**Multilateral Competent Authority Agreement on the Automatic Exchange regarding CRS Avoidance Arrangements and Opaque Offshore Structure**

Whereas, the jurisdictions of the signatories to the Multilateral Competent Authority Agreement on the Automatic Exchange regarding CRS Avoidance Arrangements and Opaque Offshore Structures (the “Agreement”) are Parties of, or territories covered by, the Convention on Mutual Administrative Assistance in Tax Matters or the Convention on Mutual Administrative Assistance in Tax Matters as amended by the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters (the “Convention”);

Whereas, the jurisdictions intend to further improve international tax compliance by building on their relationship with respect to mutual assistance in tax matters, in particular the automatic exchange of financial account information pursuant to the Common Reporting Standard and by means of the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information;

Whereas exchanges under the Common Reporting Standard have now commenced amongst the over 100 committed jurisdictions, demonstrating a major shift in international tax transparency and strengthening the ability of jurisdictions to tackle offshore tax evasion;

Whereas there may be cases where professional advisers and other intermediaries continue to design, market or assist in the implementation of offshore structures and arrangements that can be used by non-compliant taxpayers to circumvent the correct reporting of relevant information to the tax administration of their jurisdiction of residence, including under the Common Reporting Standard;

Whereas, against this background, G7 Finance Ministers on 13 May 2017 issued the Bari Declaration, calling on the OECD to start “discussing possible ways to address arrangements designed to circumvent reporting under the Common Reporting Standard or aimed at providing beneficial owners with the shelter of non-transparent structures”;

Whereas, the Model Mandatory Disclosure Rules were developed by the OECD in response to that call in order to provide tax administrations with information on CRS Avoidance Arrangements and Opaque Offshore Structures, including the users of those arrangements and those involved with their supply, for compliance purposes, to inform future tax policy design, as well as to have a deterrent effect on advisors and other intermediaries against the design, marketing, assistance in the implementation and use of such arrangement, therewith bolstering the overall integrity of the Common Reporting Standard;

Whereas, the laws of the respective Jurisdictions require or are expected to require the disclosure of CRS Avoidance Arrangements and Opaque Offshore Structures, consistent with the scope of exchange contemplated by Section 2 of this Agreement, the Model Mandatory Disclosure Rules and Section IX of the Common Reporting Standard;

Whereas, in instances where such information relates to a Reportable Taxpayer that is resident in one or more other Jurisdictions, it is contemplated that such information is exchanged with the tax administration of that jurisdiction in accordance with the terms of the applicable international legal instrument;

Whereas, Chapter III of the Convention authorises the exchange of information for tax purposes, including the exchange of information on an automatic basis, and Article 6 of the Convention allows the competent authorities of the Jurisdictions to agree the scope and modalities of such automatic exchanges, such exchanges of the information between Competent Authorities taking place on a bilateral basis;

Whereas, the Jurisdictions have in place by the time the first exchange takes place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement remains confidential and is used solely for the purposes set out in the Convention, and (ii) the infrastructure for an effective exchange relationship;

Whereas, the Competent Authorities of the jurisdictions intend to conclude an agreement to gather further intelligence and improve on international tax compliance based on automatic exchange pursuant to the Convention, without prejudice to national legislative procedures (if any), respecting EU law (if applicable), and subject to the confidentiality and other protections provided for in the Convention, including the provisions limiting the use of the information exchanged thereunder;

Whereas, the Competent Authorities intend to collaborate and assist each other using the forms of assistance permitted under the Convention to make the most effective use of the information obtained under applicable domestic mandatory disclosure rules for CRS Avoidance Arrangements and Opaque Offshore Structures;

Now, therefore, the Competent Authorities have agreed as follows:

**SECTION 1**

**Definitions**

1. For the purposes of this Agreement, the following terms have the following meanings:

a) the term “Jurisdiction” means a country or a territory in respect of which the Convention is in force and is in effect, either through signature and ratification in accordance with Article 28, or through territorial extension in accordance with Article 29, and which is a signatory to this Agreement;

b) the term “Competent Authority” means, for each respective Jurisdiction, the persons and authorities listed in Annex B of the Convention;

c) the term “Reportable Arrangement” means a CRS Avoidance Arrangement or Opaque Offshore Structure that has been disclosed in the Jurisdiction under its Mandatory Disclosure Rules with respect to which one or more persons that are Reportable Taxpayers have been identified;

d) the term “Reportable Taxpayer” means, in respect of a CRS Avoidance Arrangement, any actual or potential user of that Arrangement and, in respect of an Opaque Offshore Structure, a natural person whose identity as a Beneficial Owner cannot be accurately determined due to the Opaque Offshore Structure;

