

# **SAINT VINCENT AND THE GRENADINES**

## **GUIDANCE**

### **ISSUED UNDER REGULATION 12 OF THE AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION (COMMON REPORTING STANDARD) REGULATIONS 2016**

This Guidance is issued under Regulation 12 of the Automatic Exchange of Financial Account Information (CRS) Regulations 2016 by the Minister of Finance.

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## **ABBREVIATIONS**

<b>AEOI</b>	Automatic Exchange of Financial Information in Tax Matters
<b>CRS</b>	Common Reporting Standard or the Standard for Automatic Exchange of Financial Account Information
<b>FATCA</b>	Foreign Account Tax Compliance Act
<b>EU</b>	European Union
<b>IGA</b>	Inter-Governmental Agreement
<b>IRD</b>	Inland Revenue Department
<b>MAAC</b>	Multilateral Convention on Mutual Administrative Assistance in Tax Matters
<b>MCCA</b>	Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information
<b>OECD</b>	Organization for Economic Cooperation and Development
<b>US</b>	United States

## COMMENCEMENT

This Guidance comes into force on the            day of            2018

### 1. PURPOSE OF THIS GUIDANCE

1.1 This Guidance is limited to providing guidance on aspects of the CRS that are particular to Saint Vincent and the Grenadines. This Guidance is not intended to replicate the information in the CRS.

### 2. OVERVIEW

2.1 The OECD in collaboration with G20 countries and the European Union and other stakeholders developed the “**Standard for Automatic Exchange of Financial Account Information**” or “**the CRS or the Standard**” in 2014. This is an automatic exchange of information model which builds on the US FATCA IGA to maximize efficiency and minimize costs. The Standard sets out the general reporting and due diligence requirements for the automatic exchange of information. The objective of this initiative is the creation of an environment in which all significant financial centers meet the high standards of transparency and effective exchange of information on both civil and criminal tax matters.

2.2 The CRS consists of the following core elements that are relevant for Financial Institutions:

- The CRS that contains the due diligence and reporting rules for Financial Institutions;
- The Model Competent Authority Agreement that links the CRS to the legal basis for exchange, specifying the financial information to be exchanged;
- The Commentaries on the CRS and the Model Competent Authority Agreement; 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

2.3 The CRS and a Model Competent Authority Agreement and commentaries on both, are included in the publication “Standard for Automatic Exchange of Financial Account Information in Tax Matters”.

<http://www.oecd.org/ctp/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-information-in-tax-matters.htm>

2.4 Two other helpful publications in understanding the CRS are the Standard for Automatic Exchange of Financial Information in Tax Matters Implementation Handbook and the CRS related Frequently Asked Questions.

- <http://www.oecd.org/ctp/exchange-of-tax-information/implementation-handbook-standard-for-automatic-exchange-of-financial-account-information-in-tax-matters.htm>

- <https://www.oecd.org/tax/exchange-of-tax-information/CRS-related-FAQs.pdf>

2.5 The OECD has developed a comprehensive Automatic Exchange Portal that is the principal source for CRS materials and resources: The following resources have been issued by the OECD as aids to applying the CRS:

- **CRS Implementation Handbook**- <https://www.oecd.org/tax/exchange-of-tax-information/implementation-handbook-standard-for-automatic-exchange-of-financial-information-in-tax-matters.pdf>

- **CRS -related FAQs** - <https://www.oecd.org/tax/exchange-of-tax-information/CRS-related-FAQs.pdf>

### 3. LEGAL BASIS/LEGISLATION

3.1 Saint Vincent and the Grenadines has committed to implementing the CRS by 2018. The first automatic exchange of information should take place by September 30th 2018. In order for this to occur, the relevant Financial Institutions will have to undertake due diligence procedures to collect the necessary information from account holders as of January 1st, 2017.

3.2 To meet its commitment to first exchanges under the CRS in 2018, Saint Vincent and the Grenadines signed the:

o Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information on October 29th, 2015; and

o Multilateral Convention on Mutual Administrative Assistance in Tax Matters on August 25th, 2016 and ratified same on August 30th, 2016. The Convention came into force in Saint. Vincent and the Grenadines on December 1st 2016.

