INDUSTRY ADVISORY NOTICE

Date: 21 December 2016

AUTOMATIC EXCHANGE OF INFORMATION – DECEMBER UPDATE

This industry update is applicable to all Isle of Man Financial Institutions, Paying Agents, Sponsors and Third Parties and provides important updates in respect of US FATCA, the CRS and EUSD, particularly with regards to IT.

1. US FATCA

Registration of Sponsored Entities

Isle of Man Sponsoring Entities are reminded that the temporary transition rule, published in IRS Notice 2015-66, that allowed Sponsored Entities to use the GIIN of their Sponsor will expire **31 December 2016**; therefore, any Isle of Man Sponsor who has yet to register Sponsored Entities that have US Reportable Accounts with the IRS should do so immediately.

Collection of US TINs

Isle of Man Financial Institutions are reminded that under the terms of the Isle of Man – US FATCA IGA they **must** obtain **valid** US TINs from any pre-existing accountholders identified as US Specified Persons from **1 January 2017**. The IRS has already indicated that its IT system will be updated in the future to validate for valid US TINs and continued use of the 'default TIN' of nine zeros (000000000) may no longer be accepted.

IT Changes - Schema v2.0

As previously advised, reporting to the US authorities in respect of FATCA must be made in the prescribed XML format set by the IRS.

In August 2016 the IRS updated the schema, which governs the structure and content of FATCA XML files, from version 1.1 to version 2.0 and this new schema structure will be effective for all files transmitted to the US on or after **1 January 2017**.

A copy of the new XSD file and the v 2.0 schema user guide can be found on the IRS website at the links below:-

- Schema Overview https://www.irs.gov/businesses/corporations/fatca-xml-schemas-and-business-rules-for-form-8966

- XSD File https://www.irs.gov/pub/fatca/fatcaxml_v2.0.zip

- User Guide https://www.irs.gov/pub/fatca/pub5124userguidev20draft.pdf

The majority of the new data elements are 'optional' at schema level meaning that files which do not include these new elements will not be prevented from passing schema level validation. However, the Assessor is aware that the exclusion of **some** of the new elements will result in the production of a 'record level error' by the IRS's International Compliance Management Model (ICMM), where information transmitted to the US is processed, validated, stored and managed.

Building upon the additional validation the Assessor added to its Information Providers' Online Service ahead of this year's filing deadline (see June 2016 Industry Update), the Assessor intends to further enhance its FATCA validation in order to minimise the potential for such record level errors.

Isle of Man Reporting Financial Institutions, their Sponsors and any Third Parties undertaking filing on their behalf, are therefore advised that, from 1 January 2017, US FATCA files submitted to the Assessor, including files correcting, amending or voiding an earlier year's submission, **must** now be made in the new v 2.0 format, and will be validated to ensure that the following new data elements are present:-

▪ **Namespace**

All Isle of Man Financial Institutions **must** ensure that their files contain the updated v 2.0 XML Schema Instance Namespace at the start of their report in order for it to validate. Fig.1 illustrates the difference between part of the namespace in v 1.1 to v 2.0:-

```
Fig.1
<ftc:FATCA_OECD xmlns="urn:oecd:ties:fatca:v1"...
<ftc:FATCA_OECD xmlns="urn:oecd:ties:stffatcatypes:v2" ...
```

▪ **Filer Category**

This element has been added in order to specify in what capacity the filer is making the report, for example as a Participating Foreign Financial Institution, a Sponsoring Entity of a Sponsored Foreign Financial Institution or Trustee of a Trustee-Documented Trust (see page 39 of the IRS's updated user guide for all possible options).