e) the term “Model Mandatory Disclosure Rules” means the model mandatory disclosure rules for CRS Avoidance Arrangements and Opaque Offshore Structures, published by the OECD in March 2018;

f) the term “Co-ordinating Body Secretariat” means the OECD Secretariat that, pursuant to paragraph 3 of Article 24 of the Convention, provides support to the co-ordinating body that is composed of representatives of the competent authorities of the Parties to the Convention; g) the term “Agreement in effect” means, in respect of any two Competent Authorities, that both Competent Authorities have indicated their intention to automatically exchange information with each other and have satisfied the other conditions set out in paragraph 2 of Section 6;

h) the term “Mandatory Disclosure Rules” means the implementing legislation of the Jurisdiction applying the Agreement, such legislation being consistent with the Model Mandatory Disclosure Rules.

2. Any capitalised term not otherwise defined in this Agreement will have the meaning that it has at that time under the Mandatory Disclosure Rules of the Jurisdiction applying the Agreement. Any term not otherwise defined or referenced in this Agreement or in the Model Mandatory Disclosure Rules will, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the Jurisdiction applying this Agreement, any meaning under the applicable tax laws of that Jurisdiction prevailing over a meaning given to the term under other laws of that Jurisdiction.

**SECTION 2**

**Exchange of Information with Respect to Reportable Arrangements**

1. Pursuant to the provisions of Articles 6 and 22 of the Convention and subject to the applicable Mandatory Disclosure Rules, each Competent Authority will exchange with the Competent Authority(ies) of the Jurisdiction(s) where the Reportable Taxpayer is resident for tax purposes, with respect to which it has this Agreement in effect, on an automatic basis the information obtained pursuant to such rules and specified in paragraph 3.

2. Notwithstanding the previous paragraph, the Competent Authorities of the Jurisdictions that have indicated that they are to be listed as non-reciprocal jurisdictions on the basis of their notification pursuant to subparagraph 1(b) of Section 6 will send the information set out in paragraph 3, but will not receive such information under this Agreement.

3. The information to be exchanged is with the Jurisdiction(s) of tax residence of a Reportable Taxpayer with respect to a Reportable Arrangement is:

a) the name and address, of the following persons:

• the person making the disclosure;

• the Reportable Taxpayer, including the jurisdiction(s) and TIN(s) of tax residence and the date of birth;

• any person that is an Intermediary with respect to that Arrangement or Structure (other than the person making the disclosure), including each such Intermediary’s jurisdiction(s) of tax residence.

b) the details of that CRS Avoidance Arrangement or Opaque Offshore Structure including;

• in respect of a CRS Avoidance Arrangement, a factual description of those features of the Arrangement that are designed to have, marketed as having, or have the effect of, circumventing the CRS Legislation;

• in respect of an Opaque Offshore Structure, a factual description of those features that have the effect of not allowing the accurate determination of the Reportable Taxpayer’s Beneficial Ownership or creating the appearance that the Reportable Taxpayer is not a Beneficial Owner of the Passive Offshore Vehicle; and

c) the jurisdiction or jurisdictions where the CRS Avoidance Arrangement or Opaque Offshore Structure has been made available for implementation.

to the extent such information was within the knowledge, possession or control of the person providing the disclosure and reflecting the content of the disclosure made by the Intermediary to the sending Competent Authority.

**SECTION 3**

**Time and Manner of Exchange of Information**

1. With respect to paragraph 3 of Section 2, and subject to the notification procedure set out in Section 6, including the dates specified therein, information with respect to a Reportable Arrangement is to be exchanged by a Competent Authority within three months of the end of the quarter in which the information regarding the Reportable Arrangement was disclosed to that Competent Authority.

2. Notwithstanding paragraph 1, information is only required to be exchanged as from the date on which both Competent Authorities have this Agreement in effect and their respective Jurisdictions have Mandatory Disclosure Rules in effect.

3. The Competent Authorities will automatically exchange the information described in Section 2 in a common schema in Extensible Markup Language. The information will be exchanged either in the language in which it was filed in the Jurisdiction of the sending Competent Authority and/or in one of the official languages of the OECD. In all instances, a short summary of the Reportable Arrangement will be provided in one of the official languages of the OECD, unless two or more Competent Authorities agree on another arrangement with respect to the language to be used.

4. The Competent Authorities will agree on one or more methods for data transmission including encryption standards and will specify those in the notification pursuant to subparagraph 1(c) of Section 6.

