FISCAL AUTHORITY
PRINCIPALITY OF LIECHTENSTEIN

Guidance

on the Automatic Exchange of Information in Tax Matters between the Principality of Liechtenstein and partner jurisdictions (AEOI Guidance)

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(Unofficial translation)

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List of abbreviations

AEOI	Automatic Exchange of Information
AStA	Austrian Withholding Tax Agreement
BuA	Report and Motion
CAA	Competent Authority Agreement
CRS	Common Reporting Standard
DTC	Double Taxation Convention
DSG	Data Protection Act (LGBl. 2018 No. 272)
EU	European Union
FATCA	Foreign Account Tax Compliance Act
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
GmbH	Limited liability company
LDF	Liechtenstein Disclosure Facility
LGBI	Liechtenstein Legal Gazette
MAC	Multilateral Convention of the OECD and Council of Europe on Mutual Administrative Assistance in Tax Matters
MCAA	Multilateral Competent Authority Agreement
Model CAA	Model Competent Authority Agreement
NFE	Non-Financial Entity
OECD	Organisation for Economic Cooperation and Development
CIV	collective investment vehicle
PGR	Persons and Companies Act (LGBl. 1926 No. 4)
SPG	Due Diligence Act
SPV	Due Diligence Ordinance
SteG	Tax Act (LGBl. 2010 No. 340)
TDT	Trustee-Documented Trust
TIEA	Tax Information Exchange Agreement
TIN	Taxpayer Identification Number
VersAG	Insurance Supervision Act (LGBI. 2015 No. 231)
VersVG	Insurance Contract Act (LGBI. 2018 No. 9)
VVG	Asset Management Act

1. Introduction

1.1 Background to the Automatic Exchange of Information (AEOI)

1. As a result of the financial and debt crisis, the global fight against tax evasion has become an important and broadly pursued issue for the global community. For this reason, the OECD, the EU and the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) have long been working on different forms of tax information exchange.

2. On 19 April 2013 the Finance Ministers and Central Bank Directors of the G20 proposed the AEOI as a new future standard. The G20's decision was taken following the announcement by certain European states that they were looking to conclude a FATCA Agreement with the USA. On 9 April 2013 the Finance Ministers of France, Germany, Italy, Spain and Great Britain declared that they were planning to automatically exchange information not only with the USA, but also between each other.

3. On 22 May 2013 the Council of Europe unanimously resolved to grant priority to extending the AEOI at EU level and global level. Shortly thereafter the OECD Council of Ministers called for all states and territories to adopt the AEOI. On 12 June 2013 the EU Commission accepted a legislative proposal to extend the scope of the AEOI in the Directive on Administrative Cooperation to include dividends, sale proceeds and account balances. On 19 June 2013 the heads of state and heads of government of the G8 declared themselves willing to swiftly implement the AEOI and to cooperate with the OECD.[1]

4. On 20 July 2013 the Finance Ministers and Central Bank Directors of the G20 approved the OECD proposal for a global model for AEOI within a multilateral framework. On 6 September 2013 the heads of state and heads of government of the G20 reaffirmed their intentions, and called upon the Global Forum to develop a mechanism to monitor and review the implementation of the new global standard for the AEOI.

5. On 14 November 2013 Liechtenstein published a government declaration[2]. In this, recognition of the applicable OECD standards was emphasised and Liechtenstein's position in respect of the future international standard of an automatic exchange of information and possible bilateral negotiations were set out. On 21 November 2013 Liechtenstein signed the Multilateral Convention of the OECD and Council of Europe on Mutual Administrative Assistance (Multilateral Mutual Administrative Assistance Convention; MAC)[3]. The MAC was ratified by Liechtenstein on 22 August 2016. To date, the MAC has been signed by 108 states and jurisdictions (status: 3 January 2017), and has already been ratified and implemented by most states. On 14 March 2014 Liechtenstein supported the Joint Statement of the G5 Initiative [4] on the timetable to introduce the AEOI as global standard.

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1 http://www.oecd.org/ctp/exchange-of-tax-information/taxtransparency_G8report.pdf.
2 http://www.regierung.li/ministerien/ministerium-fuer-praesidiales-und-finanzen/entwicklung-intern-steuerabkommen/vom-14112013/.
3 http://www.oecd.org/ctp/exchange-of-tax-information/conventiononmutualadministrativeassistanceintaxmatters.htm.
4 http://www.oecd.org/tax/transparency/AEOIjointstatement.pdf.

6. On 15 July 2014 the OECD Council approved the overall package elaborated by the OECD Working Party 10 (WP10) – with Liechtenstein participation – as global AEOI standard. The standard was published on 21 July 2014, and was confirmed and declared binding by the Finance Ministers of the G20 states on 21 September 2014. On 29 October 2014 Liechtenstein together with 50 further states and jurisdictions signed the multilateral agreement to implement the global AEOI standards (so-called Multilateral Competent Authority Agreement; MCAA)[5], which is based on the MAC. The agreement creates a multilateral framework to implement the new standard bilaterally with interested and suitable states, and in the interim has been signed by 110 states and jurisdictions (status: 10 December 2020).[6]

7. The global model for the AEOI is based on a uniform standard for the information that is to be reported by Financial Institutions and exchanged with the jurisdictions of residence (so-called Common Reporting Standard; CRS).[7] This aims to improve the quality and predictability of the exchanged information.

8. In order to limit opportunities for taxpayers to circumvent the model by moving assets to institutions or investments in products that are not covered by the model, the reporting system has a broad, threefold scope:[8]

- broad scope of the financial information that is to be reported;
- broad scope of the Account Holders who are to be reported; and
- broad scope of the Reporting Financial Institutions.

1.2 Legal framework

9. The legal framework for the AEOI consists of three levels:

- International (bilateral/multilateral) agreement as well as (if necessary), on the basis of this, an agreement between the competent authorities (Competent Authority Agreement; CAA);
- Common Reporting Standard (CRS);
- National legislation for implementation.

5 http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/multilateral-competent-authority-agreement.pdf.
6 http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/exchange-relationships/.
7 In accordance with the approval of the OECD Council of 15 July 2014.
8 See OECD, Standard for the Automatic Exchange of Information concerning Financial Accounts, Part 1 Section II/1/12.

1.2.1 International Agreement and CAA

1.2.1.1 General

10. The legal basis for the AEOI is an international (bilateral or multilateral) agreement. The Agreement between the European Union and the Principality of Liechtenstein on the automatic exchange of financial account information to improve international tax compliance (AEOI Agreement Liechtenstein-EU) and the MAC with the MCAA serve as the legal basis. In addition, existing and future Double Taxation Conventions (DTC) and Tax Information Exchange Agreements (TIEA) with rules corresponding to Art. 26 OECD Model Tax Convention may also serve as bilateral legal basis for the AEOI. In all cases, implementation of the AEOI with the respective partner jurisdiction is realised not automatically, but instead requires a special agreement that needs to be approved by the Government and by Parliament.

11. All agreements and legal instruments relating to the exchange of information contain rules concerning the confidentiality of the information, the restricted disclosure thereof to certain persons, and its limited use for specific purposes. The OECD has published guidelines on confidentiality, established confidentiality practices and practical information about ensuring a reasonable level of protection. Within the context of the negotiations that led to the AEOI, steps were taken to ensure that the receiving jurisdiction has a corresponding legal framework as well as the administrative capacities and procedures required to safeguard the confidentiality of the received information as well as to ensure that the information is used for the purpose intended.

12. To implement the AEOI, agreements may be concluded on the basis of the bilateral/multilateral agreement between competent authorities (so called Competent Authority Agreements; CAA). This applies to existing DTCs and TIEAs, as well as to future agreements. The AEOI Agreement Liechtenstein-EU is excluded from this. In this case, the content of the CAA is already directly integrated in the contractual provisions.

13. Partner jurisdictions and Reportable Jurisdictions are those states and jurisdictions with which information must be exchanged under the AEOI on the basis of an international agreement. The AEOI Ordinance stipulates the jurisdictions with which Liechtenstein has implemented the AEOI from which date. The partner jurisdictions are listed in Annex 1 of the AEOI Ordinance.

14. An automatic exchange of information is conditional upon the respective partner jurisdiction fulfilling the corresponding data protection standards.

1.2.1.2 The AEOI Agreement Liechtenstein-EU

15. In 2015 the EU's existing Savings Agreements with Switzerland, Andorra, San Marino, Monaco and Liechtenstein, which have been in force since 1 July 2005, were revised and amended into AEOI Agreements. The AEOI Agreement Liechtenstein-EU is applicable for reporting periods from 2016. In relation to Austria, reporting periods are affected only from 2017, whereby some of the provisions of the Withholding Tax Agreement have been retained (see Chapter 3.2.7.7).

1.2.1.3 MAC and MCAA

16. For states outside the EU, the MCAA based on the MAC forms the legal basis for the AEOI in Liechtenstein. Liechtenstein signed the MAC on 21 November 2013. The MAC came into force on 1 December 2016, and has been applicable as of 1 January 2017. Liechtenstein signed the MCAA during the plenary meeting of the Global Forum of 29 October 2014.

1.2.2 Common Reporting Standard (CRS)

17. The CRS contains the standardised reporting and due diligence procedures upon which the AEOI is based.

18. The CRS consists of various elements. It comprises:

- a model agreement (Model Competent Authority Agreement; Model CAA);
    - The model agreement serves as a basis for bilateral agreements. It stipulates what information needs to be transmitted, and governs certain transmission procedures. The model agreement also regulates the collaboration between the competent authorities in the event of errors, in the event of implementation difficulties as well as in the event interpretation differences, and sets out the data safeguards and the speciality principle;
- the actual standard that defines the exchange of information as well as the procedures that need to be applied when identifying clients (CRS);
- a commentary on the application and interpretation of the Model CAA and CRS, as well as the basic data of an IT solution as support for the authorities.

19. In addition, on 7 August 2015 the OECD published a manual (CRS Handbook) that describes certain provisions in greater detail and contains examples in order to promote the uniform implementation of the exchange of information. A second edition of this handbook was published in English in April 2018 and in German in January 2020 (Link).

1.2.3 AEOI Act

20. A jurisdiction that implements the CRS must also establish national implementation provisions in order to ensure that its Financial Institutions conclude reportings in accordance with the CRS. In this context, the effective implementation and compliance with the CRS through corresponding rules and administrative procedures must be ensured.

21. In Liechtenstein the CRS was implemented with the Law of 5 November 2015 on the International Automatic Exchange of Information in Tax Matters (AEOI Act), LGBl. 2015 No. 355.

1.2.4 AEOI Ordinance

22. The Ordinance of 15 December 2015 on the International Automatic Exchange of Information in Tax Matters (AEOI Ordinance), LGBl. 2015 No. 358 was enacted on the basis of the AEOI Act.

The AEOI Ordinance is issued by Government, and serves to implement the AEOI Act. The terms "partner jurisdiction / Reportable Jurisdiction", "Participating Jurisdictions", "Non-Reporting Financial Institution" as well as "Excluded Account" are described in specific details in the AEOI Ordinance. 23.

1.3 Basic principles of the AEOI

1.3.1 In general

Financial Institutions send reports to their national tax authorities, which then forward this information to the competent authorities of the partner jurisdictions. In this context, the following steps need to be considered: 24.

1. All Entities must be classified as Financial Institution or NFE ("Non-Financial Entity").

2. Financial Institutions must then be classified as Reporting or Non-Reporting Financial Institutions.

3. All Reporting Financial Institutions then need to review their Financial Accounts on the basis of AEOI due diligence procedures for Reportable Accounts and Reportable Persons. In this context, they also need to rely on information from other Entities (e.g. Passive NFEs).

4. Reporting Financial Institutions must report the identified accounts and persons from partner jurisdictions to the Fiscal Authority.

5. The Fiscal Authority will then forward this information to the respective partner jurisdictions.

1.3.2 Financial Institutions and Active NFEs

Reporting Financial Institutions mean in particular banks and life insurers. 25.

Industrial enterprises, manufacturing enterprises, business enterprises, trading companies and service companies often qualify as Active NFEs, and for this reason have only limited obligations under the AEOI. Subject to the documentary, evidential and self-certification requirements against other domestic and foreign Financial Institutions (e.g. presentation of a form to a bank), Active NFEs do not have any obligations under the AEOI Act. 26.

1.3.3 Reportable Persons

Reportable Persons could, inter alia, be the holder of a bank account, the policyholder of an insurance contract or the economic settlor or beneficiary of an asset structure. 27.

If the Financial Institution identifies Reportable Accounts and Persons, then these must be reported to the Fiscal Authority each year. These reports include information to identify the taxpayer, information to identify the Reporting Financial Institution as well as any asset structures and data possibly linked to the Financial Account. 28.

1.3.4 Permanent nonreciprocal AEOI partner jurisdictions

29. The automatic exchange of information on financial accounts between AEOI partner jurisdictions is in principle reciprocal, i.e. AEOI reports are both sent and received in relation to a given jurisdiction. However, a few jurisdictions, referred to as "permanent nonreciprocal AEOI partner jurisdictions", do not receive AEOI reports (e.g. because there is no need for AEOI information for tax purposes due to a lack of income tax).

30. For Reporting Liechtenstein Financial Institutions, this means:

- The AEOI due diligence procedures pursuant to Art. 7 AEOI Act must continue to be applied comprehensively to these jurisdictions (see Chapter 3 AEOI due diligence).
- If a person is identified who is resident exclusively in a permanent nonreciprocal AEOI partner jurisdiction, no AEOI report pursuant to Art. 9 AEOI Act is required (see Chapter 8.2).
- Moreover, no information pursuant to Art. 10 AEOI Act is required for such persons (see Chapter 11).
- If the person in question is additionally a resident for tax purposes in another AEOI partner jurisdiction, the reporting and information procedures must continue to be fulfilled in relation to those jurisdictions.

31. For technical systemic reasons, no AEOI data can be transmitted to the Fiscal Authority in relation to permanent nonreciprocal partner jurisdictions; consequently, the Fiscal Authority likewise does not provide such information under the AEOI.

32. The jurisdictions listed in Annex 1 of the AEOI Ordinance are considered permanent nonreciprocal jurisdictions.

1.3.5 Financial Accounts

33. The term "Financial Account" is separately defined in the CRS, and covers not only classic bank accounts, but e.g. also a benefit on an Entity. Depending on the category of the Financial Account, the Financial Account information include e.g. the balance of a bank account, the value of an insurance contract or the total value of the assets held by an asset structure (total amount of the value of the bank accounts, interests, real estate, etc.). In addition, information about financial earnings must be reported, e.g. interest, dividends, sales proceeds, distributions, etc.

1.4 Purpose of the AEOI Guidance

34. This Guidance describes and specifies the obligations that Liechtenstein Entities have due to the implementation of the AEOI in Liechtenstein.

35. This Guidance will be amended by the Fiscal Authority, if necessary.

1.5 Legal basis

- AEOI Act 36.
- Report and Motion on the AEOI Act
- Response of the Government on the AEOI Act
- AEOI Ordinance
- AEOI Agreement Liechtenstein-EU
- Report and Motion on the AEOI Agreement Liechtenstein-EU
- MCAA CRS
- MAC

1.6 Further relevant material

- Homepage of the Fiscal Authority on the AEOI 37.
- OECD CRS and CRS Commentary
- OECD CRS Implementation Handbook
- OECD CRS-related Frequently Asked Questions
- OECD Automatic Exchange Portal
- OECD Information about the Tax Identification Number (TIN)
- OECD Information on tax residency
- OECD User Guide - CRS XML Procedure

2. Classification of Entities

2.1 In general

38. Under the CRS, all Entities must be categorised as Financial Institutions or NFE (Non-Financial Entities). This applies to all Liechtenstein Entities, as well as to the holders of Financial Accounts (for the term "Financial Account", see Chapter 3) that are held by Reporting Liechtenstein Financial Institutions (see Chapter 2.5).

39. In a first step, each Liechtenstein Entity must verify its classification as a Financial Institution. It should be noted that certain Active NFEs do not qualify as Investment Entities (see para. 75). In the case of Financial Institutions, a distinction is drawn between Reporting and Non-Reporting Financial Institutions. If the Liechtenstein Entity is not a Financial Institution, it is considered an NFE. If the Entity is an NFE, it must be examined whether the requirements for classification as an Active NFE are met. Only if the Liechtenstein Entity is not an Active NFE is it considered a Passive NFE.

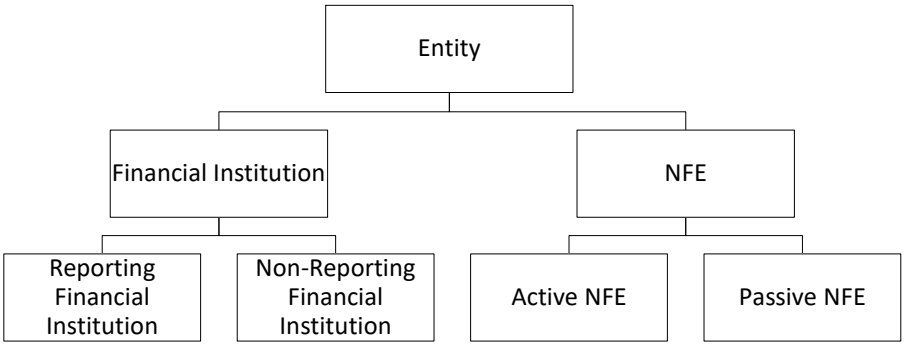

Chart 1: Classification of Entities

40. Classification of an Entity as a Financial Institution (Reporting as well as Non-Reporting) or as an NFE (Active as well as Passive) is determined by the law of the jurisdiction in which the Entity is resident.

41. If the jurisdiction of residence of a foreign Entity has not implemented the AEOI, and if the status of an Entity in context with an account maintained in Liechtenstein needs to be determined, then the applicable rules in Liechtenstein must be observed on a subsidiary basis.

42. A Reporting Liechtenstein Financial Institution that cannot determine the status of an Entity as Active NFE or as Financial Institution (excluding an Investment Entity in a Non-Participating Jurisdiction) must treat the Entity as a Passive NFE (see Chapters 6.3.3 and 7.3). This also applies to Entities that did not comply with the notification obligation pursuant to Art. 4 para. 6 AEOI Act in the version in force until 31 December 2020 (and have therefore hitherto been considered Reporting Liechtenstein Financial Institutions themselves) and do not submit a valid and reasonable self-certification to the Reporting Liechtenstein Financial Institution by 31 December 2021.

In the case of Liechtenstein Entities that are Account Holders, the classification deadlines pursuant to Chapter 2.8 are applicable, i.e. Preexisting Liechtenstein Entities had to be classified until 31 December 2016 at the latest, and new Liechtenstein Entities have to be classified immediately (within 90 days). 43.

2.2 What is an Entity?

2.2.1 In general

The term "Entity" is interpreted very broadly under the CRS, and goes beyond the Liechtenstein term of "Entity". Under the CRS, the following are treated as Entities: 44.

- Legal persons;
- Legal structures.

Legal persons are for example: 45.

- Corporations;
    - Stock corporations;
    - Partnerships limited by shares;
    - Limited liability companies ("GmbH")
    - Cooperatives;
    - Associations;
- Foundations;
- Establishments;
- Trust enterprises with legal personality (Trust regs.).

Legal structures are for example: 46.

- Partnerships;
    - Limited partnerships (open partnerships);
    - General partnerships;
- Trusts.

This means an Entity is any person that is not an individual. 47.

2.2.2 Simple partnerships

48. Simple partnerships may be treated like Entities or as an association between individuals within the meaning of a collective relationship:

- Accounts that are opened on behalf of the simple partnership:
  - In this case, the simple partnership is treated as an Entity for AEOI purposes.
  - Such accounts are to be considered as Entity Accounts, and the AEOI due diligence procedures for Entity Accounts must be applied.
- Accounts that are opened on behalf of the individual partners:
  - In this case, the simple partnership is not treated as an Entity for AEOI purposes.
  - Such accounts are to be considered as collective relationships, and the AEOI due diligence procedures for individuals must be applied.

49. The same also applies to foreign private partnerships.

2.2.3 Sole trader

50. A sole trader is not an Entity, meaning that it also cannot be a Financial Institution. A sole trader is treated as an Individual Account. The AEOI due diligence procedures for individuals are applicable.

2.3 What is a Liechtenstein Entity?

51. Pursuant to Art. 2 para. 1 subpara. 5 AEOI Act, a Liechtenstein Entity means:

- an Entity that is resident in Liechtenstein or is subject to Liechtenstein law;
- a branch of a Financial Institution that is not resident in Liechtenstein or is not subject to Liechtenstein law, but is located in Liechtenstein.

52. The following are not considered as Liechtenstein Entities:

- a branch of a Liechtenstein Entity that is located outside Liechtenstein.

53. For this reason, an Entity is treated as a Liechtenstein Entity if the seat or if the effective place of management is located in Liechtenstein (see unlimited corporate income tax liability pursuant to Art. 44 SteG or taxation pursuant to Art. 64 SteG). The same applies in the event of special asset dedications without personality (e.g. a trust within the meaning of Art. 897 et sqq. PGR) that have been established under domestic law or whose effective place of management is in Liechtenstein (see Art. 65 SteG).

A trust that is a Financial Institution is considered (irrespective of whether it is resident for tax purposes in a participating jurisdiction) to be subject to the jurisdiction of Liechtenstein if one or more of its trustees are resident in Liechtenstein, except if the trust reports all the information required to be reported pursuant to this Agreement or another treaty concerning the implementation of the global standard with respect to the Reportable Accounts maintained by the trust to another participating jurisdiction because it is resident for tax purposes in such other participating jurisdiction (see para. 4 of the CRS Commentary on Section VIII and Annex II/3 of the AEOI Agreement Liechtenstein-EU). 54.

If a foreign Financial Institution (other than a trust) does not have a residence for tax purposes (e.g. because it is treated as fiscally transparent, or it is located in a jurisdiction that does not have an income tax), it is considered to be subject to the jurisdiction of Liechtenstein, and it is consequently a Financial Institution if the following requirements are fulfilled (see Annex II/3 of the AEOI Agreement Liechtenstein-EU as well as para. 4 of the CRS Commentary on Section VIII): 55.

- it is incorporated under the laws of Liechtenstein,
- it has its place of management (including effective management) in Liechtenstein, or
- it is subject to financial supervision in Liechtenstein.

In this context, the term "Participating Jurisdiction" refers to a jurisdiction that has implemented the CRS (see Chapter 2.7.3.2). 56.

Where a Financial Institution (other than a trust) is resident in two or more Participating Jurisdictions, such Financial Institution will be subject to the reporting and due diligence procedures of the Participating Jurisdiction in which it maintains the Financial Accounts (see Annex II/3 of the AEOI Agreement Liechtenstein-EU as well as para. 5 of the CRS Commentary on Section VIII). 57.

If an Entity is resident in several jurisdictions for AEOI purposes, then in addition to the obligations under Liechtenstein law, obligations may also exist under foreign law (e.g. under a foreign AEOI Agreement). If, for example, Reporting Liechtenstein Financial Institutions are resident not just in Liechtenstein, but also abroad, then multiple AEOI reporting obligations may be applicable. 58.

An Entity that is not a Liechtenstein Entity (e.g. a foreign Entity that does not have its seat or effective place of management pursuant to Art. 44 SteG in Liechtenstein), does not fall under the Liechtenstein AEOI provisions. In this case, obligations under foreign law (e.g. pursuant to a foreign AEOI Agreement) may exist. 59.

2.4 What is a Financial Institution?

2.4.1 In general

The term "Financial Institution" includes (see Chart 2): 60.

- a Custodial Institution;

- a Depository Institution;
- an Investment Entity; and
- a Specified Insurance Company.

61. Under the CRS, all Financial Institutions are to be classified as Custodial Institutions, Depository Institutions, Investment Entities and Specified Insurance Companies. This applies to all Liechtenstein Financial Institutions, as well as to the holders of Financial Accounts (for the term "Financial Account", see Chapter 3) that are held by Reporting Liechtenstein Financial Institutions (see Chapter 2.5).

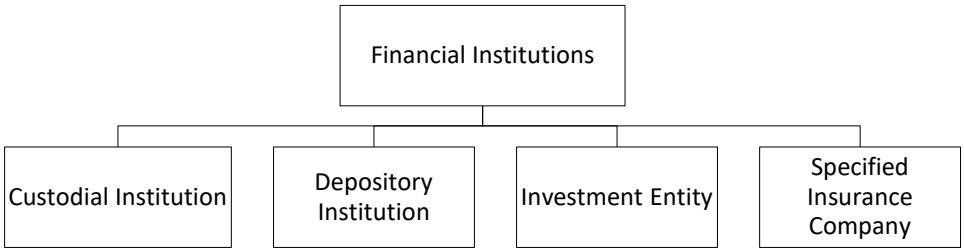

Chart 2: Types of Financial Institutions

2.4.2 Custodial Institution

62. The term Custodial Institution means any Entity that holds, as a substantial portion of its business, Financial Assets for the account of others (for the term "Financial Assets" see Chapter 2.4.5).

63. An Entity holds Financial Assets for the account of others as a substantial portion of its business if

- the Entity's gross income attributable to the holding of Financial Assets and related financial services equals or exceeds 20 % of the Entity's gross income during the shorter of:
  - the three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made, or
  - the period during which the Entity has been in existence.

64. If the responsibilities of a trust company consist of holding Financial Assets on a fiduciary basis, then the trust company may qualify as a Custodial Institution, insofar as the above criteria for qualification as a Custodial Institution are met.

65. The Financial Accounts maintained by Custodial Institutions are referred to as "Custodial Accounts".

2.4.3 Depository Institution

2.4.3.1 General

A Depository Institution means any Entity that accepts deposits in the ordinary course of a banking or similar business. 66.

The Financial Accounts maintained by Depository Institutions are referred to as "Depository Accounts". 67.

2.4.3.2 E-money institutions

E-money institutions are institutions that distribute e-money, including by selling or reselling e-money products to the public, providing a means of distributing e-money to customers, redeeming e-money on request of a customer, or of topping up customers' e-money products (see para. 10 of the EU Directive 2009/110/EC). 68.

E-money institutions within the meaning of the EU Directive 2009/110/EC do not, however, maintain any deposits within the meaning of the EU Directive 2013/36/EU (formerly 2006/48/EC). Pursuant to para. 13 of the EU Directive 2009/110/EC, the "issuance of electronic money does not constitute a deposit-taking activity pursuant to Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions". For this reason, e-money institutions within the meaning of the EU Directive 2009/110/EC are not considered to be Depository Institutions within the meaning of the AEOI. 69.

The EU Directive 2009/110/EC applies to payment service providers that issue e-money. The definition of e-money within the meaning of the EU Directive 2009/110/EC covers all situations where a payment service provider issues pre-paid stored values in exchange for funds, which can be used for payment purposes because they are accepted by third persons as payment (see para. 7 of the EU Directive 2009/110/EC). 70.

The EU Directive 2009/110/EC does not, however, apply to monetary value stored on specific pre-paid instruments, designed to address precise needs that can be used only in a limited way, because they allow the e-money holder to purchase goods or services only in the premises of the e-money issuer or within a limited network of service providers under direct commercial agreement with a professional issuer, or because they can be used only to acquire a limited range of goods or services (see para. 5 of the EU Directive 2009/110/EC). 71.

Just as well, the EU Directive 2009/110/EC does not apply to e-money institutions that grant credit from the funds received or held for the purpose of issuing e-money. In addition, e-money issuers are not permitted to grant interest or any other benefits, unless those benefits are not related to the length of time during which the e-money holder holds e-money (see para. 13 of the EU Directive 2009/110/EC). 72.

E-money institutions within the meaning of the EU Directive 2009/110/EC are also required to subject themselves to the regulations concerning the combating of money laundering and terrorism finance (see para. 13 of the EU Directive 2009/110/EC). 73.

2.4.4 Investment Entities

74. It is necessary to distinguish between two types of Investment Entities. Investment Entity means any Entity:

- conducting business for customers (see Chapter 2.4.4.1); and
- managed by a Financial Institution (see Chapter 2.4.4.2).

75. The term Investment Entity does not include an Entity that is an Active NFE because it meets any of the criteria set out in Art. 2 para. 1 subpara. 2 letter d to g AEOI Act (also see Chapter 2.7.2). For this reason, Entities pursuant to Art. 2 para. 1 subpara. 2 letter d to g AEOI Act are always treated as Active NFEs, provided that they meet the criteria applicable to Active NFEs.

2.4.4.1 Investment Entities conducting business for customers

76. An Investment Entity pursuant to Art. 2 para. 1 subpara. 10 letter a AEOI Act is an Entity that conducts as a business one or more of the following activities or operations for or on behalf of a customer:

- trading in money market instruments (e.g. cheques, bills, certificates of deposit, derivatives); foreign exchange; exchange, interest rate and index instruments; transferable securities or commodity futures trading (e.g. a company of stockbrokers);
- individual and collective portfolio management (e.g. an investment fund management company);
- otherwise investing administering or managing Financial Assets (for the term Financial Assets, see Chapter 2.4.5) or money on behalf of other persons.

77. An Entity is treated as primarily conducting as a business one or more of the aforementioned activities if

- the Entity's gross income attributable to the relevant activities equals or exceeds 50% of the Entity's gross income during the shorter of
  - the three-year period ending on 31 December of the year preceding the year in which the determination is made, or
  - the period during which the Entity has been in existence.

78. The activity must be provided against payment and for third parties.

79. A trust company may qualify as Investment Entity on the basis of one of the aforementioned activities if it primarily manages or invests assets of Entities on behalf of costumers in return for payment within the context of its activity (see Art. 2 para. 1 subpara. 10 letter a AEOI Act). In this context, it is irrelevant for the qualification of the trust company as a business conducting Investment Entity whether the trust company has discretionary authority to manage the assets of Entities. The criteria of discretionary authority is relevant only in respect

with the qualification of the Entity managed by the trustee as an Investment Entity (an Entity managed by a Financial Institution) (also see Chapter 2.4.4.2 below).

2.4.4.2 Entities managed by a Financial Institution

The following Entities also qualify as Investment Entities: 80.

- Entities that are managed by another Entity that qualifies as a Financial Institution (e.g. an Investment Entity) (so-called managed-by test), and

- Entities whose gross income during the last 3 years (calculated from 31 December of the previous year) or since its existence (whichever period is shorter) are at least 50 % attributable to the investment or reinvestment of Financial Assets or trade therewith (so-called gross income test).

2.4.4.2.1 Managed-by test

2.4.4.2.1.1 In general

The managed-by test is considered to be fulfilled if a Financial Institution has discretionary authority to manage the Entity's assets (or parts thereof) (see para. 17 of the CRS Commentary on Section VIII: "discretionary authority to manage the Entity's assets (in whole or part)". 81.

An Entity is considered to be managed by a Financial Institution if the managing Financial Institution actually provides any activities specified under Chapter 2.4.4.1 (trade in money market instruments, foreign exchange, exchange rate, interest rate and index instruments, transferable securities or commodity futures, individual or collective portfolio management, otherwise investing or managing of Financial Assets or money) for the Entity. 82.

For this reason, the managed-by test does not focus on who actually manages an Entity, but instead exclusively on who actually manages the assets of the Entity and does so with discretionary authority. 83.

Administrative services (such as e.g. the preparation of the meetings of the managing bodies, the drawing up of the minutes of meetings, the keeping of accounts, keeping records, etc.) that a Financial Institution conducts within the context of an executive body mandate (e.g. a trust company as corporate director) are not associated with the management of the assets of the Entity. For this reason, these activities are irrelevant for the purpose of the managed-by test. 84.

The term "management with discretionary authority" does not require the managing Financial Institution to be a member of the board of the Entity. The assets of an Entity can e.g. also be "managed with discretionary authority" by a bank or by an external asset manager (see Chapter 2.4.4.2.1.3). For this reason it is necessary to review whether and who manages the assets of an Entity with discretionary authority. 85.

If the management of the assets is not exercised by a Financial Institution, or if a Financial Institution exercises the management of the assets, but the Financial Institution does not have any discretionary authority in this context, then the managed-by test is not fulfilled. 86.

2.4.4.2.1.2 Management of the assets by a board member

87. The managed-by test is only fulfilled if the assets of the Entity are managed by the members of its board if:

- the member of the executive board is a Financial Institution; and
- the member of the executive board has discretionary authority when managing the assets of the Entity (or parts thereof); and
- the member of the board actually manages the assets of the Entity.

88. Only Entities can qualify as a Financial Institution. If only individuals who are not attributed to any Financial Institution (see para. 93) exercise the executive board function, then the managed-by test is not fulfilled in respect of the members of the executive board.

89. Example:

The members of the executive board of an Entity consist of two individuals, whereby the executive board activity of the individuals are not attributed to any Financial Institution. In this case, the management of the assets of the Entity by a Financial Institution is not established (no Entity as an executive board, and consequently also no Financial Institution as an executive board). The managed-by test is not fulfilled in respect of the management of the assets by the members of the executive board. The managed-by test may, however, be fulfilled due to the management of the assets with the discretionary authority of a bank or other external asset manager.

90. The managed-by test is only fulfilled within the meaning of the CRS if the managing member of the executive board is a Financial Institution. If solely NFEs exercise the executive board function, and if for this reason none of the members of the executive board is a Financial Institution, then the managed-by test is not fulfilled in respect of the management of the assets by the members of the executive board.

91. Example 1:

The sole member of the executive board of an Entity consists of a corporate director, e.g. a trust company that qualifies as a Financial Institution. The management of the assets has been assigned to the corporate director (Financial Institution), who manages the assets with his own discretionary authority without being subject to the need to obtain approval from others. In this case, the assets of the Entity are managed by another Entity (by the corporate director) with discretionary authority. The managed-by test is fulfilled, as the managing member of the executive board is a Financial Institution.

92. Example 2:

The members of the executive board of an Entity consist of a corporate director, who qualifies as an NFE, and two individuals, whereby the executive board activity of the individuals is not attributed to any Financial Institution (see below). The management of the assets has been assigned to the corporate director (NFE), who manages the assets with his own discretionary authority without being subject to the need to obtain approval from other members of the

executive board. In this case, the assets of the Entity are being managed by another Entity (by the corporate director) with discretionary authority. The managed-by test is not fulfilled, as the managing member of the executive board is not a Financial Institution.

93. An individual acting as the executive board of an Entity may be attributed to a Financial Institution only where certain criteria are taken into account, such as being bound by instructions in relation to the Financial Institution, acting on the account of the Financial Institution, and bearing the risk/liability of the Financial Institution. If such an attribution is made, this must be documented so that it can be verified by an audit.

94. If one of several members of an executive board is a Financial Institution, but solely other members of the executive board who qualify as NFEs or who are individuals not attributed to any Financial Institution (see para. 93) are commissioned to manage the total assets of the Entity, then the managed-by test is likewise not fulfilled in respect of the management of the assets by the members of the executive board.

95. Example 1:

The executive board responsible for managing the Entity consists of two Entities and two individuals, whereby the executive board activity of the individuals is not attributed to any Financial Institution (see above). One of the corporate directors qualifies as a Financial Institution, and the other as an NFE. Solely the NFE and the individuals are commissioned with the management of the total assets of the Entity. In this case, the assets of the Entity are not managed by the Financial Institution, and for this reason the managed-by test is not fulfilled in respect of the management of the assets by the members of the executive board.

96. Example 2:

The executive board responsible for managing the Entity X consists of an Entity (corporate director) A and an individual B. The corporate director A qualifies as a Financial Institution. The asset management has not been delegated to one of the members of the executive board or to third parties. The corporate director was appointed as chairman of the board of directors. Pursuant to the articles of association, the decisions of the board of directors are passed with a majority of the votes of all members of the board of directors, and in the event of a parity of votes the chairman has a casting vote. Both members of the board of directors have single signatory authority. The managed-by test is fulfilled, as the corporate director can take decisions concerning the management of the assets by virtue of the right to casting vote, including without the consent of the individual, meaning his discretionary authority is not restricted.

97. Example 3:

Starting situation as in example 2, whereby the corporate director does not have a casting vote, meaning that the corporate director A requires the consent of the individual B for investment decisions. In this case, the assets of the Entity are not managed at the discretion of the corporate director, and for this reason the managed-by test is not fulfilled in respect of the management of the assets by the members of the executive board.

98. Example 4:

The board of directors of the stock corporation X consists of a corporate director A and an individual B. The asset management has not been delegated to a third party or a member of the executive board, meaning that responsibility lies with the overall board of directors. The articles of association stipulate that all of the decisions of the board of directors must be taken unanimously. The corporate director and the individual collectively represent the Entity externally, whereby two parties are required. On the basis of an internal rule, the individual is committed towards the corporate director to approve any investment decisions taken by the corporate director. The assets of the Entity are managed with discretionary authority of the corporate director, as the individual is internally committed to approve the decisions of the Entity in the management body until further notice. Consequently, the managed-by test in respect of the management of the assets by the members of the executive board is generally fulfilled. If this internal arrangement between the corporate director and the individual ends, or if the individual does indeed cease to approve the investment decisions of the corporate director, then the discretionary authority of the corporate director ends at this point and the managed-by test is no longer fulfilled.

99. If the management of the assets of an Entity is divided between several members of the executive board, whereby certain parts of the assets are managed by a Financial Institution, and others by an NFE, then the assets of the Entity are considered to be managed by a Financial Institution, always provided that the Financial Institution can exercise discretionary authority in respect of the management of those parts of the assets.

100. Example 5:

The executive board responsible for managing the Entity consists of two Entities and two individuals. One corporate director qualifies as a Financial Institution, and the other as an NFE. The executive activities of the individuals is not attributed to any Financial Institution. The Entity has a bank account and a securities account with a balance of CHF 10 million at Bank A and a bank account and securities account at Bank B with a total value of CHF 20,000. The corporate director who qualifies as a Financial Institution has a management power of attorney on the securities account at Bank B. He can manage the securities in the securities account B with discretionary authority without consulting the other members of the executive board. The other assets are managed only by the NFE or by the individuals respectively. The Financial Institution has neither signatory authority, nor a management power of attorney for the account or for the securities account at Bank A. The managed-by test is fulfilled in this case, because parts of the assets are managed by a Financial Institution with discretionary authority. This irrespective of the fact that the larger part of the assets of the Entity is not managed by a Financial Institution.

101. By contrast, if an executive board consists of several members who jointly manage the total assets of the Entity, the managed-by test is not fulfilled if a member of the executive board is not a Financial Institution or is not attributed to a Financial Institution and the consent of this member is required to invest the assets.

102. Example 6:

The executive board responsible for managing the Entity consists of two Entities and two individuals. Both corporate directors qualify as Financial Institutions; the executive board activity of the individuals is not attributed to any Financial Institution. The assets of the Entity consist exclusively of an interest in a BVI company and a bank account. The total assets of the

Entity are managed by the executive board itself. Pursuant to the articles of association of the Entity, all of the decisions of the executive board require a 2/3 majority in order to be valid. This also includes decisions concerning the investment of the assets of the Entity. As the Financial Institutions can decide about the investment of the assets only with the consent of the individuals, no Financial Institution has discretionary authority over the investment of the assets, and consequently the managed-by test is not fulfilled in respect of the management of the assets by the members of the executive board.

103. The question of whether a Financial Institution has discretionary authority over the management of the assets of the Entity depends on what powers have been granted to the Financial Institution in respect of the management of the assets.

104. If, for example, pursuant to the articles of association of a foundation, the management of the assets is exercised by an advisory board or investment committee, or if decisions concerning the investment of the assets are subject to the consent of a protector, then the foundation council also has no discretionary authority over the management of the assets of the foundation.

105. There is no discretion given if the articles of association, bylaws or other regulations stipulate how the assets of a foundation are to be managed by the managing bodies. If the articles of association stipulate, e.g. that the sole purpose of the foundation is the holding of shares in a specific company, and if the total assets of the foundation are to be used exclusively for the purpose of investing in this company, then it cannot be assumed that the foundation council has discretion over the investment of the assets of the foundation. This is also the case if an investment regulation of the foundation stipulates that the assets may, e.g. be invested only in gold.

106. If the assets are not managed by the executive board, but instead the management of the assets is assigned to a third party, then it is necessary to determine whether the third party who is managing the assets is a Financial Institution and if this Financial Institution is able to manage the assets with discretionary authority. In this context, the decisive factor is not whether the executive board of the Entity is classified as a Financial Institution. Instead, it is necessary to determine whether the third party who is actually managing the assets is classified as a Financial Institution and manages the assets with discretionary authority, because in such case the assets of the Entity are managed not by the managing bodies, but instead by the third party.

2.4.4.2.1.3 Management of the assets by a bank or an external asset manager

107. A bank or an external asset manager manages the assets of an Entity within the meaning of the CRS only if:

- the bank or the external asset manager is a Financial Institution; and
- the bank or the external asset manager has discretionary authority when managing the assets of the Entity (or parts thereof); and
- the bank or the external asset manager actually does manage the assets of the Entity.

108. As a rule, a bank qualifies as a Financial Institution (see Section VIII/A/4 and 5 of the CRS). An external asset manager also usually qualifies as a Financial Institution (see Section VIII/A/6/a/ii of the CRS).

109. A bank or an external asset manager also has discretionary authority over the management of the assets of the Entity (or parts thereof) if the asset management is performed on the basis of a discretionary asset management mandate. If the bank or the asset manager is not constrained by any criteria, then the management of the assets of the Entity is in any case considered to be with discretionary authority. An asset management commission placed with a professional asset manager or a bank is not, however, automatically considered to be with discretionary authority in every case. A discretionary asset management mandate is usually not given in the case of a standardised asset management mandate that restricts the discretion of the asset management with defined conditions (e.g. by the choice of a clear investment strategy, meaning that the bank as a rule no longer has discretionary authority over the management of the managed assets).

110. Example 1:

No Financial Institution is represented on the executive board of Entity A. The executive board delegates the asset management to the external asset manager B, who is classified as a Financial Institution. A discretionary asset management mandate exists. The managed-by test in respect of the management of the assets by an external asset manager is fulfilled.