Where an Entity is filing as the Reporting FI itself, the Filer Category should be added to the 'ReportingFI' segment of the report as illustrated in Fig.2:-

```
Fig.2
<ReportingFI>
    <ResCountryCode>IM</ResCountryCode>
    <TIN>000000.00000.LE.833</TIN>
    <Name>Example FI Ltd</ Name>
    <Address>
        <CountryCode>IM</CountryCode>
        <AddressFree>123 High Street/Douglas/Isle of Man</AddressFree>
    </Address>
    <FilerCategory>FATCA601</FilerCategory>
    <DocSpec>
```

Where an Entity is filing as a Sponsor or as the Trustee of a Trustee-Documented Trust (and therefore using the Sponsor section of the report), the Filer Category should be added to the Sponsor segment of the report **only** with no Filer Category in the ReportingFI section in such instances as illustrated in Fig.3:-

```
Fig.3
<ReportingFI>
    <ResCountryCode>IM</ResCountryCode>
    <TIN>000000.00000.LE.833</TIN>
    <Name>Example FI Ltd</ Name>
    <Address>
        <CountryCode>IM</CountryCode>
        <AddressFree>123 High Street/Douglas/Isle of Man</AddressFree>
    </Address>
    <DocSpec>
        <DocTypeIndic>FATCA11</DocTypeIndic>
        <DocRefId>000000.00000.LE.833.123456789.2016v1</DocTypeIndic>
    </DocSpec>
</ReportingFI>
<ReportingGroup>
<Sponsor>
    <ResCountryCode>IM</ResCountryCode>
    <TIN>000000.00000.SP.833</TIN>
    <Name>Example Sponsor</ Name>
    <Address>
        <CountryCode>IM</CountryCode>
        <AddressFree>45 High Street/Douglas/Isle of Man</AddressFree>
    </Address>
    <FilerCategory>FATCA607</FilerCategory>
    <DocSpec>
```

- **Substantial Owners**

This element has been added in order to specify whether the Controlling Person/s of an Entity AccountHolder are Individuals or Organisations as illustrated in Fig.4:-

```
Fig.4
<AccountHolder>
<Organisation>
    <ResCountryCode>IM</ResCountryCode>
    <TIN>000000000</IN>
    <Name>Example PNFFE</Name>
    <Address>
        <CountryCode>IM</CountryCode>
        <AddressFree>123 High Street/Douglas/Isle of Man</AddressFree>
    </Address>
</Organisation>
<AcctHolderType>FATCA102</ AcctHolderType >
</AccountHolder>
<SubstantialOwner>
    <Individual>
        <ResCountryCode>US</ResCountryCode>
```

In addition, it should be noted that although nil reporting is **not required** by the Assessor, for those Isle of Man Financial Institutions who have voluntarily filed nil reports and wish to continue doing so, the format of nil reporting will also change with effect from 1 January 2017 and **must** be completed in line with the FATCA 2.0 schema. Please refer to the IRS's user guide for further details.

In addition to the v 2.0 schema updates the IRS have also updated their ICMM user guide to introduce new record level errors that are not specifically associated with the new schema elements. Isle of Man Financial Institutions should note that the Information Providers' Service has therefore been updated to reflect these changes too:-

- **TIN**

As previously advised in June's Industry Advisory Notice, any TIN contained in a US FATCA report must be in the valid format of a US TIN (nine consecutive numeric digits). The ICMM has now been updated to ensure that the attribute of any TIN is also set to 'US' (as illustrated in Fig.5) or is absent completely (as illustrated in Fig.6), in which case the US will automatically assume the issuing country was the US:-

```
Fig.5
<AccountHolder>
<Individual>
     <ResCountryCode>US</ResCountryCode>
     <TIN issuedBy="US">000000000</TIN>
```

```
Fig.6
<AccountHolder>
<Individual>
     <ResCountryCode>US</ResCountryCode>
     <TIN>000000000</TIN>
```

The updated version of the ICMM user guide can be found at the link below:-

https://www.irs.gov/pub/fatca/fatcareportsicmmnotificationsuserguidedraft.pdf

2. CRS

IT – Schema & Additional Validation

The first reports to be made under the CRS, in respect of the 2016 year, must be made to the Assessor no later than **30 June 2017** and **must** be made in the prescribed XML format set by the OECD.

Isle of Man Financial reporting entities are reminded that the CRS XML Schema v1.0 can be found, along with a user guide, on the OECD's AEOI Portal at the links below:-

- XSD File   http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/schema-and-user-guide/CRS-schema-v1.0.zip

- User Guide   http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/schema-and-user-guide/

Isle of Man Financial Institutions are required to include the details of **all** accountholders resident in **any** Reportable Jurisdictions (see Appendix I) in one single report to be submitted to the Assessor on an annual basis and **should not** produce separate reports for each Reportable Jurisdiction.

