

## **BELIZE:**

# **MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS (AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION) REGULATIONS, 2017**

## **ARRANGEMENT OF REGULATIONS**

1. Citation.
2. Interpretation.
3. Due diligence obligation.
4. Modifications to due diligence procedures.
5. Information to be notified.
6. Reporting obligations and CRS data format.
7. Dates for completion of due diligence.
8. Electronic return system.
9. Records.
10. Duty of Competent Authority.
11. Inspection of books, etc. and provisions of information and assistance.
12. Impeding or obstructing of the Competent Authority.

SCHEDULE 1 – Excluded Accounts.

SCHEDULE 2 – Non-Reporting Financial Institutions.

SCHEDULE 3 – List of Participating Jurisdictions

**BELIZE:**

**STATUTORY INSTRUMENT**

**No. 52 of 2017**

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*REGULATIONS made by the Minister responsible for Finance in exercise of the powers conferred upon him by section 30 of the Mutual Administrative Assistance in Tax Matters Act, No. 15 of 2014 (as amended by Act No. 18 of 2017), and all other powers thereunto him enabling.*

*(Gazetted 1<sup>st</sup> July, 2017.)*

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1. These Regulations may be cited as the Mutual Administrative Assistance in Tax Matters (Automatic Exchange of Financial Account Information) Regulations, 2017. Citation.

2. (1) In these Regulations and for the purposes of the Standard – Interpretation.

“excluded account” means:

- (a) an account as defined in subparagraphs C (17) (a) to (f) of Section VIII, the Standard; or
- (b) an account listed as an excluded account in Schedule 1 of these Regulations. Schedule 1.

“high value account” means a preexisting individual account, with an aggregate balance or value that exceeds US\$1,000,000 or its equivalent as of 31

**December 2016** or 31 December of any subsequent year;

“lower value account” means a preexisting individual account, which is not a high value account, with an aggregate balance or value as of **31 December 2016** that does not exceeds US\$1,000,000;

“new account” means a financial account maintained by reporting financial institution opened on or after **1<sup>st</sup> January 2017**, unless it is treated as a preexisting account under paragraph (b) of the definition ‘preexisting account’;

“non-reporting financial institution” means –

(a) a financial institution as defined in subparagraphs B(1)(a), (b), (d) and (e) of Section VIII of the Standard; or

Schedule 2.

(b) an entity listed in Schedule 2 of these Regulations.

Schedule 3.

“participating jurisdiction” means a jurisdiction listed in Schedule 3 of these Regulations;

“preexisting account” means –

(a) a financial account maintained by a reporting financial institution as of **31 December 2016**; or

(b) any financial account of an accountholder, regardless of the date such financial account was opened if –

(i) the account holder also holds with the reporting financial institution

(or with a related entity within the same jurisdiction as the reporting financial institution) a financial account that is a preexisting account under paragraph (a) of this definition;

- (ii) the reporting financial institution (and, as applicable, the related entity within the same jurisdiction as the reporting financial institution) treats both of the aforementioned financial accounts, and any other financial accounts of the account holder that are treated as preexisting account under this paragraph, as a single financial account for purposes of satisfying the standards of knowledge requirements set forth in paragraph A of Section VII of the Standard, and for the purposes of determining the balance or value of any of the financial accounts when applying any of the account thresholds;
- (iii) with respect to a financial account that is subject to AML/KYC procedures, the reporting financial institution is permitted to satisfy such AML/KYC procedures for the financial account by relying upon the AML/KYC procedures performed for the preexisting

account described in paragraph (a); and

- (iv) the opening of the financial account does not require the provision of new, additional or amended customer information by the account holder other than for purposes of the Standard;

“Register” means the Register of Belizean Reporting Financial Institutions kept by the Competent Authority in accordance with regulation 9;

“standardised industry coding system” means a coding system used to classify establishments by business type for purposes other than tax purposes; and

“US\$” means United States dollars, the official currency of the United States of America.

(2) For the purpose of the defined term “qualified credit card issuer” the date beginning on or before **1<sup>st</sup> January 2017** shall apply in subparagraph 8(B) of Section VIII B of the Standard.

(3) In these Regulations, other words and expression used herein shall have the meaning respectively assigned to them in the Act or the Standard.

**Due diligence obligation.**

3. (1) For the purposes of these Regulations, an account with a balance or value that is negative is deemed to have a balance or value equal to nil.