111. Example 2:

No Financial Institution is represented on the executive board of Entity A. The executive body delegates the asset management to Bank B, which is classified as a Financial Institution. A discretionary asset management mandate does not exist. Instead, the discretion of Bank B is restricted by a clear investment strategy or clear investment profile. The managed-by test in respect of the management of the assets by the bank is not fulfilled.

112. Example 3:

A Financial Institution is represented on the executive board of Entity A, and pursuant to bylaws has free discretion over the management of the assets. The executive board delegates the asset management to the external asset manager B, who is classified as a Financial Institution. A discretionary asset management mandate exists. The managed-by test in respect of the management of the assets by an external asset manager is fulfilled.

2.4.4.2.2 Gross income test

113. For an Entity to be classified as a Financial Institution, at least 50% of its gross income during the past 3 years (calculated from 31 December of the previous year) or since its existence (which ever period is shorter) must derive from the investment of Financial Assets (see Chapter 2.4.5).

114. If an Entity holds assets that do not qualify as Financial Assets (e.g. real estate), not directly but instead via a subsidiary, then when assessing whether the gross income of the Entity is primarily generated from Financial Assets, the relevant criterion is not the assets indirectly held via Related Entities. If, for example, the sole asset of a foundation is an interest in a stock corporation, which for its part holds real estate, then when assessing whether the gross

income test is fulfilled, the relevant criterion are the dividends paid by the stock corporation to the foundation, and not the income of the subsidiary (see CRS Handbook p. 113).

2.4.5 Financial Assets

115. The term "Financial Assets" includes a security (for example a share of stock in a corporation, partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust, as well as note, bond, debenture or other evidence of indebtedness), partnership interest, commodity, swaps (for example interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps and similar agreements), Insurance Contracts or Annuity Contracts, or any interests (including a futures or forward contracts or options) in a security, partnership interest, commodity, swap, Insurance Contract, or Annuity Contract. The term Financial Assets does not include a non-debt, direct interest in real property.

116. The term Financial Assets is used in the definition for "Custodial Institution", "Investment Entity", "Custodial Account" and "Excluded Account".

117. While the credit balance on a bank account is covered by the term "Financial Account" (see Chapter 3, in particular Depository Account in Chapter 3.2.4), this is not treated as “Financial Asset”.

2.4.6 Specified Insurance Company

118. A Specified Insurance Company means an Entity that is an insurance company or the holding company of an insurance company that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.

2.4.7 Voluntary classification as a Financial Institution (opt-in) abolished

119. A Liechtenstein Entity or foreign Entity with effective place of management in Liechtenstein that is classified as a Passive NFE could, until 31 December 2020, voluntarily classify itself as an Investment Entity (opt-in under Art. 4 para. 2 of the law hitherto in force).

120. However, the opt-in was abolished without replacement effective 1 January 2021 (see LGBl. 2020 No. 499 and Report and Motion No. 69/2020). Consequently, those Passive NFEs that voluntarily classified themselves as Investment Entities (Financial Institutions) under Art. 4 para. 2 of the previous law must be reviewed. A transitional period until 31 December 2021 is provided for this review, i.e. the classification must be examined and adjusted if necessary. In the event of a change in classification, this must be notified to the Reporting Liechtenstein Financial Institutions in question (especially banks) immediately, but no later than 31 December 2021.

2.5 What is a Reporting Liechtenstein Financial Institution?

121. Reporting Liechtenstein Financial Institutions are identified using the following table:

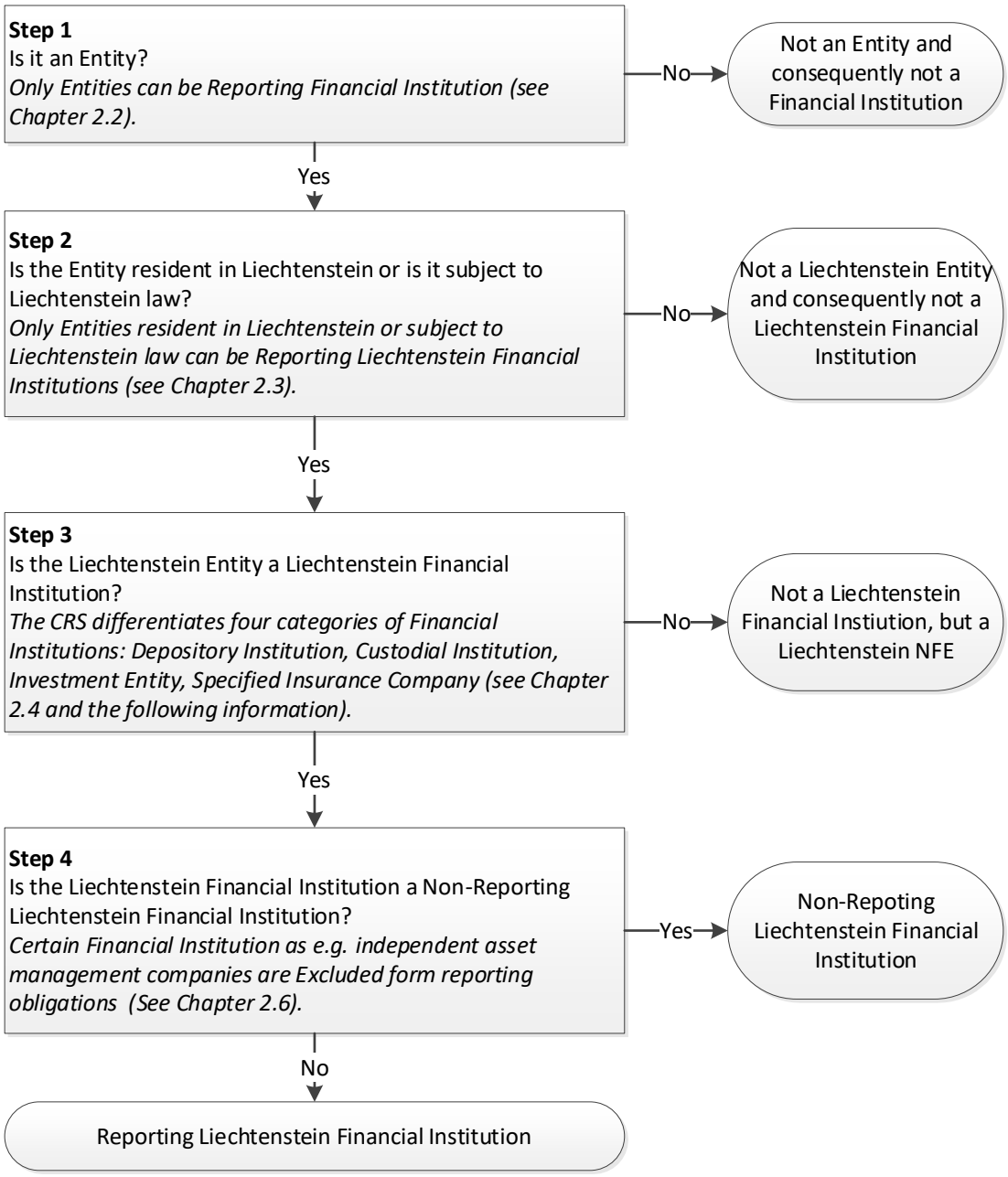

Chart 3: Table to identify a Reporting Liechtenstein Financial Institution

122. A Reporting Liechtenstein Financial Institution means a Liechtenstein Financial Institution that, within the meaning of the exclusion principle, is not a Non-Reporting Liechtenstein Financial Institution (for Non-Reporting Liechtenstein Financial Institutions, see Chapter 2.6).

123. The qualification as a Reporting Liechtenstein Financial Institution applies irrespective of whether Reportable Accounts are currently involved, or whether e.g. a trust company merely operates in the Liechtenstein market, or does not have any external relations with the respective partner jurisdictions. Such conclusions are not possible without first conducting the specific AEOI due diligence procedures.

2.6 What is a Non-Reporting Liechtenstein Financial Institution?

2.6.1 In general

A Liechtenstein Financial Institution is treated as a Non-Reporting Liechtenstein Financial Institution insofar as it is classified as such pursuant to Art. 2 para. 1 subpara. 14 AEOI Act respectively pursuant to Art. 3 AEOI Ordinance. In the following, some Non-Reporting Liechtenstein Financial Institutions are described in greater detail. 124.

2.6.2 Exempt Collective Investment Vehicle (CIV)

2.6.2.1 Investment entity subject to supervision as a CIV

An Investment Entity is treated as a Non-Reporting Liechtenstein Financial Institution within the meaning of the AEOI Act as well as Art. 3 letter b AEOI Ordinance if it is subject to supervision as a collective investment vehicle (CIV) and fulfils the criteria in the applicable agreement concerning interests in the collective investment vehicle as well as concerning physical shares issued in the bearer form. 125.

2.6.2.2 CIV pursuant to the AEOI Agreement Liechtenstein-EU

An Exempt Collective Investment Vehicle pursuant to the AEOI Agreement Liechtenstein-EU is also considered to be a Non-Reporting Liechtenstein Financial Institution. The German version of the AEOI Agreement Liechtenstein-EU mentions an "exempt undertaking for the collective investment of transferable securities (exempt UCITS)", while the English version refers to an "Exempt Collective Investment Vehicle". As the German version is a translation error, the following will refer exclusively to "Collective Investment Vehicle (CIV)". 126.

The term "Exempt Collective Investment Vehicle (exempt CIV)" means an Investment Entity that is regulated as a collective investment vehicle (CIV), provided that all of the interests in the CIV are held by or through individuals or Entities that are not Reportable Persons (e.g. because they are a Financial Institution), except a Passive NFE with Controlling Persons who are Reportable Persons. 127.

Example 1 (no maintenance of shareholders' accounts): 128.

A Liechtenstein investment fund has not issued any physical shares in bearer form and does not maintain any shareholders accounts itself. No fund units can be subscribed from the fund itself (represented by the management company). Instead, the fund (represented by the management company) delegates the shareholders' account management to another Financial Institution (custodian). In this case, interests in the fund are considered to be held through another Financial Institution (custodian, not a Reportable Person). For this reason, the fund is treated as a Non-Reporting Liechtenstein Financial Institution. This means that for the purpose of AEOI due diligence procedures, the fund merely has to document the AEOI status of the custodian as the (direct) counterparty.

Example 2 (maintenance of shareholders' accounts): 129.

As in Example 1, except that the Liechtenstein investment fund maintains shareholders' accounts itself, i.e. fund units can be subscribed from the fund itself (represented by the management company) for this fund. Because shareholders' accounts are kept, this fund is

treated as a Reporting Liechtenstein Financial Institution, so that it must fulfil the applicable AEOI obligations.

130. Example 3 (issue of physical shares in bearer form):

The Liechtenstein investment fund does not maintain any shareholders' accounts, i.e. no fund units can be subscribed from the fund itself (represented by the management company). Physical shares in bearer form have been issued, however. In this context, see the information set out below.

131. An Investment Entity that regulated as a CIV is also considered to be an exempt CIV if the CIV has issued physical shares in bearer form, insofar as:

- the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after 31 December 2015,
- the CIV retires all such shares upon surrender,
- the CIV performs the AEOI due diligence procedures and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment, and
- the collective investment vehicle has in place policies and procedures to ensure that the such shares are redeemed or immobilised as soon as possible, and in any event prior to 1 January 2018.

132. If these conditions are not met, then the fund is treated as a Reporting Liechtenstein Financial Institution.

2.6.2.3 Management companies of a CIV

133. A management company of a collective investment vehicle is also considered to be a Non-Reporting Liechtenstein Financial Institution within the meaning of the AEOI Act as well as Art. 3 letter c AEOI Ordinance, insofar as these do not maintain any Financial Accounts for the fund or CIV within the meaning of the AEOI Act.

134. In the case of management companies that hold Financial Accounts for the fund or CIV within the meaning of the AEOI Act and are thus deemed to be Reporting Liechtenstein Financial Institutions, equity or debt interests in the management company itself are not deemed to be Financial Accounts within the meaning of the AEOI Act.

2.6.3 Trustee-Documented Trust

135. A Liechtenstein trust that is a Financial Institution (e.g. Investment Entity) can classify itself as a Non-Reporting Financial Institution, insofar as the trustee of the trust is a Reporting Liechtenstein Financial Institution and reports all reportable information required to be reported pursuant to Art. 9 AEOI Act (see Chapter 10) with respect to all Reportable Accounts of the trust (see Chapter 8). In this case, the trustee takes over the AEOI due diligence procedures and any possible reporting obligations of the trust.

136. Insofar as the TDT concept is used, irrespective of the classification of the trust as Non-Reporting Liechtenstein Financial Institution, the trust must be filed in the Fiscal Authority's electronic registration form as "Reporting FI", even though the trustee of the trust undertakes the reporting obligations within the context of the TDT concept. This also corresponds to the specifications pursuant to the FATCA Agreement.

137. In contrast to the FATCA Agreement (domestic and foreign) Related Entities of the trust (respectively of the foundation, etc.) cannot be reported under the TDT concept. Such a report is not intended under the CRS concept.

138. Pursuant to Art. 3 para. f AEOI Ordinance, the TDT concept can also be applied to a foundation, an establishment of a character that resembles a foundation, a trust enterprise with legal personality having features that resemble a foundation (Trust reg.) or any other asset structure similar to a foundation, provided that one member of the highest executive body is a Reporting Liechtenstein Financial Institution and reports all information required to be reported (also see Chapter 10) in respect of all Reportable Accounts of the trust (also see Chapter 8). The following information therefore also applies analogously to these Entities.

139. The TDT concept is not applicable to stock corporations, limited liability companies, establishments not similar to a foundation, trust companies with personality not similar to a foundation (Trust reg.) and other asset structures not similar to a foundation.

140. A trustee who is classified as a Reporting Liechtenstein Financial Institution can also assume the AEOI due diligence procedures and any possible reporting obligations of the trust if he does not manage the assets of the trust with discretionary authority, but if the trust for other reasons is classified as a Financial Institution, e.g. if his Financial Assets are managed by a bank with discretionary authority (also see Chapter 2.4.4.2.1.3).

141. Because only a Reporting Liechtenstein Financial Institution can undertake the AEOI due diligence procedures and any possible reporting obligations of the trust, then if an individual exercises the function of trustee, a trustee can assume the AEOI due diligence procedures and any possible reporting obligations of the trust only if the trustee can be attributed to a Reporting Liechtenstein Financial Institution.

142. For the purposes of the TDT concept, this consequently means that the following may qualify in particular as a trustee or person in a similar function (provided this is a Reporting Liechtenstein Financial Institution):

- a trust company within the meaning of TrHG;
- a trust company to which the activity of an employee or a person who is part of the organisation of its operation with a licence in accordance with the Act concerning the Supervision of Persons pursuant to Art. 180a PGR is attributable;
- an Entity to which the activity of an employee who is independently licensed to exercise activities pursuant to Art. 180a PGR in accordance with the Act on the Supervision of Persons pursuant to Art. 180a PGR is attributable.

143. A trustee documented trust (TDT) resident in Liechtenstein may also exist if the trustee of the Liechtenstein trust is a foreign private trust company (PTC) that is in turn managed by a Liechtenstein trust. In this case, the Liechtenstein trust company can assume the role of the trustee of the Liechtenstein trust. The Liechtenstein trust is considered however to be a TDT only if the Liechtenstein trust company is a Reporting Liechtenstein Financial Institution and reports all reportable information with respect to all the Reportable Accounts of the trust.

144. Pursuant to Art. 11 AEOI Act Reporting Liechtenstein Financial Institutions may use service providers to fulfil the obligations imposed on them by the applicable agreement and the AEOI Act (see Chapter 3.6). However, the use of a service provider is to be distinguished from the TDT concept. Under the TDT concept, the original reporting trust is considered to be a Non-Reporting Financial Institution, insofar as the trustee meets the corresponding obligations (the timing, the type of the AEOI reporting and due diligence obligations do not change because the TDT concept is being used, they remain the same, as if the trust was exercising its obligations itself). In the case of a service provider, the Reporting Liechtenstein Financial Institution (the trust) remains subject to the obligations.

2.6.4 Non-Reporting Financial Institution under FATCA

145. The list of Non-Reporting Financial Institutions substantially corresponds to Annex II of the FATCA Agreement. While the FATCA Agreement applies only towards the USA, the AEOI applies towards all partner jurisdictions. For this reason, the following exemptions in particular are not explicitly included in the CRS (because these are not compatible with the CRS concept):

- Financial Institution with a Local Client Base pursuant to Annex II Section III/A of the FATCA Agreement;
- Local Bank pursuant to Annex II Section III/B of the FATCA Agreement;
- Financial Institution with only Low-Value Accounts pursuant to Annex II Section III/C of the FATCA Agreement;
- Sponsored Investment Entity and Controlled Foreign Corporation pursuant to Annex II Section IV/B of the FATCA Agreement;
- Sponsored, Closely Held Investment Vehicle pursuant to Annex II Section IV/C of the FATCA Agreement.
- Related Entities of a Trustee-Documented Trust (see Chapter 2.6.3).

2.7 What is a Non-Financial Entity (NFE)?

2.7.1 In general

146. The term "NFE" refers to an Entity that is not a Financial Institution. A distinction is drawn between Active and Passive NFEs.

147. The question of whether an Entity is a Financial Institution or an NFE must generally be determined on the basis of the rules applicable in the jurisdiction of residence of the Entity (see Chapter 2.1).

148. Example 1:

The stock corporation X AG is resident in country A, which has implemented the AEOI. X AG maintains an account at the Liechtenstein bank Z, a Reporting Liechtenstein Financial Institution. To determine whether X AG is a Financial Institution or an NFE, the rules applicable in the country A are relevant.

149. Example 2:

The stock corporation Y AG is resident in country B, which has not implemented the AEOI. Y AG maintains an account at the Liechtenstein bank Z, a Reporting Liechtenstein Financial Institution. To determine whether Y AG is a Financial Institution or an NFE, with regard to the account the rules applicable in Liechtenstein are relevant.

2.7.2 Active NFE

2.7.2.1 In general

150. The term "Active NFE" means an NFE that meets any of the following criteria:

a) NFE by reason of active income and assets;

b) qualified publicly traded companies as well as their Related Entities;

c) Governmental Entities, International Organisations, Central Banks or their wholly owned Entities;

d) holding NFEs that are members of a nonfinancial group;

e) start-up NFEs that do not take up the business of a Financial Institution;

f) NFEs that are liquidating or restructuring that were not active as Financial Institutions;

g) treasury centres that are members of a nonfinancial group;

h) non-profit NFEs in accordance with Art. 2 para. 1 subpara. 2 letter h AEOI Act.

151. Subject to classification, notification, and documentation obligations, Liechtenstein Active NFEs do not have any obligations under the AEOI Act.

152. In respect of accounts held by Active NFEs, Reporting Liechtenstein Financial Institutions must conduct the AEOI due diligence procedures for Entity Accounts (see Chapter 6 and 7). While, in the case of Active NFEs, the persons behind these do not have to be reported, the Active NFE may itself be a Reportable Person. Excluded from this are merely those cases in which the Active NFE is not per se considered to be a Reportable Person (see Chapter 8.2; publicly listed companies, International Organisations, etc.).

2.7.2.2 NFE by reason of active income and assets

153. An NFE is classified as an Active NFE by reason of its income and the assets in its possession, if the following conditions are both cumulatively fulfilled:

- less than 50 % of the NFE's gross income for the preceding calendar year or other appropriate reporting period is passive income, and
- less than 50 % of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income.

154. For this assessment, liquidity holdings (cash and cash equivalents) amounting to the annual gross expenses are not treated as assets that produce or are held for the production of passive income. Alternatively, liquidity holdings (cash and cash equivalents) amounting to the necessary operating assets pursuant to Art. 32a of the Tax Ordinance are not treated as assets that produce or are held for the production of passive income. When calculating the 50 % threshold in relation to the assets of an NFE, the market or book values reported in the balance sheet of the NFE (or in the statement of assets, if there is no obligation to draw up a balance sheet) may be used. In respect of fulfilment of the threshold, the Reporting Liechtenstein Financial Institution is not obliged to check a self-certification on the basis of any possible existing balance sheet or statement of assets (for the "reasonableness test", see Chapter 3.5.6).

155. Example 1:

The stock corporation X AG is an NFE with an operating business activity and generates its gross income largely from this operating activity (no passive income). Any assets held by X AG serve to exercise the operating business activity. X AG qualifies as an Active NFE by reason of the type of the income and assets.

156. Example 2:

The same situation as in the above example, but X AG also holds a substantial portfolio of securities, although in comparison to the operating business activity this generates negligible income (passive income). Although less than 50 % of the gross income represent passive income, X AG is not treated as an Active NFE by reason of the type of the income and assets if the value of the securities portfolio exceeds that of the other assets required for the operating business activity.

157. The following classes of income are considered as passive income when determining whether the Entity is an Active NFE by reason of the type of the income and assets:

a) dividends;

b) interest;

c) income equivalent to interest;

d) rents and royalties, other than rents and royalties derived in the active conduct of a business conducted, at least in part, by employees of an NFE;

e) annuities;

f) the excess of gains over losses from the sale or exchange of Financial Assets that gives rise to the passive income described under a) to e);

g) the excess of gains over losses from transactions (including exchange and non-exchange traded futures, forwards, options, and similar transactions) in any Financial Assets;

h) the excess of foreign currency gains over foreign currency losses;

i) net income from swaps; and

j) amounts received from Cash Value Insurance Contracts.

158. If an Entity holds assets that do not qualify as Financial Assets not directly but instead via a subsidiary, then when assessing whether the income of the Entity is generated from Financial Assets or non-Financial Assets, the relevant criterion is not the gross income of the subsidiary company (see Chapter 2.4.4.2.2).

159. If an Entity has a participation in a partnership (e.g. in a collective partnership or limited partnership), then – in contrast to a participation in a subsidiary – the assets (assets and liabilities) as well as the results must be extrapolated for the Entity (partner) on a pro rata basis. For this reason, in respect of the question of whether an Entity is considered to be an Active NFE by reason of active income and assets, interests in partnerships must be taken directly into account.

160. An Entity that manages several real estate properties can be classified as an Active NFE if the management of the real estate properties is rendered within the context of active operations. Income from the management of the real estate (including rental income) may be classified as income from active operations. In order for the management of real estate properties to be considered an active operation, the CRS demands that the Entity that manages the real estate properties has the corresponding structures to manage such real estate properties. In this context, the CRS states that the active operation must be exercised by employees of the Entity.

161. Example:

The stock corporation X AG holds various real estate properties and has in-house personnel that attends to the letting and management of the real estate properties. The generated rental income may not be classified as passive income.

162. The term "employee" can also refer to a member of the management of the Entity (e.g. a member of the board of directors), as – in particular in the case of smaller companies – business activity is performed by the board of directors itself, and the members of the board of directors have not entered into a separate employment relationship with the Entity within an employment contract context.

163. To enable the management of real estate to be classified as an active operation, this activity must have a certain scope. This means that the management of several real estate properties or of a real estate property containing several residential units can certainly represent an active operation. Management means, inter alia, the maintenance of a real estate property, the search for tenants and buyers, the administration of rental deposits, the calculation and settlement of the service charges, etc.

164. By contrast, the holding and letting of a single real estate property is seldom classified as an active operation. For this reason, in such a case the rental income is usually classified as passive income.

165. In the case of NFEs that regularly act as financial asset traders, the income from transactions that are generated within the context of the ordinary business activity of the trader do not constitute passive income.

2.7.2.3 Listed corporations

166. An NFE is considered an Active NFE if its stock is regularly traded on an established securities market, or if it is a Related Entity of an Entity whose stocks are regularly traded on an established securities market.

167. A stock is "regularly traded" if there is a meaningful volume of trading with respect to the stock on an on-going basis (see para. 128 in conjunction with 112 et sq. of the CRS Commentary on Section VIII).

168. An "established securities market" exists if (see para. 112 in conjunction with 115 of the CRS Commentary on Section VIII):

- the corresponding exchange is officially recognised and supervised by the competent authorities; and

- the meaningful annual value of shares traded on the securities market (or a predecessor exchange) exceeded USD 1 billion during each of the three preceding calendar years. If a securities market has more than one tier of market level, then for the purpose of this test each such tier must be treated as a separate exchange.

169. The SIX Swiss Exchange and the BX Berne eXchange are treated as established securities markets. Further established securities markets are included in the respective current "List of recognized foreign stock exchanges for reporting obligation" of the Swiss Federal Financial Market Authority (FINMA).

170. In respect of the question of whether an individual company is considered to be a listed corporation, the Reporting Liechtenstein Financial Institution may rely upon the self-certification of the company and is – subject to a reasonableness test – not obliged to verify the accuracy of the information by comparing this with the specific figures.

171. An Entity is a "Related Entity" of another Entity if one of the two Entities controls the other, or if both Entities are subject to the same control.

Control exists if, in cumulative terms, direct or indirect participation of more than 50 % of the voting rights and of the capital interest of an Entity is established. 172.

2.7.2.4 Holding NFE

2.7.2.4.1 General

A NFE is an Active NFE, if it meets the criteria of a holding NFE that is a member of a nonfinancial group. The term "holding NFE that is member of a nonfinancial group" means an NFE if substantially all of the activities of the NFE consist of 173.

- holding (in whole or in part) the outstanding stock of one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, or
- providing financing to these subsidiaries, or
- providing services to these subsidiaries.

Even if the mentioned criteria are fulfilled by a holding NFE that is member of a nonfinancial group, Entities that function (or hold itself out) as an investment fund do not qualify as Active NFEs. For this purpose, investment funds mean e.g. private equity funds, venture capital funds, so-called leveraged buyout funds or investment vehicles whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes. 174.

2.7.2.4.2 Qualifying subsidiaries

The term "subsidiary" includes any corporations whose outstanding stocks are either directly or indirectly held (in whole or in part) by the NFE (see para. 130 of the CRS Commentary on Section VIII). For a corporation to qualify as a subsidiary of an NFE, a participation rate of at least 10 % of the share capital (direct or indirect) is required. If the Entity exclusively holds participations in portfolios of less than 10 %, then the status of a holding NFE is not possible. 175.

The status of a holding NFE is possible not only for the top company in a chain of companies. Subsidiaries lower down the chain may also qualify as holding NFEs, insofar as they fulfil the relevant criteria. 176.

An NFE may qualify for the status of a holding NFE only to the extent that at least one subsidiary (directly or indirectly) exercises a business activity, whereby this must be a business activity other than that of a Financial Institution. For this reason, to qualify for the status of a holding NFE – in addition to other requirements – at least one subsidiary must (directly or indirectly) qualify as an Active NFE. 177.

If all subsidiaries exercise the activity of a Custodial Institution (see Chapter 2.4.2), of a Depository Institution (see Chapter 2.4.3), of an Investment Entity that conducts business on behalf of customers (see Chapter 2.4.4.1) or of a Specified Insurance Company (see Capital 2.4.6), then the status as a holding NFE is not possible, because these exercise the business activity of a Financial Institution. 178.

179. If none of the subsidiaries exercise a business activity, then it cannot have the status of a holding NFE either. A subsidiary does not exercise any business activity if it qualifies as an Entity managed by a Financial Institution (see Chapter 2.4.4.2) or as a Passive NFE (see Chapter 2.7.3).

180. Example 1:

A foundation holds exclusively shares in a subsidiary (100 % of the share capital). The subsidiary qualifies as a professionally managed Investment Entity according to Section VIII/A/6/b of the CRS. As the sole subsidiary does not exercise any business activity because of its status as a professionally managed Investment Entity, the foundation does not qualify as a holding NFE.

181. Example 2:

The holding company X is an NFE. It holds shares in Active and Passive NFEs as well as in an Investment Entity (Financial Institution) that conducts business on behalf of customers. As X performs its holding activity at least towards a subsidiary that exercises a business activity other than that of a Financial Institution (towards an Active NFE), then X can qualify as a holding NFE, insofar as the other requirements (80 % threshold, see below) are fulfilled.

2.7.2.4.3 Substantiality of the activities of the NFE

182. The term "substantially all of the activities of the NFE" means:

- at least 80 % of the gross income of the Entity during the calendar year prior to the determination year, or
- at least 80 % of the assets of the Entity as of 31 December of the year that ended before the determination year.

183. In respect of the gross income of the Entity, the 80 % threshold may be reached either by the holding activity in the form of dividends, by the financing of subsidiaries in the form of interest, or by providing services for subsidiaries in the form of management fees. The gross income must derive directly from the qualifying subsidiaries (see Chapter 2.7.2.4.2), i.e. directly from the Active NFE. A combination of activities is possible. In this case, the corresponding gross income of the Entity must be added together to calculate the 80 % threshold.

184. In respect of the assets, the 80 % threshold must be determined in accordance with the gross assets pursuant to the balance sheet or schedule of assets of the Entity (in particular direct participations in the qualifying subsidiaries and loan receivables arising from the financing of qualifying subsidiaries).

185. Example 1:

The company foundation X exclusively holds shares in five subsidiaries that are all classified as Active NFEs. X generates dividends from the holding activity that are distributed each year by the subsidiary companies. As 100 % of the gross income of X is derived from the activity of holding subsidiaries that exercise a business activity other than that of a Financial Institution, X qualifies as a holding NFE.

Example 2: 186.

The company foundation X exclusively holds shares in five subsidiaries. Four subsidiaries classify as Active NFEs, and one subsidiary qualifies as a Passive NFE. All subsidiaries distribute the same amount of dividends to X each year. Thus, 80 % of the gross income of X is derived from the activity of holding subsidiaries that exercise a business activity other than that of a Financial Institution (from the Active NFEs). 20 % of the gross income of X is derived from the activity of holding subsidiaries that do not exercise any business activity (from the Passive NFE). For this reason X qualifies as a holding NFE.

Example 3: 187.

The company foundation X exclusively holds shares in five subsidiaries. Pursuant to the balance sheet of X, all shares have the same value. Four subsidiaries classify as Active NFEs, and one subsidiary qualifies as a Passive NFE. Due to persistent losses, the subsidiaries do not distribute any dividends to X. Despite the fact that the subsidiaries do not distribute any dividends, X nevertheless qualifies as a holding NFE because 80 % of the assets of X consist of participations in qualifying subsidiaries (participations in the Active NFEs).

Insofar as the 80 % threshold is not achieved from the holding, financing and service activity, an Entity may nevertheless qualify as an NFE, insofar as it has other income that is treated as active income within the meaning of Chapter 2.7.2.2 (see para. 130 of the CRS Commentary on Section VIII). 188.

Example 4: 189.

The holding company X is an NFE. X generates 60 % of the gross income from the activity of holding active subsidiaries as well as from financing subsidiaries. In addition, X functions as a distribution centre for the goods produced by the subsidiaries. The income generated by this secondary activity represents active income within the meaning of Chapter 2.7.2.2 and account for 40 % of the gross income of X. Despite the fact that the income derived from the holding activity (dividends) as well as from the financing of the subsidiaries (interest) do not reach the 80 % threshold, X qualifies as an active holding NFE, as the 80 % threshold is achieved by also taking the active revenues from the secondary activity as a distribution centre into account.

2.7.2.5 Treasury Centre

Under certain circumstances, Entities in liquidation or restructuring qualify as Active NFE. An Entity in liquidation or which is reorganising is an Entity that was not a Financial Institution during the previous five years, and that is currently selling its assets in the course of the liquidation, or that is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution. For AEOI purposes, in the event of a liquidation the Entity qualification ends on the date of the resolution concerning the ending of the Entity, i.e. once the liquidation has ended and the Entity no longer has any assets (see Chapter 2.8.3). 190.

2.7.2.6 Start-up NFE

191. A start-up NFE is an NFE that does not yet operate any business of an Active NFE, and did not operate any business of an Active NFE in the past either, but that invests capital in assets with the intention of operating a business other than that of a Financial Institution. The NFE is not covered by this exemption once the day on which a period of 24 months passes after the foundation date of the NFE.

192. The objective of a start-up NFE is the commencement the business activity of an Active NFE (excluding the business of a Financial Institution). During the start-up phase, it will often not generate any income, and for this reason would not (yet) usually be covered by the rules for NFEs by reason of active income and assets (see Chapter 2.7.2.2). If the commencement of a business activity of an Active NFE is not planned then this rule is not applicable. In this case, the Entity is treated as a Passive NFE from the beginning.

2.7.2.7 Entity in liquidation or restructuring

193. Under certain circumstances, Entities in liquidation or restructuring qualify as Active NFE. An Entity in liquidation or which is reorganising is an Entity that was not a Financial Institution during the previous five years, and that is currently selling its assets in the course of the liquidation, or that is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution.

194. The rule applies exclusively to Active NFEs that are now in liquidation or restructuring, and that for this reason, e.g. do not have any corresponding active income (see Chapter 2.7.2.2). This rule does not apply to Passive NFEs that may be in liquidation or undergoing restructuring. These also qualify during the liquidation or restructuring as a Passive NFE.

2.7.2.8 Non-profit NFE

195. A non-profit NFE is also considered to be an Active NFE, provided that the following requirements are cumulatively fulfilled:

- it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes, or it established and operated in its jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;

- it is exempt from income tax in its jurisdiction of residence;

- it has no shareholders or members who have proprietary or beneficial interest in its income or assets;

- the applicable law of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or a non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable

compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and

- the applicable law of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision thereof.

196. To validate reasonableness, non-profit NFEs that fulfil the aforementioned conditions must present to the Reporting Liechtenstein Financial Institutions a confirmation issued by the competent tax authority, an audit company or an attorney at law or another suitable confirmation (e.g. a copy of the confirmation or decree of the Fiscal Authority concerning the exemption from taxation pursuant to Art. 4 para. 2 SteG).

197. Non-profit Entities must verify in advance whether they classify as Financial Institutions. In particular, they must verify whether they cumulatively fulfil the criteria set out in Art. 2 para. 1 subpara. 10 letter b (managed-by and gross income test). If a non-profit Entity fails either or both tests, it is considered to be an NFE.

198. If this NFE also fulfils the criteria set out in Art. 2 para. 1 subpara. 2 letter h, it is considered to be an Active NFE (relying solely on the PGR and SteG criteria is not sufficient).

199. The review of the classification of non-profit Entities that already existed on or before 31 December 2018 (AEOI Act Revision LGBl. 2018 No. 215) must be carried out by 31 December 2019 at the latest. Any reclassification must also be reported to the banks by 31 December 2019. In those cases where no new classification is reported to the bank, the bank may rely on the classification as a non-profit Active NFE continuing to be correct. A review of the classification of non-profit Entities established after 31 December 2018 must be carried out immediately.

2.7.3 Passive NFE

2.7.3.1 In general

200. The term "Passive NFE" means:

- an NFE (see Chapter 2.7.1) that is not an Active NFE and
- a professionally managed investment entity (pursuant to Art. 2 para. 1 subpara. 10 letter b AEOI Act, see Section 2.4.4.2) from a Non-Participating Jurisdiction.

201. This consequently means that a Passive NFE means an NFE that is not an Active NFE within the meaning of the exclusion principle (see Chapter 2.7.2). At the same time, a Passive NFE means a professionally managed investment entity (see Chapter 2.4.4.2) that is resident in a Non-Participating Jurisdiction (see Chapter 2.7.3.2).

202. Example 1:

Pursuant to the rules applicable in its jurisdiction of residence, X AG is a professionally managed Investment Entity, and from a Liechtenstein perspective is resident in a Participating Jurisdiction. X AG maintains a Financial Account at a Reporting Liechtenstein Financial Institution. Because it is resident in a Participating Jurisdiction, the Reporting Liechtenstein Financial Institution treats X AG as a Financial Institution (and not as a Passive NFE).

203. Example 2:

Pursuant to the rules applicable in its jurisdiction of residence, Y AG is a professionally managed investment entity, and from a Liechtenstein perspective is resident in a Non-Participating Jurisdiction. Because it is resident in a Non-Participating Jurisdiction, the Reporting Liechtenstein Financial Institution treats Y AG not as a Financial Institution, but as a Passive NFE instead.

2.7.3.2 Participating Jurisdictions

204. The term "Participating Jurisdiction" means a jurisdiction,

- with which an agreement on the automatic exchange of financial account information is in place, and
- which is identified in a published list (see para. 117 of the CRS Commentary on Section VIII).

205. Agreement in this case means the AEOI Agreement Liechtenstein-EU, and in respect of non-EU states the Multilateral Convention of the OECD and Council of Europe on Mutual Administrative Assistance in Tax Matters (MAC) as well as the Multilateral Competent Authority Agreement on the Automatic Exchange of Information concerning Financial Accounts (MCAA-AEOI).

206. The term "Participating Jurisdiction" covers all partner jurisdictions/Reportable Jurisdictions in accordance with Art. 2 of the AEOI Ordinance.

207. Even if the AEOI in respect to Austria on the basis of the AEOI Agreement Liechtenstein-EU (see Chapter 1.2.1.2) is applicable only for reporting periods starting from 2017, Austria is treated as a Participating Jurisdiction with effect from 1 January 2016 (see Section VIII/D/5/a of Annex I of the AEOI Agreement Liechtenstein-EU). For this reason, an Austrian professionally managed Investment Entity does not have to be considered as a Passive NFE on the basis of its residence, and this also applies to the 2016 reporting period.

2.8 Deadlines for the classification of Liechtenstein Entities

2.8.1 Preexisting Liechtenstein Entities

208. Preexisting Liechtenstein Entities (i.e. founded on or before 31 December 2015) that are not classified as Active NFEs must be classified as Financial Institutions or Passive NFEs by 31 December 2016 at the latest.

209. Active NFEs must arrange for themselves to be documented towards the Reporting Financial Institution, insofar as their classification as such cannot be unequivocally determined by the Reporting Financial Institution (see BuA No. 73/2015, p. 25).

210. Preexisting Liechtenstein Financial Institutions are furthermore required to have themselves classified as a Reporting Liechtenstein Financial Institution or Non-Reporting Liechtenstein Financial Institution by 31 December 2016.

211. A Reporting Liechtenstein Financial Institution must register with the Fiscal Authority immediately upon conclusion of the classification (i.e. by the end of the calendar year or within 90 days, depending on which occurs later, see Chapter 8).

212. The classification as a Liechtenstein Preexisting Passive NFE must be reported to the respective Reporting Liechtenstein Financial Institution by 31 December 2016 (see para. 42).

2.8.2 New Liechtenstein Entities

213. New Liechtenstein Entities (i.e. those founded after 31 December 2015) must be classified immediately (within 90 days) either as a Reporting or Non-Reporting Financial Institution, or as Active or Passive NFE, and must report this to the respective Reporting Liechtenstein Financial Institution.

2.8.3 Liquidated Entities

214. Within the context of the AEOI due diligence procedures, Reporting Liechtenstein Financial Institutions must inter alia classify all Entities that have a Preexisting Entity Account. Liechtenstein and foreign Entities that are liquidated before or during the course of an ongoing review procedure do not have to be documented retrospectively by the Reporting Liechtenstein Financial Institution for classification purposes. In the case of a potential Passive NFE, determination of the Controlling Person for the purpose of AEOI due diligence procedures is not necessary. The deadlines for the AEOI due diligence procedures for Preexisting Entity Accounts must however be adhered to (see Chapter 6.4).

215. Example 1:

The foreign X foundation has an account at the Liechtenstein bank Z. X foundation is in liquidation and is to be deleted from the foreign commercial register on 30 June 2016. By this date, for procedural reasons, the Liechtenstein bank Z had not begun to apply the AEOI due diligence procedures concerning Preexisting Entity Accounts. X foundation no longer needs to be retrospectively documented by the Liechtenstein bank Z, i.e. the bank Z is no longer required to determine the AEOI status of X foundation. In addition, the bank Z no longer needs to identify and report the Controlling Persons of X foundation for AEOI due diligence purposes.

216. All Preexisting Liechtenstein Entities need to be classified either as Financial Institutions or Active or Passive NFEs. The deadline for the classification extends until 31 December 2016. Liechtenstein Entities that were/are liquidated within the classification deadline (31 December 2016) (see para. 193) shall no longer be required to cause themselves to be classified. In the case of a potential Financial Institution, completion of the AEOI due diligence procedures is also not necessary.

217. Example 2:

Mr A is an entitled beneficiary of the Liechtenstein Y foundation. As the foundation purpose was fulfilled, Y foundation was put into liquidation and is deleted from the commercial register on 30 June 2016. Y foundation had not yet performed its own classification by this date. In this instance, Y foundation is not required to perform its own classification. In addition, Y foundation no longer needs to identify and report its Account Holders for AEOI due diligence purposes.

218. For the purposes of AEOI, the status as a Liechtenstein Entity ceases upon liquidation or bankruptcy as soon as the decision on termination of the Entity has been made and all assets have been distributed.

219. If, upon deletion of a Liechtenstein Entity from the commercial register, it turns out that the Entity still has additional assets subject to distribution and supplementary liquidation is initiated, any AEOI reporting obligation must be considered in the individual case.

2.9 Amendment of the classification

220. If changes occur at a Liechtenstein Entity that affect its classification, then the Entity must report the changes to the Liechtenstein Financial Institution that maintains the account (the Liechtenstein bank) immediately, i.e. until the end of the calendar year or within 90 days, whichever occurs later. For the purpose of making reports to the Fiscal Authority, the changes shall generally come into force from the start of the following period.

221. For the purpose of reporting to the Fiscal Authority, the changes take effect from the current reporting period, i.e. from the reporting period during which the classification changed.

2.10 Documentation of classification and safekeeping

222. The classification and amendment of the classification must be documented by the Liechtenstein Entity. The documentation must contain the steps taken that led to the classification (e.g. internal checklists, etc.).

223. The documentation may be made electronically and also be kept in that form. In particular, it must be ensured that requests for information by the Fiscal Authority or independent third parties mandated by it can be complied with within a reasonable period of time. The electronic documentation must be consistent with the underlying materials and must be made readable at any time. Furthermore, it must be ensured that electronically retained documents cannot be subsequently changed without this being detectable (see Chapter IV of the Ordinance on the Persons and Companies Act).

