



Isle of Man Government

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INCOME TAX

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The Common Reporting Standard Isle of Man Regulations

Application of the CRS for Isle of Man Financial Institutions

Guidance Note

GN 53

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

This booklet is intended only as a general guide and must be read in conjunction with the appropriate legislation. It does not have any binding force and does not affect a person's right of appeal on points concerning their own liability to income tax.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Contents

1	OVERVIEW.....	7
1.1	General.....	7
1.2	Effective Implementation	7
2	MECHANISM FOR EXCHANGE	9
2.1	General.....	9
2.1.1	Multilateral Competent Authority Agreement and the Convention on Mutual Administrative Assistance in Tax Matters	9
2.1.2	Competent Authority Agreements, Double Taxation Agreements and Tax Information Exchange Agreements.....	9
2.2	Committed Jurisdictions	9
2.2.1	Participating Jurisdictions	9
2.2.2	Reportable Jurisdictions.....	10
2.2.3	Update of the List	10
2.3	Early Adopters and Fast Followers	11
2.3.1	Early Adopters	11
2.3.2	Fast Followers.....	11
3	ISLE OF MAN OPTIONS.....	12
3.1	General.....	12
3.2	Wider Approach	12
3.3	Due Diligence.....	12
3.3.1	New Accounts.....	12
3.3.2	Pre-Existing Accounts	12
3.3.3	High Value Accounts	13
3.3.4	Lower Value Accounts	13
3.3.5	Entity Accounts.....	14
3.3.6	Group Cash Value Insurance or Group Annuity Contracts.....	15
3.3.7	Standardised Industry Codes and Indicia for Pre-Existing Entities.....	15

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

3.3.8	Pre-existing Cash Value Insurance Contracts or Annuity Contracts Unable to be Sold to Residents of Reportable Jurisdictions.....	16
3.4	Reporting.....	16
3.4.1	Reporting Period	16
3.4.2	Nil Returns	17
3.4.3	Third Party Service Providers	17
3.5	Definitions	17
3.5.1	Isle of Man Financial Institution	17
3.5.2	Expanded Definition of Pre-Existing Account	18
3.5.3	Expanded Definition of Related Entity.....	18
3.5.4	Controlling Person of a Trust	19
3.6	Non-Reporting Financial Institutions	20
3.6.1	Qualified Credit Card Issuers	21
3.6.2	Low Risk Entities.....	21
3.7	Excluded Financial Accounts.....	21
3.7.1	Retirement Accounts and Products.....	21
3.7.2	Certain Depository Accounts	21
3.7.3	Dormant Accounts	22
4	FATCA vs. THE CRS.....	23
4.1	General.....	23
4.2	Investment Entity Definition.....	23
4.2.1	FATCA & UK IGA Investment Entity Definition.....	24
4.2.2	Managed By	25
4.2.3	Direct and Indirect Non-Financial Assets.....	26
4.3	Non-Participating Jurisdiction Investment Entities.....	29
4.4	Self-Certification Compliance and Undocumented Accounts.....	29
4.4.1	Timing of Self-Certification	30
4.4.2	Undocumented Accounts	30

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

4.5	Notification Requirement	30
4.6	Account Closures and Transfers	31
4.7	Entity Account Reporting	31
4.7.1	Test 1	31
4.7.2	Test 2	32
4.7.3	CRS Schema Requirements.....	33
4.7.4	Entity Account Examples	33
5	REPORTING OBLIGATIONS	38
5.1	General.....	38
5.2	Information Required	38
5.2.1	Taxpayer Identification Numbers (TINs) & Date of Birth	38
5.2.2	Place of Birth	39
5.3	Format of Reporting	39
5.4	Transmission to the Isle of Man Competent Authority	39
6	REGISTRATION	40
6.1	General.....	40
6.2	Which Financial Institutions Do Not Need to Register?	40
7	COMPLIANCE	41
7.1	Minor Errors.....	41
7.2	Significant Non-Compliance.....	41
7.3	Penalties.....	42
7.3.1	Failure to Comply	42
7.3.2	Daily Default Penalty	42
7.3.3	Penalties for Inaccurate Information	42
7.3.4	Appeals	43
7.4	Prevention of Avoidance	43
APPENDIX	44
I.	PARTICIPATING JURISDICTIONS	44

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Transition Years - 2016 and 2017	44
2017 – Early Adopters.....	45
2018 – Fast Followers	47
II. COMMON REPORTING STANDARD	49

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

1 OVERVIEW

1.1 General

The [Common Reporting Standard](#) (CRS) was developed by the Organisation for Economic Co-operation and Development (OECD) to put a global model of automatic exchange of information into practice and draws extensively on the intergovernmental approach taken in order to implement the Foreign Account Tax Compliance Act (FATCA).