3.3 The Multilateral Convention on Mutual Administrative Assistance in Tax Matters and the CRS have been domesticated in Saint Vincent and the Grenadines by the enactment of the Automatic Exchange of Financial Account Information (CRS) Act No. 31 of 2016 and the Automatic Exchange of Financial Account Information (CRS) Regulations No. 30 of 2016.

#### 4. KEY PROVISIONS OF THE DOMESTIC LAW:

##### 4.1 Automatic Exchange of Financial Account Information (CRS) Act 2016

- **Section 8** requires financial institutions to collect and report specific information in respect of certain financial accounts.
- **Section 10** provides penalties of \$50,000.00 and \$10,000.00 for the failure of a reporting financial institution to file an information return when required to do so or fail to file the information return in the manner in which it is required to be filed. There is also a penalty of \$50,000.00 for failure to comply with a lawful requirement of the competent authority.
- **The Schedule** sets out the text of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

##### 4.2 Automatic Exchange of Financial Account Information (CRS) Regulations 2016

- **Regulation 5** requires financial institutions to establish, maintain and document the required procedures described in the Regulations which are designed to identify reportable accounts maintained by the institution. A Reportable Financial Institution is also required to identify reportable accounts maintained by the institution by applying due diligence procedures set out in section II-IV of the CRS.
- **Regulation 7** provides for the filing of an information return by financial institutions on or before May 31st of each year following the calendar year to which the return relates
- **Regulation 9** requires financial institutions to maintain records obtained or created for the purposes of complying with the Regulations, for at least six (6) years.
- **Regulation 11** provides that reporting financial institutions may use service providers to undertake the due diligence requirements and the reporting obligations but states that those obligations continue to be the obligations of reporting financial institutions.

## 5. COMPETENT AUTHORITY

- 5.1 The Competent Authority of Saint Vincent and the Grenadines is the Comptroller of the IRD.
- 5.2 Financial institutions will be required to file an “Information Return” to the IRD via a CRS Portal. The Competent Authority will then exchange the information with partner jurisdictions that have satisfied the requisite confidentiality and data safeguards and have appropriate legal instruments and legislative frameworks in place.
- 5.3 Reporting financial institutions must file information which consists of details of the financial assets which they hold on behalf of non-resident tax payers (excluding US persons or entities) and the income derived therefrom.
- 5.4 The IRD will issue relevant instructions in relation to the availability and access to the CRS portal.

## 6. REPORTING

- 6.1 Financial institutions are required to file their first Information Return on or before May 31<sup>st</sup>, annually. Regulation 7 (3) of the Automatic Exchange of Financial Account Information (CRS) Regulations requires that the information return must pertain to financial information from the previous calendar year.
- 6.2 The financial information to be reported with respect to Reportable Accounts includes interest, dividends, account balance or value, income from certain insurance products, sales proceeds from financial assets and other income generated with respect to the assets held in the account or payments made with respect to the account.
- 6.3 Any individual or entity resident under the tax laws of Saint Vincent and the Grenadines is subject to reporting. If an individual or entity maintains tax residency with more than one jurisdiction, their financial information will be subject to reporting from all respective jurisdictions. Some individuals or entities may therefore be subject to multiple reporting.
- 6.4 Branch offices of Saint Vincent and the Grenadines financial institutions located outside of Saint Vincent and the Grenadines or branches located in Saint Vincent and the Grenadines of financial institutions which are resident outside of Saint Vincent and the Grenadines, are not required to report to the competent authority.

## **7. DUE DILIGENCE PROCEDURES FOR REPORTABLE ACCOUNTS**

7.1 The following accounts are to be treated as Reportable Accounts and must be identified and subject to due diligence procedures under the CRS:

- All pre-existing individual accounts regardless of the account balance;
- New individual accounts i.e. individual accounts in existence as at 1 January 2017;
- Pre-existing Entity Accounts which have a balance exceeding the \$250,000.00 threshold.

7.2 Pre-existing Accounts to be subject to due diligence procedures are those in existence as at 31 December 2016.

## **8. TIMING FOR DUE DILIGENCE**

8.1 The following are the effective dates for the conduct of due diligence procedures:

- The review of Pre-existing High Value Individual Accounts in existence as at 31 December 2016 must be completed by 31 December, 2017;
- The review of Pre-existing Lower Value Individual Accounts in existence as at 31 December 2016 must be completed by 31 December 2018;
- The review of Pre-existing High Value Individual Accounts in existence as at 31 December 2016 must be completed by 31 December 2017;
- New Accounts requiring self-certification by the customer are those opened on or after 1 January, 2017.