224. The documentation must be kept in Liechtenstein and must be available at all times.

225. The documentation of the classification must be kept for ten years after the deletion of the Liechtenstein Entity at a location in Liechtenstein to be designated by the Liechtenstein Entity. The Fiscal Authority must be informed of the safekeeping location before the Liechtenstein

Entity is deleted. The safekeeping locations must grant the Fiscal Authority or independent third parties mandated by it appropriate access to the retained documentation.

In the fiduciary sector, it is recommended to choose a legal person, e.g. the fiduciary company that last managed the Entity, as the safekeeping location. 226.

3. AEOI due diligence procedures

3.1 In general

227. AEOI due diligence procedures describe the procedures pursuant to which the Reportable Accounts must be identified by the Reporting Financial Institutions. The CRS contains detailed rules that Reporting Financial Institutions need to apply in order to determine whether the holder of a Financial Account is a Reportable Person and if the account is consequently subject to reporting obligations.

228. For this reason, Reporting Financial Institutions are required to review:

- Does a Financial Account exist, and who is the holder of the Financial Account (see Chapter 3.2 as well as 3.2.7.1)?
- Is the Account Holder and consequently the account subject to reporting obligations (see Chapter 8)?

3.2 Financial Account and Account Holder

3.2.1 In general

229. The term "Financial Account" means an account maintained by a Financial Institution, and includes a Depository Account (e.g. savings account, salary account, currency account, giro account (current account), etc.), a Custodial Account ("portfolio") and

a. in the case of an Investment Entity, equity and debt interests in the Financial Institution. Notwithstanding the foregoing, the term "Financial Account" does not include any equity and debt interests in an Entity that is an Investment Entity solely because it (i) renders investment advice to, or (ii) manages portfolios for, and acts on behalf of a customer for the purpose of investing or managing Financial Assets deposited in the name of the customer with a Financial Institution other than such Entity;

b. in the case of a Financial Institution not described under letter a, equity and debt interests in the Financial Institution, if the class of interests was established with a purpose of avoiding the reporting obligation; as well as

c. Cash Value Insurance Contracts and Annuity Contracts issued or maintained by a Financial Institution, other than a non-investment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an Excluded Account.

230. The following table shows which Financial Institutions maintain which accounts:

Financial Institution	Type of account
Depository Institution	Depository Account
Custodial Institution	Custodial Account

Investment Entities	Equity and Debt Interests
Specified Insurance Company	Cash Value Insurance Contracts and Annuity Contracts

Table 1: Type of account per Financial Institution

231. Asset structures that are classified as Passive NFEs do not maintain Financial Accounts within the meaning of the CRS. By contrast, a Passive NFE can be the Account Holder of a Financial Account, e.g. the holder of a bank account, shareholder of a company or beneficiary of a foundation.

232. The term "Financial Account" does not include any accounts that are Excluded Accounts (see Chapter 3.2.7).

233. This does not, however, apply to accounts that are linked to the Austrian Withholding Tax Agreement ("AStA")[9]. In this case, classification as an "Excluded Account" is possible only if an Account Holder resident in Austria or a Controlling Person resident in Austria has been identified within the context of the duly conducted AEOI due diligence procedures pursuant to Art. 7 AEOI Act. The exemption rule is furthermore applicable only in cases of asset structures that are transparent for tax purposes and that were set up by 31 December 2016, and for asset structures that are intransparent for tax purposes. Such an account is treated to be an Excluded Account solely in respect of Reportable Persons who are resident in Austria. In respect of Reportable Persons who are resident in another partner jurisdiction/Reportable Jurisdiction other than Austria, such an account is not considered to be an Excluded Account. In all other cases, reporting will follow the relevant AEOI obligations (see in detail in Chapter 3.2.7.7).

234. The term "Account Holder" means the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of the AEOI; but instead such other person is treated as holding the account.

3.2.2 Acceptance and transmission of funds for third parties (service companies)

235. In the case of the fiduciary acceptance and transmission of funds for third parties through service companies, for the bank of the service company the question arises as to who is Account Holder within the meaning of the AEOI. This also applies to a sole trader.

236. If the service company qualifies as a Financial Institution (in case of fiduciary acceptance of assets possibly as Investment Entity conducting business for customers, see Chapter 2.4.4.1), it shall be deemed to be the Account Holder towards the bank. From the banks point of view as a consequence it is not a Reportable Account. As Reporting Financial Institution, the service company has to report its own equity or debt interest holders. This includes, in addition, those

[9] Agreement of 29 January 2013 between the Principality of Liechtenstein and the Republic of Austria on the Cooperation in Tax Matters in the version of the Protocol to amend the Agreement signed on 29 January 2013 in Vaduz between the Principality of Liechtenstein and the Republic of Austria on the Cooperation in Tax Matters.

Reportable Persons, for the benefit of or for their account (i.e. in their interest, on their behalf) a transaction has been made. If this is again an Entity, it is necessary, to determine the Controlling Persons of a Passive NFE, in accordance with the CRS principles and report them if they are Reportable Persons. If the transaction is carried out for an individual, this individual must be identified additionally and, in the case of a Reportable Person, be reported.

237. If the service company classifies as NFE (Active or Passive) it is not considered as Account Holder in relation to the bank (see Section VIII/E/1 second sentence of the CRS). Account Holder from the banks point of view are therefore only those persons for whose benefit the transaction has been carried out. The bank has to only hold an account for these persons (Entity or individual). Due to the transaction-related nature, this is consistently a New Account. For such Account, the bank has to carry out the AEOI due diligence procedures regularly and, in the case of the identification of a Reportable Person, perform the relevant AEOI report. When the account is closed (for example after the transaction has been completed), an account closure has to be reported. If the Account Holder is an Entity according to the CRS, it is necessary, to determine the Controlling Persons of a Passive NFE, in accordance with the CRS principles and report them if they are Reportable Persons. If the Account Holder is an individual, reporting has to be conducted if necessary.

238. Example 1:

A trust (Passive NFE) concludes a discretionary distribution. The payment shall be forwarded to the beneficiary in State B via the account of a Liechtenstein service company (Passive NFE), which maintains an account with a Liechtenstein bank. The transaction is carried out on behalf of the distributing Entity (the trust). Due to the CRS definition of the "Account Holder", the Liechtenstein bank does not hold the account for the discretionary distribution of the Liechtenstein service company, but for the person on whose charge the distribution is concluded, i.e. the bank has to maintain the account for the trust. Therefore the Liechtenstein bank has to record the trust (Passive NFE) as Account Holder (New Account) and determine the Controlling Persons (in the year of the distribution these include also the discretionary beneficiaries from State B) in accordance with the AEOI due diligence procedures and if necessary reporting has to be conducted.

239. Example 2:

A Liechtenstein service company (Passive NFE), with an account at a Liechtenstein bank, fiduciary accepts from person A (buyer) the purchase price of the payment in relation to a real estate sales for the redirection to person B (seller). The redirection of the payment happens on behalf of person A. Due to the CRS definition of the "Account Holder", the Liechtenstein bank in relation to the redirection of the purchase price, does not hold the account for the Liechtenstein service company, but for the person on whose charge the payment is made, i.e. the bank has to maintain the account for person A. Therefore the Liechtenstein Bank has to record person A as Account Holder (New Account) and identify according to the AEOI due diligence procedures and if necessary conduct reporting.

240. Example 3:

A Liechtenstein service company (Passive NFE), with an account at a Liechtenstein bank, fiduciary accepts from company A a commission in relation to an art trade for the transmission of this commission to company B. The payment happens on behalf of company B. Due to the

CRS definition of the "Account Holder", the Liechtenstein bank in relation to the redirection of the commission, does not hold the account for the Liechtenstein service company, but for the person on whose charge the payment is made, i.e. the bank has to maintain the account for company B. Therefore, the Liechtenstein bank has to record company B as Account Holder (New Entity Account) and identify according to the AEOI due diligence procedures for Entity Accounts and if necessary report the Entity and/or the Controlling Persons.

Example 4: 241.

A Liechtenstein service company (Investment Entity conducting business for a customer), with an account at a Liechtenstein bank, fiduciary accepts from person A (buyer) the purchase price of the payment in relation to a real estate sales for the redirection to person B (seller). The redirection of the payment happens on behalf of person A. Due to the CRS definition of the "Account Holder", the Liechtenstein bank in relation to the redirection of the purchase price, holds the account for the Liechtenstein service company (Financial Institution). From the banks point of view as a consequence it is not a Reportable Account. As a Reporting Liechtenstein Financial Institution, the Liechtenstein service company has to report its own equity or debt interest holders. This includes, in addition, those Reportable Persons, for the benefit of or for their account (i.e. in their interest, on their behalf) a transaction has been made, consequently also person A.

3.2.3 Custodial Account

The term "Custodial Account" means an account (other than an Insurance Contract or Annuity Contract) that holds one or more Financial Assets for the benefit of another person. For the definition of "Financial Assets", see Chapter 2.4.5. 242.

3.2.4 Depository Account

A Depository Account means an account in which deposits (money) are recorded or payments are made. The term "Depository Account" includes commercial, checking, savings, or time accounts, as well as accounts that are evidenced by certificates of deposit, thrift certificates, investment certificates, certificates of indebtedness or other similar instruments maintained by a Financial Institution in ordinary course of a banking or similar business. Thrifts accounts are also Depository Accounts. 243.

In the case of shared relationships, each Financial Institution at which the assets are recorded (booking location) is considered to be an account keeping Financial Institution. 244.

Example: 245.

The Account Holder of a Depository Account has solely contact with his relationship manager at the head office in jurisdiction A. The assets are, however, recorded in the branch office in jurisdiction B. In this case, the Financial Institution that is considered to maintain the account is the branch office in jurisdiction B.

A Financial Account (e.g. an account or securities account relationship) exists if the reporting Liechtenstein bank at the relevant time maintains an active client/account base in the name of the Account Holder in its bank system. A client/account base is also considered to be active if all of the transactions performed under this base have a balance of zero or less. 246.

247. A client/account base, by contrast, is not considered to be active and is not considered to be a Financial Account if all of the accounts maintained under the base as well as the client/account base itself has been closed out (in the event of closing out, it may be necessary to report an account closure). If the closed out client/account base continues to be maintained in the systems of the reporting Liechtenstein bank as a closed out or passive client/account base, then no relevant account or securities account exists, and consequently no Financial Account within the meaning of the CRS. If such a passive client/account base is reopened, then a New Account shall be opened.

248. As a rule, the Account Holder of a bank account is the contracting party to a bank account and/or securities account relationship that is recorded in the systems of a Reporting Liechtenstein bank. If a collective relationship exists, then each co-owner is considered to be an Account Holder.

249. A person, other than a Financial Institution, holding a Financial and/or Depository Account with a Reporting Liechtenstein Financial Institution for the benefit or account of another person as a trustee, nominee, intermediary, custodian, investment advisor etc. is not treated as holding the account. In this case, this other person for whom the Financial and/or Depository Account is maintained at the Reporting Liechtenstein Financial Institution is treated as holding the account (also see Chapter 3.2.1).

250. Example 1:

Foundations are Entities within the meaning of the CRS (for example NFEs). Pursuant to the applicable AEOI due diligence procedures for the bank accounts of Passive NFEs, the Controlling Persons must be determined. Foundations do not qualify as intermediaries. This consequently means that the foundation (and not the Controlling Persons) is the Account Holder.

In the case of trusts, the trust (and not the trustee) is the Account Holder.

251. Example 2:

The individual X maintains an account relationship at a Liechtenstein bank. X is a contracting party of Bank A. X declares to the bank that his brother Y is a beneficial owner of the assets maintained under his account relationship. In this case, the trustor Y is the Account Holder within the meaning of the CRS, and not X, who maintains an account relationship on behalf of Y.

252. If an account is opened by a minor (irrespective of whether the consent of the statutory guardian is also required for this), then this minor shall be considered to be the Account Holder.

253. If a minor is an Account Holder and resident for tax purposes in a Reportable Jurisdiction, then this minor shall be considered to be a Reportable Person and must be considered accordingly for the AEOI report.

254. If a minor Account Holder does not have a Tax Identification Number, then in such cases it is not necessary to demand the Tax Identification Number of a parent or third party. Instead, the AEOI report may be made without specifying a Tax Identification Number (also see Chapter 3.5.2).

255. If a minor is considered to be an Account Holder, and if this person is required to be documented with a self-certification pursuant to AEOI due diligence procedures, then the self-certification may be signed by the person who, in accordance with the applicable civil law of the Reporting Liechtenstein Financial Institution, is authorised to do this (this may, e.g. be the minor person's statutory guardian).

256. Amounts that are held by an Insurance Company on the basis of a guaranteed capital investment agreement or similar agreement in order to pay or credit interest (see Section VIII/C/2 of the CRS) are considered to be Depository Accounts. This includes in particular:

- Capitalisation transactions (pursuant to clause 6 Annex 2 VersAG). In this context, the specific structuring of the transaction (e.g. unit-linked or classic) is irrelevant for qualification under the CRS;
- Tontine transactions (pursuant to clause 5 Annex 2 VersAG);
- Premium deposits, insofar as these are based on an independent contractual relationship;
- Expiry or waiting accounts.

3.2.5 Equity interest and debt interest

257. If an Entity (e.g. a foundation) is classified as an Investment Entity, then the so-called equity and debt interests in the Entity are considered to be "Financial Accounts". The so-called equity and debt interest holders of the Entity are consequently treated as the "Account Holders". In respect of the equity interests of Preexisting Accounts and New Accounts, see Chapter 3.3.2 and 3.3.3.

258. If the equity or debt interest holders are individuals, then the AEOI due diligence procedures for Individual Accounts (see Chapter 4 or 5) are applicable. If the equity or debt interest holders are Entities, then the AEOI due diligence procedures for Entity Accounts (see Chapter 6 or 7) are applicable.

259. In the case of a stock corporation, limited liability company or other company that has issued shares, the term "Equity Interest" means a share in the capital of the company, a share in the founder's rights of an establishment with a corporate structure, and in the case of a partnership means either a capital or profit interest in the partnership.

260. Example:

100 % of the shares in stock corporation A (Investment Entity) are owned by stock corporation B. Stock corporation B is the Account Holder (equity interest holder) of stock corporation A. Stock corporation A must apply the AEOI due diligence procedures for Entity Account to Account Holder B.

261. In the case of a foundation or a trust, the settlor, beneficiaries as well as other persons exercising ultimate effective control over the foundation or the trust are considered to be equity interest holders. A Reportable Person is treated as being a beneficiary of a trust if such Reportable Person has the right to receive directly or indirectly (for example through a

nominee) a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust (see Section VIII/C/4 final Sentence of the CRS).

262. Example:

Mr A donates his assets to a Liechtenstein foundation Z (Investment Entity). His son B and the charitable organisation X are entitled beneficiaries of the foundation Z. Mr A, Mr B and the charitable organisation X are Account Holders (equity interest holders) of the foundation Z. In respect of the Account Holders Mr A and Mr B, the foundation Z is required to apply the AEOI due diligence procedures for individuals, and in respect of the charitable organisation X the AEOI due diligence procedures for Entity Accounts.

263. A debt interest in a foundation or trust is held, e.g., by a person who has granted the foundation or trust a loan.

3.2.6 Cash Value Insurance Contract and Annuity Contract

3.2.6.1 In general

264. The term "Insurance Contract" means a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability or property risk (see Section VIII/C/5 of the CRS).

265. The term "Annuity Contract" means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, the regulations or practice of the jurisdiction in which it was issued, and under which the issuer agrees to make payments for a term of years (see Section VIII/C/6 of the CRS).

266. The term "Cash Value Insurance Contract" means an Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value (see Section VIII/C/7 of the CRS).

267. Prior to maturity, an Account Holder in a Cash Value Insurance Contract or an Annuity Contract is any person entitled to access the Cash Value, or change the beneficiaries of the contract.

268. If no person can access the Cash Value or change the beneficiaries of the contract, the Account Holder is any person named as the owner in the contract (policyholder) and any person with a vested entitlement to payment under the terms of the contract.

269. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive it’s assigned insurance claim pursuant to Art. 76 VersVG upon occurrence of the insured event is treated as an Account Holder.

3.2.6.2 Prior to maturity

270. The right to appoint a beneficiary or to redeem the policy is held exclusively by the policyholder.

271. This also applies in cases of irrevocable benefits. An irrevocable beneficiary can access the contract value or change the beneficiary rules only with the cooperation of the policyholder. This consequently means that the Account Holder of an Insurance Contract is considered to be the policyholder prior to maturity, irrespective of the contractually agreed beneficiary rules.

272. In accordance with Section VIII/E/1 Sentence 3 et sqq. of the CRS, the above rule to determine the Account Holder is applicable irrespective of any possible other identification obligations (e.g. in accordance with the due diligence provisions).

273. Insofar as an insurance policy is denominated in the name of the life of a third party, and insofar as the reportable policyholder dies, then the Reporting Liechtenstein Financial Institution shall continue to treat the account as a Reportable Account until the insurance contract can be treated as an estate account (see Chapter 3.2.7.3) or the new policyholder is reported to the Reporting Liechtenstein Financial Institution.

274. If a policyholder (Reportable Person) within a Cash Value Insurance Contract that has several policyholders dies – without this causing the contract to mature (e.g. on the basis of several insured persons on a last to die basis) – then the insurance contract does not qualify as an Excluded Account. In respect of the surviving policyholders, the provisions pertaining to the general reporting obligations continue to apply unchanged. Merely in respect of the deceased Reportable Person, in the calendar year in which the reporting Liechtenstein Insurance Company has been informed of the death of the Reportable Person, as well as for each subsequent calendar year, no information shall be reported by the reporting Insurance Company to the Fiscal Authority.

275. Example 1 (Annuity insurance with revocable benefit):

A is the policyholder and insured person of a redeemable Annuity Contract. B is the revocable beneficiary for the return of premiums upon death. A is the Account Holder within the meaning of the CRS.

276. Example 2 (Third-party life insurance with revocable benefit):

A is the policyholder of a redeemable capital insurance policy on the life of B. Z is the irrevocable beneficiary of the benefit payable at death. A is the Account Holder within the meaning of the CRS. If A dies, then the Account Holder remains unchanged until the Specified Insurance Company can assume that it qualifies as an estate account (see Chapter 3.2.7.3) respectively until the Specified Insurance Company is informed of the rightful heirs in the course of the distribution of the estate.

277. Example 3 (Third-party life insurance with irrevocable benefit):

A is the policyholder of a redeemable capital insurance policy on the life of B. Z is the irrevocable beneficiary of the benefit payable at life and death. A is the Account Holder within the meaning of the CRS. If A dies, then the Account Holder remains unchanged until the Specified Insurance Company can assume that it qualifies as an estate account (see Chapter 3.2.7.3) respectively until the Specified Insurance Company is informed of the rightful heirs in course of the distribution of the estate.

278. Example 4 (Premium payment by a third party):

B is the policyholder and insured person of a redeemable capital insurance policy. The premium is paid by A. B is the Account Holder within the meaning of the CRS.

279. Example 5 (Policy with several policyholders):

A and B are policyholders of an annuity insurance. B is an insured person. A and B are the Account Holders within the meaning of the CRS.

280. Example 6a (Assigned insurance entitlement):

A is the policyholder and insured person of a redeemable capital insurance policy. A assigned the insurance entitlement in 2017 to B in accordance with Art. 64 VersVG. With the assignment of the insurance contract, A is no longer considered to be the Account Holder within the meaning of the CRS, provided that A is no longer able to access the cash or surrender value or change the contractual beneficiaries. An account closure must therefore be reported for A (even if A continues to be the policyholder for purposes of the VersVG). B must then be identified as the Account Holder within the meaning of the CRS. B must be identified in accordance with the rules for New Individual Accounts.

281. Example 6b (Pledged insurance entitlement):

A is the policyholder and insured person of a redeemable capital insurance policy. A pledged the insurance entitlement in 2016 to B in accordance with Art. 64 VersVG. A is the Account Holder within the meaning of the CRS. Person A remains the policyholder and Account Holder within the meaning of the CRS until any possible execution. In the event of execution, the circumstances must be reviewed.

282. Example 7:

A is the policyholder of a redeemable capital insurance policy on the life of B. A is resident in France and dies in the year 2017. In 2018 the reporting Liechtenstein insurance company receives a death certificate issued by a French authority. In 2019 the reporting insurance company records the heirs of A (new policyholders, e.g. legal successors determined within the context of the distribution of the estate), to whom the position of policyholder is transferred. For the 2017 calendar year the reporting insurance company continues to maintain the AEOI status of the account relationship unchanged, as it is only in 2018 that the insurance company becomes aware of the death of the Reportable Person A. For the 2018 calendar year the account qualifies as an Excluded Account, i.e. no information about the deceased policyholder A is reported to the Fiscal Authority. In 2019 the reporting insurance company records the new beneficial owners of the assets, and from this date onwards applies the generally applicable reporting obligations for these persons. The new policyholders must be identified in accordance with the rules for New Accounts.

283. Example 8:

A, B and C are policyholders and insured persons of a redeemable capital insurance on a last to die basis. A, B and C are Account Holders within the meaning of the CRS. A is resident in Austria and dies in the year 2018. In 2019 the reporting Liechtenstein insurance company receives a death certificate issued by an Austrian authority. In 2020 the reporting insurance company records the heirs of A (new policyholders, e.g. legal successors determined within the context of the distribution of the estate), to whom the position of policyholder is

transferred. For the 2018 calendar year the reporting insurance company continues to maintain the AEOI status of the account relationship unchanged, as it is only in 2019 that the insurance company becomes aware of the death of the Reportable Person A. For the 2019 calendar year no information about the deceased policyholder is reported to the Fiscal Authority. In 2020 the reporting insurance company records the new beneficial owners of the assets, and from this date onwards applies the generally applicable reporting obligations for these persons. The new policyholders must be identified in accordance with the rules for New Accounts.

3.2.6.3 After maturity

Pursuant to the VersVG, the beneficiary, subject to later dispositions of the policyholder, acquires an independent entitlement to claim the insurance entitlement that has been assigned to him once the insured event occurs. 284.

Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder (see Section VIII/E/1 final sentence of the CRS). 285.

Example 1: 286.

A is the policyholder and insured person of a redeemable capital insurance policy. Z is the revocable beneficiary of the endowment benefit and the benefit payable at death. A is the Account Holder within the meaning of the CRS. The insured event occurs and the benefit falls due. The revocable beneficiary Z is considered to be the Account Holder. In respect of the maturity period, a report shall be made to the respective jurisdictions for both persons A and Z. For both persons, the element "AccountBalance" must be given the attribute "Closed Account" and the account value "0". For Z, the insurance benefit in the element "Payment" must be reported under the category "Other-CRS" (CRS504).

Example 2: 287.

A is the policyholder and insured person of a redeemable Annuity Contract. Y is the person with entitlement to the periodic annuity benefits. A is the Account Holder within the meaning of the CRS throughout the entire contractual period. Y is also considered to be an Account Holder from the start of the annuity period. Throughout the entire contractual period, a report must be made in respect of A. The respective account value "redemption value" must be reported in the element "AccountBalance". The amount "0" must be reported in the element "Payment" under the category "Other-CRS" (CRS504). Upon the maturity period of the first annuity payment onwards, a report must be made in respect of Y. Under the element "AccountBalance", the account value "0" must be reported, as the annuity entitlement does not include any entitlement to the redemption value. The respective annuity benefit pursuant to the civil law entitlement must be reported in the element "Payment" under the category "Other-CRS" (CRS504). That is to say, if several beneficiaries exist, then one report will be made in respect of the individual benefits paid to the respective beneficiaries.

Example 3: 288.

A, B and C are the policyholders and insured persons of a redeemable capital insurance policy. Z has a revocable benefit. A, B and C are Account Holders within the meaning of the CRS. In the event of the death of a policyholder, the deceased policyholder shall continue to be the

Account Holder until his account qualifies as an estate account (see Chapter 3.2.7.3) or the new policyholders (the legal successors determined within the context of the distribution of the estate) are reported to the Reporting Liechtenstein Financial Institution. The new policyholders must be identified in accordance with the rules for New Accounts. In the event of the occurrence of the insured event, the insurance contract benefit shall fall due (see Art. 76 in conjunction with Art. 35 VersVG) and the persons with entitlement to the benefit shall be considered to be Account Holders pursuant to Section VIII/E/1.

3.2.6.4 Termfix insurance

289. Termfix insurance is a life insurance policy with a defined maturity. The relevant maturity for AEOI purposes occurs at the end of the maturity (see Chapter 10.2.4). Until the relevant maturity is reached, the policyholder shall therefore be recorded as the Account Holder. In case of death of the policyholder before the contractually agreed expiry date is reached, the life insurance policy shall continue to be reported under the name of the (deceased) policyholder, or the account of the policyholder may qualify as an Excluded Account (see estate account pursuant to Chapter 3.2.7.3). Upon expiry of the contractual period, all contractual beneficiaries are considered to be Account Holders and must, insofar as this has not already been done, be identified before benefits are paid out.

290. Example:

A is the policyholder and insured person of a Cash Value Insurance Contract. Z is the revocable beneficiary of the benefit payable upon death, at the earliest, however, on the contractually stipulated date of 1 January 2030. A is resident in France and dies in the year 2020. In 2020 the Reporting Liechtenstein Insurance Company receives a death certificate issued by a French public authority. Until the 2019 reporting period, A is an Account Holder within the meaning of the CRS. For the 2019 calendar year the reporting Insurance Company continues to maintain the AEOI status of the account relationship unchanged, as it is in 2020 that the Insurance Company becomes aware of the death of the Reportable Person. For the calendar years 2020 to 2029, the account qualifies as Excluded Account, i.e. no information about the deceased policyholder A is reported to the Fiscal Authority. The benefit payable at death is paid to Z as at 1 January 2030, who at this time is resident in a reportable partner jurisdiction. Z is identified in 2030 in accordance with the rules for New Accounts, and the benefit payable at death will be reported pursuant to CRS (see Chapter 10.2.4).

3.2.7 Excluded Account

3.2.7.1 In general

291. The term "Financial Account" does not include accounts that are "Excluded Accounts". If an Excluded Account exists, the AEOI due diligence procedures do not have to be performed in respect of this account. As a consequence, this account is also not reported. This means that in respect of this account no information pursuant to Art. 10 AEOI Act needs to be provided either.

292. This does, however, not apply to accounts that are linked to the Austrian Withholding Tax Agreement ("AStA"). In respect of the relationship between the AEOI and the AStA, see Chapter 3.2.7.7.

293. Pursuant to the CRS, the jurisdictions are entitled to draw up a list of Excluded Accounts under the heading of the term "Excluded Accounts", and to publish this list. This national list can be used, beyond the general criteria set out in the CRS, to classify specific accounts as "Excluded Accounts", insofar as these entail a low risk of abuse. For this reason, the AEOI Ordinance stipulates which accounts are considered to be exempt (see Art. 4 AEOI Ordinance). In the following a number of these accounts are described in greater detail.

3.2.7.2 Dormant account

294. A Reporting Liechtenstein Financial Institution may choose to treat existing dormant accounts as Excluded Accounts.

295. An existing dormant account is deemed to be if (see para. 9 of the CRS Commentary on Section III)

- it is considered dormant pursuant to the Guideline of the Liechtenstein Bankers Association of 8 July 1999 on the treatment of dormant accounts, savings books, deposit accounts and safe deposit boxes at Liechtenstein banks, recognised by the FMA, or

- the following criteria are cumulatively fulfilled:

    - 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 Liechtenstein Financial Institution in the past three years;

    - the Account Holder has not communicated with the Reporting Liechtenstein Financial Institution that maintains such account regarding the account or any other account held by the Account Holder with the Reporting Financial Institution in the past six years;

    - the account is maintained by the Reporting Liechtenstein Financial Institution as a dormant account within the context of its ordinary business activities; and

    - in the case of a Cash Value Insurance Contract, the Reporting Liechtenstein Financial Institution has not communicated with the Account Holder that holds such account or any other account held by the Account Holder with the Reporting Financial Institution in the past six years.

296. A Preexisting Account may, moreover, only be treated as a dormant account if this does not constitute an Annuity Contract. In addition, an account may only be treated as dormant if the account balance or value at the end of a calendar year or other appropriate reporting period or at the time of account closure does not exceed CHF 1,000. If the threshold of CHF 1,000 is exceeded, then the account is not considered dormant or exempt.

297. Insofar as a Preexisting Account is not considered dormant, the AEOI due diligence procedures, reporting and information obligations must be fulfilled by the Reporting Liechtenstein Financial Institution. The result is that a report must be made to each jurisdictions of residence that were identified within the context of the AEOI due diligence procedures.

3.2.7.3 Estate account

298. The rules set out in this chapter apply only to direct account relationships of individuals, i.e. if the Account Holder is an individual.

299. These provisions do not apply to the death of Controlling Persons of a Passive NFE. If a Controlling Person of a Passive NFE dies, then subject to the presence of appropriate evidence, this person no longer needs to be recorded as a Controlling Person from the time of the respective reporting period onwards. The submission of new SPV forms (form to determine the ultimate beneficial owner, respectively form concerning information about a deceased, founder, settlor pursuant to FMA Communication 2015/7) specifying the day/year of death shall suffice as proof.

300. Art. 9 para. 6 AEOI Act stipulates that in the case of the death of a Reportable Person, a Reporting Liechtenstein Financial Institution (other than Investment Entities) must continue to treat the account as having the same status that it had prior to the death of the Account Holder. In this case, a corresponding report shall continue to be made to the Fiscal Authority.

301. In this context it is important to specify that the distinction between an estate with a legal personality and one without a legal personality represents a purely legal distinction, and one that does not have any impact on the reporting obligations under the AEOI. All estates are treated in the same manner.

302. As soon as the Reporting Liechtenstein Financial Institution has been informed of the death of the Reportable Person by evidence, the account may be treated as Excluded Account for AEOI purposes. Evidence of death must be provided by means of a copy of an official or officially approved document (e.g. death certificate).

303. In this event, from the reporting period in which the Reporting Liechtenstein Financial Institution was provided with evidence about the death of a Reportable Person, until the time at which the Reporting Liechtenstein Financial Institution records the rightful heirs in the course of distribution of the assets of the deceased estate, no information shall be reported to the Fiscal Authority.

304. If the decedent, at the time of receipt of the evidence about his death, has not yet been identified as a Reportable Person pursuant to the AEOI due diligence obligations, then from the date of the evidence of death onwards the Financial Institution is not required to conduct any further clarifications in relation to the deceased Reportable Person.

305. From the time at which the Reporting Liechtenstein Financial Institution is informed of the rightful heirs in the course of distribution of the assets of the deceased estate, the Reporting Liechtenstein Financial Institution shall apply to the recorded persons the provisions of AEOI due diligence that are applicable to New Accounts.

306. In the case of an Insurance Contract, in the present instance the term "legitimate heirs" does not refer to all persons with an entitlement to the estate, but is instead limited to those heirs (or legatees) who in the course of a partial inheritance partitioning or in the course of the dissolution of the community of heirs secure sole or joint participation of an asset, or who enter into an Insurance Contract as a new policyholder.

If a co-owner (Reportable Person) in a collective relationship dies, the Reportable Account and/or securities account is not considered to be an Excluded Account. For the surviving co-owners, the provisions pertaining to the general reporting obligations as well as the provisions concerning collective accounts remain in force as before. Merely in respect of the deceased Reportable Person, in the calendar year in which the Reporting Liechtenstein Financial Institution became aware of the documented death of the Reportable Person, as well as for each subsequent calendar year, no information shall be reported by the Reporting Liechtenstein Financial Institution to the Fiscal Authority. 307.

Example 1: 308.

A person resident in Austria dies on 28 December 2018. On 5 January 2019 the Reporting Liechtenstein Financial Institution receives a death certificate issued by an Austrian public authority. On 25 March 2020 the Reporting Financial Institution records the heirs to whom the assets of the estate are passing. For the 2018 calendar year the Reporting Financial Institution continues to maintain the AEOI status of the account relationship unchanged, as it was only on 5 January 2019 that the Financial Institution obtained proof of the death of the Reportable Person. For the 2019 calendar year the account qualifies as Excluded Account, i.e. no information is reported to the Fiscal Authority. In the 2020 calendar year, following the partitioning of the estate assets, the Reporting Financial Institution records the new beneficial owners of the assets, and from this date onwards applies to these persons the AEOI due diligence procedures for New Accounts.

Example 2: 309.

Z Ltd., a Passive NFE, but not a Reportable Person, has two shareholders X and Y, both reportable individuals. In the year 2018, Z Ltd. opens a Financial Account at FL Bank AG, Vaduz, a Reporting Financial Institution, which identifies X and Y as the Controlling Persons of Z Ltd. During the course of the year 2019, X dies. This is reported to FL Bank AG by means of a death certificate. On the basis of the change of owner, the Reporting Financial Institution only treats Y as the Controlling Person. The Financial Account of Z Ltd. is reported for the whole year 2019 with Y as the Controlling Person. In respect of the Financial Account of Z Ltd., X is not reported for the year 2019.

Art. 9 para. 6 AEOI Act does not apply to Investment Entities. If an Account Holder dies, then these rules are not applicable to the deceased person. As the legal entitlement of an entitled beneficiary does not generally pass to his estate, then an account closure pertaining to the Equity Interest must be reported. As the position as founder or settlor cannot be bequeathed, then upon the documented death of an already reportable founder or settlor, an account closure must be reported likewise. 310.

3.2.7.4 Lease deposit account

The lease deposit account for lease agreements within the meaning of § 1090 et sqq. ABGB serves the landlord as security. In the case of a lease deposit account, assets, including the revenues that these generate, are paid out to the landlord or tenant when the tenancy agreement ends. Lease deposit accounts fall into the category of Excluded Accounts. 311.

3.2.7.5 Capital contribution account

312. Capital contribution accounts meeting the conditions set out in Art. 4 para. 1 lit. f AEOI Ordinance are considered Excluded Accounts. The rule provides that the formation for the purpose of which the capital contribution account is opened must be completed and the contributed amount credited to the legal person within 90 days after the account opening. If this is not the case, the Reporting Liechtenstein Financial Institution must exercise the AEOI due diligence procedures and ascertain whether the account in question is a Reportable Account.

3.2.7.6 Association accounts

313. Up to and including the 2019 reporting period, accounts of an association formed and organised in accordance with Art. 246 et. sqq. PGR and not engaged in commercial activities are considered Excluded Accounts. As part of the peer review procedure of the Global Forum, it was determined that the exclusion of association accounts is not compatible with the CRS. The provision to that effect in the AEOI Ordinance had to be repealed accordingly. The change applies to the 2020 reporting period for the first time.

314. The repeal of the exclusion provisions does not mean, however, that all association accounts are automatically considered Reportable Accounts. While the AEOI due diligence procedures must be exercised, where it turns out that an association account relates solely to Liechtenstein, no AEOI reports must be made. Moreover, where the balance of a Preexisting Entity Account (see Chapter 3.3.2) does not exceed USD 250 000, the de minimis rule (see Chapter 6.2) may be applied, provided that the conditions set out in Art. 7 para. 5 AEOI Act are met and that threshold is likewise not exceeded in subsequent years.

315. In the case of non-profit associations that may classify as non-profit NFEs, the information set out in Chapter 2.7.2.8 must be observed.

316. It must be observed in this context that member contributions are in principle not considered active income. The same is generally true of sponsorship or support contributions (donations) that a member of the association or a person close to that member contributes for the general promotion of the association (e.g. to an amateur football club, music association).

317. If, however, the sponsorship is associated with an advertising purpose (e.g. sponsorship contributions to a professional sports club), a broad advertising effect must be assumed. In such cases, income from sponsorships is regularly generated as part of the operations of the association and thus constitutes operational income, so that it is treated as active income within the meaning of the CRS (see Chapter 2.7.2.2). Such cases must be assessed on an individual basis.

318. As an aid in dealing with association accounts, the Fiscal Authority provides two decision trees (from the perspective of banks and from the perspective of associations) on its website (https://www.llv.li/files/onlineschalter/Dokument-3296.pdf).

3.2.7.7 Austrian Withholding Tax Agreement (AStA)

3.2.7.7.1 General

319. On the basis of the amendment of the Savings Agreement and the transitional regulation that applies to Austria, AEOI will be implemented in respect to Austria on the basis of the AEOI Agreement Liechtenstein-EU for reporting periods starting from 2017. As some of the AStA and AEOI regulatory provisions overlap, AStA has been amended. In future, AStA shall be applicable only to a limited field. AEOI provisions are applicable in all other cases.

320. In future, Part 3 AStA (Withholding tax imposed or voluntary report by Liechtenstein paying agents) shall be applicable only to accounts or securities accounts of asset structures which are transparent for tax purposes and that were set up by 31 December 2016, whereby all changes (e.g. inflows, outflows and new accounts maintained in the name of the same asset structure) shall continue to be subject to Part 3. Part 4 AStA (asset structures which are intransparent for tax purposes) remains unchanged, and for this reason remains applicable to all intransparent asset structures. In order to prevent duplicate reporting, the AEOI Ordinance defines which matters are not covered by the scope of the AEOI. Scope between the two agreements is realised in the definition of "Excluded Accounts" (see Art. 4/1a AEOI Ordinance).

321. An account may be treated as "Excluded Account" on the basis of the continued applicability of the AStA only if AEOI due diligence procedures were properly conducted for this account. This was expressly stipulated in Art. 4/1a AEOI Ordinance. For this reason, AEOI due diligence procedures must be properly exercised in every case.

322. Furthermore, Art. 4/1a AEOI Ordinance stipulates that Art. 3 AStA is not applicable. Art. 3 AStA contains a special provision for determining the identity and residence of the persons in question. Because, pursuant to the AEOI Agreement Liechtenstein-EU, AEOI due diligence procedures have precedence, Art. 3 AStA is no longer applicable.

323. For this reason, all Reporting Liechtenstein Financial Institutions must properly apply AEOI due diligence procedures. In respect of the exemption provision, a distinction needs to be drawn between bank paying agents and asset structure paying agents.

3.2.7.7.2 Bank paying agents

324. Bank paying agents within the meaning of Art. 2/1/e/i AStA are regularly considered to be Depository Institutions or Custodial Institutions, and consequently Reporting Liechtenstein Financial Institutions in relation to AEOI. For this reason, they must properly exercise AEOI due diligence procedures pursuant to Art. 7 AEOI Act. A distinction then needs to be made, depending on the Account Holder.

325. If the Account Holder of the bank, pursuant to the AEOI due diligence procedures, is an individual, then the provisions of AEOI must be applied. AStA is no longer applicable for individuals with a bank account with effect from 1 January 2017.

326. If the Account Holder of the bank pursuant to AEOI due diligence procedures is not an asset structure within the meaning of Art. 2/1/m AStA, then the AEOI due diligence and reporting obligations must be applied by the bank as standard. In this case, AStA is no longer applicable with effect from 1 January 2017.

327. If the Account Holder of the bank pursuant to AEOI due diligence procedures is an asset structure within the meaning of Art. 2/1/m AStA, then the following applies:

328. - In the case of a Financial Institution, from the perspective of the bank is not considered a Reportable Person (neither at the level of the asset structure, nor at the level of the underlying persons). For this reason, a report under AEOI is not performed, neither is AStA applicable from the perspective of the bank. In this case, AEOI and AStA must be applied by the respective asset structure or by the Asset structure paying agent (see Chapter 3.2.7.7.3).

329. - In the case of a Passive NFE, it needs to be determined whether the Passive NFE is a Reportable Person. In addition, it is also necessary to determine whether the Passive NFE has Controlling Persons, and whether these are Reportable Persons. The AEOI due diligence and reporting obligations must be regularly applied in respect of the Passive NFE. The following is applicable to the Controlling Persons:

330. - If an individual resident in Austria has been identified as Controlling Person within the context of AEOI due diligence procedures, then the bank account of an asset structure that was set up until 31 December 2016 and is considered to be transparent within the meaning of Art. 2/2/b AStA is considered to be an Excluded Account exclusively in respect of the individual resident in Austria. In the case of the bank, AStA provisions are applicable to the individual resident in Austria. For this reason, in the case of an affected person pursuant to Art. 2/1/h/ii AStA, either withholding tax must be imposed or a voluntary report must be made. A voluntary report pursuant to AStA constitutes the exchange of information pursuant to Art. 2 of the AEOI Agreement Liechtenstein-EU. If the individual resident in Austria is also resident in a partner jurisdiction/Reportable Jurisdiction other than Austria, then in respect of this other partner jurisdiction/Reportable Jurisdiction this account is not considered to be an Excluded Account. In respect of Reportable Persons who are resident in another partner jurisdiction/Reportable Jurisdiction other than Austria, such an account is not considered to be an Excluded Account.

331. - If an individual resident in Austria has been identified as Controlling Person within the context of AEOI due diligence procedures, then the bank account of an asset structure that was set up from 1 January 2017 and is considered to be transparent within the meaning of Art. 2/2/b AStA is not considered to be an Excluded Account.

332. - If an individual resident in Austria has been identified as Controlling Person within the context of AEOI due diligence procedures, then the bank account of an asset structure that is considered to be intransparent within the meaning of Art. 2/2/b/AStA is considered to be an Excluded Account exclusively in respect of the individual resident in Austria. In the case of the bank, for this reason, neither AEOI nor AStA provisions are applicable to the individual resident in Austria. In the case of an intransparent asset structure, the Asset structure paying agent is responsible for the obligations pursuant to AStA (see Chapter 3.2.7.7.3). If the individual resident in Austria is also resident in a partner jurisdiction/Reportable Jurisdiction other than Austria, then in respect of this

other partner jurisdiction/Reportable Jurisdiction this account is not considered to be an Excluded Account. In respect of Reportable Persons who are resident in another partner jurisdiction/Reportable Jurisdiction other than Austria, such an account is not considered to be an Excluded Account.