Under the Standard, jurisdictions obtain financial account information from their Financial Institutions and automatically exchange that information with other Reportable Jurisdictions on an annual basis. The Standard consists of:

- the [CRS](#) which contains the due diligence rules for Financial Institutions to follow in order to collect and then report the required information,
- the [Multilateral Competent Authority Agreement](#) (MCAA) or any bilateral Competent Authority Agreement (CAA) which links the CRS to the legal basis for exchange and contains the detailed rules on the information to be exchanged, and
- The [Commentaries](#) that illustrate and interpret the MCAA and the CRS.

Under the CRS, Isle of Man Financial Institutions will provide the Assessor of Income Tax with the required information and the Assessor will exchange that information with the Competent Authority in the relevant jurisdictions.

The Isle of Man legislation dealing with the implementation of the CRS is [The Income Tax \(Common Reporting Standard\) Regulations 2015](#) (the Isle of Man Regulations).

1.2 Effective Implementation

The CRS is a single, global standard for automatic exchange of information to better fight tax evasion and ensure tax compliance. Therefore, in order for it to be implemented effectively, it is imperative that all committed jurisdictions operate its provisions in a consistent manner.

For that reason this Guidance Note does not cover in detail the universal matters, applicable to all committed jurisdictions, which are covered in the OECD's Commentaries on the [Standard for Automatic Exchange of Financial Account Information](#).

In addition, guidance on practical aspects and the operation of the CRS can also be found in the OECD's [CRS Implementation Handbook](#).

This Guidance Note includes references and quotes from both the Commentary and Handbook; the copyright owner of this material remains the OECD.

A Financial Institution must apply the Isle of Man Regulations in force at the time with reference to the CRS itself, the OECD's guidance and lastly this, the Isle of Man's own published guidance.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

The main purpose of this Isle of Man Guidance Note is to:-

- clarify the options the Isle of Man has taken in respect to the CRS (see [section 3](#)),
- highlight relevant differences between FATCA and the CRS from an Isle of Man perspective (see [section 4](#)),
- provide practical guidance on what to report (see [section 5](#)) and how to report it to the Assessor (see [section 6](#)), and
- detail the penalties and anti-avoidance measures that the Assessor may use in the case of non-compliance by an Isle of Man Financial Institution (see [section 7](#))

The [Appendix](#) to this guide also includes an [annotated version](#) of the CRS showing the dates specific to the Isle of Man and the options taken in the Isle of Man Regulations.

Isle of Man Financial Institutions and other Entities are encouraged to take independent professional advice if they are at all unsure of any of their obligations under the CRS or any other automatic exchange of information (AEOI) agreement.

2 MECHANISM FOR EXCHANGE

2.1 General

In order for jurisdictions to exchange the information required by the CRS with one another on an automatic basis the jurisdictions must have the appropriate legal framework in place.

2.1.1 Multilateral Competent Authority Agreement and the Convention on Mutual Administrative Assistance in Tax Matters

The mechanism for the majority of exchanges between jurisdictions adopting the CRS will be the [Multilateral Competent Authority Agreement](#) on Automatic Exchange of Financial Account Information (MCAA).

The MCAA is a multilateral framework agreement to automatically exchange information based on Article 6 of the [Multilateral Convention on Mutual Administrative Assistance in Tax Matters](#) (the Convention).

[Part I](#) of the Appendix to this guide lists those jurisdictions with which the Isle of Man will exchange information using the MCAA and Convention.

2.1.2 Competent Authority Agreements, Double Taxation Agreements and Tax Information Exchange Agreements

For jurisdictions that are not signatories to the Convention, exchanges can instead be undertaken where a bilateral competent authority agreement (CAA) is in place between jurisdictions and there is a relevant automatic exchange article in the Double Taxation Agreement (DTA) or Tax Information Exchange Agreement (TIEA) between those jurisdictions; such as Jersey, Guernsey and the Cayman Islands.

[Part I](#) of the Appendix also lists those jurisdictions with which the Isle of Man will exchange information using a CAA and either a DTA or TIEA.

2.2 Committed Jurisdictions

As of March 2016, 97 jurisdictions had made a commitment to implement the CRS.

Under the CRS these jurisdictions will then be classed as either Participating and/or Reportable Jurisdictions.

2.2.1 Participating Jurisdictions

A Participating Jurisdiction is a jurisdiction which has an Agreement in place to collect and exchange information with the Isle of Man as required under the CRS.