The Assessor will compile jurisdiction-specific reports from the data received from all Isle of Man Financial Institutions which will be transmitted to the relevant Competent Authorities in those Reportable Jurisdictions no later than 30 September following the end of the year to which the information relates.

In addition to schema level validation, CRS Reportable Jurisdictions may validate the data received at record level to ensure that files contain all of the necessary information required to be reported. The Assessor has therefore enhanced the validation on the Information Providers' Online Service to ensure that CRS files received from Isle of Man Financial Institutions comply with these requirements as well as normal schema validation.

The additional validation is detailed below along with some general guidance on the CRS schema to assist Isle of Man Financial Institutions and any Third Parties filing on their behalf:-

- **MessageSpec**

Information in this section of the report identifies who is sending the data and to whom.

When submitting the data to the Assessor, Isle of Man Financial Institutions should ensure that the 'TransmittingCountry' and 'ReceivingCountry' elements are **both** set to 'IM' as illustrated in Fig.7:-

```
Fig.7
<MessageSpec>
   <SendingCompanyIN>000000.00000.XX.833</SendingCompanyIN>
   <TransmittingCountry>IM</TransmittingCountry>
   <ReceivingCountry>IM</ReceivingCountry>
   <MessageType>CRS</MessageType>
```

- **DocSpec**

The elements found in the 'DocSpec' feature throughout various sections of the report.

The 'DocRefId' element is used to distinguish each individual account reported.

Each 'DocRefId' used must be completely unique in space and time so, to ensure that this is the case, Isle of Man Financial Institutions **must** follow one of the two prescribed formats detailed below:-

–   Option 1 (US Format)

    Isle of Man Financial Institutions can use the same format prescribed by the US for FATCA filing. This requires the FI to use its GIIN followed by a full stop and a unique number/character combination) eg. **000000.00000.XX.833.123abc456def789**

–   Option 2 (IOM Format)

    Instead of using a US GIIN the Assessor will also accept DocRefId that start with the Information Providers' Tax Reference Number for the Isle of Man Financial Institution followed by a full stop and a unique number/character combination eg. **C000000Q01.123abc456def789**

As per the OECD's CRS XML User Guide, the identifier should start with the sending country code followed by the year to which the data relates and the country code of the transmitting country. However, as the Assessor requires Isle of Man Financial Institutions to submit one report containing data that will be sent to multiple jurisdictions there is **no requirement** for Isle of Man Financial Institutions to start their DocRefId identifier in this format and they should, instead, follow one of the two formats detailed above (as illustrated in Fig.8).

The country codes and year will be inserted by the Assessor at the point jurisdiction-specific reports are created prior to transmission (as illustrated in Fig.9).

```
Fig.8
<DocSpec>
   <DocTypeIndic>OECD1</DocTypeIndic >
   <DocRefId>000000.00000.XX.833.123abc456def789</DocRefId >
</DocSpec>
```

```
Fig.9
<DocSpec>
   <DocTypeIndic>OECD1</DocTypeIndic >
   <DocRefId>IM2016GB000000.00000.XX.833.123abc456def789</DocRefId >
</DocSpec>
```

The 'DocTypeIndic' element is used to specify whether a submission is new or whether it is changing a previously submitted report and can also be used to distinguish a test file from a real file.

Isle of Man Financial Institutions should not submit test files through the Information Providers' Online Service. Therefore, the DocTypeIndic must be set to **OECD1** (new), **OECD2** (corrected), **OCED3** (void/deletion) or **OECD0** (re-send) only.

- **ReportingFI**

Information in this section of the report identifies who the Reporting Financial Institution is.

The 'ResCountryCode' element for Isle of Man Financial Institutions must be '**IM**' and the following elements must not be left blank:-

- 'Name'
- 'Address' Addresses can be provided in a structured format using either the 'AddressFix' elements or free format 'AddressFree' element. Where 'AddressFix' is used the 'City' element must be present and cannot be blank. Where 'AddressFree' is used instead this element cannot be left blank.

For Trustee-Documented Trusts (TDTs) the Trust itself is the ReportingFI so its details should be contained in this section of the report.