- If a change in circumstances occurs that causes an individual resident in Austria to establish a residence for tax purposes in a partner jurisdiction/Reportable Jurisdiction, then the Reporting Liechtenstein Financial Institution may no longer treat the bank account as an Excluded Account in respect of the other partner jurisdiction/Reportable Jurisdiction. For example, an individual resident in Austria establishes a residence for tax purposes in another partner jurisdiction, or an individual resident in Austria and in another jurisdiction establishes a residence for tax purposes in another partner jurisdiction. 333.

- In the case of an Active NFE, it needs to be determined whether the Active NFE is a Reportable Person. The AEOI due diligence and reporting obligations must be regularly applied. Due to the absence of a person concerned, AStA is not applicable by the bank. In this instance, the AStA must be exercised by the asset structure paying agent. 334.

3.2.7.7.3 Asset structure paying agent

Pursuant to the AEOI, asset structures are normally considered to be professionally managed Investment Entities (Financial Institutions) or NFEs. As Passive NFEs, asset structures do not have any independent reporting obligations under the AEOI. In this case, the AEOI report shall be issued by the involved Financial Institutions, as a rule by the involved banks (see Chapter 3.2.7.7.2). If an asset structure is classified as a professionally managed Investment Entity, then this is considered to be a Reporting Liechtenstein Financial Institution. For this reason, the asset structure must properly exercise AEOI due diligence procedures pursuant to Art. 7 AEOI Act. In addition, asset structures pursuant to AStA have an asset structure paying agent pursuant to AStA which must exercise the AStA obligations. 335.

If the asset structure is classified as Reporting Liechtenstein Financial Institution (e.g. professionally managed Investment Entity), then from the perspective of the involved banks this does not represent a Reportable Person. For this reason, the AEOI obligations and the AStA obligations must be exercised by the asset structure or by the asset structure paying agent respectively. In respect of a specific Liechtenstein bank account, the asset structure or the asset structure paying agent respectively may commission the Liechtenstein bank to handle the technical settlement of the AStA obligations. The asset structure paying agent shall, however, always remain the responsible paying agent under the AStA. 336.

For this reason, in the case of asset structures pursuant to AStA with an asset structure paying agent within the meaning of Art. 2/1/e/ii AStA that are classified as Reporting Liechtenstein Financial Institutions, the following distinction must be made: 337.

- The following applies to a transparent asset structure that was set up until 31 December 2016: 338.

  - If an individual resident in Austria has been identified within the context of the AEOI due diligence procedures pursuant to Art. 7 of the AEOI Act as an Account Holder (equity interest holder), then this account is considered to be an 339.

Excluded Account only in respect of the individual resident in Austria. In the case of the asset structure or its asset structure paying agent, AStA provisions are applicable to the individual resident in Austria. For this reason, in the case of an affected person pursuant to Art. 2/1/i/i AStA, either withholding tax must be imposed or a voluntary report must be made. A voluntary report pursuant to AStA constitutes the exchange of information pursuant to Art. 2 of the AEOI Agreement Liechtenstein-EU. If the individual resident in Austria is also resident in a partner jurisdiction/Reportable Jurisdiction other than Austria, then in respect of this other partner jurisdiction/Reportable Jurisdiction this account is not considered to be an Excluded Account. In respect of Reportable Persons who are resident in another partner jurisdiction/Reportable Jurisdiction other than Austria, such an account is not considered to be an Excluded Account.

340. ○ If a change in circumstances occurs that causes an individual resident in Austria to establish a residence for tax purposes in a partner jurisdiction/Reportable Jurisdiction, then the Reporting Liechtenstein Financial Institution may no longer treat the account as an Excluded Account in respect of the other partner jurisdiction/Reportable Jurisdiction. For example, an individual resident in Austria establishes a residence for tax purposes in another partner jurisdiction, or an individual resident in Austria and in another jurisdiction establishes a residence for tax purposes in another partner jurisdiction.

341. • In the case of a transparent asset structure that was set up from 1 January 2017, the AEOI due diligence and reporting obligations must be applied as standard by the asset structure. In this case, AStA is no longer applicable from 1 January 2017.

342. • In the case of an intransparent asset structure, the following applies:

343. ○ If an individual resident in Austria has been identified within the context of the AEOI due diligence procedures pursuant to Art. 7 of the AEOI Act as an Account Holder, then this account is considered to be an Excluded Account only in respect of the individual resident in Austria. In the case of the asset structure or its asset structure paying agent, AStA provisions are applicable to the individual resident in Austria. For this reason, in the case of an affected person pursuant to Art. 2/1/i/ii AStA, either withholding tax must be imposed or a voluntary report must be made. A voluntary report pursuant to AStA constitutes the exchange of information pursuant to Art. 2 of the AEOI Agreement Liechtenstein-EU. If the individual resident in Austria is also resident in a partner jurisdiction/Reportable Jurisdiction other than Austria, then in respect of this other partner jurisdiction/Reportable Jurisdiction this account is not considered to be an Excluded Account. In respect of Reportable Persons who are resident in another partner jurisdiction/Reportable Jurisdiction other than Austria, such an account is not considered to be an Excluded Account.

344. ○ If a change in circumstances occurs that causes an individual resident in Austria to establish a residence for tax purposes in a partner jurisdiction/Reportable Jurisdiction, then the Reporting Liechtenstein Financial Institution may no longer treat the account as an Excluded Account in respect of the other partner jurisdiction/Reportable Jurisdiction. For example, an individual resident in

Austria establishes a residence for tax purposes in another partner jurisdiction, or an individual resident in Austria and in another jurisdiction establishes a residence for tax purposes in another partner jurisdiction.

3.3 Preexisting Account or New Account

3.3.1 In general

Different AEOI due diligence procedures exist for the following accounts: 345.

- Preexisting Accounts (i.e. accounts, maintained by a Reporting Liechtenstein Financial Institution for purposes of the AEOI Agreement Liechtenstein-EU as of 31 December 2015 or in the remaining cases as of 31 December 2016) by:
    - Individuals;
        i. Lower Value Accounts;
        ii. High Value Accounts;
    - Entities (in the case of an Entity on the one side the Entity has to be determined and on the other side for a passive NFE Controlling Persons have to be determined additionally).
- New Accounts (i.e. accounts, opened and maintained by a Reporting Liechtenstein Financial Institution for purposes of the AEOI Agreement Liechtenstein-EU on or after 1 January 2016 or in the remaining cases on or after 1 January 2017) by:
    - Individuals;
    - Entities (in the case of an Entity on the one side the Entity has to be determined an on the other side for a passive NFE Controlling Persons have to be determined additionally).

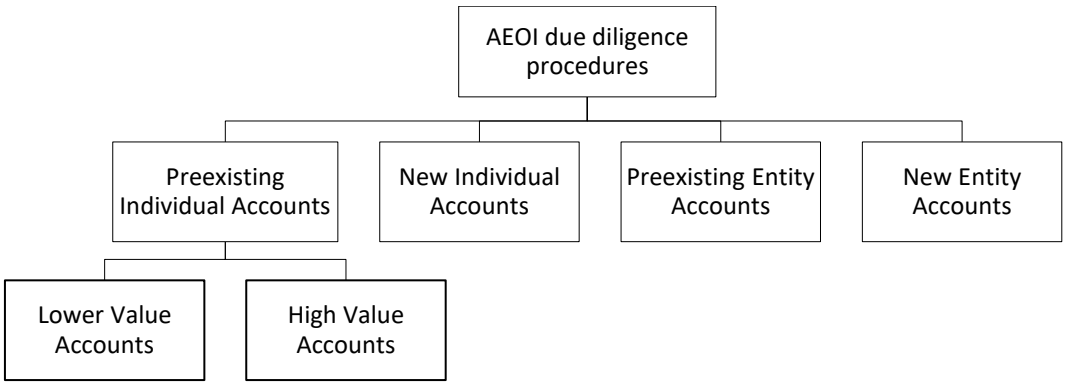

Chart 4: Overview of AEOI due diligence procedures

3.3.2 Preexisting Account

346. A Preexisting Account means for the purposes of the AEOI Agreement Liechtenstein-EU accounts, maintained by a Reporting Liechtenstein Financial Institution as of 31 December 2015 or in the remaining cases as of 31 December 2016 (for the categories of accounts see Chapter 3.2).

347. The date for the determination between a Preexisting and a New Account for purposes of the AEOI Agreement Liechtenstein-EU in relation to Austria is also 31 December 2015/1 January 2016 (see Art. 3/3/last paragraph AEOI Agreement Liechtenstein-EU).

348. The beneficial owners, as identified in accordance with the due diligence provisions that are applicable, are considered to be the Account Holders of preexisting Equity Interests respectively the Controlling Persons of a Passive NFE with a Preexisting Account. In the case of a Passive NFE, the Reporting Liechtenstein Financial Institution must identify the Controlling Persons, irrespective of whether these are linked to an account or other assets of the Passive NFE (in respect of the reporting obligation of Liechtenstein Passive NFEs, also see Chapter 6.3.5).

349. The maturity of a Cash Value Insurance Contract or Annuity Contract does not lead to the establishment of a New Account. The original qualification of the account remains in force. The beneficiaries who acquire their own entitlement to the insurance claim that has been assigned to them on the basis of the occurrence of the insured event must be identified in accordance with the AEOI due diligence obligations for new Account Holders after the insured event occurs. Excluded from this are those persons who, although beneficiaries, already qualify as policyholders for the same contract. Identification of the beneficiary pursuant to the identification obligations for New Accounts must be performed before the payout, insofar as the identification has not already been performed in advance. The exemption pursuant to Section VII/B of the CRS remains applicable (see Chapter 4.4 and 4.5).

3.3.3 New Account

350. A New Account means an account maintained by a Reporting Liechtenstein Financial Institution for purposes of the AEOI Agreement Liechtenstein-EU opened on or after 1 January 2016 or in the remaining cases on or after 1 January 2017.

351. The date for the determination between a Preexisting and a New Account for purposes of the AEOI Agreement in relation to Austria is also 31 December 2015/1 January 2016 (see Art. 3/3/last paragraph AEOI Agreement Liechtenstein-EU).

352. To determine whether accounts were already maintained before 1 January 2016 (for purposes of the AEOI Agreement Liechtenstein-EU) or before 1 January 2017 (in the remaining cases), Financial Institutions may rely upon the information contained in their records. In the case of banks, the opening date of the underlying account/client relation under which the individual transactions (account, securities account) are maintained is the relevant date. An account (client relation) at a bank means an independent business relationship of an Account Holder that requires independent documentation (e.g. AML/KYC documents, self-certification, etc.) in order to be opened.

Example: 353.

The Liechtenstein bank A opened a business relationship on 4 January 2015 with an account. On 7 May 2016 a securities account was opened, and on 8 August 2018 a foreign exchange account was opened. For the purpose of the application of AEOI due diligence procedures in respect of the business relationship, the relevant opening date is therefore 4 January 2015, the date on which the business relationship was opened. For this reason, the AEOI due diligence procedures for Preexisting Accounts are applicable (see Chapter 4 and 6).

The beneficial owners, as identified in accordance with the due diligence provisions at the relevant time, as well as the discretionary beneficiaries who actually receive a distribution are considered to be the Account Holders of new Equity Interests respectively the Controlling Persons of a Passive NFE with a New Account. In the case of a Passive NFE, the Reporting Liechtenstein Financial Institution must record the Controlling Persons, irrespective of whether these are linked to an account or other assets of the Passive NFE (in respect of the reporting obligation of Liechtenstein Passive NFEs, also see Chapter 6.3.5). 354.

Members of the foundation council and protectors are considered to be Account Holders of new Equity Interests, however, only if they are able to exercise control over the assets of the foundation. By contrast, members of the foundation council and protectors are always considered to be the Controlling Persons of a Passive NFE with a New Account. 355.

In addition, settlors, irrespective of whether they exercise control over the assets of the foundation within the meaning of Art. 3 para. 2 SPV, entitled beneficiaries, irrespective of the share of the foundation to which they are entitled, all other individuals with ultimate effective control over the trust, as well as discretionary beneficiaries who actually receive a distribution are considered to be the Account Holders of new Equity Interests respectively the Controlling Persons of a Passive NFE with a New Account. Discretionary beneficiaries are, however, considered to be Account Holders or Controlling Persons only in the year in which they receive a distribution. In case the distributing Entity classifies as Financial Institution, the recipient of the distribution is to be seen as Account Holder, and for the identification the AEOI due diligence procedures for New Accounts have to be applied. This means, that by the time of the distribution the Reporting Liechtenstein Financial Institution has to maintain record of a valid self-certification (see Chapter 3.5), so that if necessary, reporting can be conducted. Regarding the validity of a self-certification in case of further discretionary distributions see Chapter 3.5.4. 356.

Example 1: 357.

A Liechtenstein foundation (Passive NFE) was founded in January 2017. Pursuant to the applicable due diligence provisions, the founder, the members of the foundation council, the protectors and the son of the founder were identified as the beneficial owners. In January 2017, the foundation opened a Depository Account at a Liechtenstein bank. The foundation is the Account Holder (the Passive NFE), and the beneficial owners of the foundation qualify as Controlling Persons, i.e. the founder, the members of the foundation council, any possible protectors and the son of the founder. On the part of the bank, the AEOI due diligence procedures for New Entity Accounts must be applied.

Example 2: 358.

A Liechtenstein foundation (Investment Entity/Financial Institution) was founded in January

2015. The daughter of the founder was appointed as the entitled beneficiary of the foundation. In 2016 the entitled beneficiary dies. Pursuant to the articles and bylaws, following the death of the daughter, the previous prospective beneficiary son becomes the entitled beneficiary. Upon the death of the daughter, the son must be recorded as the beneficial owner pursuant to the applicable due diligence provisions. This consequently means he also becomes Account Holder (Equity Interest Holder) of the foundation. In respect of the son, the foundation is required to apply the AEOI due diligence obligations for New Individual Accounts. Insofar as the daughter, as Account Holder (Equity Interest Holder) has already been identified as Reportable Person, the closure of the account pertaining to the daughter must be reported.

359. Example 3:

A discretionary Liechtenstein foundation (Investment Entity/Financial Institution) was founded in January 2015. The class of beneficiaries includes the descendants of the deceased founder, whereby the foundation council has absolute discretion when it comes to determining the recipients of distributions, the distribution amount and/or the distribution timing. In the year 2017 the discretionary beneficiary Mr A receives a distribution in the amount of CHF 10,000. For this reason, Mr A qualifies as Account Holder in the respective year (Equity Interest Holder). In respect of the distribution recipient, the foundation is required to apply the AEOI due diligence procedures for New Individual Accounts, i.e. for the time of the distribution a valid self-certification has to be obtained. As this is a discretionary distribution, the account must in principle be closed immediately after the distribution. If it is to be expected that further distributions will be made to the same distribution recipient in the same reporting period or in subsequent reporting periods, reporting of the account closure may be waived for reasons of simplification (for details see para. 690).

360. Example 3 (continued):

Mr A (discretionary beneficiary) is resident in jurisdiction X, and during the first half of 2018 receives two distributions in the amount of CHF 7,000 and CHF 8,000, and in the second half of the year 2018 one distribution in the amount of CHF 5,000. At the end of June 2018, Mr A relocates from jurisdiction X to jurisdiction Y. As a distribution to a discretionary beneficiary always results in the opening of a New Account, followed by an account closure, the two distributions must be reported to the jurisdiction X for the first half of 2018 (in this case, either one report in respect of CHF 15,000 or two reports in respect of CHF 7,000 and CHF 8,000). For the second half of 2018 the distribution in the amount of CHF 5,000 be reported to jurisdiction Y must.

In respect of the term Financial Account and Account Holder in context with Cash Value Insurance Contracts and Annuity Contracts, see Chapter 3.2.6.

361. Example 1:

In his function as policyholder, N is the Account Holder of an annuity insurance on the life of Z. N dies and Y joins the policyholder group of the contract. The Annuity Contract represents a New Account of Y.

362. Example 2:

A Liechtenstein Specified Insurance Company opened a business relationship with A on 31 March 2015 by concluding a Cash Value Insurance Contract with a maturity of 10 years.

Following expiry of the contractually agreed maturity of the Cash Value Insurance Contract on 31 March 2025, an Annuity Contract is concluded, financed by the survival benefit. As A, as an existing client, has been identified under the applicable AEOI due diligence procedures for Preexisting Accounts, the Specified Insurance Company may apply the AEOI due diligence procedures for Preexisting Individual Accounts to the newly opened contract (see para. 82 of the CRS Commentary on Section VIII of the CRS).

Example 3: 363.

A Liechtenstein Specified Insurance Company opened a business relationship with A on 31 March 2015 by concluding a death risk insurance policy with a maturity of 10 years. Pursuant to the CRS, a death risk insurance policy does not constitute a product that qualifies under the AEOI. Within the context of the conclusion of the contract, the Liechtenstein Specified Insurance Company correspondingly waived comprehensive documentation within the meaning of the CRS. On 20 March 2020 an Annuity Contract is also concluded with A. As the business relationship with A has not been verified under the applicable AEOI due diligence procedures for Preexisting Accounts as an existing client, within the context of the conclusion of the Annuity Contract the AEOI due diligence procedures for New Accounts are applicable.

3.4 Account closure before application of the AEOI due diligence procedures

Preexisting Accounts that are closed before or during an ongoing review procedure do not have to be documented retrospectively by the Reporting Liechtenstein Financial Institution for AEOI due diligence purposes. In the case of a potential Passive NFE, determination of the Controlling Person is consequently not necessary. The deadlines for the AEOI due diligence procedures for Preexisting Accounts must however be adhered to (see Chapters 4.3.3.5, 4.3.4.8 and 6.4). 364.

In respect of liquidated Entities, the information set out in Chapter 2.8.3 must be observed. 365.

If the review process has been completed, i.e. a Reportable Account and Reportable Persons pursuant to the AEOI due diligence procedures have been identified accordingly, then the report must be made for the respective reporting period during which the account was identified as Reportable Account. 366.

3.5 Self-certification and documentary evidence

3.5.1 In general

By means of a self-certification, a Reporting Financial Institution can determine the classification of an Entity and the residences for tax purposes of an Account Holder as well as of Controlling Persons. On the basis of this information, it is determined whether the Account Holder is a Financial Institution or a Passive or Active NFE. In addition, it is determined whether the Account Holder respectively the Controlling Person is a Reportable Person (see Chapter 8). An Account Holder or a Controlling Person is obliged to inform the Reporting Financial Institution comprehensively and truthfully about where his residences for tax purposes are, and in the case of an Entity which AEOI status he has. The same applies to a Controlling Person towards the Liechtenstein Passive NFE. 367.

3.5.2 Content of a self-certification

368. For a self-certification to be valid, the following information about the Account Holder or Controlling Person must be included in the self-certification:

- Name;
- Residence address;
- Jurisdiction(s) of residence for tax purposes.

369. If the residence for tax purposes of the Account Holder is in a Reportable Jurisdiction, the following information must also be included:

- Tax Identification Number(s), insofar as the partner jurisdiction receiving the report issues such a number;
- Date of birth.

370. Pursuant to Liechtenstein due diligence procedures, the place of birth does not necessarily have to be recorded. This consequently also means that this information does not necessarily have to be included in the self-certification.

371. Insofar as the Account Holder is an Entity, the AEOI classification of the Entity must also be specified within the context of the self-certification.

372. A Reporting Liechtenstein Financial Institution may retain an original, a certified copy or a photocopy (including a microfiche, an electronic scan or similar means of electronic storage) of the self-certification.

373. If the Account Holder does not report the Tax Identification Number to the Reporting Liechtenstein Financial Institution, or does not report this on time, then in the case of Preexisting Accounts without Tax Identification Numbers the Reporting Financial Institution is required to continue to use reasonable efforts to obtain the Tax Identification Numbers from the Account Holder. In the case of a New Account, the Tax Identification Numbers must be obtained within the context of the account opening. In this context, also see: OECD Information about the Tax Identification Number; TIN). In case of Liechtenstein individuals respectively Entities the PEID is considered as TIN.

374. Pursuant to Art. 5 para. 2 AEOI Act Liechtenstein Passive NFEs are required to use reasonable efforts to obtain the Tax Identification Numbers of the Controlling Persons and in the case of an individual, the date of birth, for the purpose of the notification to the Reporting Liechtenstein Financial Institution.

375. Efforts are reasonable if the Reporting Liechtenstein Financial Institution respectively the Liechtenstein Passive NFE undertakes genuine attempts at least once a year to acquire the Tax Identification Numbers of the Account Holder or of the Controlling Persons. This may, for example, be made within the context of a contact (in particular by post, e-mail, telephone), during which an explicit request is made to give notice of the Tax Identification Numbers. The contacting for the purpose to obtain the Tax Identification Numbers may generally also be performed within the context of other documentary obligations (e.g. FATCA, AML/KYC). A

Preexisting Account that lacks of Tax Identification Numbers does not have to be closed, blocked or otherwise limited in its use.

376. Irrespective of this, Reporting Liechtenstein Financial Institutions and Liechtenstein Passive NFEs are not required to obtain the Tax Identification Number respectively to conduct annual clarifications if:

- the respective Reportable Jurisdiction does generally not issue Tax Identification Numbers or an equivalent number (see OECD Information about the Tax Identification Number; TIN)); or
- the Account Holder or the Controlling Person belongs to a group of persons in relation to which the respective Reportable Jurisdiction does not issue a Tax Identification Number (in the Reportable Jurisdiction, this may e.g. be the case for minors).

3.5.3 Signing or confirmation of the self-certification

377. A self-certification is valid only if it has been signed (or otherwise positively affirmed) by the Account Holder(s) respectively the Controlling Person(s) and it is dated at the latest at the date of receipt.

378. A person authorised by the Account Holder or Controlling Persons under domestic law may also sign the self-certification. A person authorised to sign a self-certification generally includes an executor of an estate or an equivalent of the former title, as well as any other person that has been provided written authorisation by the Account Holder (e.g. general bank account power of attorney) to sign documentation on such person's behalf.

379. In addition to the signature of the Account Holder, the self-certification may also be positively confirmed by other means. In this context the Financial Institution must ensure that the confirmation and the date on which this was provided are verifiable. Such a confirmation exists in the following cases, for example, insofar as this is documented in an audit-compliant manner:

- The residence(s) for tax purposes are reported during the client interview.
- The Account Holder confirms within the context of the opening of a bank account that his sole residence for tax purposes corresponds to his residence.
- The residence(s) for tax purposes are reported by telephone.
- The residence(s) for tax purposes are reported by means of secure online banking, where the person can be unequivocally identified (on the basis of the recorded client number).

380. Self-certifications must be complete and truthful. In the event of changes in circumstances, the new information must be provided immediately, i.e. by the end of the calendar year or within 90 days, depending on which occurs later. The deliberate or false issue of a self-certification to a Reporting Liechtenstein Financial Institution is subject to the penal provisions of the AEOI Act. The same applies if changes in circumstances are not notified or if false information is provided about changes in circumstances.

3.5.4 Validity of self-certification

381. A self-certification remains valid until there is a change of circumstances that causes the Reporting Liechtenstein Financial Institution or the Liechtenstein Passive NFE to know, or have reason to know, that the self-certification is incorrect or unreliable.

382. If there is a change of circumstances, the Reporting Liechtenstein Financial Institution may no longer rely on the original self-certification and must obtain either:

- a valid self-certification that establishes the residence(s) for tax purposes of the Account Holder; or

- a reasonable explanation and documentation (as appropriate) supporting the validity of the original self-certification (and retain a copy or a notation of such explanation and documentation).

In this context, the Reporting Liechtenstein Financial Institution is expected to institute procedures to ensure that any change that constitutes a change in circumstance is identified (see point 12 of the CRS Commentary on Section IV of the CRS).

383. Liechtenstein Passive NFEs must notify the Reporting Liechtenstein Financial Institution immediately of a change in circumstances (i.e. by the end of the calendar year or within 90 days, depending on which occurs later).

384. A Reporting Liechtenstein Financial Institution or a Liechtenstein Passive NFE knows, or has reason to know, that the self-certification is incorrect or unreliable if a reasonably prudent person has information that would question the correctness of the claims made in the self-certification.

385. A change of address in the same jurisdiction or a change of name due to marriage does not cause the self-certification to be invalid. As long as the Account Holder or the Controlling Person corresponds in a verifiable manner to the person for whom the original self-certification was issued, and in respect of whom his residence for tax purposes has not changed, the self-certification does not have to be renewed. An original self-certification is also not invalid or not unreliable solely because the Reporting Financial Institution discovers any of the indices 3 to 5 (see Chapter 4.3.3.3.1), and such indicia conflicts with the self-certification or the information in the available documents.

386. Example:

By issuing a bank power of attorney or signatory authority by an Account Holder to a person with an address in a Reportable Jurisdiction, an original self-certification is not considered to be invalid or unreliable. The same applies if an Account Holder provides one or more new telephone numbers in a Reportable Jurisdiction, and no telephone number in the jurisdiction of the Reporting Financial Institution.

In the context of recurring discretionary distributions to the same discretionary beneficiary as Equity Interest Holder (Account Holder), a once obtained self-certification remains valid until there is a change of circumstances. Except for a change of circumstances a new self-certification must not be obtained before each new distribution to the same discretionary beneficiary.

Example: 387.

Mr A is a discretionary beneficiary of a discretionary foundation (Investment Entity). He receives a discretionary distribution for the first time in June 2017. Regarding Mr A as discretionary beneficiary, the foundation (as Reporting Financial Institution) has to apply the AEOI due diligence procedures for New Accounts, whereupon a valid self-certification has to be obtained. In December 2018 another distribution resolution in favour of Mr A is made. The self-certification maintained at record (for the distribution in June 2017) can be used for the distribution in December 2018, unless of a change of circumstances, according to which Mr A for example has to be reported to another partner jurisdiction.

A change in circumstances that influences the self-certification provided to the Reporting Financial Institution shall end the validity of the self-certification in respect of the details that no longer appear reliable, until these details are updated. 388.

If there is a change in circumstances that causes the details provided in the self-certification concerning the residence for tax purposes to be invalid, and if the Reporting Liechtenstein Financial Institution has knowledge thereof, then it may rely upon the original self-certification only for a limited period of time, specifically (see para. 14 of the CRS Commentary on Section IV of the CRS): 389.

- within 90 days following the change in circumstances;
- up to the day on which the validity of the original self-certification is confirmed;
- up to the day on which a new self-certification is obtained.

As long as the validity of the original self-certification has not been confirmed or it has not been possible to obtain a new self-certification, the Reporting Liechtenstein Financial Institution may consider the Account Holder or the Controlling Person to be a resident for tax purposes only in the jurisdictions specified by him in the original self-certification. If the validity of the original self-certification is not confirmed or no new self-certification could be obtained after 90 calendar days, the Reporting Liechtenstein Financial Institution must treat the Account Holder or the Controlling Persons as resident for tax purposes both in the jurisdiction specified in the original self-certification, as well as in the jurisdiction in which he/they may be resident for tax purposes as a result of the change in circumstances. 390.

The responsibility for updating the details documented by the Reporting Liechtenstein Financial Institution lies with the person who has completed the self-certification, and not with the Financial Institution. This means that Reporting Liechtenstein Financial Institutions are generally able to rely upon the information provided by their contracting parties respectively Controlling Persons within the context of the self-certification. Nevertheless, if doubts exist about the correctness of the self-certification, additional documents must be demanded for reasonability purposes (certificate of residence, confirmations issued by the tax authorities, utility bills, etc.). 391.

3.5.5 Correction of a self-certification

392. A Reporting Liechtenstein Financial Institution or Liechtenstein Passive NFE may treat a self-certification as valid – notwithstanding it contains inconsequential errors – if it has sufficient documents on file to supplement the information that is missing or that is incorrect. For example, a self-certification may be treated as valid, although the individual submitting the self-certification abbreviated the jurisdiction of residence. Provided that the Reporting Liechtenstein Financial Institution or the Liechtenstein Passive NFE has a government issued identification for this person from a jurisdiction that reasonably matches the abbreviation. On the other hand, an abbreviation for the jurisdiction of residence that does not reasonably match the jurisdiction of residence shown on the person's passport constitutes an error that leads to the invalidity of the self-certification.

393. The failure to provide the jurisdiction of residence, by contrast, is an error that leads to the invalidity of the self-certification.

394. The failure to provide the Tax Identification Number of a new client is an inconsequential error, insofar as the Reporting Liechtenstein Financial Institution or Liechtenstein Passive NFE retrospectively obtains the Tax Identification Number (within 90 days) from the Account Holder and includes this in the client dossier. In such cases, the Tax Identification Number can be determined within the context of normal client communications, and no new self-certification is required, i.e. the initial absence of the Tax Identification Number does not make the self-certification invalid. However, if the Tax Identification Number cannot be obtained retrospectively, then Art. 7 para. 13 AEOI Act stipulates that the account shall be blocked (see Chapter 5.3).

395. A further inconsequential error exists if the date field is not completed, or cannot be determined explicitly because of the format, insofar as the date of the receipt of the self-certification can be proved and supplemented with a receipt stamp.

3.5.6 Reasonableness of a self-certification

396. A Reporting Liechtenstein Financial Institution or a Liechtenstein Passive NFE can generally rely on the information provided in a self-certification.

397. Reporting Liechtenstein Financial Institutions or Liechtenstein Passive NFEs are required to review the reasonableness of a self-certification on the basis of the due diligence documents. When recording the residence address and forwarding address, the Liechtenstein Financial Institution may rely upon the recorded data to fulfil the due diligence obligations pursuant to SPG/SPV.

398. A Reporting Liechtenstein Financial Institution or Liechtenstein Passive NFE may only not rely on the information provided in a self-certification or in supporting documents if a reasonably prudent person of the Reporting Liechtenstein Financial Institution or Liechtenstein Passive NFE has information that would question the correctness of the statements made in the self-certification (see Chapter 3.5.4).

399. In the case of a self-certification that would fail the reasonableness test, then the Reporting Liechtenstein Financial Institution or Liechtenstein Passive NFE may be expected either to obtain a valid self-certification or reasonable explanations and documentation (such as e.g.

certificate of residence, confirmations issued by tax authorities and utility bills) that confirm the reasonableness of the original self-certification. Otherwise the self-certification cannot be accepted.

3.5.7 Documentation collected by third parties

400. Reporting Liechtenstein Financial Institutions or Liechtenstein Passive NFEs may generally rely on documentation (including self-certifications) collected by an agent (including a fund advisor for mutual funds, authorised external asset managers, hedge funds or a private equity group).

401. A Reporting Liechtenstein Financial Institution or a Liechtenstein Passive NFE that has acquired an account from a predecessor or transferor in a merger or bulk acquisition of accounts for value would generally be permitted to rely upon valid documentation (including a self-certification) or copies of this documentation collected by the predecessor or transferor.

402. In addition, a Reporting Financial Institution that has acquired an account in a merger or bulk acquisition of accounts for value from another Reporting Financial Institution that has completed all AEOI due diligence procedures pursuant to Sections II to VII of the CRS with respect to such accounts, would generally be permitted to rely on the predecessor's or transferor's determination of status of the Account Holder until the acquirer knows, or has reason to know, that the status is inaccurate or a change in circumstances occurs.

3.6 Service providers

403. Pursuant to Section II/D of the CRS, each jurisdiction may allow Reporting Financial Institutions to use service providers to fulfil the reporting and due diligence obligations imposed on them, as contemplated in domestic law, whereby these obligations shall remain the responsibility of the Reporting Financial Institutions. This option also exists for Liechtenstein Financial Institutions pursuant to Art. 11 AEOI Act. These service providers always act on behalf of the Reporting Financial Institution, and never on their own behalf.

404. A service provider does not have to be a Financial Institution or an Entity; an individual can also be a "service provider" within the meaning of this provision. However, due to the wide-ranging obligations it should be ensured that the service provider is qualified appropriately.

405. The service provider may be resident in Liechtenstein or in another jurisdiction.

406. The use of a service provider is to be distinguished from the trustee documented trust concept. Under the TDT concept, the original reporting trust is considered to be a Non-Reporting Financial Institution, if the trustee fulfils the corresponding obligations (also see Chapter 2.6.3). In case of a service provider, the reporting trust remains obliged to fulfil the obligations of a Reporting Financial Institution.

407. Irrespective of whether the TDT concept or the engagement of a service provider is chosen, the AEOI due diligence and reporting procedures always must be fulfilled as if they continued to be the obligations of the trust itself. In respect of the AEOI obligations, the relevant country is that country in which the trust is resident and not the county of the service provider.

3.7 Documentation of the AEOI due diligence procedures and safekeeping

408. Reporting Liechtenstein Financial Institutions are obliged to keep records of the steps undertaken and any evidence relied upon for the performance of the AEOI due diligence procedures.

409. The documentation may be made electronically and also be kept in that form. In particular, it must be ensured that requests for information by the Fiscal Authority or independent third parties mandated by it can be complied with within a reasonable period of time. The electronic documentation must be consistent with the underlying materials and must be made readable at any time. Furthermore, it must be ensured that electronically retained documents cannot be subsequently changed without this being detectable (see Chapter IV of the Ordinance on the Persons and Companies Act).

410. The documentation must be kept in Liechtenstein and must be available at all times.

411. The documentation of the AEOI due diligence obligations must be kept in Liechtenstein for ten years from the end of the reporting period for which a report was last to be submitted. In the event of the deletion of a Reporting Liechtenstein Financial Institution, the documentation must be kept at a location in Liechtenstein to be designated by the Financial Institution. The Fiscal Authority must be informed of the safekeeping location before the Reporting Liechtenstein Financial Institution is deleted. The safekeeping locations must grant the Fiscal Authority or independent third parties mandated by it appropriate access to the retained documentation. See also the remarks in Chapter 2.10.

4. Preexisting Individual Accounts

4.1 Review Procedures

412. The client identification process for Preexisting Individual Accounts is divided into the following review steps (see

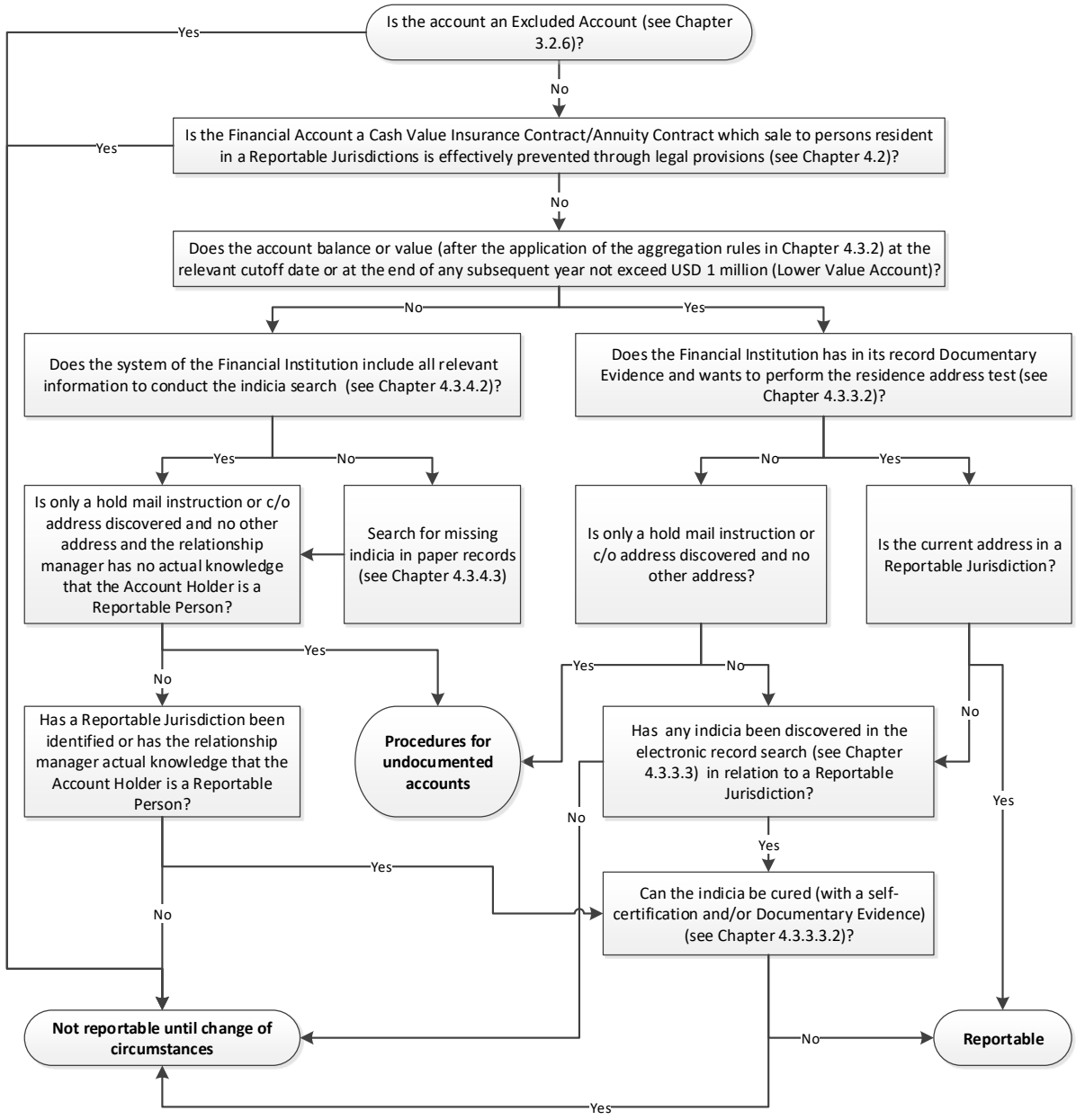

Chart 5).

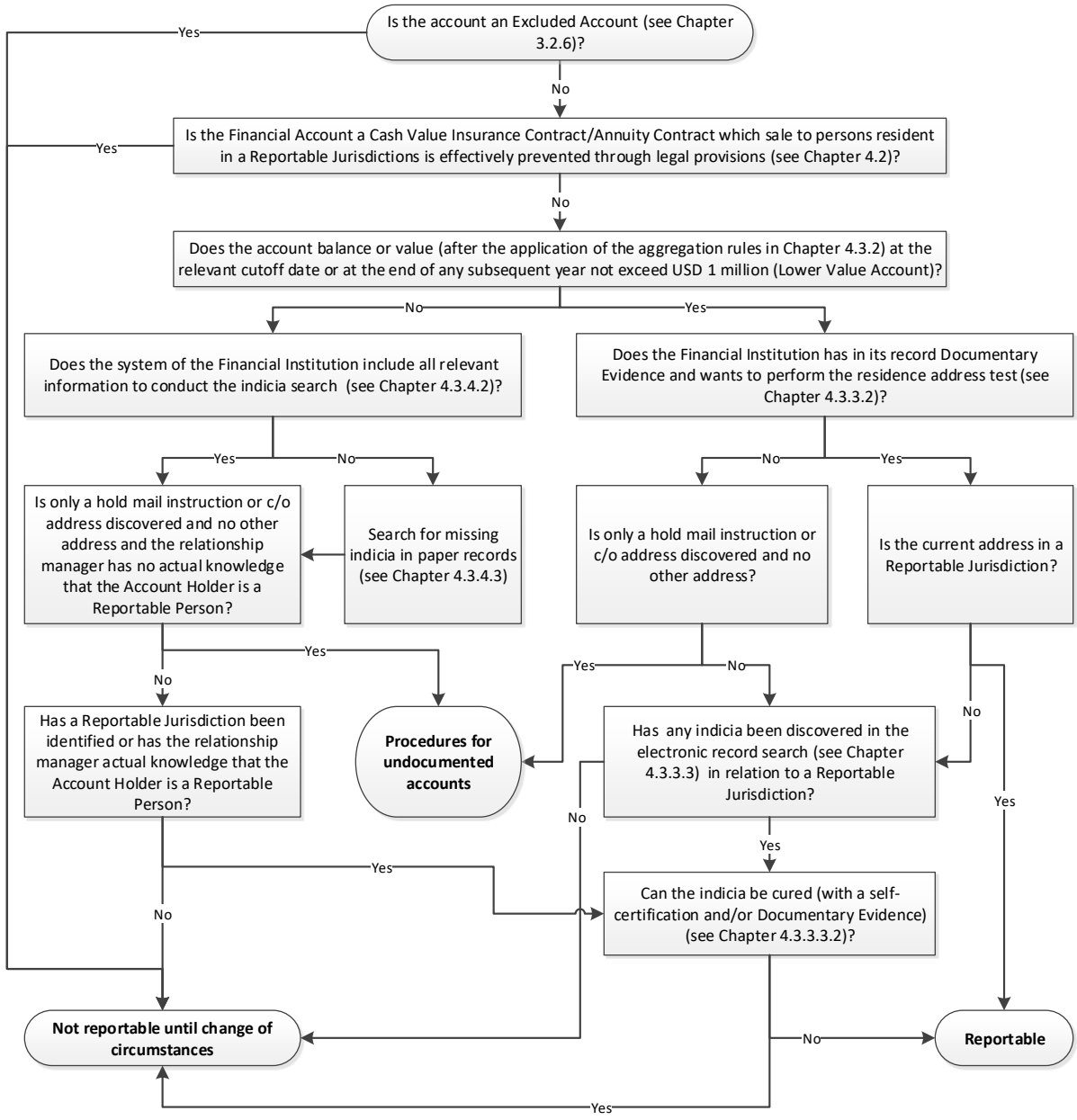

Chart 5: Review procedures for Preexisting Individual Accounts

413. Pursuant to Art. 7 para. 4 subpara. b AEOI Act a Reporting Financial Institution may also apply the AEOI due diligence procedures for New Accounts to all or a clearly identified group of Preexisting Accounts (client relations). In both cases, this choice must be documented in an audit-compliant manner when applying the AEOI due diligence procedures.

414. Example:

The Financial Institution A applies the AEOI due diligence procedures for New Accounts to the group of Preexisting Accounts (client relations) for which a current self-certification of the Account Holder exists for documentation purposes.