(2) In determining the balance or value of an account denominated in any currency (other than US\$) for the purposes of the Standard and these Regulations, the institution

shall convert the relevant US\$ threshold amount described in the Standard or in these Regulations into the other currency by reference to the spot rate of exchange on the date for which the institution is determining the threshold amounts.

(3) For the purposes of the Standard and these Regulations, a financial account held by an individual as a partner of a partnership is deemed to be an entity account.

4. (1) A reporting financial institution may apply, for a calendar year,–

**Modifications  
to due  
diligence  
procedures.**

- (a) the due diligence procedures for new accounts to preexisting accounts;
- (b) the due diligence procedures for high value accounts to low value accounts;
- (c) the residence address test, as described in subparagraph B (1) of Section III of the Standard, to a lower value account; or
- (d) paragraphs A to C of Section V of the Standard to determine whether a preexisting entity account is subject to the due diligence procedures described in Section V of the Standard.

(2) Where a reporting financial institution applies the due diligence procedures for a new account to a preexisting account, the procedures described in paragraph C of Section I, paragraph A of Section III and paragraph A of Section V of the Standard shall apply to the preexisting account, and, consistent with paragraph B(1) of Section III, the reporting of a single residence for a preexisting individual account is sufficient to satisfy the reporting requirements of Section 1 of the Standard.

(3) A reporting financial institution may not apply the due diligence procedures for a new account to a preexisting account unless the institution applies the procedures to all preexisting accounts it maintains or a clearly identifiable group of preexisting accounts.

(4) A reporting financial institution may, with respect to a preexisting entity account, use as documentary evidence any classification in the institution's records with respect to the account holder that was determined based on a standardised industry coding system, that was recorded by the institution consistent with its normal business practices for purposes of AML/KYC procedures or another regulatory purposes (other than for tax purposes) and that was implemented by the institution prior to the date used to classify the financial account as a preexisting entity account, provided that the institution does not know or does not have reason to know that such classification is incorrect or unreliable.

(5) With respect to new entity accounts, for the purposes of determining whether a controlling person of a passive non-financial entity is a reportable person, a reporting financial institution may only rely on a self-certification from either the account holder or the controlling person.

(6) For the purposes of regulation 3, the Standard is to be read as if paragraph B of Section VII of the Standard is read as follows:

“Alternative procedures for financial account held by individual beneficiaries of a cash value insurance contract or an annuity contract and for a group cash value insurance contract or group annuity contract,

(a) A reporting financial institution may presume that an individual beneficiary (other than the

owner) of a cash value insurance contract or an annuity contract receiving a death benefit is not a reportable person and may treat such financial account as other than a reportable account unless the reporting financial institution has actual knowledge, or reason to know, that the beneficiary is a reportable person.

- (b)** A reporting financial institution has reason to know that a beneficiary of a cash value insurance contract or an annuity contract is a reportable person if the information collected by the reporting financial institution and associated with the beneficiary contains indicia as described in paragraph B of Section III.
- (c)** If a reporting financial institution has actual knowledge, or reason to know, that the beneficiary is a reportable person, the reporting financial institution must follow the procedures in paragraph B of Section III.
- (d)** A reporting financial institution may treat a financial account that is a member's interest in a group cash value insurance contract or group annuity contract as a financial account that is not a reportable account until the date on which an amount is payable to the employee or certificate holder or beneficiary, if the financial account that is a member's interest in a group cash value insurance contract or group annuity contract meets the following requirements:

  - (i)** the group cash value insurance contract or group annuity contract is issued to an employer and covers twenty-five or more employees or certificate holders;



5. (1) In making a notification pursuant to section 14(3) of the Act, the reporting financial institution shall also provide the competent authority with the following information –

Information to be notified.

- (a) the name of the reporting financial institution;
- (b) the categorisation of the reporting financial institution as determined in accordance with the Standard;
- (c) the full name, address, designation and contact details of the individual authorised by the reporting financial institution to be the reporting financial institution’s principal point of contact for all purposes of compliance with Part III of the Act and the Standard;
- (d) any other information that the competent authority determines to be relevant.

(2) The information pursuant to subregulation (1) shall be notified on the e-platform available on the website of the Commissioner of Income Tax.

(3) Any changes to the information under subregulation (1) shall be amended on the e-platform by the reporting financial institution immediately.

