CHAPTER 6
EXCLUDED ACCOUNTS

Part 3 of Schedule 17C of the IRO allows for various categories of account to be excluded from being reportable financial accounts. They are defined as excluded accounts. Each category of the excluded account is described in the following sections:

1. Retirement and pension account

(1) A retirement or pension account is an excluded account if all of the following conditions are met—

(a) the account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits (including disability or death benefits);

(b) the account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder, or are taxed at a reduced rate, or taxation of the investment income from the account is deferred or made at a reduced rate);

(c) information reporting to the tax authorities is required in respect of the account;

(d) withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such events;

(e) either—

(i) the annual contributions are limited to $390,000 or less; or
(ii) there is a maximum lifetime contribution limit to the account of $7,800,000 or less,

in each case applying the rules of account aggregation and currency set out in the due diligence requirements in Schedule 17D of the IRO.

(2) A financial account that does not meet the condition under subsection (1)(e) does not fail to meet the condition solely because the financial account may receive assets or funds transferred from one or more financial accounts as described in this section and section 2 of this Chapter or from one or more retirement or pension funds as described in sections 5, 6 and 7 of Chapter 4 on non-reporting financial institutions.

2. Non-retirement tax-favoured accounts

(1) An account is an excluded account if all of the following conditions are met—

(a) the account is, for purposes other than for retirement, subject to regulation as an investment vehicle that is regularly traded on an established securities market, or the account is, for purposes other than for retirement, subject to regulation as a savings vehicle;

(b) the account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross income of the account holder, or are taxed at a reduced rate, or taxation of the investment income from the account is deferred or made at a reduced rate);

(c) withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (including the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met;

(d) the annual contributions are limited to $390,000 or less, applying the rules of account aggregation and currency set out in the due diligence requirements in Schedule 17D of the IRO.

(2) A financial account that does not meet the condition under subsection (1)(d) does not fail to meet the condition solely because the financial account may receive assets or funds transferred from one or more financial accounts as described in this section and section 1 of this Chapter or from one or more retirement or pension funds as described in sections 5, 6 and 7 of Chapter 4 on non-reporting financial institutions.

3. Term life insurance contracts

A life insurance contract with a coverage period that will end before the insured individual attains age 90 is an excluded account if all of the following conditions are met—

(a) periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age 90, whichever is shorter;

(b) the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;

(c) the amount (other than a death benefit) payable on cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract;

(d) the contract is not held by a transferee for value.

4. Estate account

An account held solely by an estate is an excluded account if its documentation includes a copy of the deceased's will or death certificate.

5. Escrow account

(1) An account established in connection with any of the following is an excluded account—

(a) a court order or judgment;

(b) a sale, exchange, or lease of real or personal property, provided that the account meets the following conditions—

(i) the account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a financial asset that is deposited in the account in connection with the sale, exchange, or lease of the property;

(ii) the account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease;

(iii) the assets of the account, including the income earned on the assets, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor or lessee (including satisfying the obligation of the purchaser, seller, lessor or lessee) when the property is sold, exchanged, or surrendered, or the lease terminates;

(iv) the account is not a margin or similar account established in connection with a sale or exchange of a financial asset; and

(v) the account is not associated with an account described in section 6;

(c) an obligation of a financial institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time;

(d) an obligation of a financial institution solely to facilitate the payment of taxes at a later time.

(2) Where a financial account (held by a non-financial intermediary such as a solicitor) does not meet the conditions in subsection (1), but is an account, holding on a pooled basis, and the funds of underlying clients of the non-financial intermediary where:

(a) the only person listed or identified on the financial account with the financial institution is the non-financial intermediary; and

(b) the non-financial intermediary is not required to disclose or pass their underlying client or clients' information to the financial institution for the purposes of AML/KYC or other regulatory requirements,

then, providing both these conditions are met, the financial institution is only required to undertake the due diligence procedures in respect of the non-financial intermediary.

6. Depository account owing to not-returned overpayments

(1) A depository account is an excluded account if both of the following conditions are met—

(a) the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and

(b) beginning on or before 1 January 2017, the financial institution implements policies and procedures either to prevent a customer from making an overpayment in excess of $390,000, or to ensure that any customer overpayment in excess of $390,000 is refunded to the customer within 60 days, in each case applying the rules of account aggregation and currency set out in the due diligence requirements in Schedule 17D of the IRO.

(2) For the purpose of subsection (1)(b), a customer overpayment does not refer to credit balances to the extent of disputed charges but includes credit balances resulting from merchandise returns.

7. Dormant account

An account (other than an annuity contract) with a balance that does not exceed $7,800 is an excluded account if—

(a) the account holder has not initiated a transaction with regard to the account or any other account held by the account holder with a reporting financial institution in the previous 3 years; and

(b) the account holder has not communicated with the reporting financial institution regarding the account or any other account held by the account holder with the reporting financial institution in the previous 6 years; or

(c) the account is considered to be dormant under the normal operating procedures of the financial institution that are applied for all accounts maintained by it provided these procedures are substantially similar to the requirements in (a) and (b) above.

There is an additional requirement for cash value insurance contracts to be regarded as dormant. As well as the tests above, the financial institution has not communicated with the account holder in the past 6 years regarding the account or any other account he or she holds with the financial institution.