415. Insofar as a Reporting Liechtenstein Financial Institution applies the AEOI due diligence procedures for New Accounts to a Preexisting Account, and bases this on a self-certification, then the AEOI due diligence procedures for Preexisting Accounts (electronic and paper record search as well as information provided by the relationship manager) may be waived. In respect

of the self-certification, the principles concerning the validity and reasonableness of a self-certification (see Chapters 3.5.4 and 3.5.6) are applicable.

416. In order to determine whether a Preexisting Individual Account is a Lower Value Account or a High Value Account, the aggregation rules pursuant to Chapter 4.3 must be adhered.

4.2 Accounts not required to be reviewed, identified or reported

417. The first step of the AEOI due diligence procedures for Preexisting Individual Accounts is to review whether there is an Excluded Account (the accounts listed under Chapter 3.2.7 qualify as such). If there are only Excluded Accounts, then e.g. a Liechtenstein bank is not required to conduct any further reviews in respect to the account/client. The AEOI due diligence procedures are not applicable for the relevant account/client relation. In all other cases, the following AEOI due diligence procedures must be applied. It is however necessary to ensure that if a non-Excluded Account is opened under the business relationship at a later date this account must be treated like a New Account.

418. A Preexisting Individual Account that is a Cash Value Insurance Contract or Annuity Contract qualifies as an account that does not have to be reviewed, identified or reported, provided the applicable legal provisions do indeed prevent the sale of such contracts by the Reporting Liechtenstein Financial Institution to persons resident in the Reportable Jurisdiction.

4.3 Lower Value Account or High Value Account

4.3.1 In general

419. For the purpose of the AEOI due diligence procedures, in the case of Preexisting Individual Accounts, it is to be distinguished between Lower Value Accounts and High Value Accounts.

420. In order to determine whether an account is of lower value or of high value, Excluded Accounts (see Chapter 3.2.7) are not taken into account. These do not qualify as Financial Accounts and for this reason do not have to be considered.

4.3.2 Aggregation rules for Preexisting Individual Accounts

421. For purposes of determining the aggregate balance or value of Preexisting Individual Accounts, a Reporting Liechtenstein Financial Institution is required to aggregate all Financial Accounts maintained by the Reporting Liechtenstein Financial Institution, or by a Related Entity, but only to the extent that the Reporting Financial Institution's computerised systems link the Financial Accounts by reference to a data element such as a client number or Tax Identification Number, and allow account balances or values to be aggregated (see para. 15 of the CRS Commentary on Section VII of the CRS).

422. The following rules concerning collective relationships for jointly held bank accounts and security accounts respectively for collective accounts and collective security accounts are applicable if a bank maintains a reportable bank account and/or securities account for several Account Holders, whether in the form of a joint account/joint securities account ("and/and account") or as a collective account/collective securities account ("and/or account").

423. If at least one Reportable Person (e.g. an individual) is a party to a collective relationship pertaining to a bank account as a joint Account Holder, then all recorded assets must be attributed to each Reportable Person, irrespective of the level of their entitlement. The assets are not allocated in accordance with the number of joint account or securities Account Holders ("per capita") or in accordance with the reported participation quotas (see para. 15 of the CRS Commentary on Section VII of the CRS). This applies both in respect of the relevant threshold and aggregating regulations, as well as for the purpose of reporting (see Chapter 10).

424. In the case of a bank, the balances of the individual products (accounts, securities accounts, etc.) must be added together for each account relationship. Products with a negative balance (e.g. mortgages, loans, negative account balances or policy loans) are insignificant. In addition, banks are required to consolidate individual business relationships/accounts where the same individual is the Account Holder, insofar as systems make this technically possible.

425. Example:

The following transactions are performed under the client relation "Mr and Mrs X" (pursuant to the AEOI due diligence procedures both resident in the EU) that was opened in the year 2014 (balance of the transactions, in each case as of 31 December 2015):

Current account	USD	200,000
Foreign currency account	USD	-90,000
Securities account	USD	900,000
Lombard loan	USD	-100,000
Total	USD	910,000

To determine whether the account is a Lower Value Account, the current account with USD 200,000 and the securities account with USD 900,000 must be taken into account. The total balance is USD 1,100,000. The foreign currency account with a negative balance as well as the Lombard loan are insignificant. This means that for Mr X as well as for Mrs X, a Preexisting High Value Account maintained by individuals exists in each case (see Chapter 4.3.4).

426. In the case of Preexisting Individual Accounts, Reporting Liechtenstein Financial Institutions are also required to aggregate all accounts that a relationship manager responsible for the individual knows, or has reason to know, are directly or indirectly owned or controlled or established by the same person, other than in a fiduciary capacity. This includes accounts that the relationship manager has associated with one another through a name, customer identification number, Tax Identification Number, etc. (see para. 16 of the CRS Commentary on Section VII of the CRS).

427. Example 1:

Mr X (pursuant to the AEOI due diligence procedures resident in the EU) has a registered relationship (Preexisting Account) with a balance as at 31 December 2015 of USD 300,000 and a registered number account relationship (Preexisting Account) with a balance as at 31 December 2015 of USD 800,000 at a Reporting Liechtenstein Financial Institution. Both relationships are administered by the same relationship manager. The relationship manager knows that both relationships belong to the same person. The Reporting Liechtenstein Financial Institution is required to aggregate the two relationships and in respect of Mr X to conduct the review procedure for Preexisting High Value Accounts maintained by individuals

(account balance as at 31 December 2015 attributable to Mr X amounts to USD 1.1 million, and is consequently more than USD 1 million).

Example 2: 428.

Mr X (pursuant to the AEOI due diligence procedures resident in the EU) has a registered relationship (Preexisting Account) at a Reporting Liechtenstein Financial Institution with a balance as of 31 December 2015 of USD 300,000. Mr X is also the Controlling Person at Y foundation (Passive NFE), which also has a Depository Account with a balance as at 31 December 2015 of USD 800,000 at the same Reporting Liechtenstein Financial Institution. In the Reporting Liechtenstein Financial Institution's computerised systems the two accounts are linked to Mr X by means of internal identification numbers. In addition, the relationship manager of Mr X is aware that he is a Controlling Person of Y foundation. The Reporting Liechtenstein Financial Institution is required to aggregate the two relationships and in respect of Mr X to conduct the review procedure for Preexisting High Value Accounts maintained by individuals (account balance as of 31 December 2015 attributable to Mr X amounts to USD 1.1 million, and is consequently more than USD 1 million) (see para. 19 of the CRS Commentary on Section VII of the CRS).

If a Reportable Account and/or securities account is maintained for an individual and an Entity as a collective relationship, then in respect with the collective relationship the Reporting Liechtenstein Financial Institution shall apply the corresponding AEOI due diligence procedures for the accounts of individuals or the corresponding AEOI due diligence procedures for Entity Accounts for each joint owner. 429.

4.3.3 Lower Value Account

4.3.3.1 In general

Lower Value Accounts are considered to be accounts (client relations) with an aggregate balance or value that does not exceed USD 1 million for purposes of the AEOI Agreement Liechtenstein-EU as of 31 December 2015 or in the remaining cases as of 31 December 2016. 430.

In the case of Lower Value Accounts, the Reporting Liechtenstein Financial Institution can apply the residence address test or the electronic record search in order to identify Reportable Persons. 431.

4.3.3.2 Residence address test

4.3.3.2.1 In general

The determination of the residence by a residence address based on Documentary Evidence (so-called residence address test) is a simplified procedure that can be used to meet AEOI due diligence obligations. In this context, a Reporting Liechtenstein Financial Institution can determine the residence for tax purposes of a person with the help of Documentary Evidence that confirms the current residence address of the Account Holder. The condition for this is that the Reporting Liechtenstein Financial Institution has in its records a current residence address of the individual. 432.

433. This procedure is permitted only for Lower Value Accounts.

434. In order to apply the residence address test, a Reporting Liechtenstein Financial Institution must have policies and procedures in place to verify the residence address based on Documentary Evidence.

435. If a Reporting Liechtenstein Financial Institution has relied on the residence address test and there is a change in circumstances that causes the Reporting Financial Institution to know or have reason to know that the original Documentary Evidence (see Chapter 4.3.3.2.3) is incorrect or unreliable, the Reporting Financial Institution must, within 90 days or by the later of the last day of the calendar year (whichever occurs later), obtain a self-certification and new Documentary Evidence to establish the residence for tax purposes of the Account Holder (see para. 16 of the CRS Commentary on Section III). If the Reporting Liechtenstein Financial Institution cannot obtain the self-certification and new Documentary Evidence by such date, it must apply the electronic record search procedure (see Chapter 4.3.4.2) (see para. 13 of the CRS Commentary on Section III).

4.3.3.2.2 Current residence address

436. A residence address is considered to be current if it is the most recent residence address that was recorded by the Reporting Liechtenstein Financial Institution with respect to the Account Holder. An address that at the time of recording was determined using applicable due diligence procedures is considered to be current within the context of the residence address test.

437. However, the residence address is not considered to be current if it has been used for mailing purposes and mail has been returned undeliverable-as-addressed. In general, a c/o address as well as a post office box is not a residence address. However, a post office box would generally be considered a residence address where it forms part of an address together with, e.g. a street, suite or apartment number, and thus clearly identifies the residence address of the Account Holder. Similarly, in special circumstances such as e.g. that of a military personnel or the residents of institutional homes (e.g. retirement homes, care homes etc.), a c/o address may constitute a residence address.

438. In respect of the criterion concerning the currentness of the address, the CRS Commentary contains special rules for so-called dormant accounts (see para. 9 of the CRS Commentary on Section III). These are considered to be dormant if it is not possible to establish contact with the Account Holder. For this reason, Reporting Liechtenstein Financial Institutions may treat the address in their records as current. In this case, no further investigations are required to obtain a current address, as these efforts would be unsuccessful.

439. For an account that is considered to be dormant, the address recorded in the records of the Reporting Liechtenstein Financial Institution or of the Passive NFE is considered to be current within the context of the residence address test. From the perspective of the Liechtenstein Financial Institution, dormant accounts are considered to be Excluded Accounts (see Chapter 3.2.7).

4.3.3.2.3 Based upon Documentary Evidence

440. The current residence address in the Reporting Liechtenstein Financial Institution's records must be based on Documentary Evidence (see para. 10 and 11 of the CRS Commentary on Section III). The available records must be issued by a government authority (e.g. residents' registration and reporting office, embassy or consulate). The records required for this purpose include in particular passports, ID cards, foreign national IDs, driving licences, certificates of domicile or residence etc. Accordingly, a Reporting Liechtenstein Financial Institution may also base its decision on reliable documents that were inspected within the context of determining the identity of the contracting party (especially passport, ID card or driving licence) (see Art. 7 SPV).

441. The documentation requirement is also met in particular if the Financial Institution has government-issued Documentary Evidence in its records, but these do not contain a complete residence address or do not contain an address at all, the current residence address in the Financial Institution's records is the same address, or in the same jurisdiction, as the address recorded in the Documentary Evidence.

442. Example 1:

Person W (Liechtenstein citizen) is recorded with a current Liechtenstein address. A copy of the ID card of person W is recorded in the systems of the Financial Institution. The residence address is based on Documentary Evidence (ID card). While this does not contain the address of the person, this Documentary Evidence was issued in the same jurisdiction (Liechtenstein) in which the address of the person is situated. This consequently means that the requirements for the application of the residence address test are met.

443. Example 2:

Person X (Austrian citizen) is recorded with a current Liechtenstein address. A copy of the foreign national ID of person X issued in Liechtenstein is recorded in the systems of the Financial Institution. The residence address is based on Documentary Evidence (foreign national ID). While this does not contain the address of the person, this Documentary Evidence was issued in the same jurisdiction (Liechtenstein) in which the address of the person is situated. This means the requirements for the application of the residence address test are met, without the need for a further electronic record search.

444. Example 3:

Person Y (Liechtenstein citizen) is recorded with a current German address. A copy of the ID card of person Y is recorded in the systems of the Financial Institution. The deposited ID card was not issued in the same jurisdiction (Liechtenstein) in which the address of the person is situated (Germany). This means the requirements for the application of the residence address test without the need for a further electronic record search are not met.

445. Example 4:

Person Z (Italian citizen) is recorded with a current Italian address. A copy of the Italian ID card of person Z is recorded in the systems of the Financial Institution. The residence address is based on Documentary Evidence (ID card). While this does not contain the address of the person, this Documentary Evidence was issued in the same jurisdiction (Italy) in which the

address of the person is situated. This means the requirements for the application of the residence address test are met, without the need for a further electronic record search.

446. In the case of accounts (client relations) opened at a time when there were no due diligence procedures and in respect of which no Documentary Evidence is available in the systems of the Financial Institution, the documentation requirement is met if the residence address recorded in the systems of the Reporting Liechtenstein Financial Institution is current. This is the case if it is the most recent residence address that was recorded by the Reporting Liechtenstein Financial Institution with respect to the Account Holder, if it is used for regular correspondence and the relevant letters are not returned undeliverable-as-addressed, and if this residence address is also used for the purpose of other tax reports (insofar as necessary). Correspondence is considered to be regular if the Financial Institution that maintains the account sends a letter at least once per calendar year that is not returned. Pursuant to the CRS, such instances of accounts without Documentary Evidence should be exceptional, relate to low-risk accounts, and affect accounts opened prior to 2004. In relation to such accounts it would be expected that the Reporting Financial Institution in the course of the required reasonable efforts to obtain TIN and date of birth of the Account Holder also requests Documentary Evidence (see para. 11 of the CRS Commentary of Section III).

4.3.3.3 Electronic Record Search

447. If the documentation criteria described in connection with the residence address test are not fulfilled, then the Reporting Liechtenstein Financial Institution must review electronically searchable data. Within the context of this electronic search, the Reporting Liechtenstein Financial Institution must review the data for the indicia set out in Chapter 4.3.3.3.1.

448. If none of the indicia are discovered in the electronic search, then no further action is required until there is a change in circumstances that results in one or more indicia being associated with the Account Holder, or the account becomes a High Value Account.

449. If any of the indicia pursuant to Chapter 4.3.3.3.1 are discovered in the electronic search, then if the corresponding indicium cannot be cured (see Chapter 4.3.3.3.2) the Reporting Liechtenstein Financial Institution must treat the Account Holder as resident for tax purposes of each Reportable Jurisdiction for which an indicium is found.

450. In case of changes in circumstances a Reporting Liechtenstein Financial Institution may choose to treat the Account Holder as a person having the same status that it had prior to the change in circumstances for a period of up to 90 days or until the later of the last day of the calendar year (whichever period is longer).

4.3.3.3.1 Indicia

4.3.3.3.1.1 Indicium 1: Identification of the Account Holder as resident for tax purposes in a Reportable Jurisdiction

451. This indicium is met if the Reporting Financial Institution's electronically searchable information contains a designation of the Account Holder as a Reportable Jurisdiction's resident for tax purposes. This is also the case if the Financial Institution has stored information in its electronic data about a tax self-certification or another tax document that was not obtained from the Account Holder for AEOI purposes (e.g. self-certification for LDF

Purposes, self-declaration under FATCA, form W-8BEN, clarification under the Withholding Tax Agreement with Austria, confirmation issued by a qualified tax advisor).

4.3.3.3.1.2 Indicium 2: Current mailing or residence address (including a post office box) in a reportable partner jurisdiction

452. The "current address" is the most recent address that was recorded by the Reporting Liechtenstein Financial Institution with respect to the Account Holder that is regularly used by the Reporting Liechtenstein Financial Institution. In particular, this means addresses that are used only once do not qualify as current addresses (e.g. sent once to the address of a hotel in which the Account Holder spent his holiday). Where the Reporting Liechtenstein Financial Institution has recorded two or more mailing or residence addresses with respect to the Account Holder and one of such addresses is that of a service provider of the Account Holder (e.g. external asset manager, investment advisor or attorney), then within the context of the electronic record search the Financial Institution is not required to treat the service provider's address as an indicium of residence of the Account Holder in the respective jurisdiction.

4.3.3.3.1.3 Indicium 3: One or more telephone numbers in a reportable partner jurisdiction and simultaneously no telephone number in the jurisdiction of the Reporting Financial Institution

453. This indicium is met if one or more telephone numbers are recorded that can be linked to a reportable partner jurisdiction, and no telephone number is recorded in the jurisdiction of the Reporting Liechtenstein Financial Institution. Where the Reporting Liechtenstein Financial Institution has recorded two or more telephone numbers which respect to the Account Holder, then the telephone numbers that are not relevant are those that are the number of a service provider (e.g. external asset manager, investment advisor, attorney, consultant etc.).

4.3.3.3.1.4 Indicium 4: Standing instructions (other than with respect to a Depository Accounts) to transfer funds to an account maintained in a reportable partner jurisdiction

454. This indicium means standing instructions to transfer funds to an account maintained in a reportable partner jurisdiction. Standing instructions to transfer funds to Depository Accounts are excluded from this. In this context, the term "standing instructions to transfer funds" means current payment instructions provided by the account holder (or by his agent) that will repeat without further instructions being provided by the account holder. Transfer instructions to make isolated payments are not standing instructions to transfer funds, even if the instructions are given one year in advance. However, an instruction to make payments indefinitely is a standing instruction to transfer funds for the period during which such instruction is in effect, even if such instruction is amended after a single payment.

455. Example:

Person A holds a Custodial Account with bank Z, which is resident in the reportable partner jurisdiction B. Person A also holds a Depository Account with bank Y with residence in Reportable Jurisdiction C. Person A has provided bank Z with a standing instruction to transfer to the Depository Account at bank Y all the income generated in relation to the Custodial Account. Because the standing instruction is with respect to a Custodial Account and the income is to be transferred to an account maintained in a Reportable Jurisdiction, such

standing instruction is an indicium of residence of person A in Reportable Jurisdiction C.

4.3.3.3.1.5 Indicium 5: Currently effective power of attorney or signatory authority granted to a person with an address in a Reportable Partner Jurisdiction.

456. This indicium is met if a person who is an authorised signatory or holder of an effective power of attorney for an account relationship has an address in a Reportable Partner Jurisdiction.

4.3.3.3.1.6 Indicium 6: A hold mail instruction or c/o address in a Reportable Partner Jurisdiction if the Reporting Financial Institution does not have any other address on file for the Account Holder.

457. This indicium is met if an instruction of the Account Holder is in place to keep any documents relating to an account/client relation and if the Reporting Liechtenstein Financial Institution does not have any other address on file for the Account Holder. An instruction to send all correspondence electronically is not an instruction to store correspondence at the Financial Institution (e.g. hold mail instruction).

458. Indicium 6 is likewise met if the Reporting Liechtenstein Financial Institution holds a c/o address in a reportable partner jurisdiction and if the Financial Institution does not have any other address on file for the Account Holder. By contrast, indicium 6 is not met if the Financial Institution does not have an address on file in a reportable partner jurisdiction and e.g. only has a Liechtenstein c/o address.

4.3.3.3.2 Curing procedure

459. The CRS does not provide a possibility for curing indicium 1. If the residence for tax purposes in a partner jurisdiction under indicium 1 is present then this is not only an indicium, this is a fact. For this reason, indicium 1 can be refuted only by means of a self-certification.

460. If any of the indicia 2 to 5 are discovered during the electronic search, or if there is a change in circumstances that results in one or more indicia being associated with the account, then a Reporting Liechtenstein Financial Institution is not required to treat the Account Holder as a resident of a Reportable Jurisdiction in the following cases:

461. 1) The Account Holder information contains a current mailing or residence address in the Reportable Jurisdiction (indicium 2), one or more telephone numbers in the Reportable Jurisdiction (and no telephone number in the jurisdiction of the Reporting Financial Institution) (indicium 3) or a standing instruction (with respect to Financial Accounts other than Depository Accounts) to transfer funds to an account maintained in a Reportable Jurisdiction (Financial Accounts other than Depository Accounts) (indicium 4) and the Reporting Financial Institution obtains, or has previously reviewed and maintains a record of:

- a self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction, and
- Documentary Evidence establishing the Account Holder's non-reportable status.

462. 2) The Account Holder information contains a currently effective power of attorney or signatory authority granted to a person with an address in the Reportable Jurisdiction (indicium 5), and the Reporting Financial Institution obtains, or has previously reviewed

and maintains a record of:

- a self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdictions, or
- Documentary Evidence establishing the Account Holder's non-reportable status.

463. For the purpose of curing the indicia, a Reporting Liechtenstein Financial Institution may rely upon Documentary Evidence or self-certification that has been previously reviewed, unless it knows or has reason to know that a Documentary Evidence or a self-certification is incorrect or unreliable ("reasonableness test": see Chapter 3.5.6).

464. A self-certification that is part of the curing procedure does not need to contain an express confirmation that the Account Holder is not resident in a given Reportable Jurisdiction provided the self-certification contains information about all jurisdictions in which the Account Holder is resident for tax purposes. A certificate of domicile or residence, a passport, an ID, a foreign national ID, a driving licence etc. that was issued in the jurisdiction of residence for tax purposes is sufficient as Documentary Evidence to cure the indicium (see para. 32 of the CRS Commentary on Section III of the CRS).

465. If the search for evidence identifies an order to hold correspondence for safekeeping ("hold mail" instruction) or a c/o address in a Reportable Jurisdiction as the sole address (indicium 6), and none of the other indicia for the Account Holder are discovered, then the Reporting Financial Institution is obliged to apply the paper record search (see Chapter 4.3.4.3) or to obtain a self-certification or suitable Documentary Evidence from the Account Holder in order to determine the residence for tax purposes of the Account Holder. If the Reporting Financial Institution is unable to obtain a self-certification or Documentary Evidence, and if the paper record search is not successful, then it must report the account as an undocumented account.

466. If a self-certification is obtained in order to remedy an indicium, and if this is completed and returned only after the deadlines for the AEOI due diligence procedures have expired, then the indicia for the past reporting period shall be considered to have been remedied only if the Account Holder reasonably explains that the self-certification was already valid for the past reporting period.

4.3.3.4 Change in circumstances

467. A "change in circumstances" includes any change that results in the addition of information relevant to a person's status or otherwise conflicts with such person's status. In addition, a change in circumstances includes any change or addition of information to the Account Holder's account (including the addition, substitution or other change of an Account Holder) or any change or addition of information to any account associated with such account (applying the account aggregation rules described in Section VII/C/1 to 3 of the CRS (aggregation rules)), if such change or addition of information affects the status of the Account Holder (see para. 17 of the CRS-Commentary on Section III des CRS as well as Annex II/1 of the AEOI Agreement Liechtenstein-EU).

4.3.3.5 Deadlines

468. Preexisting Individual Accounts of lower value must be reviewed within two years from the date of applicability of the AEOI with a partner jurisdiction.

469. In the case of Reportable Accounts that fall under the AEOI Agreement Liechtenstein-EU, including Austria, the deadlines specifically means that Account Holders with Preexisting Lower Value Accounts must be identified at the latest by 31 December 2017.

470. If a Preexisting Individual Account is not a High Value Account, for purposes of the AEOI Agreement Liechtenstein-EU as of 31 December 2015 or in the remaining cases as of 31 December 2016, but becomes a High Value Account as of the last day of a subsequent calendar year, the Reporting Financial Institution must complete the enhanced review procedures for High Value Accounts (see Chapter 4.3.4) with respect to such account within the calendar year following the calendar year in which the account becomes a High Value Account.

471. Example:

A Preexisting Individual Account (pursuant to the AEOI due diligence procedures resident in the EU) has a balance of USD 900,000 as of 31 December 2015, and is consequently a Lower Value Account. On 31 December 2017 the account has a balance of USD 1.3 million, making it a High Value Account. For this reason, the Reporting Liechtenstein Financial Institution must complete the AEOI due diligence procedures for High Value Accounts by 31 December 2018.

472. A Preexisting Individual Account that is identified as a Reportable Account qualifies as a Reportable Account in all following years, unless the Account Holder is no longer a Reportable Person (see Chapter 8).

4.3.4 High Value Account

4.3.4.1 In general

473. Preexisting High Value Accounts are accounts (client relations), with an aggregate balance or value that exceeds USD 1 million for the purposes of the AEOI Agreement Liechtenstein-EU as of 31 December 2015 or in the remaining cases as of 31 December 2016 or 31 December of any subsequent year (see also Chapter 4.3.3.1). Once an account becomes a High Value Account, it maintains such status until the date of closure and, therefore, can no longer be considered a Lower Value Account (see para. 84 of the CRS-Commentary on Section VIII).

474. Reporting Liechtenstein Financial Institutions are obliged to apply enhanced review procedures on High Value Accounts. Extended due diligence procedures for High Value Accounts entail relationship manager inquiry of his actual knowledge, and conducting a paper record search, depending on the respective circumstances.

475. The residence address test is not applicable to High Value Accounts.

476. Example:

An individual resident in Germany and an individual resident in Italy maintain a joint account at a Liechtenstein bank (Preexisting Account). The account balance as of 31 December 2015 is more than USD 1 million. This means enhanced review procedures on High Value Accounts are

applicable for both Reportable Persons.

4.3.4.2 Electronic Record Search

In the case of High Value Accounts, a Reporting Liechtenstein Financial Institution must first conduct the electronic indicia search in the available electronic datasets. 477.

If the electronically searchable databases include all fields specified below, and capture the relevant information that indicates to a jurisdiction of residence based on indicia (insofar as available), then a further paper record search is not required: 478.

1) the jurisdiction of residence for tax purposes of the Account Holder (see Chapter 4.3.3.3.1.1);
2) the Account Holder's residence address and mailing address currently on file with the Reporting Financial Institution (see Chapter 4.3.3.3.1.2);
3) the Account Holder's telephone number(s) currently on file, if any, with the Reporting Financial Institution (see Chapter 4.3.3.3.1.3);
4) in the case of Financial Accounts other than Depository Accounts, whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the Reporting Financial Institution or another Financial Institution) (see Chapter 4.3.3.3.1.4);
5) whether there is any power of attorney or signatory authority for the account (see Chapter 4.3.3.3.1.5); and
6) whether there is a current hold mail instruction or c/o address for the Account Holder (see Chapter 4.3.3.3.1.6).

Furthermore, the paper record search has to be performed if the relevant fields in the electronic systems that should contain details of the aforementioned information are left blank because (even though these were provided by the client) they were not electronically recorded. 479.

If the electronically searchable information does not include all aforementioned information, then the Reporting Liechtenstein Financial Institution is only required to perform the paper record search with respect of the information that is not recorded. 480.

4.3.4.3 Paper Record Search

If the electronically databases do not include all fields that are required for an electronic record search, or if the relevant information (insofar as available) is not captured there, then with respect to High Value Accounts the Reporting Liechtenstein Financial Institution must also review the current customer master file of the respective account/client relation and, to the extent not contained in the current customer master file, the following documents associated with the account and obtained by the Reporting Liechtenstein Financial Institution within the last five years for any of the aforementioned indicia: 481.

a) the most recent Documentary Evidence collected with respect to the account/client relation,

b) the most recent account opening contract or documentation for this account/client

relation,

c) the most recent documentation obtained by the Reporting Financial Institution pursuant to the procedures for combating money laundering or for other regulatory purposes,

d) any power of attorney or signatory authority forms currently in effect, and

e) any standing instructions (other than with respect to Depository Accounts) to transfer funds currently in effect.

4.3.4.4 Relationship manager inquiry

482. In addition to the electronic record search and/or the paper record search, a relationship manager inquiry for actual knowledge is required.

483. In this context it is important to note that information provided by the relationship manager in context with aggregation rules (see Chapter 4.3.2) pertaining to Preexisting Individual Accounts with high value can relate only to those accounts that can be attributed to the same individual.

484. Reporting Liechtenstein Financial Institutions are required to establish appropriate procedures to ensure that a relationship manager identifies any change in circumstances.

485. In the insurance sector, a self-employed agent (and the agent's employees) in accordance with Art. 4 para. 1 lit. 1 VersVertG affiliated with the specified insurance company is also considered a relationship manager. A broker (and the broker's employees) in accordance with Art. 4 para. 1 lit. 12 VersVertG does not qualify as a relationship manager in this sense.

4.3.4.5 Effect of Finding Indicia

486. If none of the indicia are discovered in the enhanced review of High Value Accounts, and if within the context of the information provided by the relationship manager the account (the client relation) is not identified as the account of a Reportable Person, then no further action is required until there is a change in circumstances that results in one or more indicia associated with the account (client relation).

487. If, however, any of the indicia are discovered in the enhanced review of High Value Accounts, or if there is a change in circumstances that results in one or more indicia being associated with the account (client relation), then the Reporting Liechtenstein Financial Institution must treat the account as a Reportable Account of each jurisdiction for which an indicium is identified, unless the indicia can be refuted by obtaining a self-certification and/or corresponding Documentary Evidence (also see Chapter 4.3.3.3.2). However, a Reporting Liechtenstein Financial Institution may choose to treat a person as having the same status that it had prior to the change in circumstances during the 90 calendar days following the date that the indicium was identified due to the change in circumstances (see para. 49 of the CRS Commentary on Section III of CRS).

488. An indicium discovered in one review procedure such as e.g. the paper record search or the relationship manager inquiry, cannot be used to cure an indicium identified in another review procedure such as e.g. the electronic record search. For example, a current residence address

in a Reportable Jurisdiction within the knowledge of the relationship manager cannot be used to cure a different residence address currently on file with the Reporting Liechtenstein Financial Institution discovered in the paper record search.

4.3.4.6 Repeating the enhanced review procedures for the same accounts

489. A Reporting Liechtenstein Financial Institution that applies the enhanced review procedures of a Preexisting High Value Account is not required to re-apply those procedures, other than the relationship manager inquiry, to the same High Value Account in any subsequent year unless the account is an undocumented account. In this case, the Reporting Financial Institution must re-apply those procedures annually until such account ceases to be undocumented.

490. Insofar as a Reporting Liechtenstein Financial Institution applies the AEOI due diligence procedures for new clients to a Preexisting Account, and bases this on a self-certification, then the AEOI due diligence procedures for Preexisting Accounts (electronic and paper record search as well as information provided by the relationship manager) may be waived. The same applies if the enhanced review procedures are repeated. In respect of the self-certification, however, the principles pertaining to the validity and reasonableness of a self-certification (see Chapters 3.5.4 and 3.5.6) are applicable.

4.3.4.7 Change from a Lower Value Account to a High Value Account

491. If a Preexisting Account/business relationship of an individual changes into a High Value Account during the course of a calendar year, then in respect of this account the Reporting Liechtenstein Financial Institution must conduct the enhanced review procedures (for this business relationship) for High Value Accounts within one year of that in which the change took place.

492. If this account/this business relationship is identified as a Reportable Account on the basis of the enhanced review procedures, then the necessary account-related information for the year in which the account was identified as a Reportable Account as well as for the following years must be reported each year, unless the Account Holder is no longer a Reportable Person (see Chapter 8).

4.3.4.8 Deadlines

493. Preexisting Individual High Value Accounts must be reviewed within one year from the date of applicability of the AEOI with a partner jurisdiction.

494. In the case of Reportable Accounts that fall under the AEOI Agreement Liechtenstein-EU, the deadlines specifically mean that Account Holders with Preexisting High Value Accounts must be identified by 31 December 2016. Since in relation to Austria 2017 is the first reporting period, it must be ensured, that the AEOI due diligence procedures for Preexisting Individual High Value Accounts are finalized as of 31 December 2017.

495. If there is a change of circumstances (see Chapter 4.3.3.4) with respect to a High Value Account that results in one or more indicia described in Chapter 4.3.3.3.1 being associated with the account, then the Reporting Liechtenstein Financial Institution must treat the Account Holder as resident for tax purposes in each Reportable Jurisdiction for which an indicium is identified,

if the corresponding indicium cannot be cured (see Chapter 4.3.3.3.2). However, a Reporting Liechtenstein Financial Institution may choose to treat a person as having the same status that it had prior to the change in circumstances during the 90 calendar days following the date that the indicium was identified due to the change in circumstances (see para. 49 of the CRS Commentary on Section III of the CRS).

4.4 Alternative procedure for Cash Value Insurance Contracts and Annuity Contracts

496. In the case of the alternative procedure, a Reporting Liechtenstein Financial Institution may presume that an individual beneficiary 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 Reportable Account unless the Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person (see Section VII/B of the CRS).

497. A Reporting Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract or of 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 Section III/B of the CRS (see Chapter 4.3.3.3.1). 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 set out in Section III/B of the CRS.

498. It is important to note that this alternative procedure can be applied only if a beneficiary entitlement has been established.

4.5 Alternative procedure for collective life insurance policies

499. A Reporting Liechtenstein Specified Insurance Company may treat a Financial Account in the form of a capital-forming collective life insurance contract (Cash Value Insurance Contract or Annuity Contract ("Group Cash Value Insurance Contract or Group Annuity Contract")) as a Financial Account that is not a Reportable Account until the insurance benefit matures for the person who is entitled to receive the benefit (see para. 13 of the CRS Commentary on Section VII of the CRS).

500. This alternative procedure is exclusively applicable if the following requirements are met:

- The Group Cash Value Insurance Contract or the Group Annuity Contract is issued to an employer and covers 25 or more employee/certificate holders,
- The employee/certificate holders are entitled to receive any contract value related to their interests and to name beneficiaries for the benefits payable upon the employee's death, and
- The aggregate amount payable to any employee/certificate holder or beneficiary does not exceed USD 1 million.

501. Contracts that fulfil the following criteria qualify as collective life insurance contracts within the meaning of a Cash Value Insurance Contract:

- The contract provides coverage on individuals who are affiliated through an employer, trade association, labour union or other association or group, and

- charges a premium for each member of the group (or member of a class within the group) that is determined without regard to the individual health characteristics – other than age, gender and smoking habits of the member (or class of members) of the group.

Health provisos as well as risk factors that are not health-based may be taken into account. 502.

Collective life insurance contracts within the meaning of an Annuity Contract ("group annuity contract") are contracts that provide coverage on individuals who are affiliated through an employer, trade association, labour union, or other association or group. 503.

4.6 Undocumented account

An undocumented account means a Preexisting Individual Account, in respect of which a Reporting Liechtenstein Financial Institution is unable to determine the residence for tax purposes of the Account Holder when applying the AEOI due diligence procedures. 504.

This is the case if the Reporting Financial Institution is unable to find an address in its records other than a poste restante order or a c/o address, has no information about the residence, and whose efforts to obtain a self-certification or Documentary Evidence remain unsuccessful. 505.

The undocumented accounts must be reported to the Fiscal Authority each year (see Art. 9 para. 1a AEOI Act). The Fiscal Authority shall each year report the number of reported undocumented accounts per Financial Institution to the supervisory authorities and bodies with responsibility for imposing supervisory and disciplinary measures on the respective Financial Institutions (see Art. 36 para. 2 AEOI Act). 506.

5. New Individual Accounts

5.1 In general

507. While AEOI due diligence procedures for Preexisting Accounts may largely be based on information that is already held by the Reporting Liechtenstein Financial Institution, Reporting Liechtenstein Financial Institutions are obliged when opening New Accounts to obtain a self-certification and to verify that it is reasonable (see Chapter 3.5, as well as para. 18 of the CRS Commentary on Section IX: "it is expected that jurisdictions have strong measures in place to ensure that valid self-certifications are always obtained for New Accounts").

5.2 Review Procedures

508. The due diligence procedures to review whether the new clients are reportable clients are as follows:

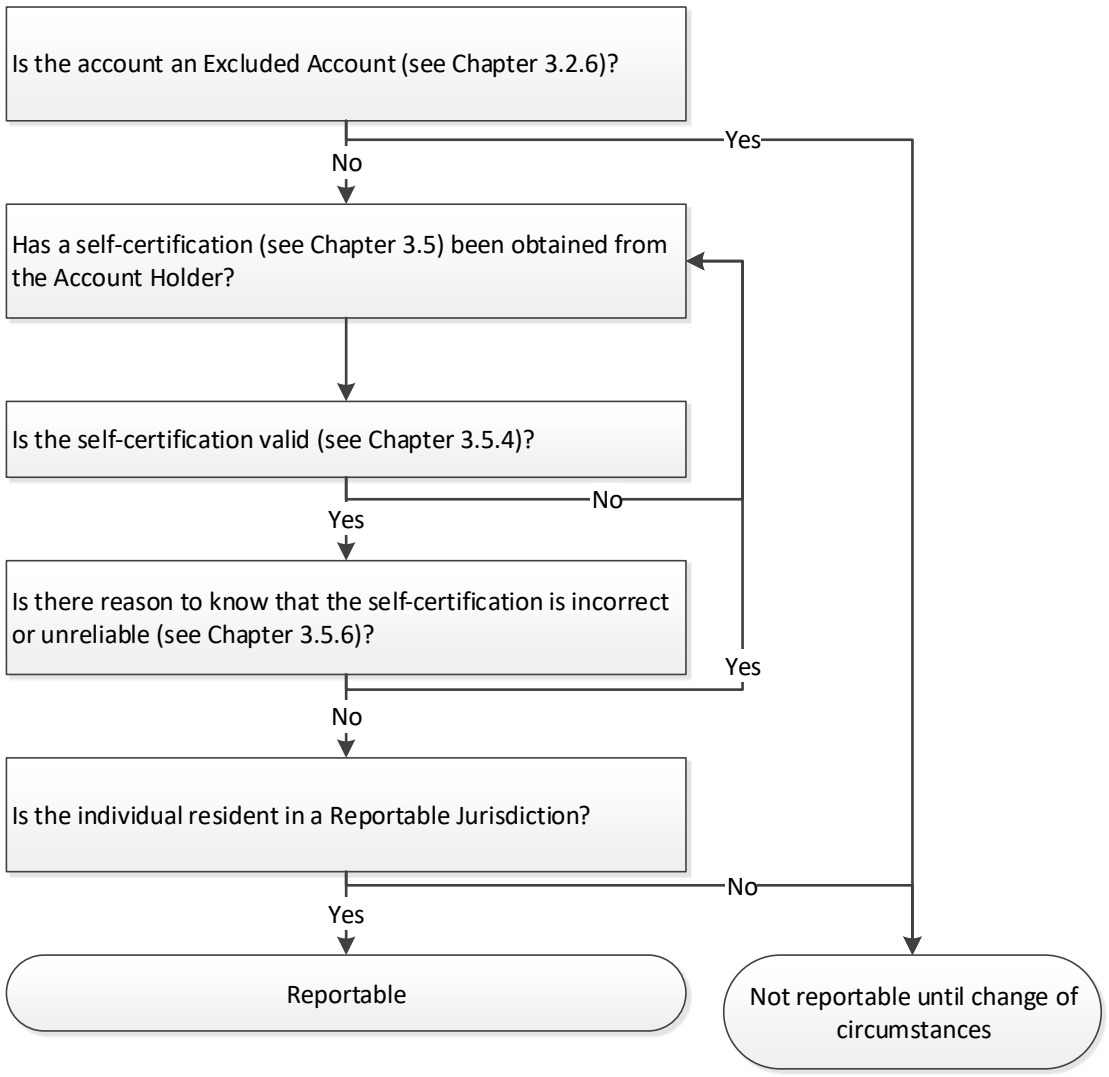

Chart 6: Review procedures for New Individual Accounts

509. Upon account opening, the Reporting Financial Institution must obtain a self-certification (see Chapter 3.5), which may be part of the account opening documentation, and allows the

Reporting Financial Institution to determine the Account Holder's residences for tax purposes, as well as to confirm the reasonableness of such self-certification based on the information obtained by the Reporting Financial Institution in connection with the opening of the account, including any documentation collected pursuant to the due diligence provisions.

For the alternative procedures for Cash Value Insurance Contracts and Annuity Contracts, see Chapter 4.4. For the alternative procedures for collective life insurance, see Chapter 4.5. 510.

5.3 Deadlines

New Individual Accounts must be identified upon account opening by means of a self-certification. 511.

Self-certification must in principle be obtained and its reasonableness validated within the context of the account opening ("day one" process). Where validation of the self-certification cannot be carried out within the context of the account opening, for example because this task is undertaken by a back office, the self-certification must be validated within a period of 90 days ("day two" process). If the Reporting Liechtenstein Financial Institution has received a self-certification that is valid but not reasonable, the account must be blocked for all receipts and withdrawals from the time the account is opened until a valid and reasonable self-certification is available (see Art. 7 para. 13 AEOI Act). 512.

In the event that no reasonable or valid self-certification pursuant to Art. 7 para. 13 is available within 90 days from the account being opened, the Reporting Liechtenstein Financial Institution must submit reports under the applicable agreement on the basis of the indicia established from the reporting period in which the account was opened until a valid and reasonable self-certification is available (see Art. 9 para. 3a AEOI Act as well as Q22 of the CRS-FAQ on Section II-VII). 513.

In limited exceptional cases, a Reporting Financial Institution may also obtain the self-certification after the account opening. This must take place within a period of 90 days, however (see Art. 7 para. 14 AEOI Act). According to the CRS-FAQ, this may occur in cases where due to the specifics of a business sector it is not possible to obtain a self-certification on the day of the account opening. An example cited is the assignment of an insurance contract to another person. Other exceptional cases include in particular: 514.

- the transfer of shares to a new shareholder who, without the involvement of the stock corporation, becomes a new Account Holder due to transfer of the shares (the same applies in cases of transfer of partner's or founder's rights);
- the assignment of a claim (e.g. a debt interest holder of a foundation assigns his or her claim, resulting in the new holder of the claim becoming a debt interest holder and thus a new Account Holder);
- change of an account holder without the involvement of the company (e.g. death of an entitled beneficiary, resulting in a prospective beneficiary becoming a new Account Holder).

515.

In such cases, there is the option of obtaining and confirming the reasonableness of the self-certification within 90 days in accordance with Art. 7 para. 14 AEOI Act. These cases thus do not fall within the scope of Art. 7 para. 13 AEOI Act.

516. Where no valid and reasonable self-certification is available within 90 days from the opening of the New Account (see point 7 of the CRS Commentary on Section IV), the account must be blocked for all receipts and withdrawals until such a self-certification is available. A report starting with the reporting period in which the account was opened must then be made on the basis of the available indicia until a valid and reasonable self-certification is available (see Art. 9 para. 3a AEOI Act and Q22 of the CRS-FAQ on Sections II-VII).

