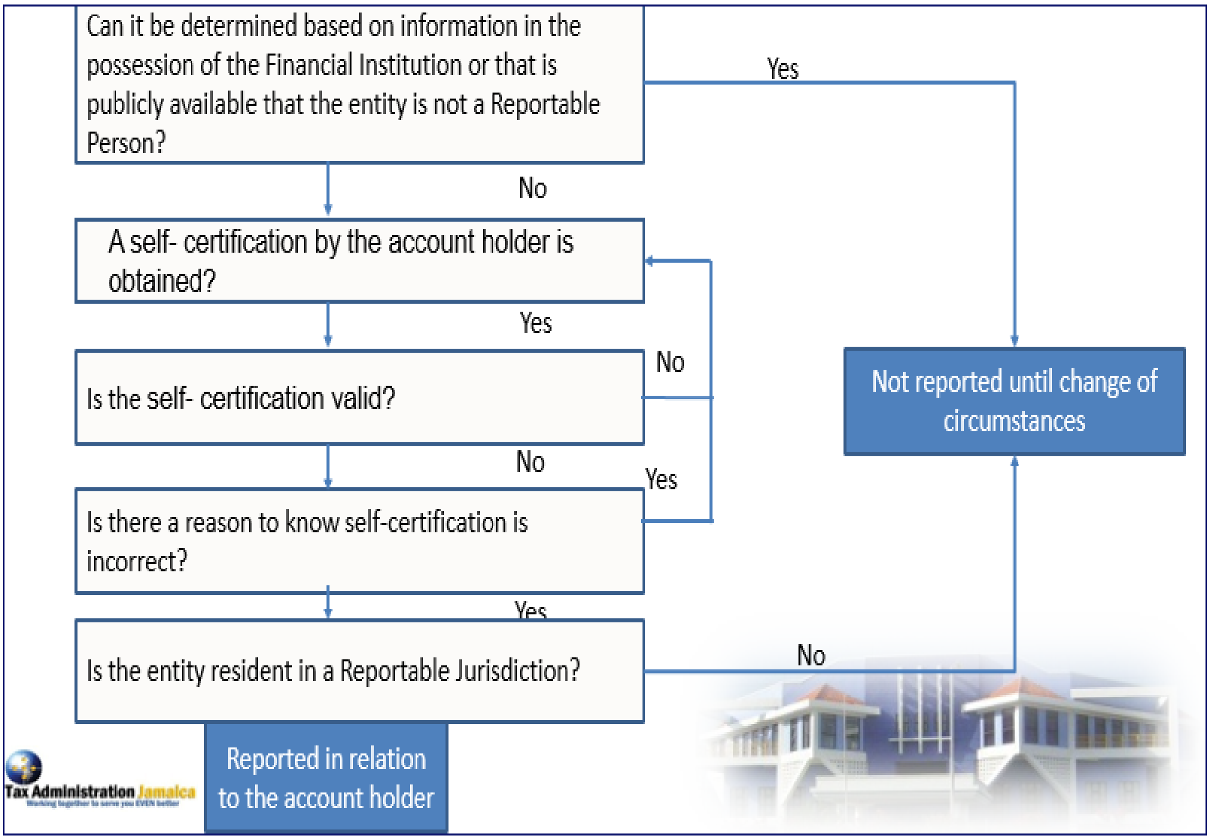
11.2.3 Information in the Financial Institution's possession or that is publicly available

The due diligence procedures provide an exception to the requirement to obtain a self-certification where the RFI can reasonably determine, based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person. For example, such information may show that the entity is in fact a corporation that is publicly traded or a Governmental Entity.

Where a self-certification is obtained and it indicates that the Account Holder is resident in a Reportable Jurisdiction, the RFI must treat the account as a Reportable Account.

Note that FIs are not obliged to rely on these exceptions and they may insist on self-certifications being provided.

The diagram below provides a summary:



11.3 Determining whether the entity is a Reportable Person: Jurisdiction of Residence

The domestic laws of the various jurisdictions lay down the conditions under which an entity is to be treated as fiscally resident.

