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## COMMON REPORTING STANDARD (CRS) THE STANDARD

- New single global standard for the automatic exchange of information between tax authorities world-wide which builds on the **FATCA IGA** to maximize efficiency and minimize cost.
  
- The Standard, developed in response to a G20 request, jointly with the **Global Forum on Transparency and Exchange of Information for Tax Purposes** and approved by the **OECD Council** on 15 July 2014, calls on jurisdictions to obtain information from their financial institutions and automatically exchange that information with other jurisdictions on an annual basis under a **Global FATCA** type regime. It sets out the financial account information to be exchanged, the financial institutions required to report, the different types of accounts and taxpayers covered, as well as common due diligence procedures to be followed by financial institutions.
  
- The Standard consists of the following **elements**:
  1. The **Common Reporting Standard (CRS)** that contains the due diligence rules for financial institutions to follow to collect and then report the information, that underpin the automatic exchange of financial information;
  2. The **Model Competent Authority Agreement** (herein the “CAA”) that links the CRS to the legal basis for exchange, specifying the financial information to be exchanged;
  3. The **Commentaries** that illustrate and interpret the CAA and the CRS; and Guidance on technical solutions, including an XML schema to be used for exchanging the information and standards in relation to data safeguards and confidentiality, transmission and encryption.



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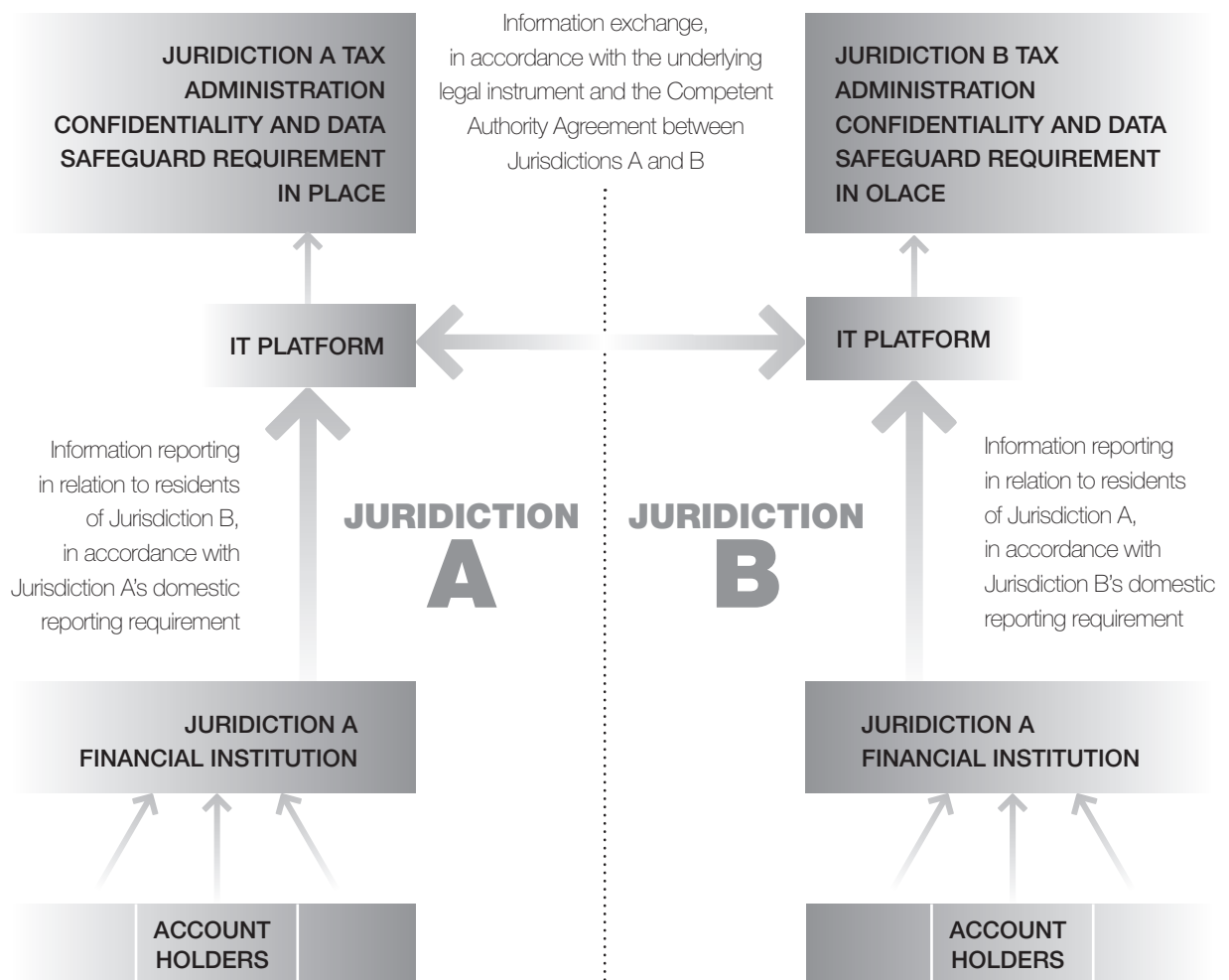
- The OECD published the first edition of the **CRS Implementation Handbook** in August 2015 (<http://www.oecd.org/ctp/exchange-of-tax-information/implementation-handbook-standard-for-automatic-exchange-of-financial-information-in-tax-matters.pdf>), which provides a practical guide to implementing the CRS to both government officials and financial institutions and includes a comparison between the **CRS and FATCA**, as well as a regularly updated list of **Frequently Asked Questions**.
  
- In October 2015, the **Portal on Automatic Exchange of Information** was launched (<http://www.oecd.org/tax/automatic-exchange/>).
  
- The **Automatic Exchange of Information (AEOI)** portal contains information on:
  1. About the Automatic Exchange of Information
  2. Common Reporting Standard (CRS)
  3. International Framework for the CRS
  4. CRS Implementation and Assistance
  5. Commitment and Monitoring Process
  
- As of December 2015, there are a total of 97 **Jurisdictions** that have committed. The **Early Adopters Group** has 56 Jurisdictions that will undertake their first exchange by 2017 (based on information on 2016). The remaining 41 Jurisdictions will exchange information by 2018 (based on information on 2017).



## This is the framework

Financial Institutions report information to the tax administration in the jurisdiction in which they are located. The information consists of details of financial assets they hold on behalf of taxpayers from jurisdictions with which their tax administration exchanges information. The tax administrations then exchange that information.