## **9. REPORTING DEADLINES**

9.1 The following are the effective dates for reporting under the CRS:

- Financial institutions must complete their reporting to the Competent Authority by 31 May 2018 for the 2017 reporting year; and
- First exchanges of information by the Competent Authority to partner jurisdictions will occur on or before 30 September 2018.



## **10. CURRENCY TRANSLATION RULE**

10.1 In determining the balance or value of an account denominated in Eastern Caribbean dollars, reporting financial institutions must translate the relevant US\$ threshold amount described in the Standard or the Regulations in Eastern Caribbean dollars by reference to the spot rate of exchange on the date for which the institution is determining the threshold amounts – Regulation 5(5) of the Automatic Exchange of Financial Account Information (CRS) Regulations.

## **11. SELF-CERTIFICATION**

11.1 The Standard provides that a Reporting financial institution must obtain a self-certification upon account opening. The self-certification will allow a reporting financial institution to determine the account holder's residence(s) for tax purposes

11.2 It is expected that financial institutions will maintain account opening processes that facilitate the collection of a self-certification at the time of the account opening, whether that process is done face-to-face, online or by telephone.

11.3 Where a self-certification is obtained at account opening but validation of the self-certification cannot be completed because it is a "day two" process undertaken by a back-office function, the self-certification should be validated within a period of 90 days. There may be a limited number of instances where due to the specificities of a business sector it is not possible to obtain a self-certification on "day one" of the account opening process, for example where an insurance contract has been assigned from one person to another or in the case where an investor acquires shares in an investment trust on the secondary market. In such circumstances, the self-certification should be both obtained and validated as quickly as feasible, and in any case within a period of 90days.

11.4 Financial institutions must make proper endeavours to obtain the self-certification, including issuing follow up letters on at least an annual basis. If an Account Holder fails to respond then there is no need to close the account but it should be reported as undocumented. Enquiries may be made by the Comptroller of the IRD where certain financial institutions appear to have a disproportionate number of undocumented accounts.

11.5 Reporting Financial institutions shall ensure that they have obtained and validated the self-certification in time to be able to meet their due diligence and reporting obligations with respect to the reporting period during which the account was opened.

11.6 Where a Financial Institution is unable to obtain any valid self-certification within 90 days of opening the account, and there are no indicia of residence in any jurisdiction, the account is not reportable under the CRS. However, if there are indicia of residence in reportable jurisdictions then the account is reportable to those jurisdictions. There is no specific requirement under the CRS to close an account but the Reporting Financial Institution must report the account to the Competent Authority until such time as a valid self-certification is received.

***\*\*Standard self-certification forms for both individuals and entities are annexed hereto. Electronic versions of these forms will be provided by the competent authority.***

## **12. PARTICIPATING JURISDICTIONS LIST**

12.1 Schedule 3 of the Automatic Exchange of Financial Account Information (CRS) Regulations sets out the intended list of exchange partners for the purposes of AEOI (participating jurisdiction list) with Saint Vincent and the Grenadines. The Participating jurisdictions list is required to be published annually via Gazette as required by Regulation 4 of the Automatic Exchange of Financial Account Information (CRS) Regulations.

## **13. REPORTABLE FINANCIAL INSTITUTIONS**

13.1 The CRS describes the types of entities that are considered to be reportable financial institutions which are as follows:

- *Depository Institutions*- Banks, savings/loan institutions, credit unions etc.
- *Custodial Institutions* - Custodian banks, brokers, depositories etc.
- *Investment Entities* - Funds, portfolio managers, investment trusts etc.
- *Specified Insurance Companies* - Life insurance companies

13.2 Entities which fit into the description of reportable financial institutions as per the description above, will be required to report with respect to account holders, the following information:

- Name;
- Address;
- Jurisdiction of residence;
- Date and Place of birth
- Tax Identification Number (in the case of an individual account holder) and in the case of an entity account holder where the controlling person is deemed to be a reportable person, the name, address, jurisdiction of residence, date and place of birth and Tax Identification Number of the reportable person;

- the account number and the account balance or value as at the end of the relevant calendar year;
- the name and identifying number of the financial institution;
- the report must identify the currency in which the accounts are denominated;
- For an investment account, the equity interest is required to be reported;
- For depository accounts, the interest paid is required to be reported;
- For custodial accounts, the interest, dividends, other income and gross proceeds paid are required to be reported; and
- For other accounts, the gross amount paid is to be reported.