517. Distributions to a discretionary beneficiary do not fall within the exceptions of Art. 7 para. 14 AEOI Act, rather para. 13 must be applied in all such cases. Accordingly, a self-certification must always be obtained immediately in the course of such distributions (opening of New Account) and not only after a period of 90 days. If no valid and reasonable self-certification is available, no payout of the distribution may be made to a discretionary beneficiary. Moreover, a report starting with the reporting period in which the account was opened (in which the distribution decision was made) must be made on the basis of the available indicia until a valid and reasonable self-certification is available (see Art. 9 para. 3a AEOI Act and Q22 of the CRS-FAQ on Sections II-VII).

518. If there is a change in circumstances with respect to a New Individual Account that causes the Reporting Financial Institution to know or have reason to know that the original self-certification is incorrect or unreliable, it may rely on the existing self-certification only for a limited time, namely, depending on which occurs the earliest (see para. 14 of the CRS Commentary on Section IV of the CRS):

- 90 days after the change in circumstances;
- the date that the validity of the existing self-certification is confirmed;
- the date that a new self-certification is obtained.

6. Preexisting Entity Accounts

6.1 In general

519. If the Account Holder is an Entity, it has to be determined whether this Entity is a Reportable Person. If the Account Holder is a Passive NFE, then it must also be determined whether the Controlling Persons are Reportable Persons.

520. The question of whether an Entity is a Financial Institution or an Active or Passive NFE is determined on the basis of the respective characteristics of the Entity (see Chapter 2) and its corresponding self-certification.

521. As a principal rule, the status of a Passive NFE must be declared by means of a corresponding statement by the Account Holder in the self-classification. The Reporting Liechtenstein Financial Institution may rely on this self-classification and is not required to conduct any further investigations, with the exception of reviewing its reasonableness (see Chapter 3.5.6).

6.2 Accounts not required to be reviewed, identified or reported

6.2.1 In general

522. The first step of the AEOI due diligence procedures for the Preexisting Entity Accounts is to review whether there is an Excluded Account (see Chapter 3.2.7). If there is an Excluded Account, the Reporting Liechtenstein Financial Institution is not required to conduct any further reviews. The AEOI due diligence procedures are not applicable for the relevant account. In all other cases, the following AEOI due diligence procedures must be applied. However, it shall be ensured that if a non-Excluded Account is opened under an existing business relationship at a later date, this account must be treated like a New Account.

523. In respect of accounts pertaining to the AStA, the information set out in Chapter 3.2.7.7 must be attended.

524. Pursuant to Art. 7 para. 5 AEOI Act Reporting Liechtenstein Institutions may elect with respect to certain or all Preexisting Accounts, with an aggregate account balance or value that does not exceed USD 250 000 for purposes of the AEOI Agreement Liechtenstein-EU as of 31 December 2015 or in the remaining cases as of 31 December 2016, to not review, identify or report, until the aggregate account balance or value exceeds USD 250 000 as of the last day of any subsequent calendar year. Taking into account the aggregation rules described below. With this threshold de minimis cases should be generally excluded. This applies irrespective of the state from which the Entity originates.

525. The balance or value of an existing account of an Entity must be calculated on the basis of the balance sheet or statement of assets of the Reporting Liechtenstein Financial Institution (and not on the basis of the balance sheet or statement of assets of the Entity holding the Financial Institution).

526. If the option is not exercised or in the case of Preexisting Entity Accounts that exceed USD 250 000 (for the purposes of the AEOI Agreement Liechtenstein-EU as of 31 December 2015 or in the remaining cases as of 31 December 2016) the AEOI due diligence procedures have to be applied. This applies irrespective of the state from which the Entity originates, because the

residency of the Entity for purposes of the AEOI is determined only in the course of the performance of the AEOI due diligence procedures.

6.2.2 Aggregation rules for Preexisting Entity Accounts

527. For the purpose of determining the total balance or value of Preexisting Entity Accounts, a Reporting Liechtenstein Financial Institution is required to aggregate all of the accounts maintained by it or by a Related Entity, but only to the extent that the Reporting Financial Institution's computerised systems link the Financial Accounts by reference to a data element such as a client number or Tax Identification Number, and allow account balances or values to be aggregated (see Section VII/2 of the CRS as well as para. 15 of the CRS Commentary on Section VII of the CRS).

528. Example 1:

X foundation (pursuant to the AEOI due diligence procedures resident in the EU) opened a business relationship (client relation) at a Liechtenstein bank on 30 June 2011. The account balance is USD 100,000 on 31 December 2015. On 1 September 2013 X foundation opened a second business relationship under a new client relation number. The account balance of the second business relationship is USD 50,000 as of 31 December 2015. In the Reporting Liechtenstein Financial Institution's computerised system the two accounts are linked to X foundation by means of internal identification numbers. The Reporting Liechtenstein Financial Institution is required to aggregate the two accounts. As the threshold of USD 250,000 was however not exceeded (account balance as of 31 December 2015 of X foundation amounts to USD 150,000 and is consequently less than USD 250,000), then AEOI due diligence procedures for Preexisting Entity Accounts do not need to be conducted in respect of both accounts (client relation numbers) until the threshold is exceeded, insofar as the Reporting Liechtenstein Financial Institution exercises the option to apply the threshold. If the Reporting Liechtenstein Financial Institution does not exercise the option, then both accounts (client relation numbers) must be reviewed in accordance with the AEOI due diligence procedures for Preexisting Entity Accounts.

529. Example 2:

Y foundation (pursuant to the AEOI due diligence procedures resident in the EU) opened a business relationship (client relation) at a Liechtenstein bank on 30 June 2011. The account balance is USD 200,000 on 31 December 2015. On 1 September 2013 Y foundation opened a second business relationship under a new client relation number. The account balance of the second business relationship is USD 150,000 as of 31 December 2015. In the Reporting Liechtenstein Financial Institution's computerised system the two accounts are linked to Y foundation by means of internal identification numbers. The Reporting Liechtenstein Financial Institution is required to aggregate the two accounts. As the threshold of USD 250,000 was, however, exceeded (account balance as at 31 December 2015 of Y foundation amounts to USD 350,000 and is consequently over USD 250,000), the AEOI due diligence procedures for Preexisting Entity Accounts must be conducted in respect of both accounts (client relation numbers).

530. If at least one Reportable Person (e.g. an Entity) is a party to a collective relationship pertaining to a bank account as a joint Account Holder, then all recorded assets must be attributed to each Reportable Person, irrespective of the level of their entitlement. The assets are not

allocated in accordance with the number of joint account or securities Account Holders ("per capita") or in accordance with the reported participation quotas (see Section VII/2 of the CRS as well as para. 15 of the CRS Commentary on Section VII of the CRS). This applies both in respect of the relevant thresholds and aggregation rules, as well as for the purpose of reporting (see Chapter 10).

531. If a Reportable Account and/or securities account is maintained for an individual and an Entity as a collective relationship, then in respect of the collective relationship the Reporting Liechtenstein Financial Institution shall apply the corresponding AEOI due diligence procedures for Individual Accounts or the corresponding AEOI due diligence procedures for Entity Accounts for each joint owner.

532. For this reason, in respect of the question of whether the threshold of USD 250,000 is reached (for purposes of the AEOI Agreement Liechtenstein-EU as of 31 December 2015 or in the remaining cases as of 31 December 2016), reviews need to be conducted only at the level of the Entity. Any possible Controlling Persons of the Entity are not relevant for the question of whether this threshold has been reached.

533. Example:

Mr X is the Controlling Person of X foundation (Passive NFE, pursuant to the AEOI due diligence procedures resident in the EU) and simultaneously the Controlling Person of Y foundation (Passive NFE, pursuant to the AEOI due diligence procedures resident in the EU). Both foundations have a Depository Account each at a Liechtenstein bank with a balance on 31 December 2015 of USD 200,000 in each case. In respect of the question of whether the threshold of USD 250,000 has been reached, reviews need to be conducted only at the level of the respective Entities. Neither the Depository Account of X foundation, nor that of Y foundation exceeds the threshold of USD 250,000. As the threshold of USD 250,000 was not exceeded (account balance as at 31 December 2015 of the two foundations amounts to USD 250,000 and each is consequently less than USD 250,000), the AEOI due diligence procedures for Preexisting Entity Accounts do not need to be conducted in respect of both accounts (client relation numbers) until the threshold is exceeded, insofar as the Reporting Liechtenstein Financial Institution exercises the option to apply the threshold. The fact that Mr X is the Controlling Person at both foundations is of no relevance for the purpose of determining the threshold.

534. Unlike in the case of Preexisting Individual Accounts, in the case of Entity Accounts, for the purpose of aggregation, the relationship manager does not have to be referred to (see Section VII/3 of the CRS, which relates exclusively to "High Value Accounts").

6.3 Review Procedures

6.3.1 In general

535. AEOI due diligence procedures for Preexisting Entity Accounts generally consist of three parts:

1. Determining whether the Entity is a Reportable Person (see Chapter 6.3.2);
2. Determining whether the Entity is a Passive NFE with one or more Controlling Persons (see Chapter 6.3.3);

3. Determining whether the identified Controlling Persons are Reportable Persons (see Chapter 6.3.4).

6.3.2 Review Procedures concerning Account Holders

536. Review procedures to determine whether the Entity is a Reportable Person:

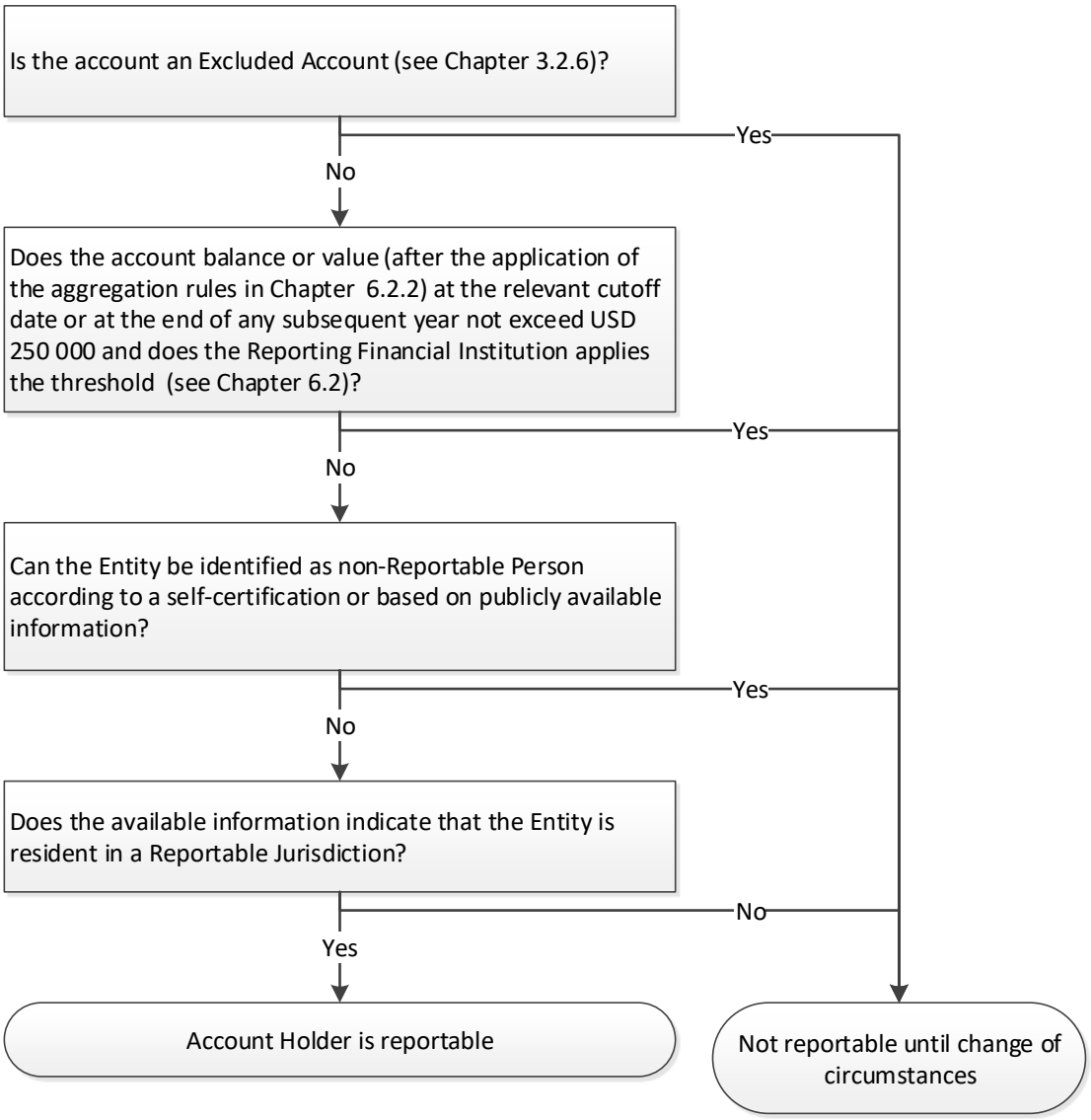

Chart 7: Review procedures for Preexisting Entity Accounts in respect of the Account Holder

537. When determining whether the holder of a Preexisting Entity Account (i.e. the Entity itself) is a Reportable Person, the Reporting Liechtenstein Financial Institution may exclude accounts/account relationships with an Account Holder with the following characteristics from the further AEOI due diligence and reporting obligations, using the principle of exclusion:

1. a corporation the stock of which is regularly traded on one or more established securities markets,

2. corporation that is a Related Entity of a corporation described in subpara. 1,

3. a Governmental Entity,

4. an International Organisation,

5. a Central Bank, or

6. a Financial Institution.

538. To determine whether this Account Holder is excluded from the reporting obligations, the Reporting Liechtenstein Financial Institution shall review the information maintained for regulatory purposes or for customer relationship purposes (including information collected pursuant to the procedures for combating money laundering).

539. Following this, the Reporting Liechtenstein Financial Institution must determine whether a foreign Entity is resident in a Reportable Jurisdiction. For this purpose, a Reporting Liechtenstein Financial Institution must review the information maintained for regulatory or customer relationship purposes (such as the place of foundation, address, or address of the executive body/executive body members).

540. For the residence for tax purposes of Liechtenstein Entities, see Chapter 2.3.

541. If the information indicates that the Account Holder is resident in a Reportable Jurisdiction, the Reporting Liechtenstein Financial Institution must consider the account to be a Reportable Account, unless the Reporting Liechtenstein Financial Institution 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 a state authorised body or based on a standardised industry coding system), that the Account Holder is not a Reportable Person.

6.3.3 Review Procedures concerning Controlling Persons of a Passive NFE

542. If the Account Holder is a Passive NFE (see Chapter 2.7.3), then the Reporting Financial Institution must also conduct the following review procedures in respect of the Controlling Persons of the Passive NFE.

543. To determine whether the Account Holder is a Passive NFE, the Reporting Liechtenstein Financial Institution must obtain a self-certification from the Account Holder to establish its status, unless it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution (other than an Investment Entity in a Non-Participating Jurisdiction) based on information in its possession or that is publicly available. A Reporting Liechtenstein Financial Institution that cannot determine the status of an Entity as an Active NFE or a Financial Institution (other than an Investment Entity in a Non-Participating Jurisdiction) must treat the Entity as a Passive NFE by no later than 31 December 2017 (see para. 20 of the CRS Commentary on Section V).

544. In order to determine the Controlling Persons of a Passive NFE, a Reporting Liechtenstein Financial Institution may rely on the applicable due diligence provisions.

6.3.4 Review Procedures concerning the residence for tax purposes of the Controlling Persons of a Passive NFE

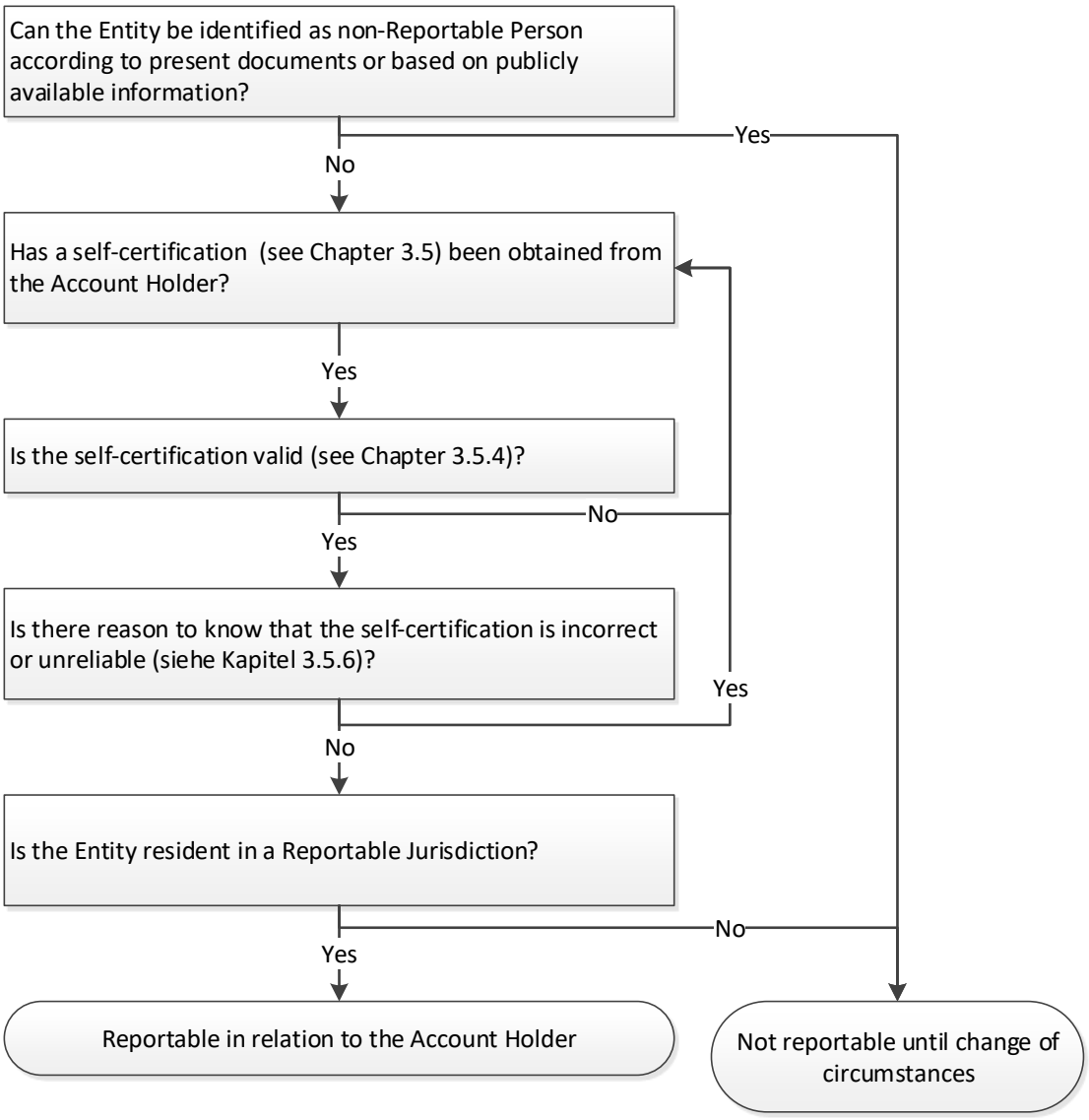

Chart 8: Review procedures concerning Controlling Persons of Preexisting Accounts

545. If the account balance for purposes of the AEOI Agreement Liechtenstein-EU as of 31 December 2015 or in the remaining cases as of 31 December 2016, does not exceed the aggregate account balance of USD 1 million, then for the purpose of determining the residence of the documented Controlling Persons of a Passive NFE the Reporting Liechtenstein Financial Institution may rely on the applicable due diligence provisions.

546. Insofar as the aggregate assets of the Passive NFE for purposes of the AEOI Agreement Liechtenstein-EU as of 31 December 2015 or in the remaining cases as of 31 December 2016 exceeds USD 1 million, then for the purpose of determining the residence of the documented Controlling Persons of the Passive NFE a self-certification in respect of the information pursuant to Chapter 3.5.2 must be obtained. Insofar as such a self-certification cannot be obtained for the purpose of determining the residence for tax purposes of the Controlling Persons, or if this is not provided by the Account Holder, then the relevant indicia must be

reviewed to determine whether the Controlling Persons are resident in a Reportable Jurisdiction.

547. In respect of the question of whether the threshold of USD 1 million (for purposes of the AEOI Agreement Liechtenstein-EU as of 31 December 2015 or in the remaining cases as of 31 December 2016) has been exceeded, the aggregation rules for Preexisting Entity Accounts must be applied (see Section VII/2 of the CRS as well as Chapter 6.2.2).

548. Example:

Mr X (pursuant to the AEOI due diligence procedures resident in the EU) is the Controlling Person of Y foundation (Passive NFE). Y foundation opened a business relationship (client relation) at a Liechtenstein bank on 30 June 2011. The account balance is USD 600,000 on 31 December 2015. On 1 September 2013 Y foundation opened a second business relationship under a new client relation number. The account balance of the second business relationship is USD 650,000 as of 31 December 2015. In the computer-based system of the Reporting Liechtenstein Financial Institution the two accounts are linked to Y foundation by means of internal identification numbers. The Reporting Liechtenstein Financial Institution is obliged to aggregate the two relationships for the purpose of identifying the threshold of USD 1 million. As the threshold of USD 1 million was exceeded (account balance as at 31 December 2015 of Y foundation amounts to USD 1.25 million, and is therefore more than USD 1 million), then a self-certification must be obtained in order to determine the residence for tax purposes of Mr X.

549. In respect of the question of whether the threshold of USD 1 million (for purposes of the AEOI Agreement Liechtenstein-EU as of 31 December 2015 or in the remaining cases as of 31 December 2016) has been exceeded, reviews need to be conducted only at the level of the Entity (of the Passive NFE). Possible Controlling Persons of the Entity are not relevant for the question of whether this threshold has been reached.

6.3.5 Reporting obligation of Liechtenstein Passive NFEs in respect of information that must be exchanged

550. Liechtenstein Passive NFEs must unrequested inform the respective Reporting Liechtenstein Financial Institutions about all Controlling Persons, including the information that must be exchanged in this context (see Chapter 10).

551. The Controlling Persons of the Passive NFE must be determined in accordance with the due diligence provisions that are applicable by the Reporting Liechtenstein Financial Institution. In addition, the Reporting Liechtenstein Financial Institution must also record discretionary beneficiaries as Controlling Persons, insofar as these receive a distribution relating to assets that are entered on the Financial Account of the Reporting Liechtenstein Financial Institution.

552. For the purpose of determining whether a Controlling Person is consequently a Reportable Person, Preexisting Passive NFEs that maintain a bank account whose aggregated account balance or value exceeds USD 1 million (as of 31. December 2015) must provide the bank with information about the Controlling Persons by means of a self-certification. For Passive NFE accounts, with an aggregate account balance of value that does not exceed USD 1 million (as of 31 December 2015), the notification obligation is complied, if the Reporting Liechtenstein

Financial Institution has in its records all relevant information to be exchanged due to the SPG/SPV documentation.

553. Liechtenstein Passive NFEs must take reasonable efforts to get the Tax Identification Numbers of the Controlling Persons, and in the case of an individual, the date of birth, for the purpose of the notification.

554. If the Controlling Persons change, this must be reported to the Reporting Liechtenstein Financial Institution immediately (i.e. by the end of the calendar year or within 90 days, depending on which occurs later).

6.4 Deadlines

6.4.1 Deadline to review Preexisting Entity Accounts

555. Preexisting Entity Accounts must be identified within two years after the AEOI comes into force with a partner jurisdiction.

556. In the case of Reportable Accounts that fall under the AEOI Agreement Liechtenstein-EU, including Austria, the deadlines specifically mean that Account Holders with Preexisting Entity Accounts must be identified by 31 December 2017 at the latest.

557. It is important to note that the Agreement of 29 January 2013 between the Principality of Liechtenstein and the Republic of Austria on the Cooperation in Tax Matters also remains in force (see Chapter 3.2.7.7).

558. Insofar as a Reporting Liechtenstein Financial Institution makes use of the exemption rules pursuant to Chapter 6.2 (threshold of USD 250,000), then the review of Preexisting Entity Accounts whose aggregated account balance or value for purposes of the AEOI Agreement Liechtenstein-EU as of 31 December 2015 or in the remaining cases as of 31 December 2016 does not exceed USD 250,000, but exceeds this amount on 31 December of a following year, must be completed within the calendar year after the year in which the total balance or value exceeds this amount.

559. Example:

A Preexisting Entity Account (pursuant to the AEOI due diligence procedures resident in the EU) which has classified with the Reporting Liechtenstein Financial Institution as Passive NFE has a balance of USD 100,000 on 31 December 2015. Insofar as the Reporting Liechtenstein Financial Institution applies the de minimis rule, the account must not be reviewed and at time being not be reported (see Chapter 6.2). On 31 December 2019 the account of the Entity has a balance of USD 400,000, making the account of the Passive NFE an account that needs to be reviewed. The Entity that qualifies as a Passive NFE must report all Controlling Persons to the Reporting Liechtenstein Financial Institution, including the information that needs to be exchanged, by 31 December 2020 at the latest, thus enabling the Reporting Liechtenstein Financial Institution to make a report in 2021 for the 2020 reporting period.

560. The identification pursuant to AEOI due diligence procedures is not considered to have been performed merely by means of the receipt of SPG/SPV documents from a Passive NFE that forwarded these on the basis of the processing of documents within the context of the SPV amendment (Art. 7 para. 7 and 8 AEOI Act; BuA No. 73/2015, p. 102).

If there is a change of circumstances with respect to a Preexisting Entity Account (see Chapter 4.3.3.4) that causes the Reporting Liechtenstein Financial Institution to know, or have reason to know, that the self-certification or other documentation associated with an account is incorrect or unreliable, it must re-determine the status of the account in accordance with the procedures set forth in Chapter 6 within 90 days following the notice or discovery of the change in circumstances, or by the later of the last day of the calendar year (depending on which occurs later). In this context, the following applies (see para. 27 of the CRS Commentary on Section V of the CRS): 561.

- With respect to the determination whether the Account Holder is a Reportable Person, the Reporting Liechtenstein Financial Institution must obtain either a self-certification or a reasonable explanation and documentation supporting the reasonableness of the original self-certification or documentation. If it is not possible to obtain a self-certification or documentation, the Account Holder must be treated as a Reportable Person for both countries.
- With respect to the determination whether the Account Holder is a Financial Institution, an Active or Passive NFE, the Reporting Liechtenstein Financial Institution must obtain additional documentation or a self-certification to establish the status of the Account Holder as Active NFE or Financial Institution. If this is not successful, it must treat the Account Holder as Passive NFE (see also para. 543).
- With respect to the determination whether the Controlling Persons of a Passive NFE are Reportable Persons, the Reporting Liechtenstein Financial Institution must obtain either a self-certification or a reasonable explanation and documentation supporting the reasonableness of the previously collected self-certification or documentation. If it is not possible to obtain a self-certification or documentation, it must rely on the indicia described in Chapter 4.3.3.3.1 it has in its records for such Controlling Persons to determine whether they are Reportable Persons.

With regard to the question of the reporting period for which a change in circumstances becomes effective, see para. 596.

Reporting Liechtenstein Financial Institutions are required to establish appropriate procedures to ensure that relationship managers identify changes in circumstances. 562.

6.4.2 Reporting deadline for Liechtenstein Passive NFEs

6.4.2.1 In general 563.

Pursuant to Art. 5 para. 1 AEOI Act, Liechtenstein Passive NFEs must inform the respective Reporting Liechtenstein Financial Institution immediately and unrequested of all Controlling Persons, including the following information (except in the case of the application of the de minimis rule of USD 250,000). For existing accounts of Entities, this had to occur within 18 months of entry into force of the AEOI Act, i.e. by 30 June 2017.

The following information must be provided: 564.

- Concerning the Passive NFE itself:
    - Name

- Address
- Jurisdiction(s) of residence for tax purposes
- Tax Identification Number(s)

- Concerning the reportable Controlling Persons:
  - Name
  - Address ("current residence address")
  - Jurisdiction(s) of residence for tax purposes
  - Tax Identification Number(s) (in the case of a Reportable Person)
  - Date of birth/date of foundation (in the case of a Reportable Person)
  - Type of the Controlling Person (see SPV documents)

565. For Preexisting Accounts of Passive NFEs with an aggregate account balance or value that exceeds USD 1 million as of 31 December 2015 the Passive NFE as Account Holder to comply with the notification obligation needs to provide the Reporting Liechtenstein Financial Institution with a self-certification.

566. If no self-certification needs to be obtained, then pursuant to Art. 5 para. 2 AEOI Act Liechtenstein Passive NFEs must make reasonable efforts to obtain the Tax Identification Numbers of the Controlling Persons for the purpose of disclosing these to the Reporting Liechtenstein Financial Institution (see Chapter 3.5.2).

567. If the aforementioned deadline passes without a notification from the Liechtenstein Passive NFE or with an incomplete notification from the Liechtenstein Passive NFE, then Reporting Liechtenstein Financial Institutions must assume that the information in their possession that is to be exchanged is complete and correct. If Passive NFEs fail to meet the deadline, Reporting Liechtenstein Financial Institutions must report these to the Fiscal Authority immediately (see para. 572). Such a report may be omitted if, in the case of the Tax Identification Number, the Passive NFE made reasonable efforts (see above) or if the respective jurisdiction of residence does not actually issue Tax Identification Numbers, and if this is reasonably demonstrated to the Reporting Liechtenstein Financial Institution.

568. If at the latest of 30 June 2017 for accounts of Passive NFEs with an aggregate account balance or value that exceeds USD 1 million as of 31 December 2015 no self-certification has been provided or the information to be exchanged is not complete due to the updated SPG/SPV forms, then the Reporting Liechtenstein Financial Institution must make a report to the Liechtenstein Fiscal Authority (also see Chapter 10).

6.4.2.2 Reporting obligation pursuant to Art. 5 para. 5 AEOI Act

569. Pursuant to Art. 5 para. 5, Reporting Liechtenstein Financial Institutions must report to the Fiscal Authority Passive NFEs that fail to meet the notification obligation within the time limits stated in paras. 1 and 3.

570. Pursuant to Art. 5 para. 3, changes to the Controlling Persons on the part of the Liechtenstein Passive NFE must also be notified to the Reporting Liechtenstein Financial Institutions immediately (i.e. by the end of the calendar year or within 90 days, depending on which occurs later). This concerns all changes arising in connection with Controlling Persons at a Passive NFE, i.e. new Controlling Persons, withdrawal of existing Controlling Persons, but also e.g. changes to the tax domicile of a Controlling Person. However, the reporting obligation under Art. 5 para. 5 with reference to Art. 5 para. 3 applies only to late notifications of reportable recipients of distributions (see Form D as referred to in Art. 7a SPG and Art. 11a para. 3 SPV) if the reportable Controlling Person has not already been identified by the Reporting Liechtenstein Financial Institution for the reporting period in question (e.g. because the bank has already been notified of a previous distribution in relation to this Controlling Person and for the reporting period in question).

571. In all other cases, the Reporting Liechtenstein Financial Institution cannot determine whether the notification was made immediately or not. Notification of changes of Controlling Persons using Form C or T can therefore not trigger a reporting obligation to the Fiscal Authority pursuant to Art. 5 para. 5.

572. If, in accordance with the principles set out above, a report must be made to the Fiscal Authority, this must be done immediately in accordance with Art. 5 para. 5. In this context, “immediately” means:

- in the case of new Liechtenstein Passive NFEs: at the latest by the end of the month following the quarter in which the time limit of 90 days from the opening of the New Account expires;
- in the case of changes in the Controlling Persons (recipients of distributions according to Form D) (Art. 5 para. 3): at the latest by the end of the month following the quarter in which Form D concerning the reportable Controlling Person has been received by the Reporting Liechtenstein Financial Institution for a reporting period that has already expired.

573. See Chapter 10.3.2 regarding the timing of the report to the Fiscal Authority pursuant to Art. 5 para. 5 AEOI Act.

7. New Entity Accounts

7.1 In general

574. As in the case of the procedure for Preexisting Accounts, the procedure for New Entity Accounts also has three parts:

1. Determination whether the Entity is a Reportable Person (see Chapter 7.2);
2. Determination whether the Entity is a Passive NFE with one or more Controlling Persons who are Reportable Persons (see Chapter 7.3);
3. Determination whether the identified Controlling Persons are Reportable Persons (see Chapter 7.4).

7.2 Review procedures concerning Account Holders

575. In the case of New Entity Accounts, a Reporting Liechtenstein Financial Institution must determine whether the account is maintained by one or more Reportable Persons.

576. The Reporting Financial Institution must obtain a self-certification, which may be part of the account opening documentation, on the basis of which the Reporting Financial Institution can determine the residences for tax purposes of the Account Holder (of the Entity) (as well as para. 18 of the CRS Commentary on Section IX: "it is expected that jurisdictions have strong measures in place to ensure that valid self-certifications are always obtained for New Accounts").

577. In addition, the Reporting Liechtenstein Financial Institution must confirm the reasonableness of this self-certification.

578. If the self-certification indicates that the Account Holder is resident in a Reportable Jurisdiction, then the Reporting Liechtenstein Financial Institution must consider the account to be a Reportable Account, unless the Reporting Liechtenstein Financial Institution determines in an acceptable manner on the basis of information that is in its possession or publicly available that the Account Holder is not a Reportable Person.

579. A Reporting Liechtenstein Financial Institution may not be required to obtain a self-certification in the case of New Entity Accounts if, on the basis of public information or information in its possession, it reasonably determines that the Account Holder is not a Reportable Person. The order of review set out in Section VI/A/1/a and b of the CRS is therefore at the discretion of the Reporting Liechtenstein Financial Institution (see para. 6 of the CRS Commentary on Section VI).

580. This process can be graphically depicted as follows:

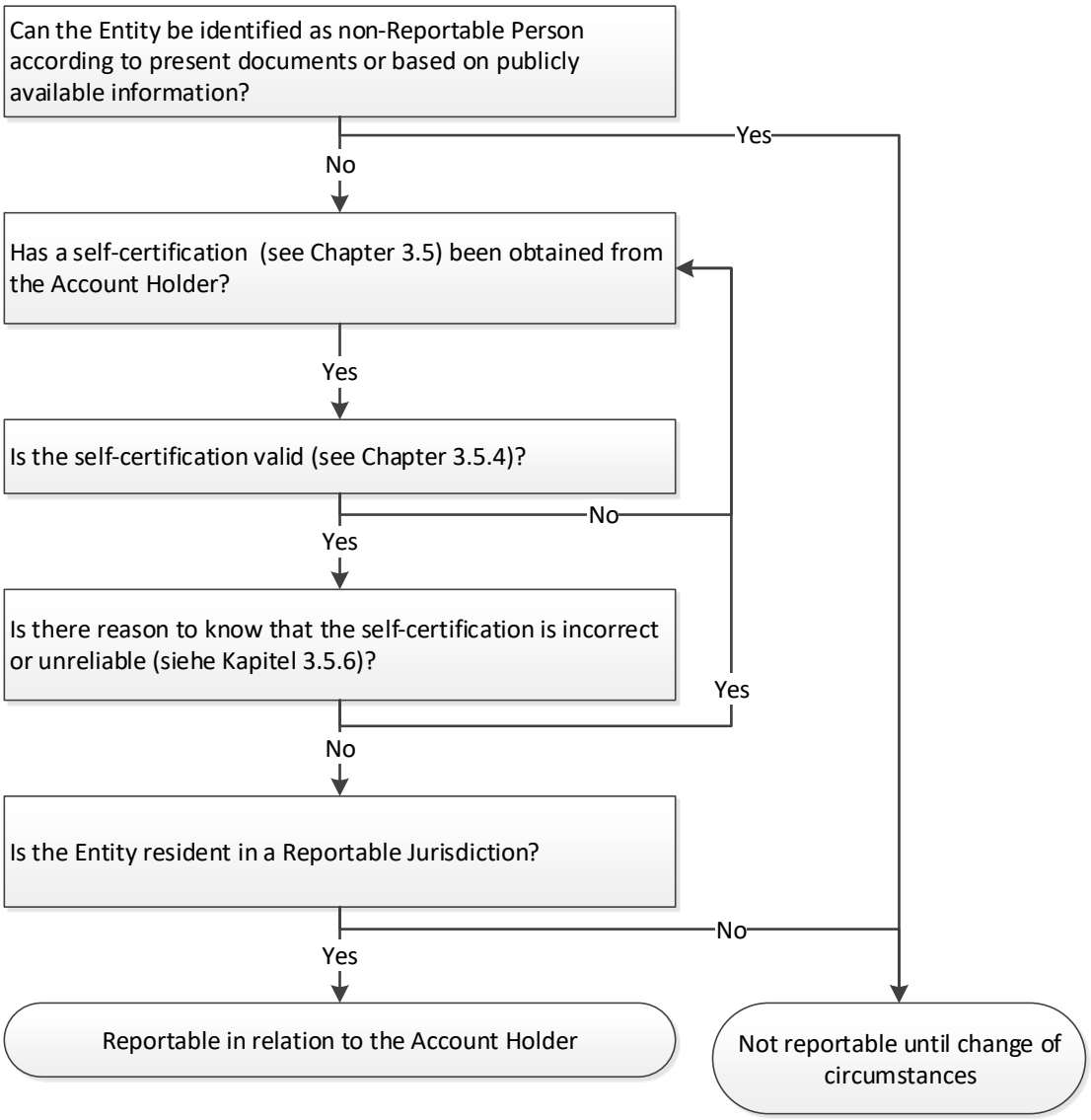

Chart 9: Review procedures for New Entity Accounts in respect of the Account Holder

7.3 Review procedures concerning Controlling Persons

581. Irrespective of whether the Account Holder has been identified as a Reportable Person, the Reporting Financial Institution must also conduct the review procedure in relation to the Controlling Persons of Passive NFE (see Chapter 2.7.3).

582. To determine whether the Account Holder is a Passive NFE, the Reporting Liechtenstein Financial Institution must obtain a self-certification. The Reporting Liechtenstein Financial Institution may in principle rely on the status according to the Account Holder's self-certification unless it can reasonably determine based on information in its possession or that is publicly available that the Account Holder is a Financial Institution or Active NFE (see Section VI/A/2/a of the CRS).

583. Reporting Liechtenstein Financial Institutions are obliged to confirm the reasonableness of a self-certification on the basis of the due diligence documents (see para. 397 of the AEOI Guidance or paras. 12 and 13 of the CRS Commentary on Section VI). In the case that the self-certification fails the reasonableness test, the Reporting Liechtenstein Financial Institution is

expected to obtain either a valid self-certification or reasonable declarations and documents confirming the reasonableness of the existing self-certification. Otherwise, the information in the self-certification cannot be relied upon (see para. 398 of the AEOI Guidance and para. 15 of the CRS Commentary on Section VI). If the Reporting Financial Institution cannot assume on the basis of the reasonableness test that the account holder is a Financial Institution or an Active NFE, it must assume that the Account Holder is a Passive NFE.

584. In order to determine the reportable Controlling Persons of the Passive NFE, a Reporting Liechtenstein Financial Institution may rely on the due diligence provisions that are applicable to New Accounts.

7.4 Review procedures concerning the residence for tax purpose of Controlling Persons

585. The Reporting Financial Institution must furthermore determine where the Controlling Persons are resident for tax purposes in order to enable it to exercise the reporting obligations that are applicable if these identified Controlling Persons are resident in a Reportable Jurisdiction.

586. For the purpose of determining whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Liechtenstein Financial Institution may only rely on a self-certification from either the Account Holder or the Controlling Person (see para. 20 of the CRS Commentary on Section VI). For the reasonableness of a self-certification see Chapter 3.5.6.