Details of the Trustee **are not** to be provided, unlike under FATCA where the Trustees details should be entered in the 'Sponsors' section of the report.

Isle of Man Financial Institutions should note that use of the 'Sponsor', 'Intermediary' and 'Pool Report' elements of the schema **are not allowable** for the CRS. Therefore, the Information Providers' Online Service will not accept files containing them.

- **AccountReport**

This section of the report contains details of all Reportable Accounts.

The following elements must be completed and cannot be left blank:-

- 'AccountNumber' For accounts without a specific account number reporting entities should include the functional equivalent such as a policy number.

- 'ResCountryCode' See below for specific details relating to the rules for Entity AccountHolders.

- 'TIN' (Individual) Where an Accountholder is tax resident in more than one
  'IN' (Entity) jurisdiction the number of TINs/INs provided, and the attribute stating the issuing jurisdiction must match the number of 'ResCountryCodes' and jurisdictions (see illustration in Fig.10). **Please note**: unlike FATCA it is mandatory to provide the attribute stating the jurisdiction the TIN was issued by.

- 'First Name' (Individual)

- 'Last Name' (Individual)

- 'Name' (Entity)

- 'Address' Addresses can be provided in a structured format using either the 'AddressFix' elements or free format 'AddressFree' element.

Where 'AddressFix' is used the 'City' element must be present and cannot be blank. Where 'AddressFree' is used instead this element cannot be left blank.

- 'AccountBalance'   Negative balances should be reported as nil. Where the account is closed in the period and the account closed attribute has been set, the balance reported must be zero (see illustration in Fig.11).

- 'Payment'   Type and amount must not be blank, or negative.

Fig.10

```
<AccountNumber>123456789</AccountNumber>
<AccountHolder>
<Individual>
    <ResCountryCode>JE</ResCountryCode>
    <ResCountryCode>GG</ResCountryCode>
    <TIN issuedBy="JE">121212</TIN>
    <TIN issuedBy="GG">343434</TIN>
    <Name>
        <FirstName>John</First Name>
        <LastName>Smith</LastName>
    <Address>
        <CountryCode>IM</CountryCode>
        <AddressFree>123 High Street/Douglas/Isle of Man</AddressFree>
    </Address>
</Individual>
```

'ResCountryCode' must match 'issuedBy'

Fig.11

```
<AccountNumber ClosedAccount="true">123456789</AccountNumber>
<AccountHolder>
<Individual>
    <ResCountryCode>GB</ResCountryCode>
    <TIN issuedBy="GB">111111</TIN>
    <Name>
        <FirstName>John</First Name>
        <LastName>Smith</LastName>
    <Address>
        <CountryCode>GB</CountryCode>
        <AddressFree>99 The Lane/Glasgow/Scotland</AddressFree>
    </Address>
</Individual>
</AccountHolder>
<AccountBalance currCode="GBP">0</AccountBalance>
```

Where 'ClosedAccount' attribute set to 'true' 'AccountBalance' must be zero

Where the AccountHolder is an Entity certain elements must be present depending on why the Entity is being reported.

Entity AccountHolders may be reported because the Entity itself is a Reportable Person or because it is a Passive Non-Financial Entity (NFE) with Controlling Persons who are Reportable Persons; further details can be found in section 4.7.3 of the Isle of Man's CRS guidance note GN 53.

Isle of Man Financial Institutions must use the 'AccountHolderType' element to specify why the Entity is Reportable by inserting one of the following codes:-

- CRS101   Passive NFE with one or more Controlling Persons that are Reportable Persons
- CRS102   CRS Reportable Person
- CRS103   Passive NFE that is a CRS Reportable Person

When using 'CRS102' or 'CRS103' codes, indicating that the Entity AccountHolder is a Reportable Person, the 'ResCountryCode' must not be left blank (as illustrated in Fig.12).

When using 'CRS101' the element should only be left blank where the Entity has no jurisdiction of tax residence (for example, if it is a fiscally transparent entity).