#### **14. FINANCIAL INSTITUTIONS AND RESIDENCY**

14.1 In most cases whether or not a financial institution is resident or located in Saint Vincent and the Grenadines will be clear, but there may be certain classes of financial institutions where this is less obvious. Where such an entity has no residence for tax purposes it shall be treated as resident in the jurisdiction in which its place of effective management is situated.

14.2 A Saint Vincent and the Grenadines financial institution is deemed a resident and designated as a reporting financial institution as follows:

- **Company-** if the company is registered under the laws of Saint Vincent and the Grenadines
- **Trusts-** if the Trustee is resident in Saint Vincent and the Grenadines
- **Partnership** – if the business of the partnership is managed and controlled in Saint Vincent and the Grenadines
- **Investment Entities-** if the Fund is effectively managed in Saint Vincent and the Grenadines

#### **15. EXEMPTIONS AND EXCLUSIONS**

15.1 **Non-reportable accounts-** certain accounts are seen to have a low risk of being used to evade tax and are specifically excluded from the requirements of the CRS.

15.2 To qualify as an excluded account, the account must meet all of the requirements of the definition of excluded accounts. Where an account, not otherwise specifically listed as an excluded account under the CRS has substantially similar criteria to named Excluded Accounts, it may be considered to be an excluded account under the CRS.

15.3 The following are to be considered non-reportable financial institutions and accounts:

- Broad participating retirement fund

- Narrow participation retirement fund
- Pension fund of a government entity
- International Organisation or Central Bank
- Qualified credit card issuer
- Trustee documented trust
- Exempt collective investment vehicle

15.4 Details of what is covered by the above categories is to be found in Section VIII of the CRS commentaries. Low risk excluded accounts can be specified if the CRS criteria set out in the commentary on section VIII (para 97) can be met.

15.5 Dormant accounts as defined in paragraph 9 of the CRS commentary on section III will be viewed as excluded accounts if the annual balance does not exceed US\$1000.00. Schedule 1 of the *Automatic Exchange of Financial Account Information (CRS) Regulations* provides more details on how an account is classified as dormant.

15.6 ***Non-Reporting Financial Institutions*** - some financial institutions are specifically excluded from being required to report. The list of non-reporting financial institutions in Saint Vincent and the Grenadines in accordance with Schedule 2 of the *Automatic Exchange of Financial Account Information (CRS) Regulations* is as follows:

- A Statutory Body
- The Eastern Caribbean Central Bank
- An Embassy
- A pension fund of a statutory body
- A Friendly Society
- Non-Profit Organization

## 16. CONFIDENTIALITY

16.1 Saint Vincent and the Grenadines will not exchange information under the CRS until it is satisfied that a partner jurisdiction has in place adequate measures to ensure the required confidentiality and data safeguards are met. These confidentiality obligations are evaluated by the Global Forum on Transparency and Exchange of Information for Tax Purposes through its implementation monitoring programme. Confidentiality and data safeguard questionnaires for all CRS jurisdictions are filed with the OECD Co-ordinating Body Secretariat.

## 17. US/US FATCA

17.1 US FATCA was implemented in Saint Vincent and the Grenadines in accordance with the Saint Vincent and the Grenadines and US intergovernmental agreement. However, the US is a non-participating jurisdiction for common reporting purposes. The US has indicated that it will continue to undertake automatic information

exchanges pursuant to its FATCA intergovernmental agreements. The US FATCA legislative framework in Saint Vincent and the Grenadines will therefore continue to operate as normal, in parallel with the CRS regime.

## 18. OPTIONS

18.1 The CRS includes a number of options to which reference is made on pages 15 to 19 in the CRS Implementation Handbook. Regulation 6 of the *Automatic Exchange of Financial Account Information (CRS) Regulations* refer to the modification of due diligence procedures which references these options. There are a number of areas where the CRS provides options for jurisdictions to implement as suited to their domestic circumstances in order to provide for easier implementation, and reduced burdens, without impacting on the purpose or effectiveness of the CRS.