### THE RECIPROCAL AUTOMATIC EXCHANGE



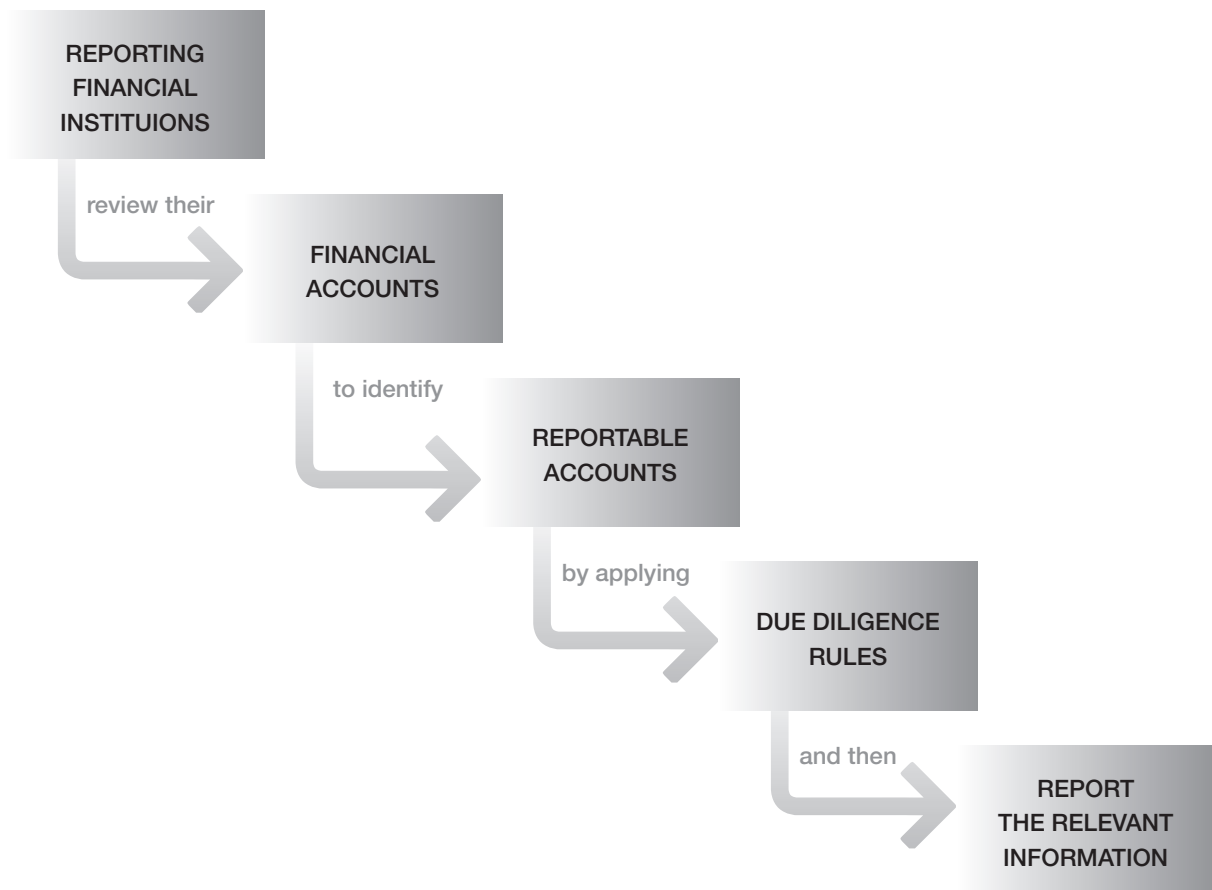


## These are the steps

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### AN OVERVIEW OF THE COMMON REPORTING STANDARD

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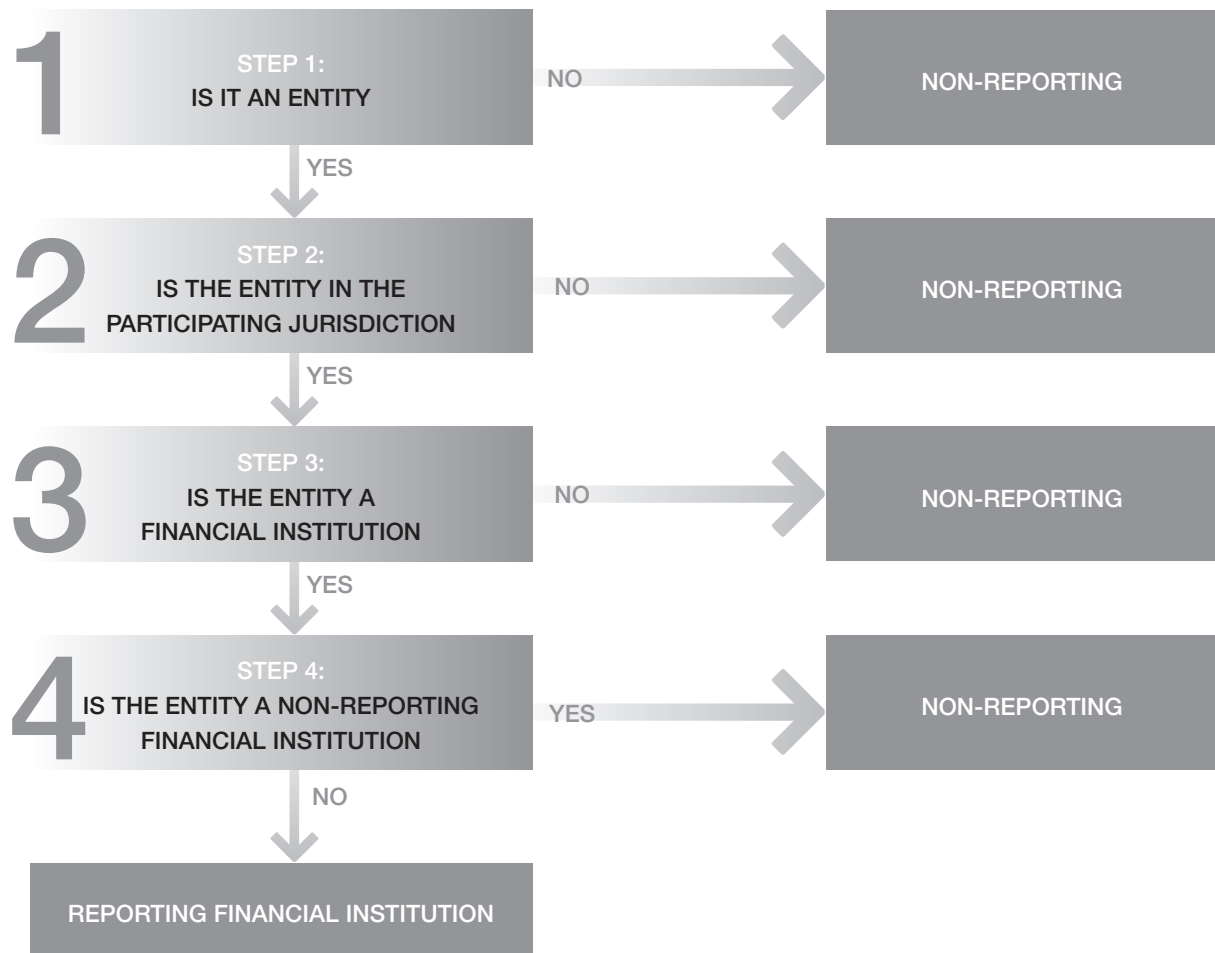


Financial Institutions that are required to collect and report the information are known as **Reporting Financial Institutions**. Rules defining Reporting Financial Institutions are built around a 4 Step Test.



**STEP 1: IS IT AN ENTITY?**

**THE STEPS TO IDENTIFY A REPORTING FINANCIAL INSTITUTION**



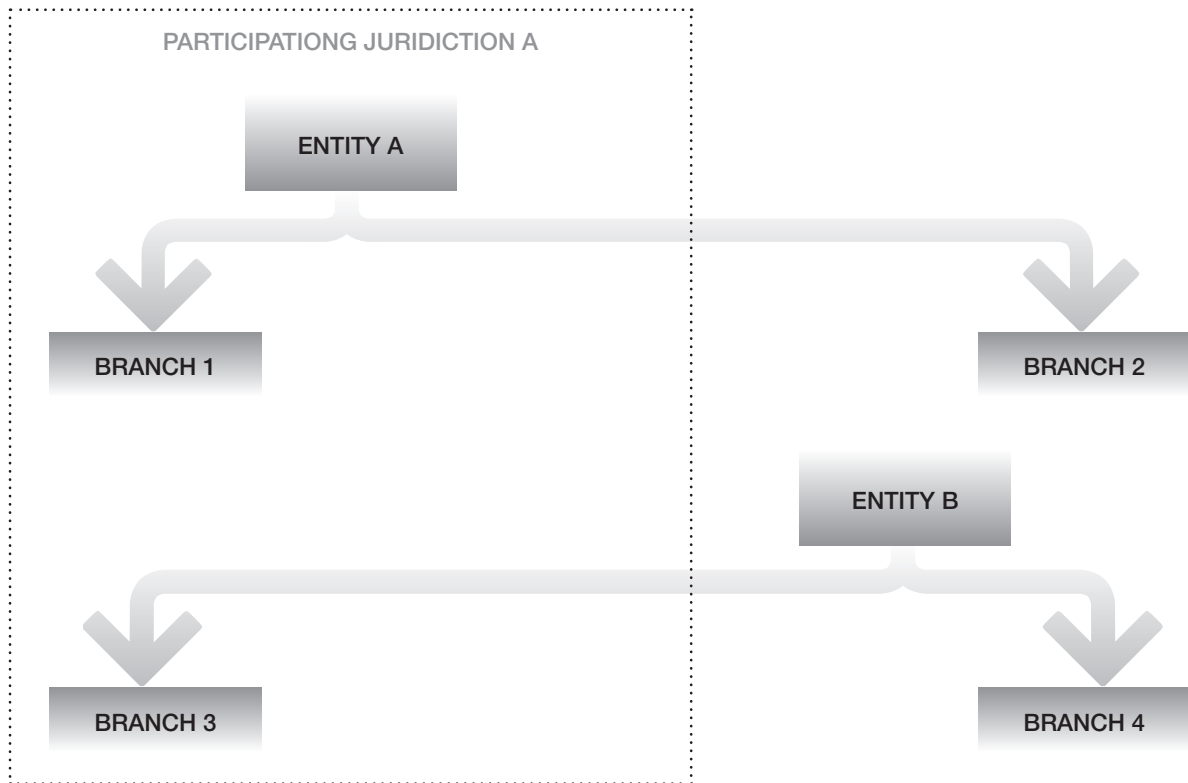
Only **Entities** can be reporting Financial Institutions. Definition consists of legal persons and legal arrangements – such as corporations, partnerships, trusts and foundations. Individuals, including sole proprietorships, are excluded from the definition of Reporting Financial Institutions.



**STEP 2: IS THE ENTITY IN A PARTICIPATING JURISDICTION?**

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.

**REPORTING NEXUS UNDER THE CRS**



Assuming all the entities and branches are Reporting Financial Institutions, Participating Jurisdiction A will need to require Entity A, Branch 1 and Branch 3 to report information to its tax authority.



## Where an Entity is located?

### DETERMINING WHERE AN ENTITY IS LOCATED UNDER THE STANDARD

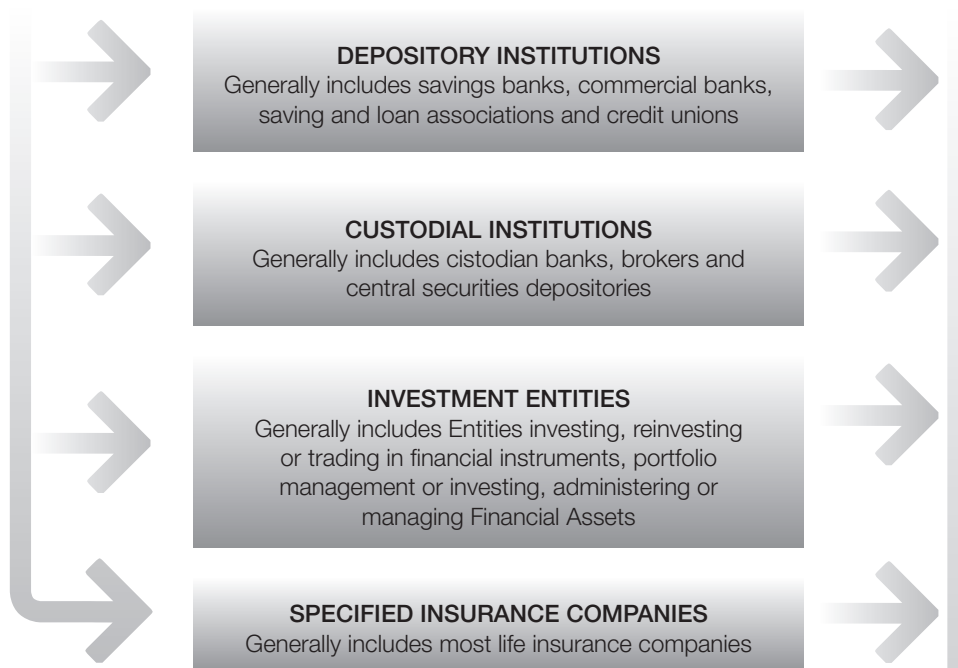
ENTITY	LOCATION UNDER THE STANDARD
Tax resident Entities	Residence for tax purposes
Non-tax resident Entities except trusts	Place where it is incorporated under the laws of, Place of management or where it is subject to financial supervision
Multiple resident Entities except trusts	Place where the accounts are maintained
Trusts	Where one or more trustees are resident, unless the required information is being reported elsewhere because the trust is treated as tax resident there



