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## INDUSTRY ADVISORY NOTICE

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**Date: 08 March 2023**

### **AUTOMATIC EXCHANGE OF INFORMATION – MARCH 2023 UPDATE**

This industry update is applicable to all Isle of Man Financial Institutions, Third Parties and Sponsors as it provides important updates in respect of FATCA.

#### **FATCA – Tax Identification Numbers (TINs)**

Under the terms of the Agreement between the Government of the Isle of Man and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA, as well as the Isle of Man's implementing legislation (the International Tax Compliance (United States of America) Regulations 2014), Isle of Man Financial Institutions are required to obtain and report the U.S. taxpayer identification number (U.S. TIN) for each accountholder or controlling person identified as a Specified U.S. person.

In respect of new accounts, that is those opened on or after **1 June 2014**, Isle of Man Financial Institutions have been required to obtain a self-certification from the accountholder as part of the account opening process and should have therefore have collected a valid U.S. TIN in respect of those accountholders and/or controlling persons identified as Specified U.S. persons.

With respect to pre-existing accounts (opened before 1 June 2014), Isle of Man Financial Institutions have been required to obtain the U.S. TIN for relevant Pre-existing Accounts from **1 January 2017**.

The U.S., recognising that some reporting Model 1 Foreign Financial Institutions (FFIs), (which includes all Isle of Man Financial Institutions) needed additional time to implement practices and procedures to obtain the required U.S. TINs for pre-existing accounts, introduced transitional measures in respect of reporting where the U.S. TIN had not been obtained by January 2017.

This entailed the reporting of a 'default' U.S. TIN (AAAAAAAAA) in the absence of a valid U.S. TIN where certain other conditions (see section 18.3.2.1 of the FATCA guidance note [GN55](#)) were met in respect of the 2017, 2018 and 2019 reporting years.

Despite that transitional period having now ended, the U.S., understanding that in certain **limited** circumstances Financial Institutions may still not have obtained a valid U.S. TIN in respect of all U.S. Specified persons, updated the reporting options in respect of the 'default' U.S. TIN, as detailed in the previous [Industry Advisory Notice](#), issued 28 May 2021.

Subsequent to the previous amendments detailed in that notice, the IRS, in their efforts to better understand the issues FFIs face in obtaining U.S. TINs for pre-existing accounts, have applied further temporary relief for Model 1 IGA FFIs who have been unable to obtain TINs for pre-existing accounts, as contained within [IRS Notice 2013-11](#).

This consists of the same series of codes previously published, with some amendments that **must** be used by Financial Institutions to populate the TIN field in their XML FATCA report as detailed below:

- 222222222 – to be used in respect of Pre-Existing Individual Account where the only U.S. indicia is a U.S. place of birth, other than an account reported under code 000222111. This code takes precedence if any other code (other than 000222111) could also be applicable.
- 000222111 – to be used in respect of Pre-existing depository individual account with only U.S. indicia being a U.S. place of birth. Additionally, FFI must determine that the account holder is a resident of the jurisdiction where the account is maintained for AML and tax purposes. For reference, “depository account” has the meaning defined in the applicable Model 1 Intergovernmental Agreement (Model 1 IGA). This code takes precedence if any other code could also be applicable. This code should only be used by Isle of Man banks in respect of U.S. account holders who are resident in the Island for AML and Income Tax purposes.
- 333333333 – to be used in respect of New Individual Accounts that have indicia indicating a U.S. place of birth, **and** either:
  - has had a change in circumstances causing the self-certification originally obtained at account opening to be incorrect or unreliable, and a new self-certification has not been obtained, or
  - was below the threshold for documenting and reporting the account at the time of account opening and subsequently exceeded the threshold, and a self-certification has not been obtained.
- 444444444 – to be used in respect of Pre-Existing Individual and Entity Accounts that have U.S. indicia other than a U.S. place of birth **and** either:
  - has had a change in circumstances that either results in one or more U.S. indicia being associated with the account or causes a self-certification or other documentation originally obtained to be incorrect or unreliable, and a valid self-certification or other documentation has not been obtained subsequent to the change in circumstances, or
  - was below the threshold for documenting and reporting the account on the determination date provided in the applicable Model 1 IGA and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.
- 555555555 – to be used in respect of New Individual and Entity Accounts that have U.S. indicia other than a U.S. place of birth, **and** either:
  - has had a change in circumstances causing the self-certification or other documentation originally obtained to be incorrect or unreliable, and a new self-certification or other documentation has not been obtained, or
  - was below the threshold for documenting and reporting the account at the time of account opening and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.
- 666666666 – to be used in respect of Pre-Existing Entity Accounts held by a passive NFFE with respect to which no self-certifications have been obtained, and no U.S. indicia have been identified in relation to its controlling persons.
- 777777777 - to be used in respect of Pre-Existing Accounts where there is no U.S. TIN available and the account has been dormant or inactive, but remains above the reporting threshold, also known as a “dormant account”. For reference, the U.S. defines “dormant account” in U.S. Treasury Regulations §1.1471-4(d)(6)(ii). If an account could be classified into multiple TIN codes, the other code takes precedence.
- 999999999 – to be used for any account for which the FFI cannot obtain a TIN and none of the