**SECTION 4**

**Confidentiality and Data Safeguards**

1. All information exchanged is subject to the confidentiality rules and other safeguards provided for in the Convention, including the provisions limiting the use of the information exchanged and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Competent Authority as required under its domestic law in the notification pursuant to subparagraph 1(d) of Section 6.

2. A Competent Authority will notify the Co-ordinating Body Secretariat immediately regarding any breach of confidentiality or failure of safeguards and any sanctions and remedial actions consequently imposed. The Co-ordinating Body Secretariat will notify all Competent Authorities with respect to which this is an Agreement in effect with the first mentioned Competent Authority.

**SECTION 5**

**Consultations and Amendments**

1. If any difficulties in the implementation or interpretation of this Agreement arise, a Competent Authority may request consultations with one or more Competent Authorities to develop appropriate measures to ensure that this Agreement is fulfilled. The Competent Authority that requested the consultations shall ensure, as appropriate, that the Co-ordinating Body Secretariat is notified of any measures that were developed and the Co-ordinating Body Secretariat will notify all Competent Authorities, even those that did not participate in the consultations, of any measures that were developed.

2. This Agreement may be amended by consensus by written agreement of all of the Competent Authorities that have the Agreement in effect. Unless otherwise agreed upon or specified by a Competent Authority in a notification to the Co-ordinating Body Secretariat, such an amendment is effective on the first day of the month following the expiration of a period of one month after the date of the last signature of such written agreement.

**SECTION 6**

**Term of Agreement**

1. A Competent Authority must provide, at the time of signature of this Agreement or as soon as possible after its Jurisdiction has the necessary laws in place to implement the Model Mandatory Disclosure Rules, a notification to the Co-ordinating Body Secretariat:

a) confirming that its Jurisdiction has Mandatory Disclosure Rules in place and specifying the effective

date for the reporting of Reportable Arrangements under its Mandatory Disclosure Rules;

b) specifying whether the Jurisdiction is to be included in the list of non-reciprocal Jurisdictions;

c) specifying the methods for transmission and encryption of the information;

d) specifying safeguards, if any, for the protection of personal data;

e) confirming that it has in place adequate measures to ensure the required confidentiality and data safeguards standards are met; and

f) providing

(i) a list of the Jurisdictions of the Competent Authorities with respect to which it intends to have this Agreement in effect; or

(ii) a declaration by the Competent Authority that it intends to have this Agreement in effect with all other Competent Authorities that provide the required notifications under this paragraph 1.

Competent Authorities must notify the Co-ordinating Body Secretariat, promptly, of any subsequent change to be made to the above-mentioned notifications.

2. This Agreement will come into effect between two Competent Authorities on the date on which the second of the two Competent Authorities has provided all notifications to the Co-ordinating Body Secretariat under paragraph 1, including listing the other Competent Authority’s Jurisdiction pursuant to subparagraph 1(f).

3. The Co-ordinating Body Secretariat will maintain a list that will be published on the OECD website of the Competent Authorities that have signed the Agreement and between which Competent Authorities this is an Agreement in effect.

4. The Co-ordinating Body Secretariat will publish on the OECD website the information provided by Competent Authorities pursuant to subparagraphs 1(a) and (b). The information provided pursuant to subparagraphs 1(c) through (f) will be made available to other signatories upon request in writing to the Co-ordinating Body Secretariat.

5. A Competent Authority may suspend the exchange of information under this Agreement by giving notice in writing to another Competent Authority that it has determined that there is or has been significant non-compliance by the second-mentioned Competent Authority with this Agreement. Such suspension will have immediate effect. For the purposes of this paragraph, significant non-compliance includes, but is not limited to, non-compliance with the confidentiality and data safeguard provisions of this Agreement and the Convention and/or a failure by the Competent Authority to provide timely or adequate information as required under this Agreement.

6. A Competent Authority may terminate its participation in this Agreement, or with respect to a particular Competent Authority, by giving notice of termination in writing to the Co-ordinating Body Secretariat. Such termination will become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination. In the event of termination, all information previously received under this Agreement will remain confidential and subject to the terms of the Convention.

**SECTION 7**

**Co-ordinating Body Secretariat**

Unless otherwise provided for in the Agreement, the Co-ordinating Body Secretariat will notify all Competent Authorities of any notifications that it has received under this Agreement and will provide a notice to all signatories of the Agreement when a new Competent Authority signs the Agreement.

Done in English and French, both texts being equally authentic.