**STEP 3: IS THE ENTITY A FINANCIAL INSTITUTION?**  
**AND STEP 4: IS THE ENTITY A NON-FINANCIAL INSTITUTION?**

**FINANCIAL INSTITUTIONS THAT NEED TO REPORT**

REPORTING FINANCIAL INSTITUTIONS ARE DEFINED AS  
(STEP 3):



**BUT NOT (STEP 4):**

- NON-REPORTING**
1. Governmental Entities, and their pension funds
  2. International Organisations
  3. Central Banks
  4. Certain Retirement Funds
  5. Qualified Credit Card Issuers
  6. Exempt Collective Investment Vehicles
  7. Trustee Documented Trusts
  8. Other low-risk Financial Instruments





## Financial accounts that need to be reviewed (who maintains them?)

### WHO MAINTAINS THE FINANCIAL ACCOUNTS

<b>ACCOUNTS</b>	<b>WHICH FINANCIAL INSTITUTION IS GENERALLY CONSIDERED TO MAINTAIN THEM</b>
Depository Accounts	The Financial Institution that is obligated to make payments with respect to the account (excluding an agent of a Financial Institution)
Custodial Accounts	The Financial Institution that holds custody over the assets in the account
Equity and debt interest in certain Investment Entities	The equity or debt interest in a Financial Institution is maintained by that Financial Institution
Cash Value Insurance Contracts	The Financial Institution that is obligated to make payments with respect to the contract
Annuity Contracts	The Financial Institution that is obligated to make payments with respect to the contract



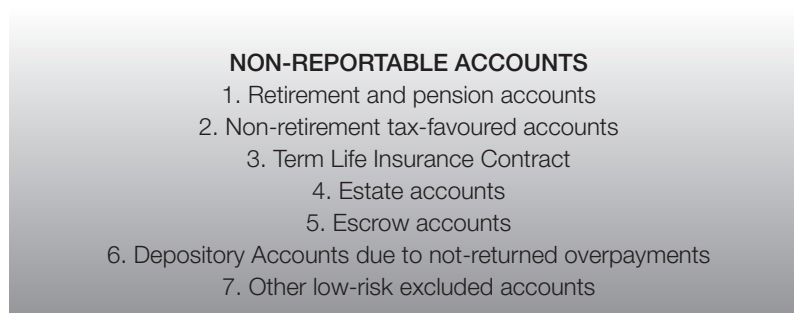
## Financial Accounts that need to be reviewed (accounts which are Financial Accounts)

### ACCOUNTS WHICH ARE FINANCIAL ACCOUNTS

#### FINANCIAL ACCOUNTS THAT NEED TO BE REVIEWED:



#### BUT NOT:

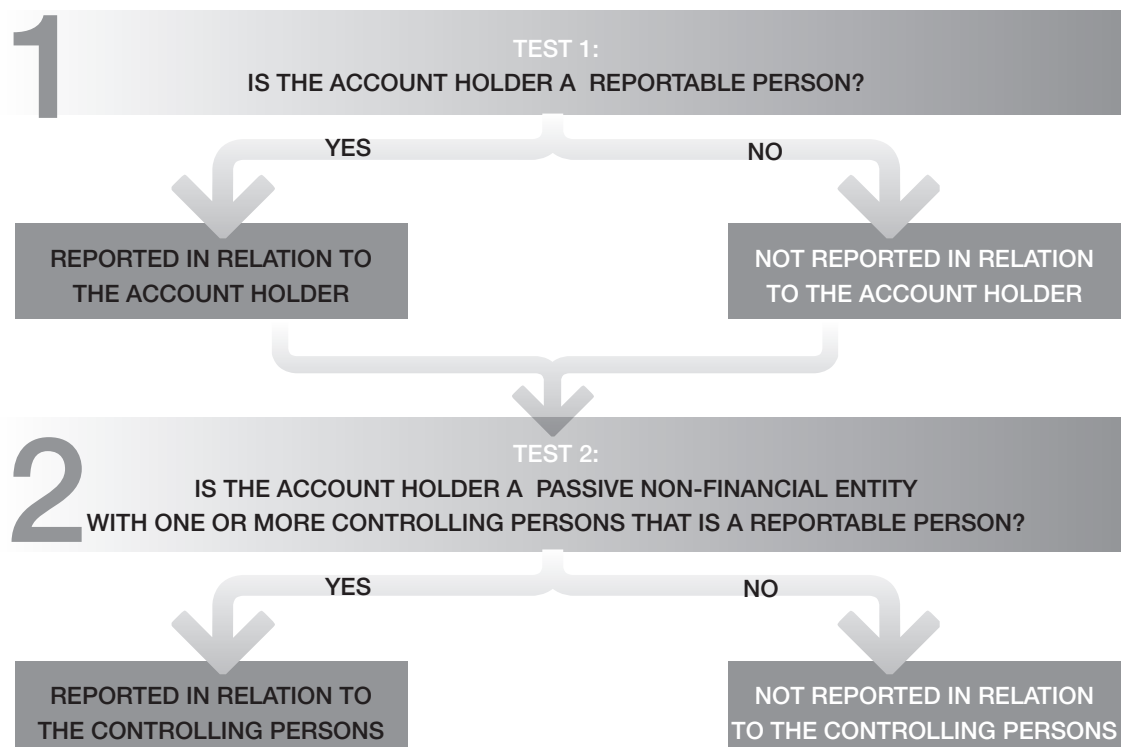




## Financial Accounts which are Reportable Accounts

- Once a Reporting Financial Institution has identified the Financial Accounts they maintain they are required to review those accounts to identify whether any of them are Reportable Accounts as defined in the CRS.
- Where they are found to be Reportable Accounts information in relation to those accounts must be reported to the tax authority.
- A **Reportable Account** is defined as an account held by one or more **Reportable Persons** or by a **Passive Non-Financial Entity** with one or more **Controlling Persons** that is a **Reportable Person**.
- Establishing this requires two tests: the **first test** is in relation to the Account Holder and the **second test** is in relation to Controlling Persons of certain Entity Account Holders.

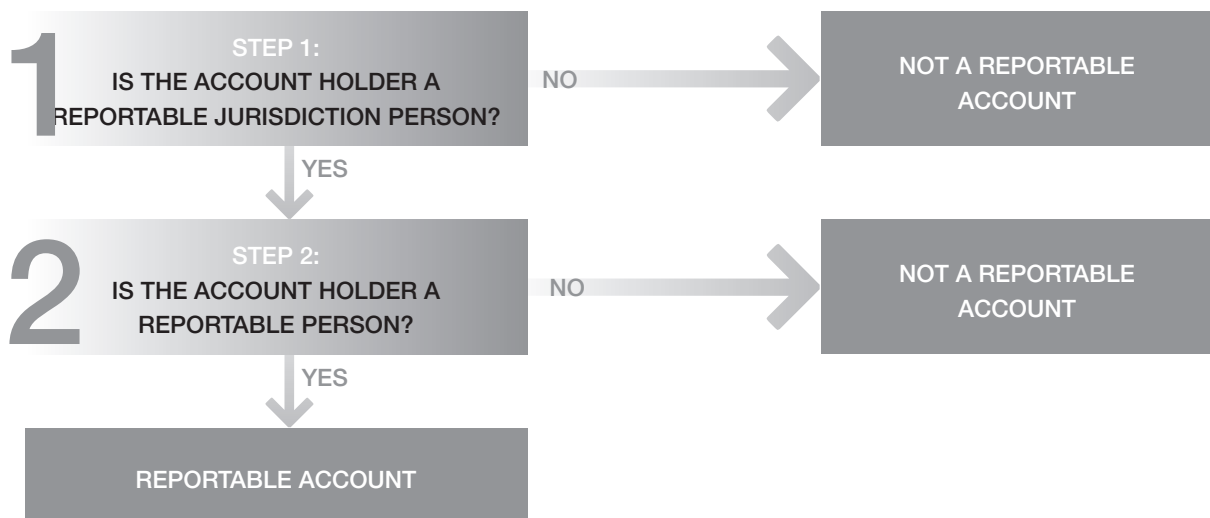
### TWO TESTS TO DETERMINE A REPORTABLE ACCOUNT





## Reportable Accounts by virtue of the Account Holder and by virtue of the Controlling Person

### REPORTABLE ACCOUNT BY VIRTUE OF THE ACCOUNT HOLDER



→ A Reportable Jurisdiction Person is an individual or Entity resident in a Reportable Jurisdiction for tax purposes under the laws of that jurisdiction (or where their effective management is if they do not have a tax residence). A Reportable Jurisdiction is a jurisdiction with which an agreement is in place, pursuant to the automatic exchange of information under the Standard.

