



Ministry of Finance, Trade and Economic Planning  
Liberty House, P.O Box 313/ Victoria/ Mahé, Seychelles

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# Circular to Seychelles Reporting Financial Institutions 2017-1

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## Amendments to the Revenue Administration (Common Reporting Standards) Regulations, 2016.

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### I/ Background

By 30<sup>th</sup> June 2017, all reporting Financial Institutions (FI) will have to submit to the Seychelles Revenue Commission certain information on financial accounts held by reportable non-resident in Seychelles. During discussions with the Industry, certain amendments were proposed and agreed on. In addition to this, some updates that were notified to Seychelles early 2017 have to be added to the regulations as well.

In order for the Industry to be better armed to prepare for the upcoming amendments, the Ministry of Finance would like to release this circular to inform them of the details of such amendments.

### II/ Amendments

***a) Amendment to the regulation 9 in order to penalize a recalcitrant account holder.***

In considering this amendment, we have requested views of the Industry and did not receive any feedbacks, therefore decision was made to align the treatment of a recalcitrant account holder for CRS with the treatment of a recalcitrant account holder for AML: closure of the business relationship

between the reporting FI and the recalcitrant account holder when one exists and no opening of the same business relationship when the account holder is a new client.

In addition, it is to be noted that the penal code already provides for a punishment of 3 years of imprisonment if an account holder makes a false declaration. The FI will have to take legal proceedings if they want to.

The wording proposed for the amendment is as following-

***9 (4) where in relation to identifying any reportable account, a reporting Seychelles Financial Institution is unable to apply any of the due diligence measures stated under Schedule I of these Regulations, the reporting Seychelles Financial Institution shall-***

- (a) Not carry out a transaction with or for the person in relation to whom the due diligence measures shall have applied through a financial account.***
- (b) Not establish a business relationship or carry out a one off transaction with the person in relation to whom the due diligence shall have applied;***
- (c) Terminate any existing business relationship with the person in relation to whom the due diligence shall have applied.***

***b) Remove the employees from the list of people being personally liable in case of negligence leading to an incorrect reporting***

We have finally reconsidered this aspect and the Ministry of Finance, trade and Economic Planning accepts to delete the regulations 9(2) and 9(3) of the Regulations.

***c) Nil return***

We agreed to this, and the regulation 6 will be deleted.

***d) Inclusion of the option number 16 for reporting information on a trust which is a passive NFE only at the time of distribution***

It is proposed to reflect this option in inserting an item G in Part II, General Due Diligence requirements.

**G.**

- 1. A Seychelles reporting financial institution which holds the account of a trust which is a passive NFE may consider a discretionary beneficiary of the trust a controlling person who is reportable only the year in which the said beneficiary receives a distribution from the trust.***

2. ***When a reporting financial institution opts for G(1), it must ensure it has all appropriate procedures in place to identify when a distribution is made to a discretionary beneficiary as a controlling person.***

***e) Amendment to regulation 4 in order to clarify that the commentaries to the Standards as appearing in the book “Standard for Automatic exchange of financial account information in tax matters” published by the OECD have in whole force of law in Seychelles.***

For clarity purposes, we want to confirm that in all contexts, the commentaries will have force of law in Seychelles. An amendment is therefore proposed as following-

4. **(3) For clarity purposes, all terms and requirements contained in the Common Reporting Standard as defined in regulation 3, constitute an integral part of these Regulations and unless the context otherwise requires, shall have the same binding effect as if they were stated in these Regulations.**

***f) Amendment to regulation 3 “active NFE” (a) to remove the “or” of the second sentence and amendment to Part I-A- replace C with B in the first sentence.***

These amendments are minor amendments that were brought to our attention by the assessors during the assessment of our legislative framework.

***g) Amendment of the Schedule 4 of the Regulations to update the list of Participating jurisdictions***

In the Seychelles context, the participating jurisdictions are the jurisdictions which have signed the Multilateral Competent Authority agreement and the Multilateral Convention on Mutual administrative assistance in tax matters. These will include all our reportable jurisdictions, the non-reciprocal and those who meet the criteria of having signed the above mentioned instruments and committed in 2018. Find in Annex A, Part I the updated list of participating jurisdictions.

***h) Amendment of the Schedule 5 of the Regulations to update the reportable jurisdictions***

The amendment required is necessary to ensure that the FI do report to SRC on the correct account holders. Indeed, only certain accounts will be reportable and these are the accounts held by account holders who are resident in a reportable jurisdiction. In the Seychelles context, a reportable jurisdiction is a jurisdiction which has committed to automatically exchange information with

Seychelles in 2017 and who has signed all legal instruments to give effect to such exchange by September 2017. In addition, this jurisdiction would have requested to have an AEOI relationship with Seychelles. By a mechanism of cross matching of all notifications, each jurisdiction receives a list of treaty partners. It is to be noted that the jurisdictions which met these criteria but which have not passed the confidentiality assessment test will not be considered as reportable jurisdiction until they pass the test.

For clarity purposes, the list of reportable jurisdiction will exclude the non-reciprocal jurisdictions which are therefore not interested in information from Seychelles.

In addition, certain jurisdictions have chosen the bilateral route. To date, Seychelles has not completed any bilateral agreements on that regard and the jurisdictions having opted for such are not included.

See in Annex A, Part II the updated list of reportable jurisdictions.

# Annex A

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## I/ List of participating jurisdictions

In bold are additional participating jurisdictions.

Albania
<b>Andorra</b>
Anguilla
Antigua and Barbuda
Argentina
Aruba
Australia
Austria
Barbados
Belgium
Belize
Bermuda
British Virgin Islands
Bulgaria
Canada
Cayman Islands
Chile
China (People's republic of)
Colombia

Costa Rica
Cook Islands
Croatia
Curacao
Cyprus <sup>1</sup>
Czech Republic
Denmark
Estonia
Faroe Islands
Finland
France
Germany
Ghana
Gibraltar
Greece
<b>Greenland</b>
Grenada
Guernsey
Hungary
Iceland
India
Indonesia

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<sup>1</sup>Note by Turkey: The information in this document with reference to « Cyprus » relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

Note by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

Ireland
Isle of Man
Italy
Japan
Jersey
Korea
Latvia
Liechtenstein
Lithuania
Luxembourg
<b>Malaysia</b>
Malta
Marshall Islands
Mauritius
Mexico
<b>Monaco</b>
Montserrat
<b>Nauru</b>
Netherlands
New Zealand
Niue
Norway
Poland
Portugal
Romania

<b>Saint Kitts and Nevis</b>
Saint Lucia
Saint Vincent and the Grenadines
Samoa
San Marino
<b>Saudi Arabia</b>
Sint Maarten
Slovak Republic
Slovenia
South Africa
Spain
Sweden
Switzerland
Turks & Caicos Islands
United Kingdom
<b>Uruguay</b>

## II/ List of reportable jurisdictions

Argentina
Belgium
Bulgaria
Colombia
Czech Republic



Denmark
Estonia
Faroe Islands
Finland
France
Germany
Gibraltar
Greece
<b>Greenland</b>
Guernsey
Hungary
Iceland
India
Ireland
Isle of Man
Italy
Jersey
Korea
Latvia
Liechtenstein
Lithuania
Luxembourg
Malta
Mexico
Montserrat

Netherlands
Norway
Portugal
Romania
Slovak Republic
Slovenia
South Africa
Spain
Sweden
United Kingdom