Generally, an entity will be resident for tax purposes in a jurisdiction if, under the laws of that jurisdiction, it is liable to tax by reason of its domicile, residence, place of management or incorporation, or any other criterion of a similar nature. An entity will only be tax resident in one jurisdiction, although that may not always be the case. 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.

Where an entity such as a partnership, limited liability partnership or similar legal arrangement has no residence for tax purposes it shall be treated as resident in the jurisdiction in which its place of effective management is situated or, in the case of a trust, the jurisdiction(s) in which the trustee(s) is/are resident.

11.4 Identification of an entity as a Passive Non-Financial Entity

Under the CRS the definition of a Passive NFE includes Investment Entities not resident in a Participating Jurisdiction. Passive NFEs are reportable, regardless of whether they are resident in the same jurisdiction as their Controlling Persons.

Is the Account Holder a passive NFE?

The RFI must obtain a self-certification from the Account Holder unless it has information in its possession, or that is publicly available, based on which it can reasonably determine the status of the Account Holder as an active NFE or an RFI (other than a managed investment entity resident in a non-Participating Jurisdiction). If the RFI cannot determine the status of the Account Holder as an active NFE or an FI then the RFI must presume the Account Holder to be a passive NFE.

Identifying Controlling Persons

To identify the Controlling Persons, the RFI may rely on information collected and maintained pursuant to AML/KYC procedures.

Determining whether a Controlling Person is a Reportable Person

For the purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, an RFI may only rely on a self-certification from either the entity Account Holder or the Controlling Person.

11.5 Change in 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 if such change or addition of information affects the status of the Account Holder.

A self-certification can become invalid as a result of a change of the Account Holder's circumstances. RFIs need to have procedures to ensure that any change that constitutes a change in circumstances is identified.

An RFI is expected to notify any person providing a self-certification of the person's obligation to notify the RFI of a change in circumstances.

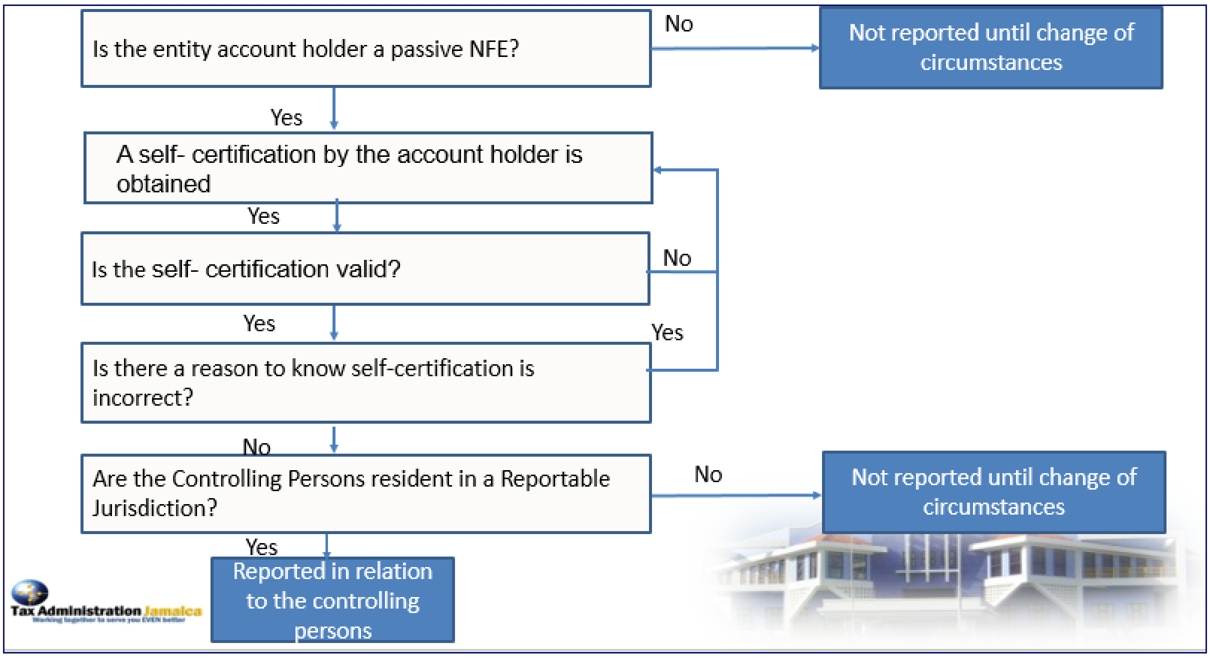
A change in circumstances affecting the self-certification provided to the RFI will invalidate the self-certification with respect to the information that is no longer reliable until the information is updated. A self-certification becomes invalid as soon as the RFI knows or has reason to know that circumstances affecting the correctness of the self-certification have changed. However, a RFI may treat the status of the Account Holder as unchanged until the earlier of:

1. 90 calendar days from the date that the self-certification became invalid due to the change in circumstances;
2. the date that the validity of the self-certification is confirmed (where appropriate); or
3. the date that a new self-certification is obtained.

An RFI 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 RFI cannot obtain a confirmation of the validity of the original self-certification or a valid self-certification during the 90-day period, the RFI must continue to treat the Account Holder as resident in the jurisdiction identified in the original self-certification and must also treat the Account Holder as resident in the jurisdiction indicated by the change of circumstance.

Below is a diagram with the summary of due diligence Procedures for New Entity Accounts



CHAPTER 12 – RECORD KEEPING OBLIGATIONS (Regulation 8) & THE SUBMISSION OF REPORTS

12.1 Overview for Record Keeping Obligations

Every RFI must keep records that were obtained or created in connection with its CRS obligations, such as self-certifications and documentary evidence. An RFI must also keep records of its policies and procedures that establish its governance and due diligence processes, including procedures for regular relationship manager enquiries. Documentation can be shared and used in relation to more than one financial account.

An RFI must establish, maintain, and document the due diligence procedures it uses to identify reportable accounts. Rules in respect of record keeping, including the retention periods are documented below.

12.2 Record Keeping Obligations based on Regulation 8

Regulation 8 documents the record keeping obligations of every RFI and is summarised in the table below:

Type of Records to be Kept	The RFIs shall keep records of any information that the institution obtains or creates for the purpose of complying with these Regulations, including any self-certifications and records of documentary evidence.
Electronic Records	Every RFI required by these Regulations to keep records electronically, shall retain those records in an electronically readable format for the duration of 7 years.
Language of records	RFIs shall keep records in English and shall, if they are in another language, upon request, provide an English language translation to the Commissioner General.
Retention Period	not less than seven years after – (i) in the case of a self-certification, the last day on which a related financial account is open; and (ii) in any other case, the end of the last calendar year in respect of which the record is relevant.

12.3 Submission of Reports

(a) The report cannot be considered accurate if there are data quality errors.

(b) It is mandatory for RFI to file accurate reports in the prescribed formats as per law.

(c) Failure to comply with the provisions of law may attract pecuniary penalties

CHAPTER 13 – COMPLIANCE AND ENFORCEMENT (Regulation 11)

The Commissioner General of TAJ has the powers to:

- Request information,
- Enter any premises or place of business of a RFI at all reasonable times to verify a return or to examine the procedures put in place by the RFI for the purposes of ensuring compliance with that institution's obligations under this Act.
- Request by 14 days' notice in writing, such information, including copies of any relevant books, records or other documents, as the officer may reasonably require for any purpose relating to the administration or enforcement of these Regulations.
- Require RFIs to produce books, records or other documentation
- Require RFIs to provide information, explanations and particulars
- To make extracts from or copies of all or any part of the books, records or other documents or other material made available to the officer or require that copies of books, records or other documents be made available to the officer.