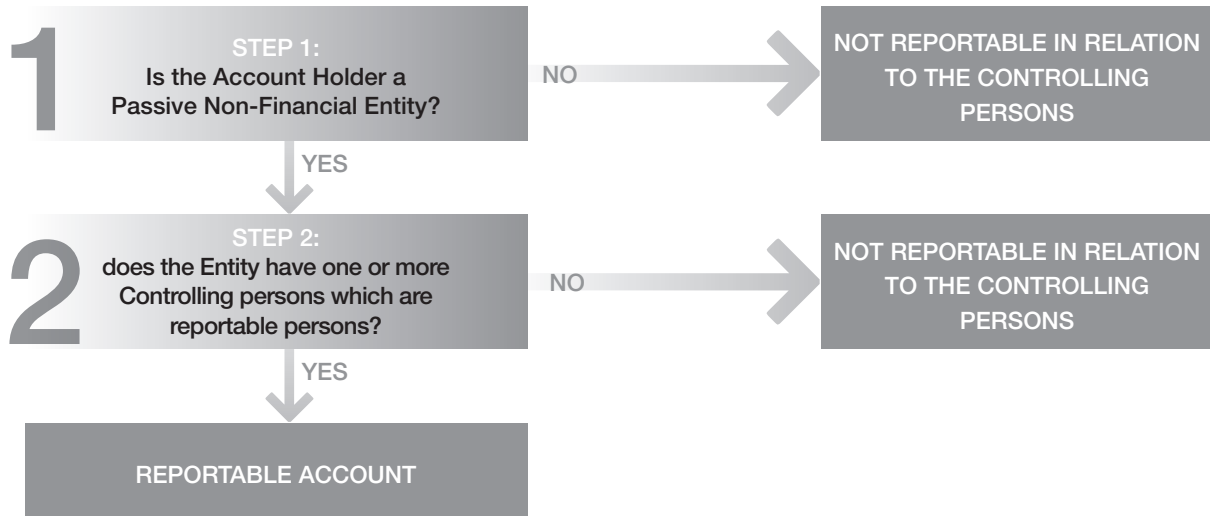
→ Each jurisdiction must publish a list of these reportable Jurisdictions.

→ A Financial Institution must check whether a Financial Account they maintain is held by a person who is resident in a jurisdiction on the published list.

→ The Reportable Jurisdiction Person will then be a Reportable Person unless specifically excluded from being so. In general, the specific exclusions are: a corporation the stock of which is regularly traded on one or more established securities markets and a Related Entity of theirs; a Governmental Entity; an International Organization; a Central Bank; or a Financial Institution (which will itself be subject to the rules and obligations contained in the Standard).



**REPORTABLE ACCOUNT BY VIRTUE OF THE CONTROLLING PERSONS**



- Regardless of whether the Financial Account is a Reportable Account by virtue of the Account Holder, there is then a second test in relation to the Controlling Persons of certain Entity Account Holders.
- This may mean that additional information is required to be reported in relation to an already Reportable Account or that a previously Non-Reportable Account becomes a Reportable Account by virtue of the Controlling Persons.
- The CRS refers to **Non-Financial Entities** by their acronym, **NFEs**. It is essentially any Entity that is not a Financial Institution. NFEs are then split into **Passive NFEs** or **Active NFEs** with additional procedures required in relation to **Passive NFEs** (reflecting the greater tax evasion risks they pose).
- The general rule is that a Passive NFE is an NFE that is not an Active NFE.
- The definition of Active NFE essentially excludes Entities that primarily receive passive income or primarily hold amounts of assets that produce **passive income** (such as dividends, interest, rents etc.), and includes entities that are publicly traded (or related to a publicly traded Entity), Governmental Entities, International Organizations, Central Banks, or a holding NFEs of nonfinancial groups.
- An exception to this is an Investment Entity that is not a Participating Jurisdiction Financial Institution, which is always treated as a Passive NFE.



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- If the Entity Account Holder is a Passive NFE then the Financial Institution must “look-through” the Entity to identify its Controlling Persons.
  
- If the Controlling Persons are Reportable Persons then information in relation to the Financial Account must be reported, including details of the Account Holder and each reportable Controlling Person.
  
- The term Controlling Persons corresponds to the term “**beneficial owner**” as described in the **Financial Action Task Force** (FATF) Recommendations.
  
- For an Entity that is a legal person, the term Controlling Persons means the natural person(s) who exercises control over the Entity, generally natural person(s) with a controlling ownership interest in the Entity.
  
- Determining a controlling ownership interest will depend on the ownership structure of the Entity and control over the Entity may be exercised by direct ownership (or shareholding) or through indirect ownership (or shareholding) of one or more intermediate Entities.
  
- Controlling Persons include any natural person that holds **directly or indirectly more than 25%** of the shares or voting rights of an Entity as a beneficial owner. If no such person exists, then any natural person that otherwise exercises control over the management of the Entity (example would be the senior managing official of the company).
  
- FATF Recommendations do not require the determination of beneficial ownership if an Entity is (or is a majority owned subsidiary of) a company that is listed on a stock exchange and is subject to market regulation and to disclosure requirements to ensure adequate transparency of beneficial ownership.
  
- In the case of a partnership and similar arrangements, Controlling Person means, consistent with ‘beneficial owner’ as described in the FATF Recommendations, any natural person who exercises control through direct or indirect ownership of the capital or profits of the partnership, voting rights in the partnership, or who otherwise exercise control over the management of the partnership or similar arrangement.
  
- In the case of a trust (and Entities equivalent to trusts), the term Controlling Persons is explicitly defined in the Standard to mean the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) exercising ultimate effective control over the trust. If the settlor, trustee, protector, or beneficiary is an Entity, the Reporting Financial Institution must identify the Controlling Persons of such Entity in accordance with FATF Recommendations.



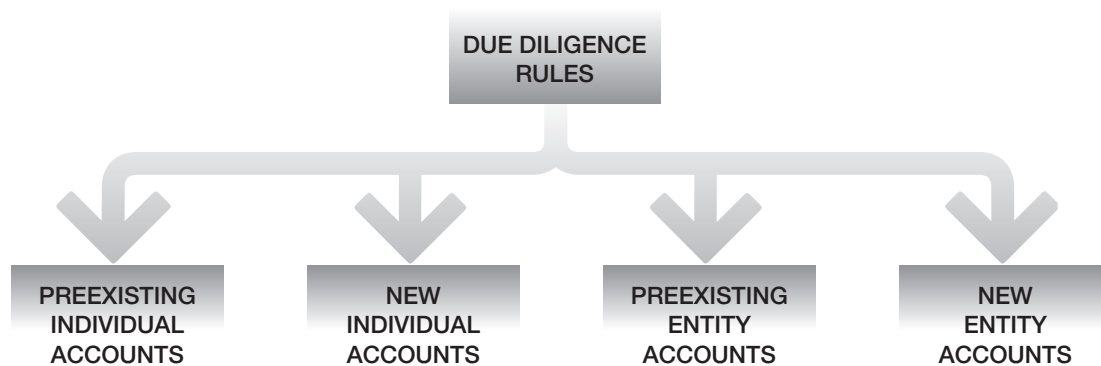
## Due Diligence Procedures

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There are different rules for accounts held by Individuals and Entities as well as for **Preexisting** and **New Accounts**.

### THE DIFFERENT DUE DILIGENCE PROCEDURES THAT APPLY

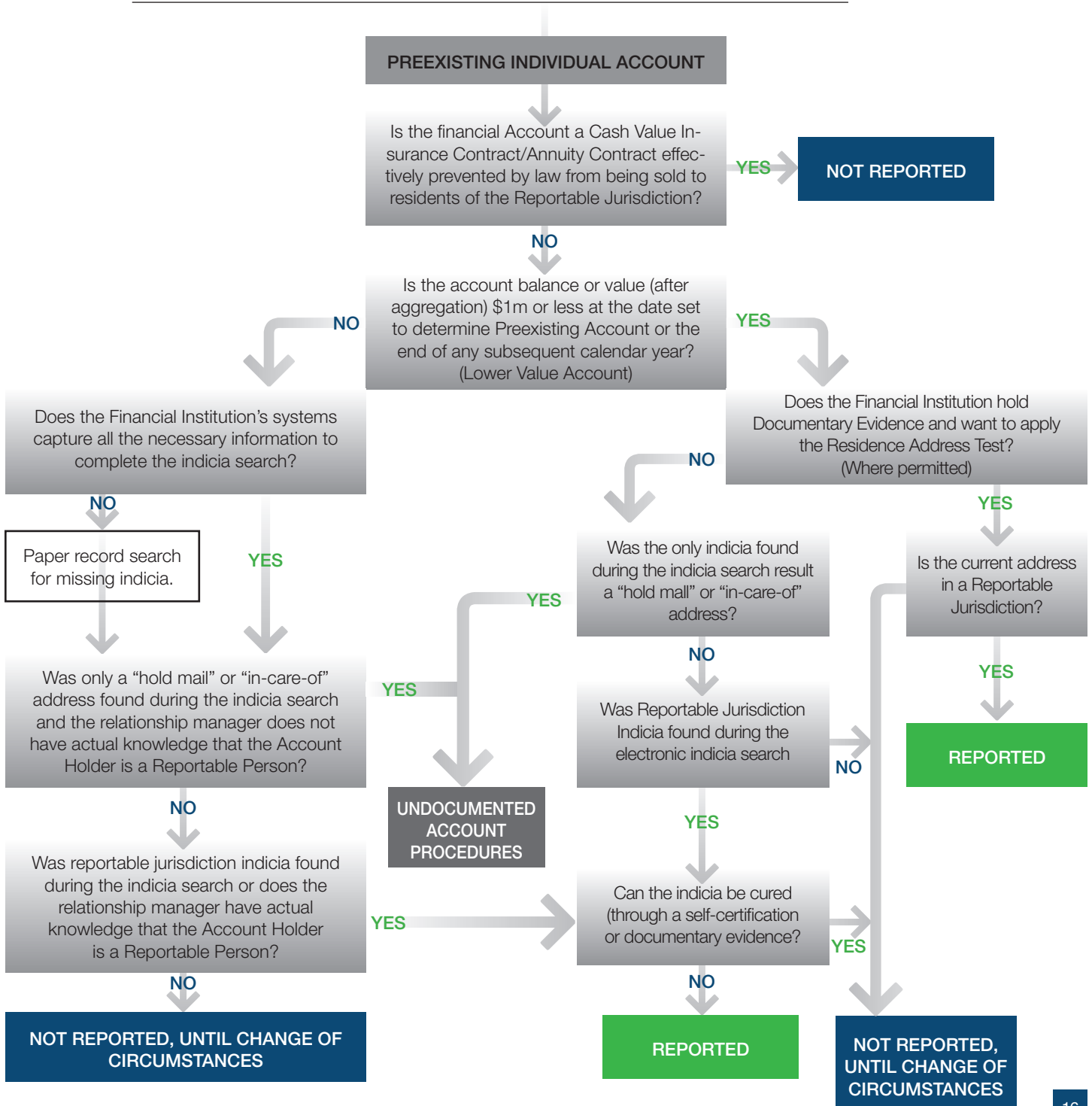
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- One of the key decisions for implementing jurisdictions is the date from which the New Account procedures will apply.
- This is the date from which persons that open New Accounts will generally be required to provide additional information for Financial Institutions to determine where they are tax resident.
- For accounts opened prior to this date, Financial Institutions will generally be allowed to rely on the information they hold on file.
- Those jurisdictions that have committed to be Early Adopters of the Standard have selected 1 January 2016 as the date from which the Financial Institutions in their jurisdiction will apply the New Account procedures (with any account open at 31 December 2015 being subject to the procedures in relation to Preexisting Accounts).