**Part II – MDR XML Schema and User Guide**

**Version 1.0 – March 2019**

**Introduction**

The OECD model Mandatory Disclosure Rules (MDRs) that were approved in March 2018 are designed to provide tax administrations with information on CRS Avoidance Arrangements and Opaque Offshore Structures, including the users of those Arrangements and Structures and those involved with their supply. Information disclosed pursuant to the application of the MDR rules can be used both for compliance purposes and to inform future tax policy design. These rules should also have a deterrent effect against the design, marketing and use of arrangements covered by the rules.

The MDR rules require an Intermediary or user of a CRS Avoidance Arrangement or Opaque Offshore Structure to disclose certain information to its tax administration. Where such information relates to users that are resident in another jurisdiction it is contemplated that such information be exchanged with the tax administration(s) of that jurisdiction in accordance with relevant international legal instruments, such as the MDR Multilateral Competent Authority Agreement (MCAA). This is to provide tax administrations with information on schemes, their users and suppliers, for use in compliance activities, exchange with treaty partners and tax policy design. The MDR XML Schema and User Guide is designed to technically support these exchanges between Competent Authorities and to facilitate the use of the information by tax administrations by ensuring a standardised format.

**Key Elements**

The information exchanged under the MDR rules and reflected in the MDR XML Schema has four key elements:

• A description of the arrangements that are required to be disclosed (i.e. the hallmarks of a disclosable MDR scheme);

• A description of the persons required to disclose such arrangements (i.e. the Intermediaries that are subject to reporting obligations under the MDR rules);

• A trigger for the imposition of a disclosure obligation (i.e. when an obligation to disclose crystallises under the rules and any exceptions from reporting); and

• The substantive information required to be reported.

The MDR XML Schema reflects these four key elements and has been designed for electronically holding and transmitting relevant MDR information. XML, ‘extensible markup language’, is commonly used for this purpose. Examples are the OECD’s Common Reporting Standard XML Schema, the OECD XML Schema for Country-by-Country Reporting and the United States’ FATCA XML Schema and the XML schemas for exchanging information under the Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation.

This User Guide explains the information required to be included in each element to be reported in the MDR XML Schema. It also contains guidance on how to make corrections of data items within a file that can be processed automatically.

**How the MDR User Guide links to the MDR XML Schema**

This User Guide is divided into logical sections based on the key elements of the schema and provides information on specific data elements and any attributes that describe that data element.

The MDR XML Schema information sections are:

• The Message Header with the sender, recipient(s), message type, language of the message and the timestamp;

• The MDR Body containing the substantive information to be reported that is divided in the following subsections:

o **“Disclosing”** containing information on the identity and the relevant nexus of the disclosing person in relation to the CRS Avoidance Arrangement or Opaque Offshore Structure;

o **MdrReport**, consisting of:

‒ **“Reportable Taxpayer”** containing information on the identity of the Reportable Taxpayer in respect of the CRS Avoidance Arrangement or Opaque Offshore Structure;

‒ **“Intermediaries”** setting out other Intermediaries that were involved in the promotion or implementation of the CRS Avoidance Arrangement or Opaque Offshore Structure; and

‒ **“Structure”** containing details on the features and a structure chart of the disclosed CRS Avoidance Arrangement of Opaque Offshore Structure.

The requirement field for each data element and its attribute indicates whether the element is validation or optional in the MDR XML Schema.

**“Validation”** elements MUST be present for ALL data records in a file and an automated validation check can be undertaken. The sender should do a technical check of the data file content using XML tools to make sure all validation elements are present and, if they are not, a correction to the file should be made. The receiver may also check the presence of all validation elements and may reject the file in case such elements are missing.

Where there is a choice between 2 validation elements under a validation parent and only one is needed, this is shown as **“Validation (choice)”**.

Certain elements are labelled as **“Optional (Mandatory)”**, indicating that the element is in principle mandatory, unless the element must be left blank in the context of a correction of the other element (see the Corrections section for further detail) or indicating that the element is only required to be filled in certain cases. The User Guide further details these situations and the criteria to be used.

**“Optional”** elements are, while recommended, not required to be provided and may in certain instances represent a choice between one type or another, where one of them must be used (e.g. choice between address fix or address free).

Section 1.8 of the MDR User Guide contains further guidance on corrections.

**Appendix A** to the MDR User Guide shows a diagrammatic representation of the MDR XML Schema with all its elements. The numbers next to the headings are the corresponding section numbers in the User Guide text, which provides further guidance on the information to be provided in each element.

**Appendix B** to the MDR User Guide contains a Glossary of namespaces for the MDR XML Schema.