CHAPTER 14 – ASSESSMENT AND ADMINISTRATION OF PENALTIES (Regulation 14 -18)

14.1 Assessment of Penalty (Regulation 14 & 15)

If a person becomes liable to a penalty, the Commissioner General shall notify the person of:

- the breach
- the liability to the pecuniary penalty,
- the date on which the person's failure first came to the attention of the Commissioner General; and
- the assessment of the amount of pecuniary penalty payable to the Authority

Liability to a pecuniary penalty in respect of the breach of the CRS Regulations 2020 and the assessment of a pecuniary penalty payable shall be determined and notified by the Commissioner General not later than twelve months beginning after the date on which the person's failure to comply came to the attention of the Commissioner General.

Liability to a penalty does not arise if the person satisfies the Commissioner General that there is a reasonable excuse for the failure. Insufficiency of funds and reliance on another person do not count as a reasonable excuse.

A person has 30 days after the excuse has ceased to continue to rely on it.

14.2 General Procedures for Fines (Regulation 14)

Once a breach is identified the following may occur:

- Notice of Breach sent to taxpayer (Regulation 14);
- The taxpayer can apply to the Revenue Court if aggrieved;

- Payment should be done within 30 days after notice of breach is served or after the appeal has been settled;

- Interest applied according to the rate in the Tax Collection Act

For any calendar year of reporting where a taxpayer fails to comply with the regulations set out in the RAA the penalty provisions will be applicable to these offences.

Breach	Fine / Penalty
Failure to file an information return	Not exceeding one million dollars for each such failure.
Failure to apply the due diligence procedures	Not exceeding one million dollars for each such failure
Opening an account without valid self-certification or failing to close account if the holder refuses to provide a valid self-certification or documentary evidence	Not exceeding five hundred thousand dollars for each failure.
Person who makes a false statement or omission on a return	Liable to a penalty of up to $10,000
Person who provides a false self-certification	Liable to a penalty of up to $10,000
Failure for any breach of obligation under the Regulations	Liable to a penalty of up to $500,000
Failure to obey the instructions of the Commissioner General	$500,000 for each such failure

14.3 Payment of Penalties (Regulation 18)

Pecuniary penalty under these Regulations shall be paid to the Authority within 30 days after the date on which -

- notification under regulation 15 is received; or

- an appeal against liability to a pecuniary penalty or against the assessment of the amount of pecuniary penalty is decided or withdrawn.

The penalty shall attract interest at the rate prescribed under section 2A of the Tax Collection Act until the outstanding amount is paid.

14.4 Appeal to Revenue Court against assessment of penalty (Regulation 17)

Where any person is aggrieved by a decision of the Commissioner General, they may appeal to the Revenue Court. They can appeal on the grounds that:

(a) Liability to the penalty does not arise;

(b) The assessment of the amount of the penalty is incorrect.

The Revenue Court may:

- Confirm or quash the determination of liability;
- Vary or confirm the assessment.

APPENDIX I

EXTRACTS – REVENUE ADMINISTRATION (AMENDMENT) ACT, 2020

Section 17NB

Section 17NB of the principal Act is amended –

2.1 By inserting next after paragraph (d) the following paragraphs –

- *"(e) amend, revoke and replace the regulations specified in the Second Schedule and the Third Schedule; and*
- *(f) amend the text set out in the Fourth Schedule as necessary to bring that text up to date for consistency with any amendment of the Convention on Mutual Administrative Assistance in Tax Matters, as amended as of 1st of June, 2011, as in force in relation to Jamaica."*

Section 17ND

"Notwithstanding section 17NB, until amended or revoked and replaced by regulations under 17NB, the following regulations shall remain in force and shall effect as being made under section 17NB –

a) the Revenue Administration (International Tax Compliance Agreement (Jamaica and the United States of America)) Regulations 2015, specified in the Second Schedule; and

b) the Revenue Administration (Convention on Mutual Administrative Assistance in Tax Matters) Regulations, 2020, specified in the Third Schedule."

The First Schedule to the principal Act is amended by inserting next after item 1 the following item –

"2. The Convention on Mutual Administrative Assistance in Tax Matters, in force, as amended as of 1st June of 2011, to which Jamaica became a party on the 29th day of November, 2018, the text of which is set out in the Fourth Schedule to this Act."