**DUE DILIGENCE PROCEDURES FOR PREEXISTING INDIVIDUAL ACCOUNTS**







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## Notes on Due Diligence for Preexisting Individual Accounts

- **A balance or value of \$1m or less** at the point of review (starting on 12/31 in the year that defines Preexisting Accounts, which is the day before the start date for the procedures for New Accounts, and each year thereafter) means that the account **is a Lower Value Account**.
  
- For Lower Value Accounts jurisdictions have the option to allow for or compel Reporting Financial Institutions to apply the **residence address test** rather than the **electronic record search**.
  
- The residence address test provides a simplified approach to the due diligence procedure and builds on the approach used in the EU Savings Directive. Essentially, where the Reporting Financial Institution has on its records a current residence address for the Account Holder based on **Documentary Evidence** (largely consisting of government issued documentation), the Account Holder may be treated as resident in the jurisdiction where the address is. If any of the requirements of the residence test are not satisfied, then the Financial Institution must perform the electronic record search.
  
- If the Financial Institution knows or has reason to know that the Documentary Evidence is unreliable, including as a result of a change in circumstances, then that Documentary Evidence cannot be relied upon. Therefore, either the residence address test cannot be used in the first place or, if it is as a result of a change in circumstances, the Financial Institution has until the later of the last day of the reporting period or **90 days to obtain a self-certification and new Documentary Evidence**.
  
- Where the indicia search is completed (see below) and the only indicia found is a **“hold mail”** or **“in-care-of”** address and no other address is found, then special procedures apply (the undocumented account procedures). In the order most appropriate, the Reporting Financial Institution must: complete a paper record search; or obtain Documentary Evidence or a self-certification from the Account Holder. If neither of these procedures successfully establishes the Account Holder’s residence for tax purposes then the Reporting Financial Institution must report the account to the tax authority as an **undocumented account**.



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- Where the conditions are not met for the residence address test, or where the jurisdiction does not allow for its use, then the **electronic search** must be carried out. Under the electronic record search, the Reporting Financial Institution must review its electronically searchable data for any of the following **indicia** (these are a series of factors that indicate where an Account Holder is resident):
1. Identification of the Account Holder as a resident of a Reportable Jurisdiction(s);
  2. Current mailing or residence address in a Reportable Jurisdiction(s);
  3. One or more current or most recent telephone numbers in a Reportable Jurisdiction(s) and no telephone number in the jurisdiction of the Reporting Financial Institution;
  4. Current standing instructions (other than with respect to a Depository Account) to repeatedly transfer funds to an account maintained in a Reportable Jurisdiction(s);
  5. Currently effective power of attorney or signatory authority granted to a person with an address in a Reportable Jurisdiction(s); or
  6. A current “hold mail” instruction or “in-care-of” address in a Reportable Jurisdiction(s) if the Reporting Financial Institution does not have any other address on file for the Account Holder.
- If any of the indicia listed are discovered in the electronic search, or if there is a change in circumstances that results in one or more indicia being associated with the account, then, the Reporting Financial Institution must treat the Account Holder as a resident for tax purposes of each Reportable Jurisdiction for which an indicium is identified, unless it elects to apply the curing procedure and one of the exceptions subsequently applies.
- Indicia can be cured (and the Account Holder consequently not treated as resident in a jurisdiction by virtue of the indicia) by obtaining a self-certification from the Account Holder stating their jurisdiction(s) of residence and/or Documentary Evidence establishing the Account Holder's status.
- The Standard includes enhanced review procedures for **High Value Accounts**. These are accounts with a **balance or value of over \$1,000,000**, after aggregating all accounts held by the same Account Holder to the extent the Financial Institution's computerized systems allow and those known about by the **relationship manager**, at the date set to determine Preexisting Accounts or at the end of any subsequent calendar year.
- The **electronic record search** as set out above is required to be completed with respect to **all High Value Accounts** (i.e. the residency test may not be used).

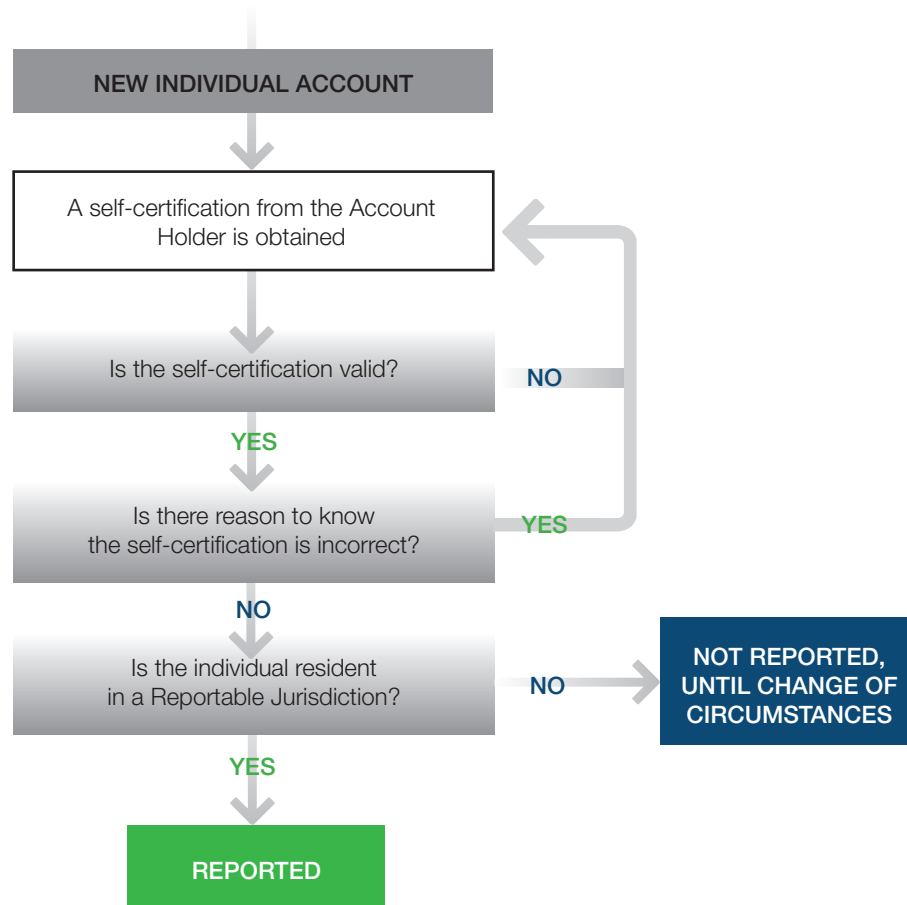


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- If the Reporting Financial Institution's electronically searchable databases include all the fields, and capture all of the information required to complete the indicia search, then a further paper record search is not required.
  
- Where the Reporting Financial Institution's electronically searchable databases do not capture the necessary information then a further paper record search is required for the information not held electronically. The Financial Institution must review the current customer master file for indicia and, to the extent not contained in the current customer master file, the records associated with the account for any of the indicia not contained in the electronically searchable databases.
  
- Where the only indicia found is a **"hold mail"** or **"in-care-of"** address and no other address is found, then special procedures apply (the undocumented account procedures). The Reporting Financial Institution must obtain Documentary Evidence or a self-certification from the Account Holder. If this procedure does not successfully establish the Account Holder's residence for tax purposes then the Reporting Financial Institution must report the account to the tax authority as an undocumented account.
  
- For High-Value Accounts the **relationship manager inquiry is required** in addition to any electronic or paper record searches. The Reporting Financial Institution must treat as a Reportable Account any High Value Account assigned to a relationship manager (including any Financial Accounts aggregated with that High Value Account) if the relationship manager has actual knowledge that the Account Holder is a Reportable Person.
  
- If any of the indicia are discovered in the enhanced review of High Value Accounts, or if there is a subsequent change in circumstances that results in one or more indicia being associated with the account, then, the Reporting Financial Institution must treat the account as a Reportable Account unless it elects to apply the curing procedure and one of the exceptions subsequently applies.
  
- If a **Preexisting Individual Account** becomes a **High Value Account** in a calendar year the Reporting Financial Institution must complete the enhanced review for High Value Accounts with respect to such account in the subsequent calendar year.
  
- While the selection of the deadline for completion of the due diligence on Preexisting Accounts is a decision for the implementing jurisdiction, it is expected that it will be **12 months after the date** to determine Preexisting Accounts for High Value Accounts and **24 months** for Low Value Accounts.



