



Ministry of Finance, Trade and the Blue Economy
Liberty House, P.O Box 313/ Victoria/ Mahé, Seychelles

Circular to Seychelles Reporting Financial Institutions

Reminder on the obligations of Seychelles reporting financial institutions and deadlines for first reporting.

I/ Background

At its 7th annual meeting, in October 2014, the Global Forum endorsed the Standard for Automatic Exchange of Financial Account Information in Tax Matters (the AEOI Standard), with a large majority of Global Forum members committing to implement the new standard and to start first exchanges in 2017 or 2018 (including almost all developed countries and financial centers).

Seychelles, which has committed to start the process of exchange in September 2017 on information pertaining to tax year 2016 shall therefore receive from reporting financial institutions the necessary information by June 2017.

The end of 2016 having been reached, the circular aims at providing a reminder to all reporting financial institutions in Seychelles of the obligations, deadlines and penalties in case of failure to abide by the Revenue Administration, (Common Reporting Standards), Regulations, 2016.

II/ Legal obligations on the Seychelles Reporting Financial Institutions

1. In accordance with the Regulations published on the 4th January 2016 under the Revenue Administration Act, 2009, Seychelles reporting financial institutions must-
 - a) Have collected certain information from **all the non-resident clients** with regards to accounts opened since 1st January 2016 up to 31st December 2017; and
 - b) Have finalized the review of the pre-existing individual high value accounts to enable them to identify any reportable accounts;
 - c) **Report the information on reportable account** by the 30th June 2017 on such accounts (new accounts or pre-existing high value accounts identified as reportable account).
2. For clarity purposes, a reportable account in Seychelles domestic law is an account which is held by a person who is resident in a jurisdiction with which Seychelles will exchange information in September 2017.
3. The information to be reported shall be as per those specified under Part I of the Regulations.

For the tax year 2017, this includes-

- i) In the case of an individual that is an account holder and a reportable person- name; address; jurisdiction of residence; TIN and date and place of birth.
- ii) In the case of an entity that is an account holder and a reportable person-name; address; jurisdiction of residence and TIN.
- iii) In the case of entity that is an account holder and that is identified as having one or more controlling persons that is a reportable person-
 - i) For the entity- name; address; jurisdiction of residence; TIN
 - ii) For the controlling person(s)- name; address; jurisdiction of residence; TIN and date and place of Birth.
- iv) For all, the account number or any equivalent such as a contract number for instance.
- v) Name and identification number (if any) of the reporting FI, such as the incorporation number in the case the FI is not issued with a TIN.
- vi) The account balance or value as of the end of the relevant calendar year, or if the account has been closed during that period, the fact that the account was closed. If the

account balance is negative, the amount reported shall be 0. For joint bank accounts, the total balance shall be reported for any of the joint account holder.

vii) For custodial accounts- The total gross amount of-

- i) Interest paid or credited to the account during the calendar year;
- ii) Dividends paid or credited to the account during the calendar year;
- iii) Other income generated with respect to the assets held in the account paid or credited during the calendar year;
- iv) Proceeds from the sale or redemption of financial assets paid or credited during the calendar year where the FI acted as an agent for the account holder (including broker, nominee, custodian);

viii) For depositary accounts- Total gross amount of interest paid or credited to the account during the calendar year

ix) For other accounts than custodian or depositary accounts- total gross amount paid or credited to the account holder with respect to the account during the calendar year where the FI is the obligor or debtor and all aggregated amount of any redemption payments made to the account holder during that calendar year.

3. The address to be reported shall be the address recorded by the Reporting Financial Institution for the account holder pursuant to the due diligence procedures which are explained in Part II to Part VI of the Regulations. In the case of an individual it should be the current address, however, if such address is not available in records, the FI can report the mailing address it has on file. In the case of an Entity, the address to be reported shall be the address of the Entity and the address of each controlling person of such entity which would be a reportable person.
4. The TIN to be reported is the TIN assigned to the account holder by its jurisdiction of residence. However, in the cases where TIN is not available because or not issued by the country of residence or not issued to such person, no reporting of TIN will be compulsory until such time that there is a change of circumstances.
5. Transitional measures exist with regards to the TIN and date of birth which should be reported for pre-existing accounts. If the TIN and date of birth is not in records of the FI and it is not either required to be collected by the FI for AML purpose, the FI shall make genuine attempts to acquire the information, at least once a year, and at the end of the second calendar year following the year of identification of the pre-existing account as a reportable account.

6. For the place of birth, it is not required to be furnished unless the AML law requires the FI to obtain and report it and it is available in the electronically searchable data of the FI. If not then, the FI shall attempt to obtain it, but failure to which, no report will be made.
7. In accordance with the manual published on the SRC website, following this link, <http://www.src.gov.sc/resources/Guides/FATCA-Registration%20Guide.pdf> a reporting financial institution shall register and submit the information by the 30th June 2017 to SRC following the set path.
8. In order to evidence that the correct review of accounts in accordance with the set due diligence rules were carried on and that therefore the identification or not of reportable accounts is accurate, the reporting financial institution shall make sure that it has kept all the records which will establish that the information submitted to the Seychelles Revenue Commission in furtherance of the reporting requirements as stated under the Regulations are accurate and complete.

II/ Penalties for non compliance

9. A Seychelles Reporting FI which would have failed-
 - a) to comply with a request of information made by the Revenue Commissioner under regulation 11;
 - b) to report any information in the form and manner as stated under these regulations;
 - c) fraudulently or negligently makes a false report whether it is its entirety or in any particular part;
 - d) to implement such arrangements or procedures in order to comply with the reporting requirements under the regulations;
 - e) with intent to avoid the provisions of the regulations, alters, destroys, or removes any documents or information, including document and information electronically held; or
 - f) intentionally obstructs an inquiry by the Revenue Commissioner under the curse of its functions for the implementation of the regulations,-is liable on conviction to a fine of SR20,000.
10. For clarity purposes, the application of such fine is clearly linked to a certain behavior from the FI. Should the Reporting FI be in a position to demonstrate that all steps were taken to abide by the requirements, and that the failure is not the result of fraudulent intention, or negligence, the fine could be reviewed. However, this will be assessed on a case by case basis and needs to be firmly evidenced by the failing reporting FI.

III/ Amendments to be proposed to become effective early 2017.

11. Certain provisions of the Regulations need to be reviewed-
 - a) Amendment of regulation 6 of the Regulations to remove the obligation to lodge a nil return.
 - b) Amendment of regulation 9 of the Regulations to clarify-
 - i) the risk for a recalcitrant account holder and therefore align the treatment of the AML Act requirements with the tax ones. The business relationship will therefore have to stop.
 - ii) clarify that only willful intent to circumvent the standards will justify the application of the SR20,000/- fine at an individual level- director; secretary; manager.
 - c) Amendment in order to ensure that there will be no reporting of a discretionary beneficiary until such time the beneficiary has received a distribution from the Trust, which is a passive NFE.
 - d) Amendment to regulation 4 in order to clarify that the commentaries to the Standards as appearing in the purple book have in whole force of law in Seychelles.
 - e) Amendment to regulation 3 “active NFE” (a) to remove the “or” of the second sentence.
 - f) Amendment to Part I-A- replace C with B in the first sentence.
 - g) Amendment of the Schedule 5 of the Regulations to update the reportable jurisdictions.