587. In this context, the required procedure is as follows:

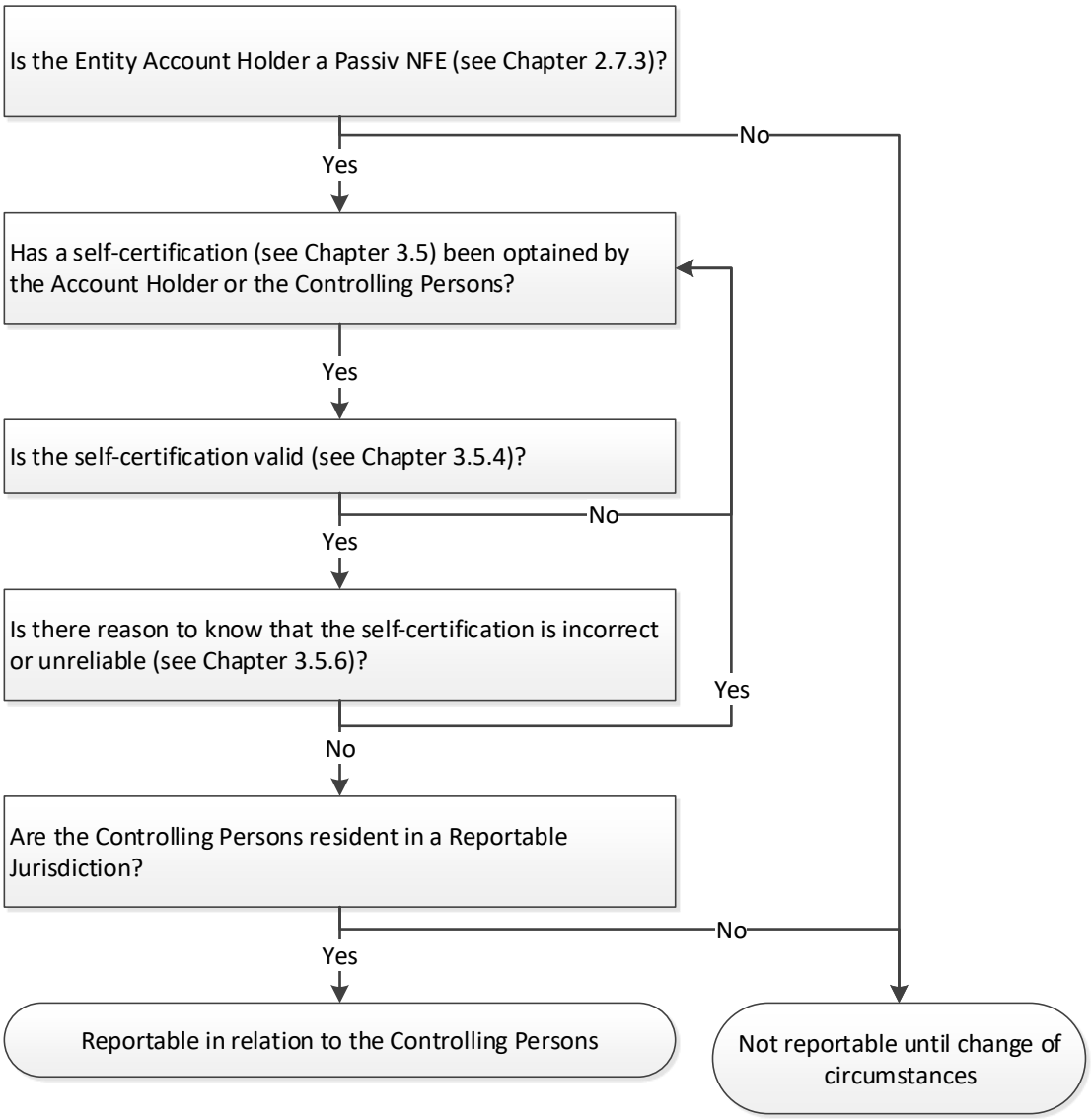

Chart 10: Review procedures in respect of Controlling Persons of New Accounts

7.5 Deadlines

588. New Entity Accounts must be identified by self-certification upon account opening. In respect of the obtaining of the self-certification, the account blocking pursuant to Art. 7 paras. 13 and 14 AEOI Act, and the report on the basis of the indicia pursuant to Art. 9 para. 3a AEOI Act, see Chapter 5.3.

589. Pursuant to Art. 5 para. 1 AEOI Act, Liechtenstein Passive NFEs must notify the respective Reporting Liechtenstein Financial Institution immediately and unrequested of all Controlling Persons, including the information to be exchanged. For New Entity Accounts, "immediately" means that the notification must be made within 90 days.

In the case of New Accounts of Passive NFEs, a report pursuant to Art. 5 para. 5 must also be made to the Fiscal Authority if the (valid and reasonable) self-certification could not be obtained within 90 days of the account opening. The report must be made at the latest by the end of the month following the quarter in which the 90-day deadline from the opening of the New Account expires.

590. If there is a change in circumstances with respect to a New Entity Account 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 analogously to the procedure set forth for Preexisting Entity Accounts (see para. 21 of the CRS Commentary on Section VI, with reference to para. 27 of the CRS Commentary on Section V, as well as Chapter 6.4.1).

8. Reportable Account

8.1 In general

591. The term "Reportable Account" means:

- a Financial Account whose Account Holders are one or more Reportable Persons (Reportable Account due to the Account Holder, see Chapter 8.3); and
- a Financial Account whose Account Holder is a Passive NFE or a professionally managed Investment Entity in a Non-Participating Jurisdiction (that is treated as a Passive NFE) that is controlled by one or more Reportable Persons (Reportable Account due to the Controlling Persons of the Account Holder, see Chapter 8.4).

592. Schematically presented, two review steps are required to determine whether a Financial Account is a Reportable Account:

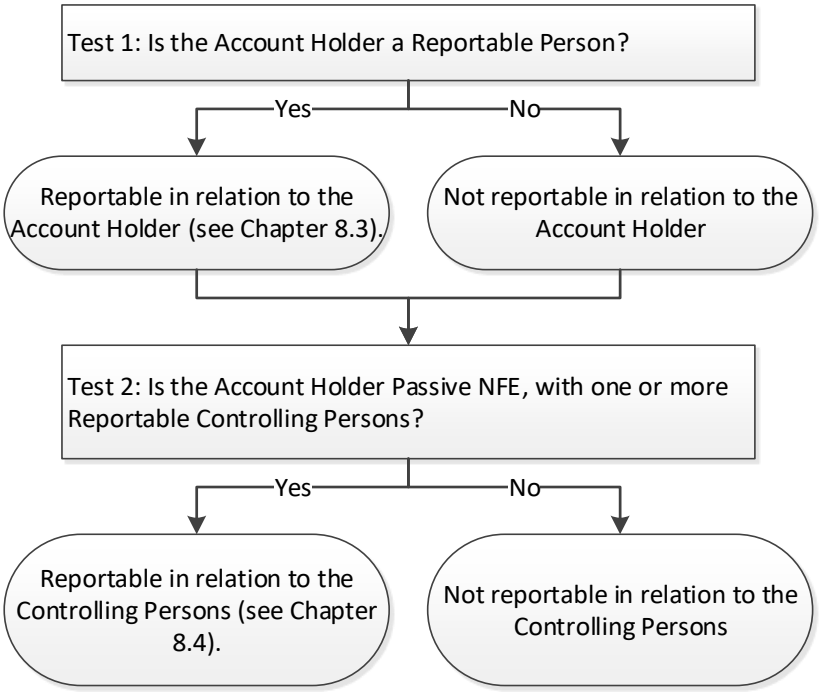

Chart 11: Review steps to determine a Reportable Account.

593. An account is treated as a Reportable Account from the day on which it is identified as such, and retains this status until the day on which it ceases to be a Reportable Account on the basis of at least one of the following criteria:

- the Account Holder or the Controlling Persons are no longer Reportable Persons (see Chapter 8.2);
- the account becomes an Excluded Account (see Chapter 3.2.7);
- the account is dissolved/closed.

594. If a Reportable Account is closed during the calendar year or another appropriate reporting period, then the information about this account that needs to be reported must be reported only up to the day of the actual closure. If the account is dissolved before a year is completed, then within the context of the reporting of the account closure, the account balance must be specified as zero and the fact of the account closure must be reported. The respective payments must be specified up to the date of the closure of the account.

595. In the event of changes in the residence for tax purpose in connection with a Reportable Account, the 31 December is considered to be the relevant date. If, for example, an Account Holder lives in country A up to 30 June, and then relocates to country B, then the residence for tax purpose as of 31 December is relevant, in this example country B. Reporting Liechtenstein Financial Institutions are required to make a report concerning country B during the year of the relocation (with the exception of distributions to discretionary beneficiaries, see paras. 686 et sqq.).

596. In principle, a change in circumstances takes effect only for the reporting period in which the Reporting Liechtenstein Financial Institution becomes aware or should have become aware of the change in circumstances. With regard to the possibility of continuing the status of a person for a limited time and the possible time limit for reclassifying the account, see the respective chapters on AEOI due diligence obligations (see paras. 435, 487, 518, 561 and 590).

597. Example 1:

A Financial Account is opened on 28 May 2019 and is identified as a Reportable Account on 3 August 2020 (e.g. due to relevant changes in circumstances). As the account qualifies as a Reportable Account at the end of the 2020 calendar year, in the year 2021 the information relating to the account must be reported in respect of the whole 2020 calendar year. As long as the account remains a Reportable Account, information pertaining to the account in question must be reported for each further calendar year.

598. Example 2:

The same situation as in Example 1, but the status of the Financial Account as a Reportable Account is ceased on 24 March 2021, as the account now qualifies as an Excluded Account. As no "Financial Account" (Excluded Account) exists at the end of the 2021 calendar year, in the year 2022 no information relating to the account needs to be reported in respect of the whole 2021 calendar year. This remains applicable until the account possibly reacquires the status of a Reportable Account in a following calendar year.

599. Example 3:

The same situation as in Example 1, but the Financial Account is dissolved on 30 June 2021. As the account qualified as a Reportable Account on 30 June 2021 (day of the closure) and was closed in the same year, in the year 2022 the information relating to the account in respect of the period from 1 January 2021 to 30 June 2021 (including the designation as a closed account) must be reported.

600. Example 4:

A Financial Account is opened on 28 May 2019 and is identified as a Reportable Account on 3 August 2020 (e.g. due to relevant changes in circumstances). For this reason, the account is

reported in 2021 for the 2020 reporting period. On 24 March 2021 the status as a Reportable Account is ceased, as the account now qualifies as an Excluded Account and a "Financial Account" therefore no longer exists. The account is dissolved on 30 June 2021. As the account no longer qualifies as a "Financial Account" on 30 June 2021 (day of closure), in the year 2022 none of the information relating to the account needs to be reported in respect of the 2021 calendar year.

Example 5: 601.

Mr X is the Controlling Person of a Liechtenstein Passive NFE, which in turn has a bank account in Liechtenstein. Mr X was not previously resident in any Reportable Jurisdiction. In September 2018, Mr X relocates to a Reportable Jurisdiction, but he does not inform the Passive NFE until August 2019 that he had already moved in September 2018. The Passive NFE now immediately informs the Liechtenstein bank of this new knowledge. Due to its delayed knowledge of the change in circumstances, there is no obligation for the bank to report retroactively, i.e. Mr X must be reported with regard to the Reportable Jurisdiction starting with the 2019 reporting period. The Fiscal Authority must check whether Mr X may have breached the notification obligation.

Example 6: 602.

Z AG (Passive NFE) has a shareholder X who is resident in a Reportable Jurisdiction. Z AG opens an account with FL Bank AG on 25 August 2017, which identifies X as a Reportable Controlling Person. In March 2018, a change of shareholder took place from shareholder X to shareholder Y (resident in the same jurisdiction as X), but Z AG did not notify FL Bank AG of this until November 2019. Due to its delayed knowledge of the change in circumstances, there is no obligation for the bank to make a retroactive or cancellation report (subject to a request for deletion under data protection law). The Fiscal Authority must check whether Z AG X may have breached the notification obligation.

The fact that a Financial Account has a negative balance or value or a aggregated balance or value of zero does not change its classification as a Reportable Account, i.e. such accounts can also qualify as Reportable Accounts. This also includes cases in which no amounts have yet been paid or credited to a Financial Account (or in context with a Financial Account). 603.

8.2 Reportable Person

A "Reportable Person" means a person of a Reportable Jurisdiction, and consequently: 604.

- an individual who is resident in a Reportable Jurisdiction under the tax law of this jurisdiction,
- an Entity that is resident in a Reportable Jurisdiction under the tax law of this jurisdiction, or
- an estate of a decedent that was a resident in a Reportable Jurisdiction under the law of this jurisdiction.

605.

At least one residence must be specified. Only the jurisdictions of residence for tax purposes as at the end of the relevant calendar year or of another appropriate reporting period need to be reported.

606. If in the performance of the AEOI due diligence procedures a natural person (exclusively) from a nonreciprocal AEOI partner jurisdiction (see Chapter 1.3.4) is identified as the Account Holder, the report must not be made. If the person in question is additionally a tax resident of another AEOI partner jurisdiction, the reporting obligations in relation to those jurisdictions must continue to be fulfilled.

607. The following Account Holders are excluded from this:

i. a corporation the stock of which is regularly traded on one or more established securities markets;

ii. a corporation that is a Related Entity (also see Chapter 2.7.2.3) of a corporation described in letter i.;

iii. a Governmental Entity;

iv. an International Organisation;

v. a Central Bank, and

vi. a Financial Institution.

608. These Entities are not Reportable Persons, not even if they are resident in a Reportable Jurisdiction (also see Chapter 6.3.2).

609. In respect of the question of whether an Entity is a non-Reportable Person, the Reporting Liechtenstein Financial Institution may rely on the self-certification of the Entity (in respect of the reasonableness of a self-certification, see Chapter 3.5.6).

610. Example 1:

Bank X AG is resident in a Reportable Jurisdiction (Entity of a Reportable Jurisdiction) and qualifies as a Financial Institution. Bank X AG maintains a Financial Account at Bank Vaduz AG, Vaduz, a Reporting Liechtenstein Financial Institution. From the perspective of the Reporting Liechtenstein Financial Institution, Bank X AG is not considered to be a Reportable Person on the basis of the general exemption for Financial Institutions.

611. Example 2:

Z AG is resident in a Reportable Jurisdiction (Entity of a Reportable Jurisdiction). Z AG is a stock corporation that is considered to be a Related Entity of a qualified listed stock corporation, and maintains a Financial Account at Bank Vaduz AG, Vaduz, a Reporting Liechtenstein Financial Institution. From the perspective of the Reporting Liechtenstein Financial Institution, Z AG is not considered to be a Reportable Person on the basis of the general exemption for stock corporations that are Related Entities of qualified listed stock corporations (this would not apply if Z AG was not a stock corporation, but instead a partnership, because this

exemption is not applicable to partnerships).

Example 3: 612.

The trust company X AG is resident in a Reportable Jurisdiction and qualifies as a Financial Institution. The trust company X AG signs a Cash Value Insurance Contract in its own name on behalf of the individual A, making the trust company X AG a policyholder of the Liechtenstein insurer Y. From the perspective of the Reporting Liechtenstein Insurance Company, which is a Financial Institution itself, the trust company X AG is not a Reportable Person on the basis of the general exemption for Financial Institutions.

As is the case for the other types of Financial Institution (Custodial Institutions, Depository Institutions, Investment Entities and Specified Insurance Companies), professionally managed Investment Entities never qualify as Reportable Persons themselves, because they: 613.

- qualify as Financial Institutions if they are resident in a Participating Jurisdiction and for this reason are covered by the exemption rule that defines Reportable Persons, or
- if they are resident in a Non-Participating Jurisdiction, cannot qualify as a person of a Reportable Jurisdiction.

Even though professionally managed Investment Entities itself never qualify as Reportable Persons, information on professionally managed Investment Entities in Non-Participating Jurisdictions with reportable Controlling Persons are reported within the context of the reporting of reportable Controlling Persons, because such Investment Entities qualify as Passive NFEs. 614.

Example 1: 615.

Trust A is a professionally managed Investment Entity and is resident in a Participating Jurisdiction. Trust A maintains a Financial Account at Bank Vaduz AG, Vaduz, a Reporting Liechtenstein Financial Institution. Because it is resident in a Participating Jurisdiction, the Reporting Liechtenstein Financial Institution treats the trust A as a Financial Institution (and not as a Passive NFE). From the perspective of the Liechtenstein Financial Institution, trust A is not a Reportable Person on the basis of the general exemption for Financial Institutions.

Example 2: 616.

Trust B is a professionally managed Investment Entity, but is resident in a Non-Participating Jurisdiction. Due to the residence in a Non-Participating Jurisdiction, from the perspective of the Reporting Liechtenstein Financial Institution, trust B does not qualify as Financial Institution, but instead as Passive NFE. From the perspective of the Liechtenstein Financial Institution, trust B is nevertheless not a Reportable Person, because it is resident in a Non-Participating Jurisdiction. Insofar as the Controlling Persons are Reportable Persons, however, information about trust B is reported to the jurisdictions of residence of the reportable Controlling Persons.

A limited tax liability (e.g. on the basis of any income from sources in a jurisdiction, real estate property, an interest in a partnership or a permanent establishment) generally does not 617.

establish any residence for tax purposes for the purpose of determining the Reportable Persons (OECD tax residence information).

618. In this context, it is important to note that in the case of a permanent establishment of a Financial Institution, the Financial Institution is considered to be tax resident for AEOI purposes in the jurisdiction of the permanent establishment (see Chapter 2.3).

8.3 Reportable Accounts based on the Account Holder

619. A Financial Account is considered to be a Reportable Account on the basis of the Account Holder if the account is maintained by one or more Reportable Persons (see Chapter 8.2). The review to determine whether a Financial Account is a Reportable Account based on the Account Holder can moreover be divided into two further steps:

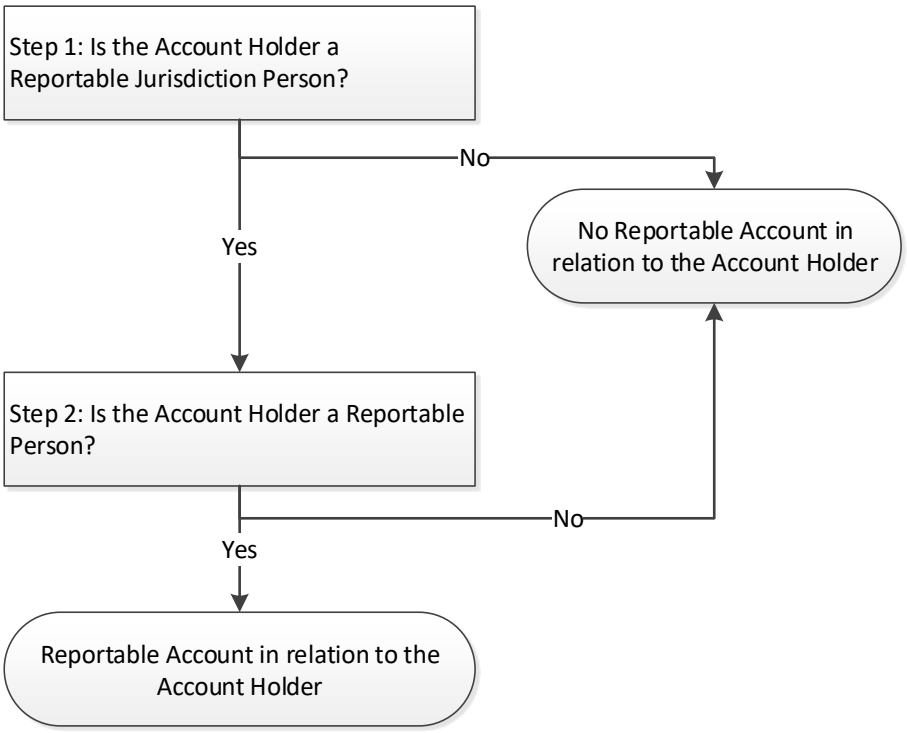

Chart 12: Reportable Account based on the Account Holder.

Example 1: 620.

X, an individual whose residence for tax purposes is in a Reportable Jurisdiction (a person of a Reportable Jurisdiction), holds a Financial Account at Bank Vaduz AG, Vaduz, a Reporting Liechtenstein Financial Institution. As the definition of a Reportable Person makes no exception for individuals (see Chapter 8.2), X must be treated as a Reportable Person. Due to the status of the Account Holder as a Reportable Person, the Financial Account of X qualifies as a Reportable Account.

Example 2: 621.

Y, an individual, maintains a Financial Account at Bank Vaduz AG, Vaduz, a Reporting Liechtenstein Financial Institution. Within the context of the reviewing of its Preexisting Accounts, the Reporting Financial Institution discovers an indicium that links the account of Y to a Reportable Jurisdiction. As the Reporting Financial Institution does not receive the documentation required to cure the indicium from Y, it treats Y as if resident for tax purposes in the Reportable Jurisdiction (person of a Reportable Jurisdiction). As the definition of a Reportable Person makes no exception for individuals, Y must be treated as a Reportable Person. Due to the status of the Account Holder as Reportable Person, the Financial Account of Y qualifies as Reportable Account.

Example 3: 622.

Z, an individual, maintains a Financial Account at a Reporting Financial Institution. Within the context of the review of its Preexisting Accounts, the Reporting Financial Institution discovers indicia that link the account of Z to country A as well as to country B. As the Reporting Financial Institution does not receive the documentation required to cure the indicia from Z, Z is treated as a Reportable Person in respect of country A and country B. This consequently means that the aggregate balance or value as well as all relevant payments are exchanged with country A

as well as with country B.

623. Example 4:

Z AG is resident for tax purposes in a Reportable Jurisdiction (a person of a Reportable Jurisdiction) and is an Active NFE by reason of income and assets. In addition, Z AG maintains a Financial Account at a Reporting Liechtenstein Financial Institution. As the definition of a Reportable Person makes no exception for Active NFEs by reason of income and assets (see Chapter 8.2), Z AG must be treated as a Reportable Person. Due to the classification as a Reportable Person, the account maintained by Z AG qualifies as Reportable Account.

624. Example 5:

X AG – a qualified listed stock corporation – is resident in a Reportable Jurisdiction for tax purposes (Entity of a Reportable Jurisdiction). In addition, X AG maintains a Financial Account at a Reporting Liechtenstein Financial Institution. The definition of the Reportable Person contains an exception for qualified listed stock corporations (see Chapter 8.2), and for this reason X AG is not a Reportable Person. For this reason, the account it maintains does not qualify as Reportable Account.

8.4 Reportable Accounts based on Controlling Persons of the Account Holder

625. If the account is maintained by a Passive NFE or a professionally managed Investment Entity that is resident in a Non-Participating Jurisdiction (and is therefore treated as a Passive NFE), the review of whether a Financial Account qualifies as a Reportable Account on the basis of the Controlling Persons of the Account Holder can likewise be split into two steps.

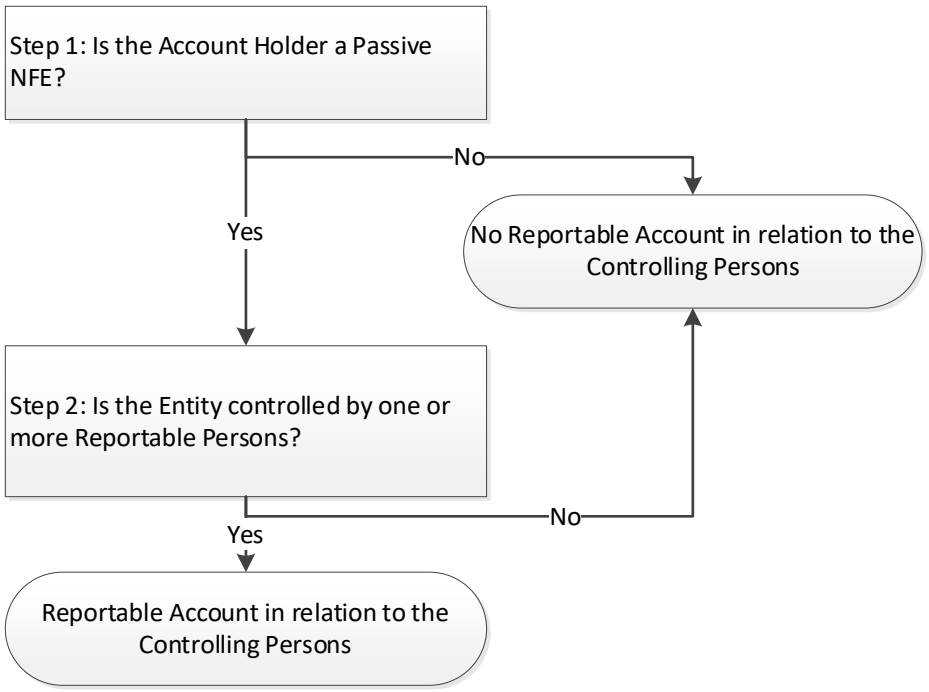

Chart 13: Reportable Account based on the Controlling Persons of the Account Holder.

626. Example 1:

Z AG is a Passive NFE and maintains a Financial Account at Bank Vaduz AG, Vaduz, a Reporting

Liechtenstein Financial Institution. Z AG is not a person of a Reportable Jurisdiction, and is consequently not a Reportable Person, and the account is not a Reportable Account based on the Account Holder. Z AG is controlled by the individual X, who qualifies as a Reportable Person. Due to the classification of X as Reportable Person, the Financial Account maintained by Z AG qualifies as Reportable Account based on the Controlling Person X of the Account Holder.

Example 2: 627.

The same situation as in the previous example, although Z AG is resident in a Reportable Jurisdiction (Entity of a Reportable Jurisdiction). As the definition of a Reportable Person makes no exception for Passive NFEs, Z AG must be treated as Reportable Person. Due to the classification of Z AG as Reportable Person, the Financial Account maintained by Z AG qualifies as Reportable Account based on the Account Holder. In addition, the account also qualifies as Reportable Account based on the Controlling Person X of the Account Holder.

9. Registration with the Fiscal Authority

628. Reporting Liechtenstein Financial Institutions must register with the Fiscal Authority unrequested and immediately upon completion of the classification (i.e. by the end of the calendar year or within 90 days, depending on which occurs later) (see also transitional period for previously non-registered Reporting Liechtenstein Financial Institutions until 31 December 2021).

629. The AEOI registration process allows for individual registration as well as multiple registration:

1. Individual registration:
   In the case of individual registration, each Reporting Liechtenstein Financial Institution can register itself. It will then receive a reporting agent number as well as a PIN for logging into the registration portal.

2. Multiple registration:
   In the case of multiple registration, only the "main reporting agent" of a group of Reporting Liechtenstein Financial Institutions is registered with the Fiscal Authority (analogous to individual registration, see number 1). Once the main reporting agent has been successfully registered, further Financial Institutions of the respective group can be recorded as so-called "sub-reporting agents". Although these sub-reporting agents are not given their own reporting agent number or their own PIN, they are nevertheless considered to be registered as soon as they are recorded as "sub-reporting agents". The respective reporting agent number and PIN of the "main reporting agent" must be used for logging into the Fiscal Authority portal. Multiple registration may be advantageous e.g. in particular for fiduciaries who manage several Reporting Liechtenstein Financial Institutions (Investment Entities). In the case of multiple registrations, the main reporting agent bears overall responsibility for the accuracy of the data as well as for updating this data. Sub-reporting agents may in each case be registered only with one main reporting agent.

3. Trustee-Documented Trust:
   In the case of the TDT concept (see Chapter 2.6.3), the Liechtenstein trust qualifies as a Non-Reporting Liechtenstein Financial Institution. For this reason, the Liechtenstein trust does not have to register itself. Instead, the trustee must register himself. Only in the electronic reporting form of the Fiscal Authority is the trust to be filed as "Reporting FI", because the trustee makes the report only in representation of the trust. This corresponds also to the requirements under the FATCA Agreement.

630. Changes to the registered data (e.g. contact data) must be notified via the reporting portal to the Fiscal Authority immediately (i.e. by the end of the calendar year or within 90 days, depending on which occurs later).

631. If the qualification as a Reporting Liechtenstein Financial Institution ends (e.g. change of classification, discontinuation of the business activity, relocation of the residence, liquidation of an asset structure), then the Financial Institution must deregister itself unrequested with the Fiscal Authority. The Reporting Liechtenstein Financial Institution has to ensure in advance that all necessary AEOI reports have been transmitted to the Fiscal Authority.

The registration, any possible amendments (e.g. change of address) and deregistration must be performed in electronic form via the homepage of the Fiscal Authority (www.stv.llv.li → Internationales Steuerrecht → AIA → Verwaltung von Meldestellen). 632.

Further information and guidance is available on the homepage of the Fiscal Authority (www.stv.llv.li → Internationales Steuerrecht → AIA) 633.

10. Information to be reported

10.1 In general

634. If an account is identified as reportable, the Reporting Liechtenstein Financial Institution must report the information relating to this account to the Fiscal Authority. In this context, the Liechtenstein Financial Institution may choose to make one report per partner jurisdiction or one report per Reportable Account. The Fiscal Authority will then forward the information to the partner jurisdictions.

635. This relates to the following information:

- Identification information (see Chapter 10.1.1);
- Account information (see Chapter 10.1.2); and
- Financial information (see Chapter 10.1.3).

10.1.1 Identification information

636.

Information to be reported relating to the holders of accounts of individuals or of Entities that are Reportable Persons, as well as in relation to Controlling Persons who are Reportable Persons.	
Information	**Further description (where available)**
Name	
Address	The address recorded for the Account Holder pursuant to the due diligence procedures. For individuals will be the current residence address (or the mailing address if no current residence address is held).
Jurisdiction(s) of residence	The jurisdictions of residence identified in accordance with the AEOI due diligence procedures.
Taxpayer Identification Number(s), TIN	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). This may be a number that is used by a partner jurisdiction as a TIN equivalent. In this context, also see OECD tax residence information (tax residence). Insofar as a Partner Jurisdiction does not issue a TIN or does not use a TIN equivalent, proceed in accordance with Chapter 3.5.2. In case of

	Liechtenstein individuals respectively Entities the PEID is considered as TIN.
Additional information required only in respect of individuals/Controlling Persons	
Date of birth	The date of birth must always be recorded in accordance with Art. 6/1/a SPV in Liechtenstein.
Place of birth (not obligatory in Liechtenstein)	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 data maintained by the Reporting Financial Institution. This is not the case in Liechtenstein.

Table 2: Overview of the identification information to be reported.

10.1.2 Account information

637.

Information required with respect to all Reportable Accounts	
Information	**Further description (where available)**
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). In the case of a foundation or a trust that is classified as a Financial Institution, it is possible that no account number exists for each Account Holder (Equity Interest Holder). In this case "NANUM" ("No Account Number") may be entered.
Name and (if applicable) identification number 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 source of the information reported and subsequently exchanged.

Table 3: Overview of the account information to be reported.

10.1.3 Financial information

638.

Information required with respect to all Reportable Accounts	
Information	**Further description (where available)**
The account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) of the account as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year or period, the closure of the account	An account with a balance or value that is negative must be reported as having a balance or value equal to zero. This must be distinguished from nil reporting. A nil reporting would be a reporting that no Reportable Accounts exist. Pursuant to the AEOI Act, if no Reportable Accounts exist, then no nil reporting needs to be made to the Fiscal Authority. In general terms, 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 (Investment Entity), the balance or value of the Equity Interest corresponds to the value calculated by the Financial Institution for the purpose that requires the most frequent determination, and in the case of the balance or value of a debt interest, the level of its nominal value. In the case of an account closure, the Reporting Financial Institution must only report that the account was closed, and does not have to report the account balance before the closure. In this case, the account balance must be specified as zero. The respective payments are to be reported in case of an account closure up to the time of such account closure.
Information required with respect to Depository Accounts only	
The total gross amount of interest paid or credited to the account.	
Information required with respect to Custodial Accounts only	
The total gross amount of interest generated with respect to the assets held in the account and paid or credited to the account.	
The total gross amount of dividends generated with respect to the assets held in the account and 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 total gross proceeds arising out of 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, including the overall amount of all redemption amounts that were paid to the Account Holder during the calendar year or other appropriate reporting period.	The term "sale or redemption" means any sale or any redemption of Financial Assets.
Information required with respect to other accounts only (no Depository or Custodial Accounts)	
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 debtor.	Such "total gross amount" includes, for example, the aggregate amount of all distributions, as well as the aggregate amount of any redemption payments made (in whole or in part) to the Account Holder, and any payments made to the Account Holder under a Cash Value Insurance Contract or Annuity Contract even if such payments are not considered Cash Value.

Table 4: Overview of the financial information to be reported.

639. The term "account" means a single account. Pursuant to the obligations concerning the aggregation of single accounts set out in the CRS, as well as the rules governing the review of New Accounts, in application of these provisions a business relationship of the Financial Institution with a person (individual or Entity) that includes all sub-accounts (Depository Accounts) and sub-custodial accounts (Custodial accounts) may be the relevant approach, and for this reason may be treated as single account.

640. A business relationship means, for example, a client/account relation while a single account means, for example, an individual private account, current account, salary account, savings account or similar.

641. A Liechtenstein Financial Institution may – for reporting purposes – consolidate several (sub-)accounts that belong to the same business relationship (see Chapter 4.3.2).

642. Example:

An individual (pursuant to the AEOI due diligence procedures resident in the EU) opened a business relationship (client relation) at a Liechtenstein bank on 30 June 2015. The account balance is USD 500,000 on 31 December 2016. On 1 April 2016, this individual opened a second business relationship under a new client relation number. The account balance of the second business relationship is USD 700,000 as at 31 December 2016. Assuming that the accounts can be pooled, a report of USD 1.2 million is made in the year 2017 for the 2016 reporting period.

643. In respect of Reportable Accounts, the information must be reported in the calendar year that follows the year that relates to the information.

644. The information that needs to be reported is the information at the end of the respective calendar year or other appropriate reporting period.

645. As a principal rule, the aggregate balance or value of Depository or Custodial Accounts is calculated in the same manner as that applied to reports made to the Account Holder (e.g. within the context of periodically forwarded statements of assets). There is no obligation to determine the total balance in accordance with the tax regulations in the jurisdiction of residence of the Reportable Person (even if this information is known to the Reporting Financial Institution). When determining the aggregate balance or value, however, no liabilities (such as e.g. credits or loans of any type, debit balances on current accounts, etc.) may be deducted. The negative replacement value of derivative products does not count as a liability. This consequently means that the gross assets need to be reported. In the case of equity and debt interests, see Chapter 10.2.3.2.

646. Example 1:

X, a reportable individual, holds a portfolio (a Custodial Account) at Bank A, Vaduz, a Reporting Financial Institution. The portfolio of X at Bank A holds shares worth CHF 1 million. In addition, Bank A has financed the real estate property of X with a mortgage loan (CHF 800,000). At the end of the reporting period, the statement of assets that X receives from Bank A shows net assets of CHF 200,000 (shares worth CHF 1 million, less the mortgage loan of CHF 800,000). For reporting purposes, however, the gross assets are the relevant aggregate balance or value, and for this reason Bank A reports CHF 1 million.

647. Example 2:

X, a reportable individual, holds a portfolio (a Custodial Account) at Bank A, Vaduz, a Reporting Financial Institution. The portfolio of X at Bank A contains shares worth CHF 1 million. X decides to take out a Lombard loan at Bank A amounting to CHF 600,000, and pledges his Depository Account as security. X uses the loan to acquire further shares. At the end of the reporting period, the statement of assets that X receives from Bank A shows net assets of CHF 1 million (shares worth CHF 1.6 million, less the Lombard loan of CHF 600,000). For reporting purposes, however, the gross assets are the relevant aggregate balance or value, and for this reason Bank A reports CHF 1.6 million.

648. When closing a Reportable Account or an undocumented account, what is reported is not the value of the account, but instead the fact of the closure. In this case, the account balance or value must be reported as zero. The respective payments are to be reported in case of an account closure up to the time of such account closure.

649. In the case of the relocation of the domicile of a Liechtenstein Entity abroad or of a foreign Entity to Liechtenstein, the report is made to the respective country in which the Investment Entity was domiciled on 31 December, meaning that an Entity is exclusively subject to the AEOI due diligence procedures of the new jurisdiction of residence in the year of the relocation of its domicile.

650. Insofar as the respective Investment Entity has an account relationship with a Liechtenstein bank, the bank must determine whether the relocation of the domicile results in a change of the classification of the Investment Entity. If, e.g. the domicile is relocated to a Non-Participating Jurisdiction, then from the perspective of the bank the Investment Entity qualifies as a Passive NFE. The Liechtenstein bank must also submit a report for the period of the relocation of the residence.

651. All relevant payments must be treated either as interest, dividends, other earnings or sale or redemption proceeds.

652. In order to make implementation of the reporting obligations as efficient as possible, Reporting Liechtenstein Financial Institutions may choose whether and how a payment is to be reported, based on equivalent existing classification standards, insofar as these do not contract the purpose of the CRS. Existing classification standards mean, for example, the classification and valuation of payments for the following purposes:

- Information sent to the Account Holder (e.g. within the context of periodically dispatched account statements),
- Report subject to FATCA,
- Tax statements/tax records under Liechtenstein or foreign tax law.

653. Reporting Financial Institutions may make this choice for all or for specific categories of accounts defined by them (e.g. depending on the residence of the Reportable Person). Financial Institutions must document this choice as well as the rules that inform this choice in such a manner that the Fiscal Authority is able to verify, within the context of the planned checks, whether this approach is compatible with the purpose of the CRS and whether the rules have been applied consistently.

654. Example:

A Reporting Liechtenstein Financial Institution draws up tax records for its clients in the jurisdictions A and B in accordance with the tax law of the respective jurisdictions. While the classification and valuation of payments for tax record purposes qualify as equivalent classification standards pursuant to the tax law of jurisdiction A, this indicium is not fulfilled in respect of the tax records pursuant to the tax law of jurisdiction B, as these are not sufficiently detailed. For purposes of the AEOI in tax matters, the Reporting Liechtenstein Financial Institution is also entitled to apply Liechtenstein tax law to Reportable Persons in jurisdiction B in order to classify and value payments for tax record purposes pursuant to Liechtenstein tax law. By contrast, the Reporting Liechtenstein Financial Institution is not permitted, for purposes of the AEOI in tax matters, to apply the tax law of jurisdiction B to the classification and valuation of payments for tax record purposes; and may also not do so in respect of Reportable Persons in jurisdiction B.

655. The information is reported in the currency in which the account is denominated, and the currency must be specified in the reported information. All currency conversions, including in respect of thresholds, are performed using the exchange rate that was applicable on the final

day of the reporting period. Thresholds must be converted on the reporting date set out in the applicable agreement.

10.2 Specific rules

10.2.1 For Depository Accounts

656. In the case of Financial Accounts that meet the requirements of Depository Accounts, the aggregate balance or value as well as the following payments must be reported:

- Total gross amount of the interest calculated on the account credit balance that was paid or credited to the account during the calendar year or other appropriate reporting period.

657. Payments that are not linked to the Financial Account or to the assets that this contains do not have to be reported, even if these might possibly constitute taxable income. For example, payments made within the context of normal payment transactions, where the correspondence of the procedure to the assets contained in the Financial Account is not apparent, are not relevant. Reporting Financial Institutions are not obliged to review the correspondence of the procedure, insofar as this is not known on the basis of the normal business activity.

658. Example 1:

X, a Reportable Person, maintains a private account (a Depository Account) at the Liechtenstein Bank A, Vaduz, a reportable Financial Institution. X is moreover a beneficiary of the trust T, which does not have a relationship with Bank A, and in the year 2018 receives a distribution from the trust T that is credited to his private account at Bank A. As this is purely a payment transaction, from the perspective of Bank A, and as the correspondence of the procedure to the assets held in the account is not established, the crediting of the distribution of trust T to the private account does not have to be reported by Bank A. However, the crediting of the distribution raises the reportable total balance of the Depository Account.

659. Example 2:

Y, a Reportable Person, maintains a private account (a Depository Account) at the Liechtenstein Bank A, Vaduz, a Reporting Financial Institution. Y is the sole owner of Z AG, which is not a listed company, and whose shares are not deposited at Bank A. Y sells the shares in Z AG in the year 2018 to the individual W, and the sales proceeds are credited to the private account of Y at Bank A. As this is purely a payment transaction, from the perspective of Bank A, and as the correspondence of the procedure to the assets held in the account is not established, the crediting of the sales proceeds to the private account does not have to be reported by Bank A.

660. Example 3:

Y, a Reportable Person, maintains a private account (a Depository Account) at the Liechtenstein Bank A, Vaduz, a reportable Financial Institution. Y is the sole owner of Z AG, which is a listed company, and whose shares are recorded in the portfolio of Y (a Custodial Account) at Bank A. Y sells the shares in Z AG on the stock market. As Bank A is actively involved

in the sale of the shares, e.g. within the framework of removing these from the share register and delivering them, the crediting of the sales proceeds is not solely a payment transaction procedure. In addition, the correspondence of the procedure with the assets held in the account is established, and for this reason Bank A is required to submit a report on the proceeds of the share sale.

661. If several persons need to be reported in context with a Financial Account (see Chapter 4.3.2), the total balance or value as well as all payments specified under Chapter 10.1.3 are fully attributed to and reported for each Reportable Person. A per capita attribution or according to participation levels does not need to be performed. This concerns in particular the following constellations:

- Joint accounts with one or more Reportable Persons as Account Holders,
- Accounts of Passive NFEs (or professionally managed Investment Entities in Non-Participating Jurisdictions that are treated as Passive NFEs) with more than one reportable Controlling Person, or
- Accounts of Passive NFEs that are themselves Reportable Persons and have reportable Controlling Persons.

662. Example 1:

X and Y, two reportable individuals, have a joint account at a Reporting Financial Institution. The total balance or value as well as all relevant payments are comprehensively attributed to X as well as to Y, and are reported accordingly.

663. Example 2:

X and Y, two reportable individuals, were identified by a reportable Financial Institution as Controlling Persons of Z AG, which is a Passive NFE and also qualifies as a Reportable Person. The total balance or value as well as all relevant payments into the Financial Account of Z AG are comprehensively attributed to X as well as to Y, and are reported accordingly.

664. Example 3:

A trust A, which is a Passive NFE and also a Reportable Person, maintains a Financial Account at a Reporting Financial Institution. The individual W is the settlor of the trust, the individual X acts as trustee, the individuals Y and Z are the beneficiaries. W, X, Y and Z are Reportable Persons. The total balance or value as well as all relevant payments into the Financial Account of the trust are comprehensively attributed to the trust A as well as to the Controlling Persons W, X, Y and Z.

665. If persons who qualify as Reportable Persons in more than one Reportable Jurisdiction need to be reported in context with Financial Accounts then the total balance or value as well as all aforementioned payments are comprehensively reported for each Reportable Jurisdiction. If a Financial Account is reported in several countries, then the amounts do not have to be broken down according to countries. This concerns in particular the following constellations:

- Accounts whose Account Holders are resident in different jurisdictions or in more than one Reportable Jurisdiction;

- Accounts of Passive NFEs (or professionally managed Investment Entities in Non-Participating Jurisdictions that are treated as Passive NFEs) with reportable Controlling Persons who are resident in different jurisdictions or in more than one Reportable Jurisdiction.

666. A discretionary beneficiary of a Passive NFE qualifies as a Controlling Person only for the respective reporting periods during which he receives a distribution relating to assets that are recorded on the Financial Account of the Depository Institution (see Chapter 6.3.5). In respect of the term "distribution" see Chapter 10.2.3.3.

10.2.2 For Custodial Accounts

667. In the case of Financial Accounts that meet the requirements of Custodial Accounts, the total balance or value as well as the following payments must be reported:

- Total gross amount of interest, total gross amount of dividends and total gross amount of other income generated with respect to the assets held in the account and in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period.