**DUE DILIGENCE PROCEDURES FOR NEW INDIVIDUAL ACCOUNTS**





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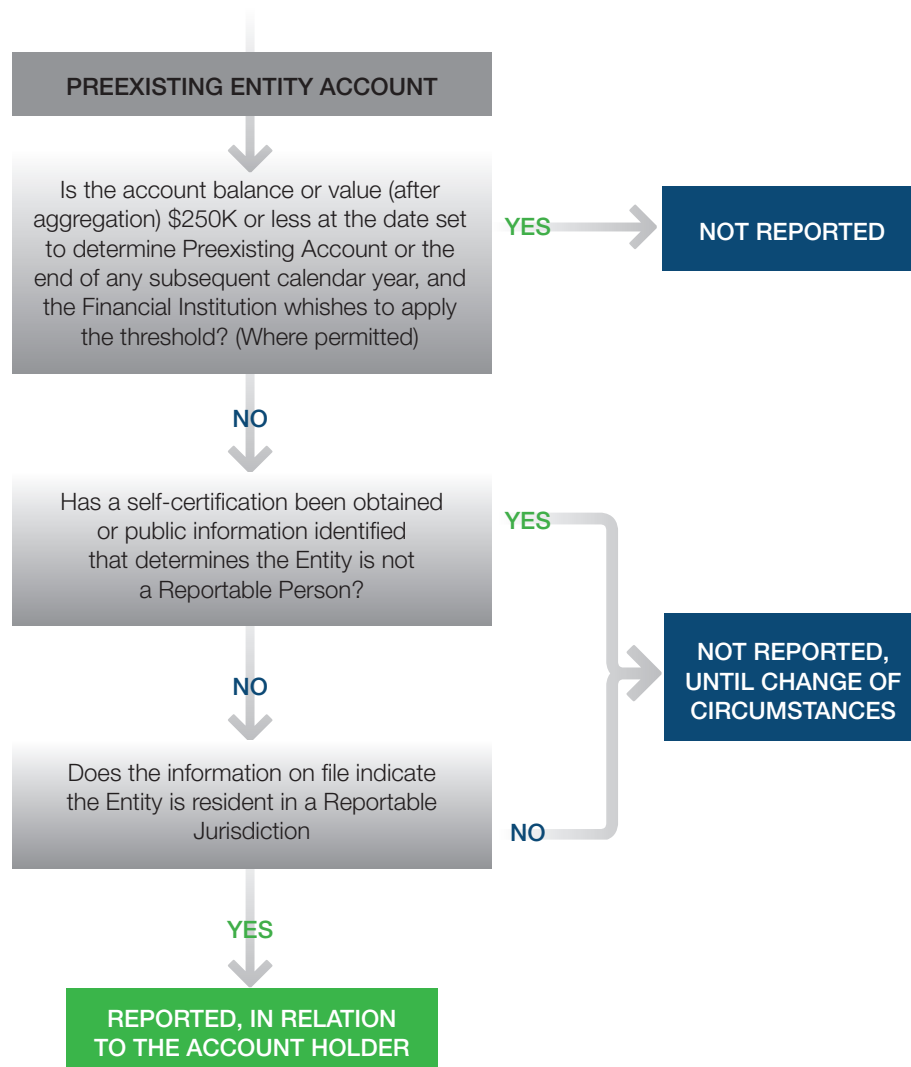
## Notes on Due Diligence for New Individual Accounts

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- While the due diligence for Preexisting Accounts relies mainly on information the Financial Institution already has on file, the opening of a New Account requires the Financial Institution to request additional information relevant to tax compliance.
  
- A New Account is an account opened after the date set to determine Preexisting Accounts. However the Standard provides that a jurisdiction may modify the definition of Preexisting Account so that in certain cases, an account that would otherwise be treated as a New Account may be instead treated as a Preexisting Account.
  
- Any individual that opens an account needs to provide a **self-certification** which 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 Reporting Financial Institution must treat the account as a **Reportable Account**.
  
- Participating Jurisdictions are expected to provide information to assist taxpayers to determine their residence(s) for tax purposes. The OECD will endeavor to facilitate the **dissemination** of such information.
  
- The **self-certification** can be provided in **any form** but in order for it to be valid the Standard sets out that it must be **signed** (or otherwise positively affirmed, i.e. involving some level of active input or confirmation) by the Account Holder, **be dated**, and must include the Account Holder's: **name; residence address; jurisdiction(s) of residence for tax purposes; TIN(s) and date of birth**.
  
- Once the Reporting Financial Institution has obtained a self-certification it must **confirm** its reasonableness based on the information obtained in connection with the opening of the account, including any documentation collected pursuant to AML/KYC procedures (the reasonableness test).
  
- A Reporting Financial Institution is considered to have confirmed the reasonableness of a self-certification if it does not know or have reason to know that the self-certification is incorrect or unreliable. Where a self-certification fails the reasonableness test the Reporting Financial Institution is expected to either obtain a valid self-certification or a reasonable explanation and documentation as appropriate supporting the reasonableness of the self-certification.



**DUE DILIGENCE PROCEDURES FOR PREEXISTING ENTITY ACCOUNTS**





## Notes on Due Diligence for Pre-existing Entity Accounts

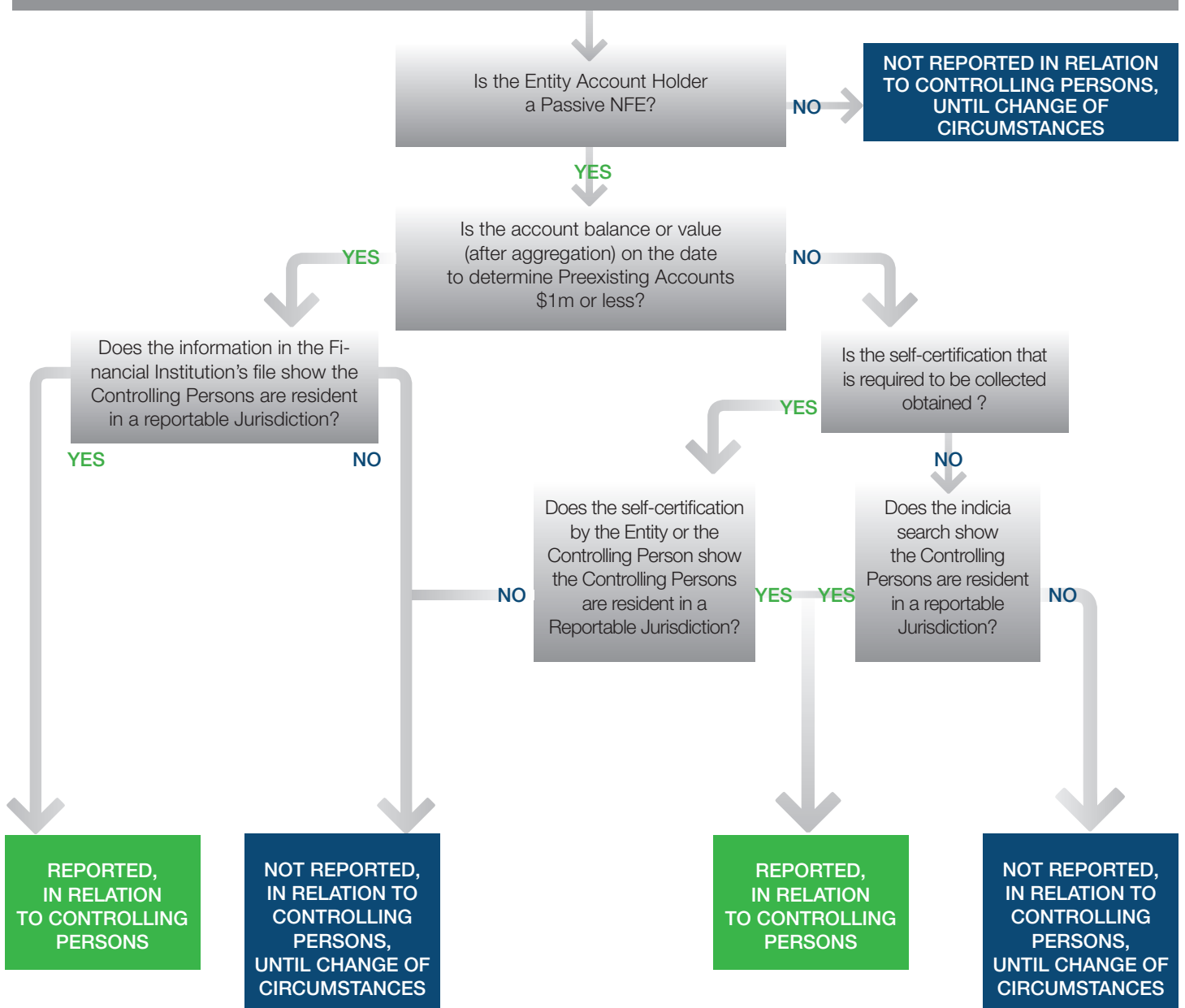
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- The due diligence for Preexisting Entity Accounts has two parts:
  1. First, the Reporting Financial Institution must establish whether the Entity is a **Reportable Person**. If so, the account is then a **Reportable Account**.
  2. Second, for certain **Entity Account Holders (Passive NFEs)**, the Reporting Financial Institution must establish whether the Entity is **controlled by a Reportable Person(s)**.
  
- Is the account balance or value (after aggregation) **\$250K** or less at the date set to determine Preexisting Accounts, or at the end of any subsequent calendar year, and the Financial Institution wishes to apply the threshold? (Where permitted).
  
- CRS provides an optional exemption from review for certain Preexisting Entity Accounts. This exemption is subject to (i) the implementing jurisdiction allowing Reporting Financial Institutions to apply it, and (ii) the Reporting Financial Institution electing to apply it to all or a clearly identified group of accounts.
  
- In order to determine whether an Entity is resident in a Reportable Jurisdiction, a Reporting Financial Institution must review information maintained for regulatory or customer relationship purposes, including information collected for AML/KYC purposes (this includes place of incorporation, address, or address of one or more of the trustees of a trust).
  
- If the information indicates that the Account Holder is resident in a Reportable Jurisdiction, then the Reporting Financial Institution must treat the account as a Reportable Account, unless it obtains a self-certification from the Account Holder, or reasonably determines based on information in its possession or that is publicly available (including information published by an authorized government body or standardized industry coding systems), that the Account Holder is not a Reportable Person.
  
- For the self-certification to be valid the Standard sets out that it must be signed (or otherwise positively affirmed, i.e. involving some level of active input or confirmation) by a person authorized to sign on behalf of the Entity, be dated, and must include the Account Holder's: name; address; jurisdiction(s) of residence for tax purposes and TIN(s).