Fig.12

```
<AccountHolder>
<Organisation>
    <ResCountryCode>IE</ResCountryCode>
    <IN issuedBy="IE">999999</TIN>
    <Name>ABC Ltd</Name>
    <Address>
        <CountryCode>IE</CountryCode>
        <AddressFree>45 The Road/Dublin/Ireland</AddressFree>
    </Address>
</Organisation>
<AccountHolderType>CRS102</AccountHolderType>
<AccountHolder>
```

'ResCountryCode' must be present where 'AccountHolderType' is CRS102 or CR103

Where 'CRS101' is used to indicate that the Entity AccountHolder is a Passive NFE the Isle of Man Financial Institution must also ensure it provides details of the Entity AccountHolder's Controlling Persons by completing the 'ControllingPerson' section of the report as illustrated in Fig.13:-

Fig.13

```
</Organisation>
<AccountHolderType>CRS101</AccountHolderType>
</AccountHolder>
<ControllingPerson>
    <Individual>
        <ResCountryCode>GB</ResCountryCode>
        <TIN issuedBy="GB">777777</TIN>
        <Name>
            <FirstName>John</First Name>
            <LastName>Smith</LastName>
        <Address>
            <CountryCode>GB</CountryCode>
            <AddressFree>10 The Avenue/London/England</AddressFree>
        </Address>
    </Individual>
</ControllingPerson>
```

'ControllingPerson' must be present where 'AccountHolderType' is CRS101

CRS Reportable Jurisdictions 2016

The Assessor intends to publish the Isle of Man's list of Reportable Jurisdictions for 2016 early in the New Year.

3. EUSD

Isle of Man Paying Agents are advised that as a consequence of the repeal of the European Union Savings Directive the Isle of Man's 28 bilateral agreements, that were entered into in 2005 with Member States to provide for the exchange of EUSD information, have effectively been suspended.

The data provided in respect of the tax year 2015/16 that has already been exchanged with the Member States is the last required to be provided under those Agreements as the Isle of Man and EU move towards future exchanges of information under the CRS. Please note this applies in respect of exchanges with **all** EU Member States.

4. IT – GENERAL UPDATES

Information Providers' Online Service Availability

Isle of Man Financial Institutions, their Sponsors and any Third Parties enrolled for reporting using the Information Providers' Online Service should note that the service will be **temporarily unavailable** from today (21 December 2016) until early February 2017 for essential maintenance.

When the service is re-launched reporting will be open in respect of the 2016 reporting year for both FATCA and the CRS and the enhanced validation referred to in this update will be in effect.

Users wishing to test files will be able to do so by uploading test files to the open returns but are reminded that when using the service to test they **must** delete successful test files and **must not** press the submit button at any time other than when the actual report is ready to be sent.

Please also note, if the file contains the appropriate 'DocTypeIndic' for a test file (ie. **OECD11**) the Information Providers' Online Service will return an error in this respect (see guidance under 'DocSpec' above).

Inhibited Characters

Following June's Industry Update, in which it was advised that apostrophes could only be used in FATCA XML reports in certain circumstances, the Assessor wishes to advise Isle of Man reporting entities that the Information Providers' Online Service (FATCA and CRS) will now accept XML reports with apostrophes in **all** instances (as illustrated in Fig.14). However, due to complex rules that exist within the IRS's IDES system over the acceptance of certain character/letter combinations, the Assessor will be **removing** all apostrophes from Isle of Man reports, and replacing them with a space, prior to exchanging the information with the US authorities (as illustrated in Fig.15).

Likewise, files sent using the OECD's Common Transmission System (CTS) for CRS exchanges will also be sent in the same manner to guard against similar validation that may exist.

```
Fig.14
<Individual>
   <ResCountryCode>US</ResCountryCode>
   <TIN>000000000</TIN>
   <First Name>John</First Name>
   <Last Name> O'Smith</ Last Name>
<Address>
   <CountryCode>IM</CountryCode>
   <AddressFree>1 The Road/St John's/Isle of Man</AddressFree>
</Address>
```

```
Fig.15
<Individual>
   <ResCountryCode>US</ResCountryCode>
   <TIN>000000000</TIN>
   <First Name>John</First Name>
   <Last Name> O Smith</ Last Name>
<Address>
   <CountryCode>IM</CountryCode>
   <AddressFree>1 The Road/St John s/Isle of Man</AddressFree>
</Address>
```

Nicola Guffogg

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