6. (1) A reporting financial institution shall, in respect of the year 2017 and every subsequent calendar year, file with the Competent Authority an information return setting out the information required to be reported as described in paragraphs A and B of Section I of the Standard, subject to paragraphs C to E in Section I of the Standard, in relation to every reportable account that is maintained by the financial institution at any time during the calendar year.

Reporting obligations and CRS data format.

(2) If a reporting financial institution applies the due diligence procedures described in regulation 3 for a calendar year and no account is identified as a reportable account, the institution shall file an information return which provides that the institution maintained no such reportable accounts in respect of that year.

(3) An information return, required to be filed under this regulation, shall be submitted electronically in accordance with regulation 7 on or before 31<sup>st</sup> March of the year following the calendar year to which the return relates.

(4) A reporting financial institution shall file an information return to the Competent Authority of Belize in accordance with the OECD's CRS XML Schema v1.0.

(5) The Competent Authority shall develop an IT system to collect and exchange the CRS information using its e-platform for accessibility by reporting financial institution.

Dates for  
completion of  
due diligence.

7. (1) A Belizean Reporting financial institution shall apply the due diligence procedures contained in the CRS to identify the Financial Accounts held by an Account Holder who is not a resident of Belize.

(2) A Belizean Reporting financial institution shall have completed the review of its preexisting accounts –

(a) by the 31st December 2016 for high value individual accounts;

(b) by 31st December 2016 for lower value individual accounts;

(c) by 31st December 2018 for preexisting entity accounts which aggregate account balance or

value exceeds USD250,000 as of 31<sup>st</sup> December 2016;and

- (d)** In respect of preexisting entity accounts which aggregate account balance or value did not exceed USD250,000 as of 31 December2016 but which aggregate account balance or value exceeds USD250,000 as of 31<sup>st</sup>December of a subsequent year, within the calendar year following the end of the year in which the preexisting account which aggregate balance or value exceeds USD250,000.

8. (1) An information return, required to be made under sections 11 or 12 of the Act, shall be filed electronically using such technology as may be approved or provided by the Competent Authority in accordance with regulation 6(4).

Electronic  
return system.

(2) A return which is made otherwise than in accordance with this regulation shall be treated as not having been made.

(3) The Competent Authority shall ensure that the approved electronic system incorporates an electronic validation process.

(4) Unless the contrary is proved –

**(a)** the use of an electronic return system is presumed to have resulted in the making of the return only if this has been successfully recorded as such by the relevant electronic validation process;

**(b)** the time of making the return is presumed to be the time recorded as such by the relevant electronic validation process;

- (c) the person delivering the return is presumed to be the person identified as such by any relevant feature of the electronic return system.

(5) A return made on behalf of a reporting financial institution is taken to have been made by that financial institution, unless the financial institution proves that the return was made without the financial institution's authority.

**Records.**

9. (1) Every reporting financial institution shall keep records that the institution obtains or creates for complying with these Regulations, including self-certifications and records of documentary evidence.

(2) Every reporting financial institution required by these Regulations to keep records that does so electronically shall retain them in an electronically readable format for the retention period specified in subregulation (4).

(3) Every reporting financial institution that obtains or creates records, as required under these Regulations, in a language other than English shall, upon request, provide an English translation to the Competent Authority.

(4) Every reporting financial institution that is required to keep, obtain or create records under these Regulations shall retain records for a period of at least six years following –

- (a) in the case of self-certification, the last day on which a financial account is open; and
- (b) in any other case, the end of the last calendar year in respect of which the record relates.

**Duty of  
Competent  
Authority to  
keep Register.**

10. The Competent Authority shall maintain an up-to-date Register of Belizean Reporting Financial Institutions mentioned in regulation 5(1) and shall make it

available for verification to the public on demand and on payment of a fee approved by the Competent Authority.

11. (1) The Competent Authority may, by notice in writing, require a financial institution to give the Competent Authority within such time, not being less than fourteen days, as may be provided by the notice, such information (including copies of any relevant books, records or other documents) as the Competent Authority may reasonably require for any purpose relating to the administration or enforcement of these Regulations.

**Inspection of books, etc, and provisions of information and assistance.**

(2) The Competent Authority may require a financial institution to –

- (a) produce books, records or other documentation;
- (b) provide information, explanations and particulars; and
- (c) give all assistance which the Competent Authority may reasonable require relating to the administration or enforcement of these Regulations.