- Total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee or otherwise as an agent for the Account Holder. Irrespective of the activity as a custodian, broker, nominee or otherwise as an agent for the Account Holder, a Reporting Financial Institution is not required to report any corresponding payments if these are not associated with a Financial Account that it maintains or if the correspondence of the procedure to the assets held in the Financial Account is not established.

668. When reporting the gross proceeds, jurisdictions have the option of implementing this step by step, as in certain scenarios it could be more difficult for Reporting Financial Institutions to implement procedures to obtain the total gross proceeds or the redemption of Financial Assets. Liechtenstein generally has exercised this option in the AEOI Act. The Liechtenstein AEOI Act states that gross proceeds must be reported only in respect of the calendar year that follows the year in which it comes into force, unless otherwise stipulated in the applicable agreement.

669. As the AEOI Agreement Liechtenstein-EU does not contain this option, however, gross proceeds must be reported from the first reporting year onwards (no "phase-in").

670. Example 1:

X, a reportable individual, holds a portfolio (a Custodial Account) at the Liechtenstein Bank A, Vaduz, a Reporting Financial Institution. X wishes to sell certain shares held in his portfolio. Bank A commissions broker S (Investment Entity) to settle the sale. Bank A must report the

total gross proceeds arising out of the sale of the shares, as it acts as the custodian for the Account Holder. The broker S, by contrast, has no reporting obligations, as he does not maintain a Financial Account for X, and instead merely settles the transaction for Bank A.

Example 2: 671.

Y, a reportable individual, maintains a private account (a Depository Account) and a portfolio (Custodial Account) at the Liechtenstein Bank A, Vaduz, a Reporting Financial Institution. Y sells his real estate property, which was financed with a mortgage loan provided by Bank A. A part of the sales proceeds is used to pay off the remaining mortgage loan, and the remainder is credited to the private account of Y. Although Bank A is actively involved in the real estate sale because of the financing, the correspondence of the procedure with the assets held in the account is not established, and for this reason the crediting of the sales proceeds does not have to be reported by Bank A.

10.2.3 For equity/debt interests

10.2.3.1 Overview

Insofar as a reportable equity or debt interest holder is identified as a Reportable Person, the total balance or value as well as (if paid) the following gross payments must be reported. The following tables cover all categories of equity or debt interest holders. Identification of the Reportable Persons is performed in accordance with AEOI due diligence procedures (see Chapter 3 to 8). 672.

10.2.3.1.1 In the case of a foundation, an establishment with a structure similar to that of a foundation, a trust reg. with a structure similar to that of a foundation and a trust

673.

Account Holder	Subcategory	Reporting obligation	Account balance or value	Gross payments (if any)
Settlor	Controlling pursuant to Art. 3 para. 2 SPV	Yes	Total assets of the trust	Value of the repayment to the settlor in the event of a revocation. If the settlor is also the beneficiary, see below.
	Not controlling pursuant to Art. 3 para. 2 SPV	Yes	Zero	If the settlor is also the beneficiary, see below.
	Deceased	Deceased before the AEOI became applicable: No	-	-
		Identified as reportable and deceased after the AEOI became applicable: Yes	Once zero as well as fact of "account closure" (AccountNumber = ClosedAccount)	If the settlor is also the beneficiary, see below.

Account Holder	Subcategory	Reporting obligation	Account balance or value	Gross payments (if any)
Trustee	Controlling pursuant to Art. 3 para. 2 SPV	Yes	Total assets of the trust or pro rata assets, if determinable ("otherwise calculated")	Board remunerations do not qualify as distribution or reportable gross payments. If the trustee is also the beneficiary, see below.
	Not controlling pursuant to Art. 3 para. 2 SPV	No	-	-
	Deceased (concerns only persons with control pursuant to Art. 3 para. 2 SPV)	Deceased before the AEOI became applicable: No	-	-
		Identified as reportable and deceased after the AEOI became applicable: Yes	Once zero as well as fact of "account closure" (AccountNumber = ClosedAccount)	Board remunerations do not qualify as a distribution or reportable gross payments. If the trustee is also the beneficiary, see below.
Protector	Controlling pursuant to Art. 3 para. 2 SPV	Yes	Total assets of the trust or pro rata assets, if determinable ("otherwise calculated")	Fees do not qualify as distribution or reportable gross payments. If the protector is also the beneficiary, see below.
	Not controlling pursuant to Art. 3 para. 2 SPV	No	-	-
	Deceased (concerns only persons with control pursuant to Art. 3 para. 2 SPV)	Deceased before the AEOI became applicable: No	-	-
		Identified as reportable and deceased after the AEOI became applicable: Yes	Once zero as well as fact of "account closure" (AccountNumber = ClosedAccount)	Fees do not qualify as distribution or reportable gross payments. If the protector is also the beneficiary, see below.
Entitled beneficiary	Beneficiary of the assets of the trust	Yes	Total assets of the trust or pro rata total assets insofar as individual entitled beneficiaries are clearly defined and delimitable	Value of the distributions to the respective entitled beneficiaries

Account Holder	Subcategory	Reporting obligation	Account balance or value	Gross payments (if any)
	Beneficiary of the income of the trust	Yes	Value of the income account or pro rata value of the income account	Value of the distributions to the respective entitled beneficiaries
	Beneficiary of the assets and income of the trust	Yes	Total assets of the trust or pro rata total assets, insofar as individual entitled beneficiaries are clearly defined and delimitable, as well as the value of the income account or pro rata value of the income account	Value of the distributions to the respective entitled beneficiaries
	Beneficiary of specific payments (e.g. once a year amount X over an unspecified period)	Yes	Net present value, alternatively total assets of the trust or pro rata total assets insofar as individual entitled beneficiaries are clearly defined and delimitable	Value of the distributions to the respective entitled beneficiaries
	Deceased	Deceased before the AEOI became applicable: No	-	-
		Identified as reportable and deceased after the AEOI became applicable: Yes	Once zero as well as fact of "account closure" (AccountNumber = ClosedAccount)	Value of the distributions (up to "account closure") to the entitled beneficiary
Contingent beneficiary	-	No, only once the entitlement to be beneficiary is obtained, see above. In respect of a contingent beneficiary who becomes a discretionary beneficiary, see below.	-	-
Discretionary beneficiary	-	Yes, only in the years in which a distribution is actually paid.	Zero as well as fact of "account closure" (AccountNumber = ClosedAccount)	Value of the distributions made to the discretionary beneficiaries during the relevant reporting year

Account Holder	Subcategory	Reporting obligation	Account balance or value	Gross payments (if any)
	Deceased	No	-	-
Other individual with ultimate effective control over the trust	Analogous to controlling trustee/protector (see above)			
Debt interest holder)	-	Yes	Nominal value of the liabilities (of the loan)	Value of the payments (capital repayments and interest payments) to the debt interest holder

Table 5: Reportable financial information concerning equity and debt interests in a foundation, an establishment with a structure similar to that of a foundation, a trust reg. with a structure similar to that of a foundation and a trust

10.2.3.1.2 In the case of corporations, including establishments with corporate structures, as well as companies without legal personality

674.

Account Holder	Reporting obligation	Account balance or value	Gross payments (if any)
An individual who holds or controls a share or voting rights of 25% or more of the Entity, or has an interest of 25% or more in the profit of the Entity	Yes	Value of the share	Value of the payments (capital repayments, dividends)
An individual who exercises ultimate control over the management of the Entity in another manner	Yes	Total assets of the corporation or pro rata controlled assets, if determinable ("otherwise calculated")	Value of the payments received on the basis of the control
An individual who holds the position of senior managing official	Yes	Value of the share (insofar as shareholder), otherwise zero	Board remunerations do not qualify as reportable gross payments. Value of the payments (capital repayments, dividends) (insofar as shareholder), otherwise zero
Debt interest holder	Yes	Nominal value of the liabilities (of the loan)	Value of the payments (capital repayments and interest payments) to the debt interest holder

Table 6: Reportable financial information concerning equity and debt interests in corporations, including establishments with corporate structures, as well as companies without legal personality

675. Unlike in the case of accounts of Passive NFEs, the CRS XML schema does not provide a specification of the types of equity and debt interest holders. For this reason, Reporting

Liechtenstein Financial Institutions may on a voluntary basis enter the category of the equity and debt interest holders in the optional field "GeneralSuffix". Pursuant to the OECD XML User Guide, this field is basically intended for details such as "Deceased, Retired,…". The category of the equity and debt interest holders can also be stated voluntarily in a manner analogous to the fields CRS801 to CRS813. The Fiscal Authority will inform the partner jurisdictions about this option. Reportable Persons and Account Holders must be informed accordingly by the Reporting Liechtenstein Financial Institutions (see in particular Art. 10 para. 1 subpara. d AEOI Act).

676. Insofar as an equity or debt interest holder exercises several functions (e.g. the founder is simultaneously the entitled beneficiary), then all functions may be specified in the optional field "GeneralSuffix". For this reason, the equity or debt interest holder does not have to be recorded twice. In these cases, in respect of the reportable total balance or value, the information set out in Chapter 10.2.3.2 must be attended.

10.2.3.2 Total balance or value in the case of equity and debt interests

677. In the case of equity and debt interests, inter alia the total balance or value of the equity or debt interests at the end of the respective calendar year or another appropriate reporting period must be reported.

678. The level or value of the Equity Interest corresponds to the net value (e.g. assets less debts pursuant to balance sheet) calculated by the Financial Institution for the purpose required by the most frequent determination of the value. If a foundation or a trust is not required to draw up a balance sheet, then instead of the balance sheet total the amount of the assets less the debts (net value) based on a simplified asset calculation can be applied as the value of an Equity Interest (see Art. 552 § 26 PGR).

679. In the case of trusts and foundations that are classified as Investment Entities, the role of the corresponding Account Holder (Equity Interest Holder) must be taken into account when determining the total balance or value of the Equity Interest.

680. In the case of a controlling founder, the value of the total assets of the foundation must be used.

681. Example:

Founders A and B simultaneously found the foundation X (Financial Institution), where A and B control the foundation. During the course of setting up the foundation, founder A contributed CHF 1 million in cash holdings, and founder B contributed a real estate property worth CHF 3 million. In the interim, the real estate property has been sold, and the total value of the assets of the foundation amount to CHF 5 million. A and B have been identified by the foundation as reportable Equity Interest Holders of the foundation X. Because A and B are controlling founders, they must each be reported along with the total value of the assets of the foundation amounting to CHF 5 million.

682. If a founder is simultaneously a trustee or entitled beneficiary of a foundation, then only one report needs to be made in respect of the person in question. In this context, however, the higher value of the Equity Interest must be applied.

683. Example 1:

Founder A set up the foundation X (Financial Institution). During the course of setting up the foundation, founder A contributed CHF 1 million in cash holdings. A is a non-controlling founder. But A is simultaneously also the entitled beneficiary of the foundation. In the interim, the total value of the assets of the foundation amount to CHF 5 million. A has been identified by the foundation as reportable Equity Interest Holder of the foundation X. Due to the status as entitled beneficiary, A must however be reported along with the total value of the foundation amounting to CHF 5 million.

684. Example 2:

Founder A set up the foundation X (Financial Institution), where A controls the foundation. During the course of setting up the foundation, founder A contributed CHF 1 million in cash holdings. A is simultaneously the discretionary beneficiary of the foundation. In the interim, the total value of the foundation assets amounts to CHF 5 million. In 2020 A receives a discretionary distribution amounting to CHF 50,000. A has been identified by the foundation as reportable Equity Interest Holder of the foundation X. Due to his status as the controlling founder, A must be reported each year along with the total value of the assets of the foundation amounting to CHF 5 million. In 2020, the discretionary distribution amounting to CHF 50,000 must also be reported. This must be recorded as a gross payment (see Chapter 10.2.3.3).

685. The value of an Equity Interest of an entitled beneficiary who is a beneficiary merely of the capital of the foundation is measured in terms of the balance sheet total of the foundation, less the non-capitalised income. If an entitled beneficiary is a beneficiary merely of a share of the capital of the foundation, then the value of the Equity Interest is measured in terms of the value of his entitlement to the capital.

686. The value of a beneficiary entitlement to the income of a foundation must be remeasured each year, and relates to the (pro rata) value of the income account. If the total income of the foundation is distributed each year, then the net income generated by the foundation must be recorded. The net income must be calculated in accordance with the income statement of the foundation.

687. A discretionary beneficiary receiving a distribution has no entitlement to participate in the Equity Interest of a foundation. For this reason, the total balance or value amounts to zero, and only the amounts distributed to the discretionary beneficiary need to be reported each year. If no distribution is made in one year, then no report needs to be made.

688. In the case of several distributions within a reporting period – even if each distribution is a New Account that is closed when the payout is made – a report with the total amount of all distributions may be reported instead of individual reports, for reasons of simplification, provided that the reports refer to the same country(ies) of residence. Consequently, in such cases – likewise for reasons of simplification – no new self-certification must be obtained (see para. 387).

689. If, on the other hand, several reports are required (e.g. if the discretionary beneficiary has relocated during the year and thus has a new tax residence, see para. 387), the respective individual reports must be made for each Reportable Jurisdiction and for the respective part

of the reporting period in which a tax residence existed; in this case as well, several distributions per jurisdiction may also be added together. Since each individual distribution is de facto an account opening and closing transaction, it is not necessary, unlike in the case of an entitled beneficiary, to consider residence as of the reporting date (usually the end of the calendar year, see para. 595) (see also the example in para. 360).

690. In the case of distributions to a discretionary beneficiary, an account closure must also be reported, given that the legal claim no longer exists once the payout is made. If it is to be expected that further distributions will be made in the same reporting period or in later reporting periods, reporting of the account closure may be waived for reasons of simplification. In the event of a change of residence from one Reporting Jurisdiction to another, an account closure must be reported in any case for discretionary beneficiaries who have already been reported.

691. Insofar as the payment to a discretionary beneficiary is made in instalments and passes a reporting date, then the amount of the distributions that have not yet been paid out must be recorded as an Equity Interest.

692. Example:

A is a discretionary beneficiary of foundation X (Financial Institution). In 2020 the foundation council resolves to make a discretionary distribution amounting to CHF 100,000, whereby CHF 30,000 is to be distributed immediately and the remaining CHF 70,000 in the following year. In the report for 2020, the value of the distributions amounting to CHF 70,000 that have not yet been made must be recorded under the heading of the total balance or value. At the same time, the distributions amounting to CHF 30,000 must be reported under the heading of gross payments (see Chapter 10.2.3.3). In respect of the report for 2021, the total balance or value is once again zero. At the same time, the remaining distributions amounting to CHF 70,000 must be reported under the heading of gross payments (see Chapter 10.2.3.3).

693. Insofar as a person is the entitled beneficiary of the income as well as the discretionary beneficiary of the capital, the respective overall reportable information must be reported, although, in contrast to the remarks above, no account closures have to be reported in regard to the discretionary distribution. If the net income in accordance with the income statement is already part of the total assets, the income does not have to be reported twice. In such cases, only the total assets have to be reported.

694. Example:

A is the entitled beneficiary of the income of foundation X as well as the discretionary beneficiary of the capital. The value of the income account of the foundation for 2020 amounts to CHF 50,000. In the year 2020, A receives a discretionary distribution amounting to CHF 10,000. The value of the income statement amounting to CHF 50,000 must be recorded under the heading of the total balance or value. At the same time, the distributions amounting to CHF 10,000 must be reported under the heading of gross payments (see Chapter 10.2.3.3).

695. The level or value of a debt interest corresponds to its nominal value (value of the claim towards the Investment Entity).

696. If a founder is simultaneously a debt interest holder of a foundation, then only one report needs to be made in respect of the person in question. In this context, the value of the Equity Interest and the value of the Debt Interest must be summed up and the total must be reported.

697. Example:

Founder A set up the foundation X (Financial Institution). During the course of setting up the foundation, founder A contributed CHF 1 million in cash holdings. A also grants a loan to the foundation amounting to CHF 200,000. In the interim, the total value of the assets of the foundation amounts to CHF 5 million. A has been identified by the foundation as the reportable equity and debt interest holder of the foundation X. A can be reported in respect of the Equity Interest using the value of the endowed assets, consequently CHF 1 million. Insofar as this value can no longer be determined, A may also be reported along with the total value of the assets of the foundation amounting to CHF 5 million. As A is, however, also a debt interest holder of the foundation the loan amounting to CHF 200,000 must also be taken into account. For this reason, in respect of A, a total balance or value amounting to CHF 1.2 million or CHF 5.2 million respectively needs to be reported.

10.2.3.3 Gross payments in the case of equity or debt interests

698. In addition to the aggregated balance or value, in the case of an equity or debt interest the total gross amount paid or credited to the Account Holder with respect to the account during the calendar year or other appropriate reporting period, and with respect to which the Reporting Financial Institution is the debtor (distributions), including the aggregate amount of any redemption payments (e.g. capital repayment in the case of a stock corporation; revocation of a revocable foundation) made to the Account Holder during the calendar year or other appropriate reporting period must be reported (Art. 9 para. 2 lit. g AEOI Act).

699. A distribution means the allocation of a pecuniary benefit at the expense of the Entity and in favour of the beneficiary (entitled beneficiary as well as distribution recipient). This pecuniary benefit may consist of bankable and non-bankable assets, whereby it is important to note that the transaction reduces the assets of the Entity.

Examples of distributions:

- The foundation council resolves to make a distribution to a beneficiary at the expense of the foundation account amounting to CHF 10,000.

- An invoice for real estate property that is owned by the beneficiary is paid, and this therefore constitutes a distribution to the aforementioned beneficiary.

- Payment of private travel, cost of an automobile or other expenses of the beneficiary also qualify as distributions, as they are not attributable to the Entity.

700. From a company law perspective, for example, interest-free loans granted by the Entity to the beneficiary do not qualify as distributions (amounting to the loan sum), as this does not reduce the assets of the Entity (apart from any possible difference to the arm's length interest rate). If the loan is however written off at a later date at the expense of the Entity, then the paid loan sum must be qualified as a distribution. This is likewise the case if real estate that is owned

by the Entity is used. In this instance, the real estate itself does not qualify as a (tangible asset) distribution (apart from any possible difference to the arm's length rent). On the other hand, the transfer of the real estate to the beneficiary would qualify as a distribution. This approach is based on the company law approach, and the qualification pursuant to applicable tax law may reach the opposite conclusion.

701. Investments of the Entity as well as transfers between accounts that are owned by the same Entity do not qualify as distributions.

702. Expenses incurred by an Entity must be separated from a distribution made to a beneficiary. Expenses mean the cost incurred by the Entity because of the ordinary management of the Entity as well as of its assets. In this context it is important to note that an invoice should not per se be classified as an expense.

703. An invoice presented to the Entity (e.g. foundation) must be qualified as an expense and not as a distribution. It is, of course, important to note that the service or goods being invoiced are ultimately rendered or intended for the Entity. If an invoice is paid for the beneficiary, for example, then this constitutes a distribution (see above), or if the beneficiary pays an invoice for the Entity, then this constitutes an endowment for the Entity (see below).

704. Examples:

- Third parties present an invoice to the Entity, such as for example foundation council fees, accountancy expenses, or for drawing up the tax return for the Entity.

- The Entity owns a real estate property, meaning that the expenses associated with this real estate constitute expenses that are incurred by the Entity, and are not distributions. This could, for example, be the cost of managing the real estate or the cost of maintaining the real estate.

705. By the same token, the payment of an invoice at the expense of the Entity by a third party (e.g. the founder) constitutes an endowment made to the Entity, insofar as no equivalent is agreed.

706. In the case of debt interests, gross payments include the interest payments made to the respective debt interest holders.

10.2.3.4 Account closure

707. If a person who was identified as a Reportable Person resigns from his position (e.g. a foundation council member), if a founder dies or if a person with ultimate effective control waives his rights, then the account closure as well as the gross payments made up to that date must be reported.

10.2.4 For Cash Value Insurance Contracts and Annuity Contracts

10.2.4.1 Cash Value Insurance Contract

708. The following performances must in particular be reported:

- Survival benefit;

- Death benefit;
- Redemption benefit;
- Partial redemption benefits;
- Reimbursement of unused premiums in the case of products linked to capital assets (see Section VIII/C/8/c of the CRS);
- Redemption of advance premium payments or premium portfolios, insofar as the level of the premium portfolio or the level of the advance premium payment exceeds the next contractually due annual premium (see Section VIII/C/8/e of the CRS).

709. For reporting purposes, the following deadlines are relevant for determining the maturity:

- Survival benefit: Expiry date of the Cash Value Insurance Contract;
- Death benefit: Occurrence of the insured event;
- Redemption benefit: Payout of the redemption benefit.

710. A Liechtenstein Specified Insurance Company may apply alternative maturity dates pursuant to VersVG for the contractual benefit (insofar as, for example, the Specified Insurance Company is only belatedly informed about the occurrence of the insured event, or in cases of disputed claim entitlements). Premium exemptions in the event of the inability to work or death of the premium payer do not constitute reportable benefits.

10.2.4.2 Annuity Contract

711. The following performances must in particular be reported:

- Periodic annuity benefits;
- Premium reimbursement in the event of death;
- Redemption benefit;
- Partial redemption benefits;
- Refund of unused premiums in the case of products linked to capital assets (see Section VIII/C/8/c of the CRS);
- Return of advance premiums or premium deposits if the amount of the premium deposit or the advance premium exceeds the next annual premium that will be payable under the contract (see Section VIII/C/8/e of the CRS).

712. For reporting purposes, the following deadlines are relevant for determining the maturity:

- Periodic annuity benefits: Occurrence of the insured event (survival of the contractually agreed periodic reporting date);

- Premium reimbursement in the event of death: Occurrence of the insured event;

- Redemption benefit: Payout of the redemption benefit.

713. A Liechtenstein Specified Insurance Company may apply alternative maturity dates pursuant to VersVG for the contractual benefit (insofar as, for example, the Specified Insurance Company is only belatedly informed about the occurrence of the insured event, or in cases of disputed claim entitlements). All of the aforementioned benefits must be reported as the element "Payment" under the category "Other-CRS" (CRS504). Premium exemptions in the event of the inability to work or death of the premium payer do not constitute reportable benefits.

10.2.4.3 Payment in the event of death

714. An amount payable solely by reason of the death of an individual who has a life insurance contract does not constitute a Cash Value. It is irrelevant whether this is a personal insurance contract or an insurance contract on the life of a third party (Section VIII/C/8/a of the CRS).

715. Example:

The insurance benefit arising out of a death benefit insurance contract does not constitute a Cash Value, insofar as the preconditions pursuant to Section VIII/C/17/c of the CRS are fulfilled.

716. A death benefit (in the form of a one-off amount, an annuity benefit or other alternative benefit) arising out of a lifelong death benefit insurance contract and the death benefit arising out of a redeemable capital insurance contract as well as the death benefit arising out of a non-Cash Value Insurance Contract are not covered by this provision.

717. Example:

A is the policyholder and insured person of a non-Cash Value Insurance Contract (e.g. lifelong death benefit insurance contract). The one-off contribution is CHF 1.0 million. Z is the revocable beneficiary of the benefit payable at death. The death benefit of CHF 1.01 million (consisting of the market value of the investment stock at the time of death amounting to the assumed total of CHF 1.00 million and a risk death benefit sum of CHF 0.01 million) is essentially or comprehensively paid from the investment stock attributable to the insurance contract. The risk premiums determined and charged to this contract – using recognised actuarial methods – do not correspond to the performed contributions, and/or the risk premiums are disproportionately low relative to the benefit payable at death. A is resident in France and dies at the beginning of the year 2020. A is an Account Holder up to the year 2020 within the meaning of the CRS (report, due to absence of Cash Value, for an amount of CHF 0). The benefit payable at death is paid to Z as at 1 July 2030, who at this time is resident in a partner jurisdiction. Z is identified in 2020 in accordance with the rules for New Accounts, and the benefit payable at death must be reported.

10.2.4.4 Personal injuries, sickness and economic loss

718. If an insurer pays personal injury or sickness benefits or other benefits providing indemnification of an economic loss incurred upon the occurrence of the event insured against, these insurance benefits do not constitute a Cash Value (see Section VIII/C/8/b of the CRS).

719. Examples:

- The capital payable at death arising out of a motor vehicle insurance contract does not represent a Cash Value within the meaning of the CRS.

- A liability insurer is required to pay capital or periodic benefits to a person on the basis of a liability insurance policy. This does not represent a Cash Value within the meaning of the CRS.

- A benefit paid to compensate for household damage does not represent a Cash Value.

- A benefit paid to compensate for pecuniary damage and consequential pecuniary damage does not represent a Cash Value.

10.2.4.5 Relevant contributions for insurance contracts

720. Pursuant to the CRS, the relevant balance of an insurance contract may be determined and reported either on the basis of the calendar year or alternatively on the basis of other appropriate reporting period. Once the applicable reporting period has been chosen, this must generally be retained for a reasonable period of time. In particular, the insurance year constitutes a suitable reporting period for insurance contracts.

721. In the case of Cash Value Insurance Contracts or Annuity Contracts, the cash or redemption value represents the reportable balance (Section I/A/4 of the CRS). The Cash Value corresponds (Section VIII/C/8 of the CRS):

- to the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or a policy loan);

- to the amount the policyholder can borrow under or with regard to the contract, depending on which amount is higher.

722. There is no comparable detailed definition for the redemption value. For this reason, for a definition of the term "redemption value" see Art. 68 VersVG or alternatively Art. 106 and 148 VersAG in conjunction with Annex 4 ("reporting obligations towards policyholders").

723. Reporting Liechtenstein Financial Institutions may choose to cite the inventory reserve as the relevant balance for AEOI purposes, and may report this accordingly.

724. If an insurance policy within the meaning of Art. 68 para. 2 VersVG is not yet or no longer redeemable, then this has a relevant Cash Value of zero for AEOI purposes. A capital-forming,

non-redeemable annuity insurance policy (annuity insurance policy without premium reimbursement in the event of death) has a redemption value of zero if the Reporting Financial Institution treats the redemption value as the relevant parameter instead of the inventory reserve.

725. In the case of benefits arising out of a tontine or capitalisation transaction (insurance branches 5 and 6 pursuant to Annex 2 VersAG), the reportable asset income is limited to the amount that does not represent a repayment of the contributed resources. If the Reporting Liechtenstein Financial Institution is unable to distinguish between redemption and income components, then the entire payment must be treated like a reportable payment.

726. Example 1:

The deposit amount to a fund-linked capitalisation transaction amounts to CHF 100,000. Up until the occurrence of the insured event (in this case: the end of the maturity or redemption), the redemption value or the inventory reserve at the end of a calendar year or another appropriate reporting period is reported. After maturity, an expiry benefit of CHF 105,000 results. The income component of CHF 5,000 is reportable. The capital redemption component amounting to CHF 100,000 is not reportable.

727. Example 2:

A capitalisation transaction that is structured as a "withdrawal scheme" is set up with a one-off deposit of CHF 50,000. Up until the occurrence of the insured event (in this case: the end of the maturity or full redemption), the redemption value or the inventory reserve at the end of a calendar year or another appropriate reporting period is reported. During the contractual period of five years, an annual benefit of CHF 10,500 is paid out to the client. The annual income component of CHF 500 is reportable in addition to the redemption value or the inventory reserve at the end of a calendar year. The annual capital redemption component amounting to CHF 10,000 is not reportable.

728. In the case of Cash Value Insurance Contracts and Annuity Contracts, the following payments must be reported:

- the benefits paid or credited by the insurer following the occurrence of the insured event or redemption;
- the benefits triggered by the insured event (e.g. survival, death or redemption) (incl. any possible surplus payments).

729. For example, actuarially determined allocations of interest or surpluses or changes in the value of unit-linked products do not represent reportable events.

730. Any possible transaction taxes charged to the Account Holder (e.g. incurred sales duty, if fund units are transferred to the Account Holder in the case of a fund-linked life insurance policy) also do not need to be taken into account when determining the reportable benefits.

731. Example 1:

A fund-linked Cash Value Insurance Contract has an asset stock value of CHF 42,000 on 31

December. Pursuant to Art. 106 VersAG in conjunction with Annex 4 VersAG ("reporting obligations to policyholders"), the insurance company reports this amount to the policyholder. Up until the occurrence of the insured event (in this case: maturity brought about by the death of the insured persons, end of the maturity or redemption), this amount is reported to the Fiscal Authority.

732. Example 2:

In accordance with the insurance contract, a Reporting Liechtenstein Financial Institution pays a survival benefit to the policyholder resident in a partner jurisdiction. This is a reportable payment.

733. Example 3:

A policyholder, resident in a partner jurisdiction, concludes an insurance contract with a Reporting Liechtenstein Financial Institution. Surpluses are allocated to this contract for each insurance year. The allocation is not a reportable procedure. The surplus allocations are recorded as a reportable procedure only at the time of the contractual maturity or dissolution of the contract.

734. As a basic rule, if there are several Account Holders, the total balance or value as well as all aforementioned payments must be comprehensively attributed to each Reportable Person and reported accordingly. An attribution per capita or per ownership structures does not need to be performed. Due to the clear insurance contract definition of the individual categories of entitled beneficiaries, it is possible to deviate as follows from the basic rule in the field of annuity insurance:

735. A is the policyholder and insured person of a redeemable Annuity Contract. Y is the person with entitlement to the periodic annuity benefits. A is the Account Holder within the meaning of the CRS throughout the entire contractual period. Y must also be treated as an Account Holder from the start of the annuity period.

- Report A: Throughout the entire contractual period, a report must be made to the jurisdiction of residence. The respective account value "RedemptionValue" must be reported under "AccountBalance". The amount "0" must be reported in the element "Payment".

- Report Y: From the start of the maturity period of the first annuity payment, a report must be made to the jurisdiction of residence. The account value "0" must be reported under "AccountBalance", as the beneficiary does not have any entitlement to the redemption value. The respective annuity benefit pursuant to the civil law entitlement must be reported in the element "Payment", i.e. if there are several beneficiaries, then a report shall be made in respect of the individual benefits paid to the respective beneficiaries.

10.2.5 For Passive NFEs as Account Holders

10.2.5.1 In general

736. Insofar as a Passive NFE with reportable Controlling Persons has been identified as Account Holder, then the aggregate balance or value as well as (if paid) the following gross payments must be reported each year. The following tables show all categories of Controlling Persons of a Passive NFE. Identification of the Reportable Persons is performed in accordance with AEOI due diligence procedures (see Chapter 3 to 8).

10.2.5.2 In the case of a foundation, an establishment with a structure similar to that of a foundation, a trust reg. with a structure similar to that of a foundation and a trust

737.

Controlling Person	Subcategory	Reporting obligation	Account balance or value	Gross payments
Settlor (CRS804 and CRS809)	Controlling pursuant to Art. 3 para. 2 SPV.	Yes	Reportable aggregate balance or value	See Chapter 10.2.1 and 10.2.2.
	Not controlling pursuant to Art. 3 para. 2 SPV	Yes	Reportable aggregate balance or value	See Chapter 10.2.1 and 10.2.2.
	Deceased	No	-	-
Trustee (CRS805 and 810)	Controlling pursuant to Art. 3 para. 2 SPV	Yes	Reportable aggregate balance or value	See Chapter 10.2.1 and 10.2.2.
	Not controlling pursuant to Art. 3 para. 2 SPV	Yes	Reportable aggregate balance or value	See Chapter 10.2.1 and 10.2.2.
	Deceased	No	-	-
Protector (CRS806 and CRS811)	Controlling pursuant to Art. 3 para. 2 SPV	Yes	Reportable aggregate balance or value	See Chapter 10.2.1 and 10.2.2.
	Not controlling pursuant to Art. 3 para. 2 SPV	Yes	Reportable aggregate balance or value	See Chapter 10.2.1 and 10.2.2.
	Deceased	No	-	-
Entitled beneficiary (CRS807 and CRS812)	Beneficiary of the assets of the trust	Yes	Reportable aggregate balance or value	See Chapter 10.2.1 and 10.2.2.
	Beneficiary of the income of the trust	Yes	Reportable aggregate balance or value	See Chapter 10.2.1 and 10.2.2.

Controlling Person	Subcategory	Reporting obligation	Account balance or value	Gross payments
	Beneficiary of the assets and income of the trust	Yes	Reportable aggregate balance or value	See Chapter 10.2.1 and 10.2.2.
	Beneficiary of specific payments (e.g. once per annum amount X over an unspecified period)	Yes	Reportable aggregate balance or value	See Chapter 10.2.1 and 10.2.2.
	Deceased	No	-	-
Discretionary beneficiary as distribution recipient (CRS807 and CRS812)	-	Yes, only in the years in which a distribution is actually paid.	Reportable aggregate balance or value	See Chapter 10.2.1 and 10.2.2.
	Deceased	No	-	-
Other individual ultimate effective control over the trust (CRS808 and CRS8013)	Analogous to controlling trustee/protector (see above)			

Table 7: Determination of reportable Controlling Persons in the case of a foundation, an establishment with a structure similar to that of a foundation, a trust reg. with a structure similar to that of a foundation and a trust

10.2.5.3 In the case of corporations, including establishments with corporate structures, as well as companies without legal personality

738.

Controlling Person pursuant to CRS	Reporting obligation	Account balance or value	Gross payments
An individual who holds or controls a share or voting rights of 25% or more of the Entity, or has an interest of 25% or more in the profit of the Entity (CRS801)	Yes	Reportable aggregate balance or value	See Chapter 10.2.1 and 10.2.2.
An individual who exercises ultimate control over the management of the Entity in another manner (CRS802)	Yes	Reportable aggregate balance or value	See Chapter 10.2.1 and 10.2.2.
An individual who is a member of the Executive Body (CRS803)	Yes	Reportable aggregate balance or value	See Chapter 10.2.1and 10.2.2.

Table 8: Determination of reportable Controlling Persons in the case of corporations, including establishments with corporate structures, as well as companies without legal personality

In the case of accounts of Passive NFEs with reportable Controlling Persons, the category of the Controlling Person must also be specified (CRS801 to CRS813). If the category of the Controlling Person is not known, this information may be waived. 739.

Insofar as a Controlling Person exercises several functions (e.g. the founder is simultaneously the authorised beneficiary), then this person must be recorded separately for each function. For this reason, a separate "Controlling Person" must be recorded for each function exercised by a Controlling Person. 740.

10.3 Reporting deadlines

10.3.1 In general

Reports to the Fiscal Authority must be made within six months from the end of the respective calendar year following the year in which the account was identified as a Reportable Account (also see Chapter 10.1). 741.

Example: 742.

If the identification of a Preexisting Individual Lower Value Account (pursuant to the AEOI due diligence procedures resident in the EU) or of a Preexisting Entity Account (pursuant to the AEOI due diligence procedures resident in the EU) is completed in the year 2016 (even though the identification did not actually have to be completed before 31 December 2017, see Chapter 4.3.3.5 as well as 6.4), then the report to the Fiscal Authority in respect of the 2016 reporting period must be made by 30 June 2017 at the latest.

10.3.2 Reports in the case of late notifications of Passive NFEs

If, due to the late notification of a Passive NFE, it turns out that a person should already have been identified as a Reportable Person in previous reporting periods, the remarks in para. 596 apply to the individual case. 743.

11. Information obligation

11.1 Content of the information

744. Pursuant to Art. 10 AEOI Act Reporting Liechtenstein Financial Institutions are obliged to inform all Reportable Persons about the following matters:

a) their capacity as a Reporting Liechtenstein Financial Institution;

b) the relevant applicable agreements, their content and their purpose;

c) the list of Liechtenstein's partner jurisdictions and where to find the respective updated published list (see Art. 2 and Annex 1 of the AEOI Ordinance);

d) the information to be exchanged on the basis of the agreements, whereby a list of the individual assets/income is not required;

e) the permissible use of the information to be exchanged in accordance with Art. 15 and 16 AEOI Act under the applicable agreements;

f) the rights of Reportable Persons and Entities that are Account Holders, pursuant to data protection legislation and the AEOI Act, in particular the right to access information and the right to correct incorrect data.

745. The provision of further information is possible at any time on a voluntary basis, although not mandatory.

746. In the event of amendments to the information that is to be transmitted, then pursuant to Art. 10 para. 2 AEOI Act, the persons in question must be informed once again.

747. The information must be sent to Reportable Persons who are Account Holders. The information is considered as delivered if it has been delivered within the context of standard client communications.

748. The information must be documented and retained in Liechtenstein for ten years from the date it is sent. The information may also be stored in electronic form. In the event of the deletion of a Reporting Liechtenstein Financial Institution, the Fiscal Authority must be informed of a safekeeping location (for further details, see Chapter 2.10).

749. In the event of an Entity who is an Account Holder and for whom one or more Controlling Persons have been identified, the information for the Reportable Persons shall be delivered to the Entity. Liechtenstein Entities must forward the information to the Reportable Persons immediately (i.e. without delay), in order to ensure they are notified on time that the information concerning them will be reported to the Fiscal Authority and then to the Liechtenstein partner jurisdictions.

750. In the case of Reportable Accounts that have been closed, the Reporting Liechtenstein Financial Institutions must inform the Reportable Persons once by sending this information to the last known address.

In the case of a natural person (exclusively) from a nonreciprocal AEOI partner jurisdiction (see Chapter 1.3.4), no information has to be provided under Art. 10 AEOI Act. If the person in question additionally is a tax resident of another AEOI partner jurisdiction, the information obligations must continue to be fulfilled in relation to those jurisdictions. 751.

11.2 Deadlines

Pursuant to Art. 10 AEOI Act the Reportable Persons must be informed at the latest by 31 March of the year in which the relevant information will be transmitted to the Fiscal Authority. Generally, a unique information is sufficient, even if reportings are subsequently made on an annual basis. A Liechtenstein Financial Institution may, however, make provision to inform the Reportable Persons annually. 752.

If a retroactive report must be made, the Reportable Persons must be informed before or at the same time as the submission of the retroactive report. 753.

Example: 754.

The client is resident in jurisdiction A, in respect of which an agreement exists. The client is informed about the content of the agreement on time pursuant to Art. 10 AEOI Act. After 2 years, the client becomes resident for tax purposes in jurisdiction B because of a change of address. Jurisdiction B is also a signatory to the agreement. The Financial Institution is not obliged to inform the client once again about the reporting. It is also not necessary to inform the client once again if the agreement with jurisdiction B had not yet been in existence at the time the client was informed, as the client information will refer to the location of the respective updated list of all partner jurisdictions (Art. 2 and Annex 1 of the AEOI Ordinance), as checking the list is in the responsibility of the client.

The client notification may be an integral part of the account opening documents, or in the case of Preexisting Accounts may be delivered within the context of an ordinary client contact (e.g. as an enclosure to an account statement/interest statement) or within the context of obtaining a self-certification. 755.

In the case of a New Account that (see para. 82 of the CRS Commentary on Section VIII of the CRS) can be attributed to an already Preexisting Account of the same Reportable Person, the duty to provide information is also considered to have been fulfilled if the Reportable Person or the Account Holder of the Preexisting Account has already been informed. 756.

12. Organisation and procedures

12.1 Provisions pertaining to abusive practices

757. Pursuant to Art. 26 para. 1 AEOI Act, legal or de facto arrangements whose primary purpose is to circumvent the obligations of an applicable agreement or AEOI Act, constitute abuse.

758. Liechtenstein Entities may themselves neither manage nor support the utilisation of structures that constitute abuse pursuant to para. 1.

759. If an abusive practice exists, Liechtenstein Entities must meet their obligations under the applicable agreements and this Act as they would without the benefit of this abusive arrangement. The penal provisions pursuant to the AEOI Act are expressly reserved.

760. Example 1:

A discretionary foundation (Passive NFE) maintains a bank account at Bank X in jurisdiction A (Participating Jurisdiction) with a balance of USD 1 million. The foundation resolves to make a distribution to Mr Z (discretionary beneficiary resident in jurisdiction B) amounting to USD 50,000. Jurisdiction B is a partner jurisdiction of jurisdiction A (for this reason, any possible distribution to Mr Z would need to be reported by Bank X to jurisdiction A, and thereafter to jurisdiction B). In order to circumvent this report, the foundation opens a new bank account for distribution purposes at Bank Y in jurisdiction B (Non-Participating Jurisdiction), and transfers USD 50,000 from the bank account at Bank X to the bank account at Bank Y. The distribution is then performed from the account at Bank Y. As jurisdiction B is not a Participating Jurisdiction, no report is made under the AEOI.

In this case, the primary purpose is to circumvent the reporting of Mr Z by Bank X. This therefore represents an abusive structure within the meaning of Art. 26 AEOI Act. For this reason, the discretionary foundation must report Mr Z to Bank X as the Controlling Person, thus enabling Bank X to issue the corresponding AEOI report.

761. Example 2:

Mr X (resident in the Non-Participating Jurisdiction A) sets up a foundation (Financial Institution) and subsequently contributes the minimum capital as foundation assets. Mr X does not, however, have any personal interest in the foundation, but is instead acting merely in accordance with an agreement reached with Mr Y (resident in the Reportable Jurisdiction B). In accordance with the terms of the agreement, the foundation purpose stipulated by Mr X as well as the beneficiaries correspond to the intention of Mr Y. After the foundation is lawfully set up, a substantial asset dedication is made to the foundation by Mr Y amounting to USD 500,000. As the purported donor, Mr Y is not recorded as the founder, and no AEOI report for the foundation in relation to Mr Y is made to jurisdiction B.

In this case, the sole purpose is to circumvent the reporting of Mr Y to jurisdiction B. This therefore represents an abusive structure within the meaning of Art. 26 AEOI Act. For this reason, the foundation must report Mr Y as the founder (Equity Interest Holder).

762. By contrast, structures that are selected for reasons other than to circumvent tax or the reporting and due diligence obligations are not considered to constitute abusive practice, for example for economic, investment-strategy or legal reasons. In addition, on the basis of the free movement of capital, this provision also does not cover the legitimate movement of capital to another state or to another jurisdiction. Assets that have been moved to another state or to another jurisdiction are subject to the legal system of this other state or this other jurisdiction, and for this reason it is not possible to breach an applicable agreement and the AEOI Act.