other TIN codes would be applicable. The use of this code indicates that an FFI has completed its review of accounts without U.S. TINs and has in good faith applied TIN codes to records when applicable.

The use of these codes is **mandatory** in order for an FFI to obtain temporary reporting relief in the absence of providing U.S. TINs with respect to pre-existing accounts only, and to not be found as significantly non-compliant as a result. However an FFI can still be found to be significantly non-compliant for any other failure(s) within the requirements of the IGA.

The reporting period 2022, due for submission June 2023, is considered a transition year, and to be eligible for relief FFIs must use either the codes issued in May 2021, or the codes listed in this notice. For subsequent reporting periods 2023 and 2024, the use of the above codes is mandatory. In addition, FFIs must obtain and report the date of birth of each account holder that is an individual or controlling person whose U.S. TIN is not reported.

Isle of Man Financial Institutions that cannot implement the reporting of the new codes for 2022 reporting or have accounts to report without valid U.S. TINs that **do not** fall within the categories listed above, should continue to use the previous default code of nine capital letter A's (AAAAAAAAAA).

Isle of Man Financial Institutions should however be aware that this will result in the U.S. authorities notifying the Isle of Man Competent Authority of an error in respect of each account with a missing U.S. TIN following the exchange of data in September 2023. In turn these errors will be notified to the relevant Isle of Man Financial Institutions which will require an explanation and, if necessary, correction of the data thereafter.

As a result the Information Provider's Online Service, through which all FATCA reports must be submitted in the prescribed XML format (see section 19 of [GN55](#)), is scheduled to be updated by 31 March 2023 to accept all of the above codes in the relevant TIN fields of the schema for reporting in respect of the 2022 reporting year and beyond.

In order to use the codes outlined in the [IRS Notice 2013-11](#) and detailed above in respect of any accounts still missing a valid U.S. TIN for future reporting periods, starting this year (calendar year 2023) Isle of Man Financial Institutions **must annually**:

- search their electronically searchable data for any missing U.S. TINs;
- request from each account holder any missing U.S. TIN; and
- include in that request either:
  - the web address of the State Department's Joint FATCA FAQs (<https://travel.state.gov/content/travel/en/international-travel/while-abroad/Joint-Foreign-Account-Tax-Compliance-FATCA-FAQ.html>); or
  - a copy of the FAQs described in the preceding bullet and either:
    - a copy of the relief procedures provided by the IRS for certain former citizens; or
    - the web address for such procedures (<https://www.irs.gov/individuals/international-taxpayers/relief-procedures-for-certain-former-citizens>)

Isle of Man Financial Institutions **must** retain a record of their policies and procedures adopted to satisfy this requirement and documentation that these policies and procedures were followed to establish compliance with these requirements until the end of calendar year 2028.

## **FATCA – Guidance**

The FATCA guidance note, GN55, will be updated in due course to reflect the contents of this industry advisory notice.

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