<i>Options under the CRS</i>	<i>CRS Reference</i>
<b>Reporting requirements (section I of the CRS)</b>	
<b>Alternative approach to calculating account balances</b>	<i>Commentary on section 1, paragraph 11</i>  <b>This alternative approach is not offered in SVG.</b>
<b>Use of reporting period other than calendar year</b>	<i>Section 1, subparagraph A(4) - (7); Commentary on Section 1, paragraph 15</i>  <b>Reporting on a calendar year basis as is done under the FATCA IGA is required in SVG.</b>
<b>Phasing in the requirements to report gross proceeds</b>	<i>CRS: Section 1, paragraph F; Commentary on Section 1, paragraph 35</i>  <b>This option is not offered in SVG.</b>
<b>Filing of Nil Returns</b>	<b>A nil return should be filed, if a financial institution recognizes that it holds no reportable accounts to demonstrate its compliance with the CRS.</b>
<b>Due diligence (Sections II-VII of the CRS)</b>	
<b>Allowing third party service providers to fulfil the obligations on behalf of the financial institutions</b>	<i>CRS: Section II, paragraph D; Commentary on Section II, paragraphs 6-7</i>  <b>This option is available in SVG- Regulation 11 of the AEOI Regulations.</b>
<b>Allowing the due diligence procedures for New Accounts to be used for Pre- existing Accounts</b>	<i>CRS: Section II, paragraph E; Commentary on Section IV, paragraph 8</i>

	<b>This option is offered in SVG - Regulation 6 of the AEOI Regulations.</b>
<b>Allowing the due diligence procedures for High Value Accounts to be used for Lower Value Accounts</b>	<i>CRS: Section II, paragraph E; Commentary on Section II, paragraph 8</i> <b>This option is offered in SVG - Regulation 6 of the AEOI Regulations.</b>
<b>Residence address test for Lower Value Accounts</b>	<i>CRS: Section III, subparagraph B(1); Commentary on Section III, subparagraph 7-13</i> <b>This option is offered in SVG - Regulation 6 of the AEOI Regulations.</b>
<b>Optional Exclusion from Due Diligence for Pre-existing Entity Accounts of less than \$250,000</b>	<i>CRS: Section V, paragraph A; Commentary on Section V, subparagraph 2-4</i> <b>This option is offered in SVG - Regulation 6 of the AEOI Regulations.</b>
<b>Alternative documentation procedure for certain employer-sponsored group insurance contracts or annuity contracts</b>	<i>CRS Section VII, paragraph B; Commentary on Section VII, paragraph 13</i> <b>This option is offered in SVG - Regulation 6 of the AEOI Regulations.</b>
<b>Allowing financial institutions to make greater use of existing standardized industry coding systems for the due diligence process</b>	<i>CRS: Commentary on Section VIII, paragraph 154</i> <b>This option is offered in SVG - Regulation 6 of the AEOI Regulations.</b>
<b>Currency translation</b>	<i>CRS: Section VII, subparagraph C (4); commentary on Section VII, paragraph 20-21</i> <b>This option is offered in SVG - Regulation 5 (5) of the AEOI Regulations.</b>
<b>Definitions (Section VIII of the CRS)</b>	
<b>Expanded definition of Pre-existing Account</b>	<i>CRS: Commentary on Section VIII, paragraph 82</i> <b>This option is offered in SVG - Regulation 6 of the AEOI Regulations.</b>
<b>Expanded definition of Related Entity</b>	<i>CRS: Commentary on Section VII, paragraph 82</i> <b>This option is offered in SVG - Regulation 6 of the AEOI Regulations.</b>
<b>Grandfathering rule for bearer shares issued</b>	<i>CRS: Section VIII, subparagraph B(9)</i>

<b>by Exempt Collective Investment Vehicle</b>	<i>This option is not considered to be applicable but, if it is, it is offered.</i>
<b>Controlling person of a trust</b>	<i>CRS commentary Section VIII Para 134</i>  <i>This option is offered in SVG - Regulation 6 of the AEOI Regulations</i>

Technical enquires relating to the CRS Reporting can be made to the Competent Authority at the contact information below.

Further updates on the CRS implementation in Saint Vincent and the Grenadines will be issued from time to time by the Competent Authority.

Dated the                      day of                      2018

Hon. Camillo Gonsalves  
Minister of Finance