(3) The Competent Authority may make extracts from or copies of all or any part of the books, records or other documents made available to the Competent Authority or require that copies of books, records or other documents be made available to the Competent Authority for any purpose relating to the administration or enforcement of these Regulations.

(4) The audit and ancillary powers pursuant to section 33 of the Income and Business Tax Act shall, where applicable, be administered in addition to the powers set out in this regulation in respect of the inspection of books.

**CAP. 55.**

Impeding or obstructing of the competent authority.

12. The administrative penalty pursuant to section 20(4) of the Act shall apply in the following circumstances:

- (a) where any person obstructs or impedes or insults or molests the competent authority or other officer lawfully authorised by the Act or Regulations in the discharge of his duties or in his official capacity or in the exercise of his powers;
- (b) where a person fails, without reasonable excuse, to provide such reasonable assistance as the competent authority or other officer lawfully authorised by the Act or Regulations may require when the competent authority or other officer is exercising his or her powers under section 16 of the Act;
- (c) where a person intentionally alters, suppresses or destroys any financial account information that has been specified in a notice under section 16(3) of the Act.

**SCHEDULE 1**

**[Regulation 2(1)(b)  
CRS Section VIII C 17 (g)]**

**EXCLUDED ACCOUNTS**

For the purposes of the CRS the following are excluded accounts:

**Certain Retirement Accounts or Products**

1. Pension schemes under the Pensions Act, Chapter 30 of the Laws of Belize, Revised Edition 2011 or the Social Security Act, Chapter 44 of the Laws of Belize, Revised Edition 2011.
2. Any other retirement account.

**Certain Tax-favoured Accounts and Products**

3. Tax Exempt Savings Plans issued by a Non-Governmental Organisation, or Cooperative Society within the meaning of the Non-Governmental Organisations Act, Chapter 315 of the Laws of Belize, Revised Edition 2011; or the Cooperative Societies Act, Chapter 313 of the Laws of Belize, Revised Edition 2011.
4. (1) A dormant account (other than an annuity contract) with a balance that does not exceed US\$1,000.
  - (2) An account is a dormant account if—
    - (a) the account holder has not initiated a transaction with regard to the account or any other account held by the account holder with the reporting financial institution in the previous three years,
    - (b) the account holder has not communicated with the reporting financial institution regarding the account or any other account

held by the account holder with the reporting financial institution in the previous six years,

- (c) the account is treated as a dormant account under the reporting financial institutions normal operating procedures, and
- (d) in the case of a cash value insurance contract, the reporting financial institution has not communicated with the account holder regarding the account or any other account held by the account holder with the reporting financial institution in the previous six years.

## SCHEDULE 2

**[Regulation 2(1)  
CRS Section VIII B 1 (c)]**

### **NON-REPORTING FINANCIAL INSTITUTION**

The following entities are treated as Non-Reporting Financial Institutions for CRS purposes:

#### **A. Governmental Entity**

The Government of Belize, any District, village, or any wholly owned agency of Belize. This category is comprised of –

1. any person, organization, agency, bureau, fund, or other body, however designated, that constitutes a governing authority of Belize. The net earnings of the governing authority must be credited to its own account or to other accounts of Belize, with no portion inuring to the benefit of any private person.

2. An entity that is separate in form from Belize or that otherwise constitutes a separate juridical entity, if the –
  - (a) entity is wholly owned and controlled by one or more Governmental entities directly or through one or more controlled entities;
  - (b) entity's net earnings are credited to its own account or to the accounts of one or more Governmental entities, with no portion of its income inuring to the benefit of any private person; and
  - (c) entity's assets vest in one or more Governmental entities upon dissolution.
3. Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental program, and the program activities are performed for the public with respect to the common welfare or relate to the administration of some phase of government. Notwithstanding the foregoing, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a governmental entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons.

**B. International Organization**

Any international organization or wholly owned agency thereof will be treated as a Non-Reporting Financial Institution. This category will include any intergovernmental organization (including a supranational organization) –

- (i) that is comprised primarily of governments;
- (ii) that has in effect a headquarters agreement or substantially similar agreement with Belize; and
- (iii) the income of which does not inure to the benefit of private persons.

**C. Central Bank of Belize.**

The institution that is established by the Central Bank Act of Belize, Chapter 262 of the Laws of Belize, Revised Edition 2011.