DISCLAIMER: These Guidance Notes are a guide which provides TAJ's interpretation to the legislation governing the CRS. They do not replace the instructions laid out in the Revenue Administration (Convention on Mutual Administrative Assistance in Tax Matters) Regulations, 2020.

APPENDIX II

EXTRACTS - CRS REGULATION 2020

The First Schedule (inserted after Paragraph 1- CRS Regulation 2020))

"2. The Convention on Mutual Administrative Assistance in Tax Matters, in force, as amended as of 1st of June, 2011, to which Jamaica became a party on the 29th day of November, 2018, the text of which is set out in the Fourth Schedule to this Act.".

Third Schedule (Extracts Paragraph 2- CRS Regulation 2020)

" THIRD SCHEDULE (Section 17ND(b))

The Revenue Administration (Convention on Mutual Administrative Assistance in Tax Matters) Regulations, 2020

Citation. 1. These Regulations may be cited as the Revenue Administration (Convention on Mutual Administrative Assistance in Tax Matters) Regulations, 2020.

Interpretation. 2.—(1) In these Regulations—

"account holder" means—

(a) the person who is listed or identified as the holder of a financial account by the financial institution that maintains the account;

(b) the person for whose benefit or to whose account another person, other than a financial institution, holds a financial account as an agent, custodian, nominee, signatory, investment adviser or intermediary;

(c) in the case of a cash value insurance contract or an annuity contract—

(i) any person entitled to access the cash value or change the beneficiary of the contract;

(ii) if no person can access the cash value or change the beneficiary, any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract;

(iii) upon maturity of a cash value insurance contract or annuity contract, each person entitled to receive a payment under the contract;

"active NFE" shall be construed in accordance with paragraph (2);

"AML/KYC procedures" means the customer due diligence procedures of a reporting financial institution pursuant to anti-money laundering or similar requirements to which the reporting financial institution is subject;

"annuity contract" means a contract under which the issuer agrees to make payments for a period of time determined, in whole or in part, by reference to the life expectancy of one or more individuals and includes a contract that is considered to be an annuity contract in accordance with the law, including regulations 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;

"Authority" has the meaning assigned to it by section 2 of the Tax Administration Jamaica Act;

"cash value"—

(a) means 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 policy-holder can borrow under or with regard to the contract;

(b) notwithstanding paragraph (a), does not include an amount payable under an insurance contract—

(i) soley by reason of the death of an individual insured under a life insurance contract;

(ii) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;

(iii) as a refund of a previously paid premium, less the cost of insurance charges whether or not actually imposed, under the insurance contract, other than an investment-linked 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;

(iv) as a policyholder dividend, other than a termination dividend, if the dividend relates to an insurance contract under which the only benefits payable are as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;

(v) as a return of an advance premium or premium deposit for an insurance contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium payable under the contract;

"cash value insurance contract" means an insurance contract, other than an indemnity reinsurance contract between two insurance companies, that has a cash value;

"collective investment vehicle" includes any vehicle in whatever form, whether in Jamaica or elsewhere, whereby members of the public are invited or permitted to invest money or any other property—

(a) in a portfolio of assets managed as a whole by or on behalf of the operator of the vehicle; and

REFERENCES

Common Reporting Standard, https://www.oecd.org/tax/automatic-exchange/common-reporting-standard/

Convention on Mutual Administrative Assistance in Tax Matters, https://www.oecd.org/ctp/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm

CRS Implementation Handbook, https://www.oecd.org/tax/exchange-of-tax-information/implementation-handbook-standard-for-automatic-exchange-offinancial-account-information-in-tax-matters.htm

Common Reporting Standard User Guide and XML Schema, https://www.oecd.org/tax/automatic-exchange/common-reporting-standard/schema-and-user-guide/#d.en.345315

Standard for Automatic Exchange of Financial Information in Tax Matters - Implementation Handbook – Second Edition, OECD, Paris. OECD (2018),

DISCLAIMER: These Guidance Notes are a guide which provides TAJ's interpretation to the legislation governing the CRS. They do not replace the instructions laid out in the Revenue Administration (Convention on Mutual Administrative Assistance in Tax Matters) Regulations, 2020.