**DUE DILIGENCE PROCEDURES IN RELATION TO CONTROLLING PERSONS FOR PREEXISTING ACCOUNTS**

IRRESPECTIVE OF WHETHER THE ACCOUNT HAS BEEN FOUND TO BE REPORTABLE ACCOUNT IN RELATION TO THE ACCOUNT HOLDER







## Notes on Due Diligence in relation to Controlling Persons for Pre-Existing Accounts

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- Whether or not the account has been identified as a Reportable Account during the first part of the review procedure, the Reporting Financial Institution must carry out the second part to the review procedure to first identify whether the Entity is a **Passive NFE** and then, if so, **identify its Controlling Persons**. This could result in additional information becoming reportable (including to one or more additional jurisdictions) in relation to an account already identified as a Reportable Account or in the account becoming a Reportable Account by **virtue of the Entity Account Holder's Controlling Person(s)**.
  
- The review procedure is designed to determine whether a Preexisting Entity Account is held by one or more Entities that are Passive NFEs with one or more Controlling Persons that are Reportable Persons. Where this is the case then the Financial Account becomes a Reportable Account in relation to the Controlling Persons, with information in relation to the Reportable Account and the Controlling Persons becoming reportable. In making these determinations the Reporting Financial Institution can follow the guidance in the order most appropriate under the circumstances.
  
- For the purposes of determining whether the Account Holder is a Passive NFE the Reporting Financial Institution may use any of the following information with which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution, other than a professionally managed Investment Entity resident in a non-participating jurisdiction which is always treated as a Passive NFE (i.e. that is, an Investment Entity that is not a Participating Jurisdiction Financial Institution):
  1. Information in its possession (such as information collected pursuant to AML/KYC procedures); or
  2. Information that is publicly available (such as information published by an authorized government body or a standardized industry coding system).
  
- Otherwise the Reporting Financial Institution must obtain a self-certification from the Account Holder to establish its status.
  
- If the Account Holder is a Passive NFE the balance or value of the account must be determined. The due diligence procedures are less stringent for accounts with a balance or **value of \$1,000,000 or less**.

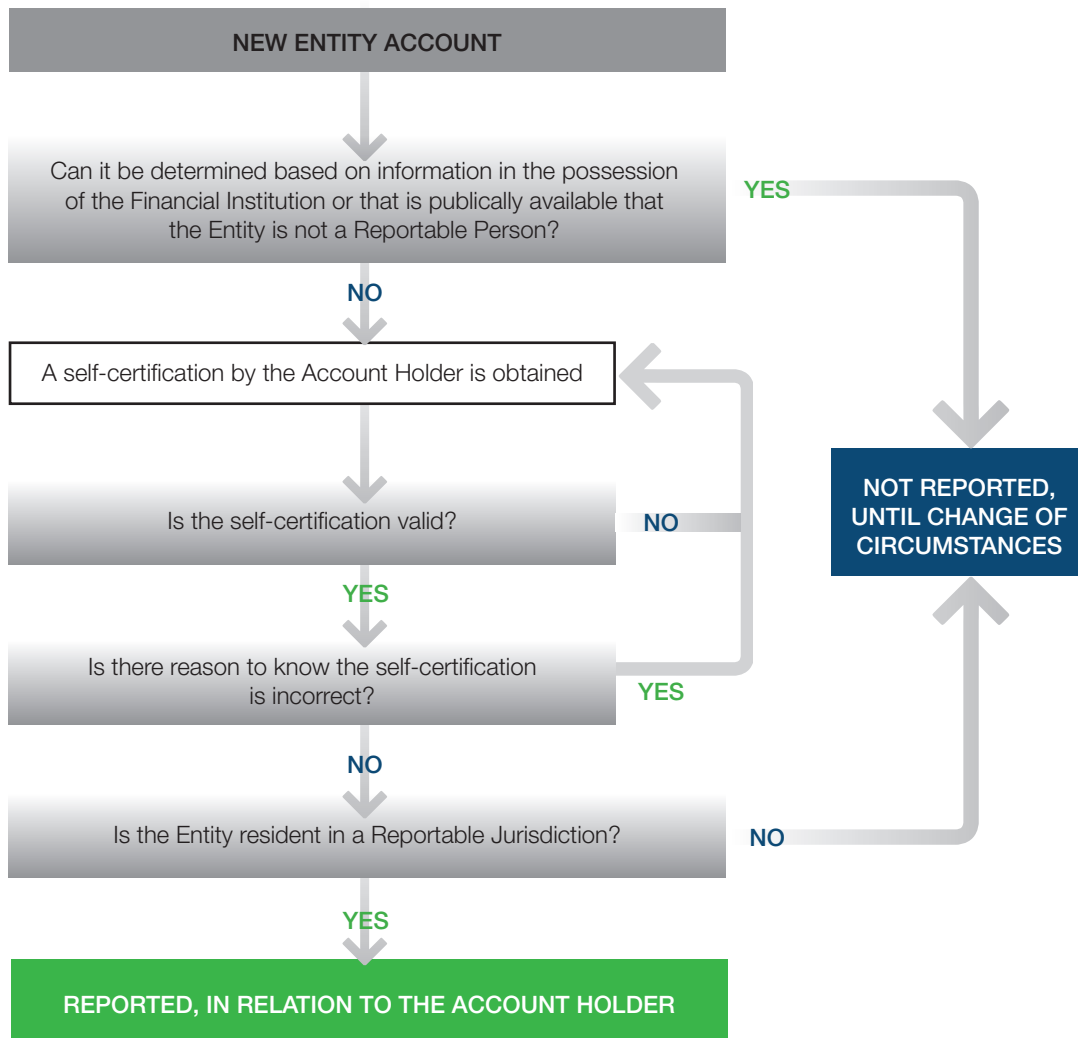


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- Where the account balance is \$1,000,000 or less, in order to determine the Controlling Persons of a Passive NFE and establish whether they are Reportable Persons, the Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.
- Where the balance or value of the accounts **exceeds \$1,000,000** a self-certification with respect to the Controlling Persons must be collected (from either the Account Holder or the Controlling Person(s)). The self-certification can be provided in any form but in order for it to be valid the Standard sets out that it must be signed (or otherwise positively affirmed, i.e. involving some level of active input or confirmation) by the controlling Person(s) or the Entity Account Holder, be dated, and must include each Controlling Person's: name; residence address; jurisdiction(s) of residence for tax purposes; TIN(s) and date of birth.
- If the self-certification is not obtained the Financial Institution must rely on the indicia search to determine whether the Controlling Person(s) is a Reportable Person(s).
- If there is a change in circumstances that causes the Reporting Financial Institution to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the Reporting Financial Institution must re-determine the status of the account by the later of the end of the reporting period or **90 days**.



**DUE DILIGENCE PROCEDURE FOR NEW ENTITY ACCOUNTS**





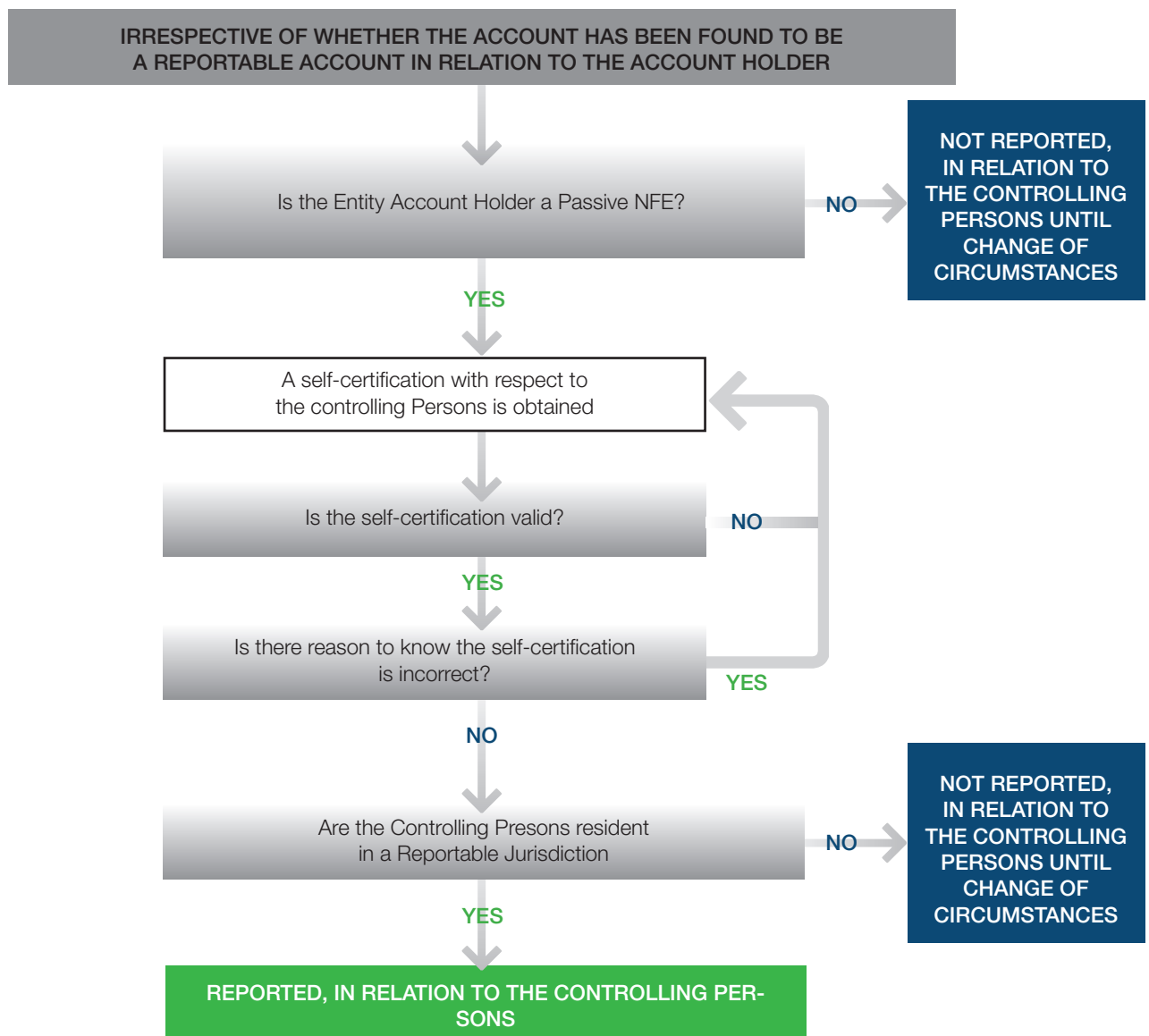
## Notes for Due Diligence for New Entity Accounts

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- As with the procedure for Preexisting Entity Accounts, the due diligence procedure for New Entity Accounts has two parts:
  1. First, the Reporting Financial Institution must establish whether the Entity is a **Reportable Person**. If so, the account is then a **Reportable Account**.
  2. Second, for certain **Entity Account Holders (Passive NFEs)**, the Reporting Financial Institution must establish whether the Entity is controlled by a **Reportable Person(s)**.
  