**D. Low-risk Non-Reporting Financial Institutions**

A Financial Institution can also be a Non-Reporting Financial Institution, provided that –

- (i) the Financial Institution presents a low risk of being used to evade tax, the low risk factors being –
  - (a) the Financial Institution is subject to regulation.
  - (b) information reporting by the Financial Institution to the tax authorities is required.
- (ii) the Financial Institution has substantially similar characteristics to any of the Financial Institutions described in paragraph D(i)(a) above;

- (iii) the Financial Institution is included in this list as a Non-Reporting Financial Institution; and
- (iv) the status of the Financial Institution as a Non-Reporting Financial Institution does not frustrate the purposes of the Common Reporting Standard.

### **E. Trustee-Documented Trust**

A domestic trust that is a Financial Institution is a Non-Reporting Financial Institution to the extent that the trustee of the trust is a Reporting Belizean Financial Institution and reports all information required to be reported pursuant to the Standard with respect to all Reportable Accounts of the trust.

### **F. Investment Advisers and Investment Managers**

Under the terms of the Standard, Investment Advisers and Investment Managers may be a Financial Institution solely because they render investment advice to, or on behalf of a customer for the purposes of investing, managing or administering funds deposited in the name of the customer.

An Investment Entity established in Belize that is a Financial Institution solely because it –

1. renders investment advice to, and acts on behalf of, or
2. manages portfolios for, and acts on behalf of, a customer for the purposes of investing, managing, or administering funds deposited in the name of the customer with a Financial Institution, other than a Non-Participating Financial Institution, will be regarded as a non-reporting Financial Institution.

Investment advisers, who solely render investment advice to customers and do not otherwise undertake investment services or maintain financial accounts, are likely to be NFEs as they are service providers and will not meet the “financial assets” test.

**SCHEDULE 3****[Regulation 2(1)]****PARTICIPATING JURISDICTION**

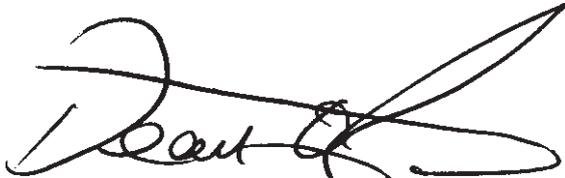
For the purposes of the Standard, the following are Participating Jurisdictions:

1. Antigua and Barbuda
2. Argentina
3. Aruba
4. Austria
5. Australia
6. Barbados
7. Belgium
8. Bermuda
9. Brazil
10. British Virgin Islands
11. Bulgaria
12. Canada
13. Cayman Islands
14. Chile
15. China (People's Republic of)
16. Colombia
17. Costa Rica
18. Cook Islands
19. Croatia
20. Curacao
21. Cyprus
22. Czech Republic
23. Denmark
24. Dominica
25. Estonia
26. Faroe Islands
27. Finland
28. France
29. Germany
30. Gibraltar

31. Greece
32. Greenland
33. Grenada
34. Guernsey
35. Hungary
36. Iceland
37. India
38. Indonesia
39. Ireland
40. Isle of Man
41. Israel
42. Italy
43. Jamaica
44. Japan
45. Jersey
46. Korea
47. Kuwait
48. Latvia
49. Liechtenstein
50. Luxembourg
51. Malaysia
52. Malta
53. Mauritius
54. Mexico
55. Montserrat
56. Netherlands
57. New Zealand
58. Norway
59. Panama
60. Poland
61. Portugal
62. Romania
63. Russian Federation
64. Saint Kitts and Nevis
65. Saint Lucia
66. Saint Vincent and the Grenadines
67. Saudi Arabia
68. Seychelles

69. Sint Maarten
70. Slovak Republic
71. Slovenia
72. South Africa
73. Spain
74. Sweden
75. Switzerland
76. Trinidad and Tobago
77. Turks and Caicos Islands
78. United Kingdom
79. Uruguay
80. Vanuatu

**MADE** by the Minister responsible for Mutual Administrative Assistance in Tax Matters this 26<sup>th</sup> day of June, 2017.

A handwritten signature in black ink, appearing to read 'Dean O. Barrow', with a large, sweeping flourish extending to the right.

**(RT. HON. DEAN O. BARROW)**

*Prime Minister and Minister of Finance & Natural Resources  
(Minister responsible for Mutual Administrative Assistance in Tax Matters)*