- The optional provision in relation to the definition of Preexisting Account as previously set out in the context of New Individual Accounts also applies to Entity Accounts. So where provided for, some accounts that would otherwise need to be treated as New Accounts can be instead treated as Preexisting Accounts.
  
- In determining whether a New Entity Account is held by one or more Entities that are Reportable Persons, the Reporting Financial Institution may follow the procedures in the order most appropriate under the circumstances. For example, as publicly traded corporations, Government Entities and Financial Institutions are among those Entities explicitly excluded from being Reportable Persons the Reporting Financial Institution may first establish the Entity Account Holder is such an Entity and therefore not a Reportable Person.
  
- Alternatively, it may be more straightforward to first obtain a self-certification to establish that the Entity is not resident in a Reportable Jurisdiction and is therefore not a Reportable Person.
  
- Participating Jurisdictions are expected to help taxpayers determine their residence(s) for tax purposes. The OECD will endeavor to facilitate the dissemination of such information.
  
- For the self-certification to be valid the Standard sets out that it must be signed (or otherwise positively affirmed, i.e. involving some level of active input or confirmation) by a person authorized to sign on behalf of the Entity, be dated, and must include the Account Holder's: name; address; jurisdiction(s) of residence for tax purposes and TIN(s).
  
- The Reporting Financial Institution must confirm the reasonableness of such self-certification based on the information obtained in connection with the opening of the account (the reasonableness test). Essentially the Financial Institution 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 would be expected to be obtained in the course of the account opening procedures.
  
- Notwithstanding whether the account has been found to be a Reportable Account following the first part of the test, the Financial Institution must carry out the procedure in relation to Controlling Persons to identify whether additional information must also be reported or whether an account now becomes a Reportable Account.



**DUE DILIGENCE PROCEDURE IN RESPECT OF  
CONTROLLING PERSONS FOR NEW ENTITY ACCOUNTS**





## Notes for Due Diligence of Controlling Persons for new Entity Accounts

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- For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Financial Institution may use any of the following information on which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution, other than a professionally managed Investment Entity resident in a non-participating jurisdiction which is always treated as a Passive NFE (i.e., that is, an Investment Entity that is not a Participating Jurisdiction Financial Institution):
  1. Information in its possession (such as information collected pursuant to AML/KYC procedures); or
  2. Information that is publicly available (such as information published by an authorized government body or standardized industry coding system).
  
- Otherwise the Reporting Financial Institution must obtain a self-certification from the Account Holder to establish its status.
  
- For the self-certification to be valid the Standard sets out that it must be signed (or otherwise positively affirmed, i.e. involving some level of active input or confirmation) by a person authorized to sign on behalf of the Entity, be dated, and must include the Account Holder's: name; address; jurisdiction(s) of residence for tax purposes and TIN(s).
  
- A Reporting Financial Institution that cannot determine the status of the Account Holder as an Active NFE or a Financial Institution other than nonparticipating professionally managed investment entity must presume that it is a Passive NFE.
  
- For the purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Financial Institution may only rely on a self-certification from either the Account Holder or the Controlling Person.



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- The self-certification can be provided in any form but in order for it to be valid the Standard sets out that it must be signed (or otherwise positively affirmed, i.e. involving some level of active input or confirmation) by the Controlling Person(s) or the Entity Account Holder, be dated, and must include the Controlling Person's: name; residence address; jurisdiction(s) of residence for tax purposes; TIN(s) and date of birth.
- If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account (even if the Controlling Person is resident in the same jurisdiction as the Passive NFE).
- If there is a change in circumstances that causes the Reporting Financial Institution to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, the Reporting Financial Institution must re-determine the status of the account by the later of the end of the reporting period or 90 days.



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## THE INFORMATION THAT GETS REPORTED AND EXCHANGED

- Once accounts are determined to be Reportable Accounts then the Financial Institution must report information in relation to that account to the tax authority. This is the information that a jurisdiction agrees to exchange with its automatic exchange partners as specified in the **CAA – the Model Competent Authority Agreement**.
  
- The information is:
  1. Information required for the automatic exchange partner jurisdiction to identify the Account Holder concerned (**Identification Information**);
  2. Information to identify the account and the Financial Institution where the account is held (**Account Information**); and
  3. Information in relation to the activity taking place in the account and the account balance (**Financial Information**).
  
- Together, this information should be sufficient to identify the account holder and then to establish a picture of the compliance risk of that account holder (i.e. whether they have properly declared the relevant financial information).





## IDENTIFICATION INFORMATION

Information required to be reported in relation to **Individual and Entity Account Holders** that are **Reportable Persons, Entities with Controlling Persons** that are **Reportable Persons** and **Controlling Persons themselves**.

INFORMATION	FURTHER DESCRIPTION (AS APPLICABLE)
Name	
Address	The address recorded for the Account Holder pursuant to the due diligence procedure. For individuals will be the current residence address (or the mailing address if no current residence address is held)
Jurisdiction(s) of residence	For Preexisting Accounts this will be based on the residency test or the indicia search and for New Accounts this will be based on a self-certification
TIN's	The TIN to be reported with respect to an account is the TIN assigned to the Account Holder by its jurisdiction of residence (i.e. not by a jurisdiction of source) The TIN is not required to be reported with respect to Preexisting Accounts if (i) it is not in the records of the Reporting Financial Institution, and (ii) there is not otherwise a requirement for the TIN to be collected by the Reporting Financial Institution under domestic law (subject to reasonable efforts to obtain the information)



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### IDENTIFICATION INFORMATION

Additional information required to be reported in relation to **Individual Controlling Persons** only.

INFORMATION	FURTHER DESCRIPTION (AS APPLICABLE)
Date of Birth	The date of birth is not required to be reported with respect to Preexisting Accounts if (i) it is not in the records of the Reporting Financial Institution, and (ii) there is not otherwise a requirement for the date of birth to be collected by the Reporting Financial Institution under domestic law (subject to reasonable effort to obtain the information)
Place of Birth	The place of birth is not required to be reported for both Preexisting and New Accounts unless the Reporting Financial Institution is otherwise required to obtain and report it under domestic law and it is available in the electronically searchable maintained by the

### ACCOUNT INFORMATION

Information required with respect to all **Reportable Accounts**.

INFORMATION	FURTHER DESCRIPTION (AS APPLICABLE)
The account number (or functional equivalent)	The identifying number of the account or, if no such number is assigned to the account, a functional equivalent (i.e. a unique serial number, contract number or policy number, or other number)
The name and identifying number (if any) of the Reporting Financial Institution	The reporting Financial Institution must report its name and identifying number (if any) to allow Participating Jurisdictions to easily identify the sources of the information reported and subsequently exchanged.



## **FINANCIAL INFORMATION**

Information required with respect to all **Reportable Accounts**.

<b>INFORMATION</b>	<b>FURTHER DESCRIPTION (AS APPLICABLE)</b>
The account balance or value (including, in the case of a Cash Value Insurance Contract, the Cash Value or surrender value) or, if the account was closed during the reporting period, the closure of the account	<p>An Account with a balance or value that is negative must be reported as having an account balance or value equal to zero</p> <p>In general, the balance or value of a Financial Account is the balance or value calculated by the Financial Institution for purposes of reporting to the Account Holder. In the case of an equity or debt interest in a Financial Institution, the balance or value of an Equity Interest is the value calculated by the Financial Institution for the purpose that requires the most frequent determination of value, and the balance or value of a debt interest is its principal amount.</p> <p>Where jurisdictions already require financial institutions to report the average balance or value of the account they are free to maintain reporting of that information instead of requiring reporting of the balance or value of the account. This option would likely be most desirable where it is being used for FATCA compliance</p>

Information required with respect to **Depository Accounts** only.

<b>INFORMATION</b>	<b>FURTHER DESCRIPTION (AS APPLICABLE)</b>
The total gross amount of interest paid or credited to the account	



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Information required with respect to **Custodial Accounts** only.

INFORMATION	FURTHER DESCRIPTION (AS APPLICABLE)
The total gross amount of interest paid or credited to the account	
The total gross amount of dividends paid or credited to the account	
The total gross amount of other income generated with respect to the assets held in the account paid or credited to the account	The term 'other income' means any amount considered income under the laws of the jurisdiction where the account is maintained, other than any amount considered interest, dividends, or gross proceeds or capital gains from the sale or redemption of Financial Assets.
The total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account	The term 'sale or redemption' means any sale or redemption of Financial Assets. See the optional exception below with respect to the year the information is to be reported.

Information required with respect to **Other Accounts** only. (i.e. not Depository or Custodial Accounts)

INFORMATION	FURTHER DESCRIPTION (AS APPLICABLE)
The total gross amount paid or credited to the Account Holder with respect to the account with respect to which the Reporting Financial Institution is the	Such 'gross amount' includes, for example, the aggregate amount of: any redemption payments made (in whole or part) to the Account Holder, and any payments made to the Account Holder under a Cash Value Insurance Contract or an Annuity Contract even if such payments are not considered Cash Value.