Unless the Participating Jurisdiction is also a Reportable Jurisdiction (see [section 2.2.2](#)) the exchange relationship will be **non-reciprocal**.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Example

From an Isle of Man perspective, the Cayman Islands are a Participating Jurisdiction because the Isle of Man has an Agreement in place, under which Cayman Island Financial Institutions will provide the Cayman Competent Authority with information on Isle of Man Account Holders that it will then exchange with the Isle of Man Competent Authority.

However, under that same Agreement Isle of Man Financial Institutions are not required to provide the Isle of Man Competent Authority with information on Cayman Account Holders.

2.2.2 Reportable Jurisdictions

A Reportable Jurisdiction is a jurisdiction with which the Isle of Man has an Agreement in place to provide the information required under the Standard.

If the Reportable Jurisdiction is also a Participating Jurisdiction (see [section 2.2.1](#)) the exchange relationship will be **reciprocal**.

Example

From an Isle of Man perspective, Jersey is both a Participating and Reportable Jurisdiction because the Isle of Man has an Agreement in place, under which Jersey Financial Institutions will provide the Jersey Competent Authority with information on Isle of Man Account Holders that it will then exchange with the Isle of Man Competent Authority.

Likewise, under that Agreement Isle of Man Financial Institutions will provide the Isle of Man Competent Authority with information on Jersey Account Holders that it will then exchange with the Jersey Competent Authority.

2.2.3 Update of the List

The Isle of Man Competent Authority will be responsible for maintaining the lists of Participating and Reportable Jurisdictions.

The current list, shown in [Part I](#) of the Appendix to this guide, will be updated annually, immediately prior to the end of the reporting year on 31 December and will also be uploaded separately to the [AEOI](#) page of the Income Tax Division website.

As further jurisdictions make a commitment to the implementation of the CRS and the current committed jurisdictions put in place the necessary legal agreements to facilitate the exchange of CRS data, the list of both Participating and Reportable Jurisdictions will change.

Isle of Man Financial Institutions must therefore refer to the list of Reportable Jurisdictions (those that the Isle of Man will exchange information with) at the end of the every reporting year to ensure that they provide reportable Account Holder information in respect of all Reportable Jurisdictions listed at the appropriate year end.

2.3 Early Adopters and Fast Followers

Participating and Reportable Jurisdictions can be divided into two further sub-categories, 'Early Adopters' and 'Fast Followers' based on when they have committed to making their first exchanges under the Standard.

2.3.1 Early Adopters

An 'Early Adopter' is a jurisdiction which has committed to making its first exchanges under the CRS by 30 September 2017. As of March 2016, 56 jurisdictions, including the Isle of Man, are [Early Adopters](#) and are listed in [Part I](#) of the Appendix to this guide.

Example

Jersey, like the Isle of Man, is an Early Adopter. It is also a Reportable Jurisdiction from an Isle of Man perspective therefore the first reciprocal exchange of information between the Jersey and Isle of Man Competent Authorities will be in respect of the reporting year 2016, and will be made no later than 30 September 2017.

Example

The Cayman Islands, like the Isle of Man, are an Early Adopter. Cayman is a Participating Jurisdiction but not a Reportable Jurisdiction from an Isle of Man perspective therefore the exchange relationship is non-reciprocal.

The first non-reciprocal exchange of information from the Cayman Competent Authority to the Isle of Man Competent Authority will be in respect of the reporting year 2016, and will be made no later than 30 September 2017.

2.3.2 Fast Followers

A 'Fast Follower' is a jurisdiction which has committed to making its first exchanges under the Standard by 30 September 2018. As of March 2016, 41 jurisdictions, as listed in [Part I](#) of the Appendix of this guide, are [Fast Followers](#).

Example

Switzerland is a Fast Follower. It is also a Reportable Jurisdiction from an Isle of Man perspective therefore the first reciprocal exchange of information between the Swiss and Isle of Man Competent Authorities will be in respect of the reporting year 2017, and will be made no later than 30 September 2018.

3 ISLE OF MAN OPTIONS

3.1 General

In certain areas the CRS provides optional approaches allowing jurisdictions to adopt the one most suited to their circumstances. Most of the optional provisions are intended to provide greater flexibility for Financial Institutions.

The dates on which new account opening procedures commence and the dates by which due diligence procedures must be completed will also vary from jurisdiction to jurisdiction depending on the timetable they have committed to (see [section 2.3](#)).

This section explains the various options the Isle of Man has taken with regards to its implementation of the CRS.

3.2 Wider Approach

The Isle of Man Regulations require Isle of Man Financial Institutions to establish and maintain arrangements that are designed to identify Reportable Accounts. Those arrangements must –

- identify the territory in which an Account Holder or a Controlling Person is resident for income tax or corporation tax purposes, or for the purposes of any tax imposed by the law of that territory that is of a similar character to either of those taxes;
- apply the due diligence procedures set out in [Sections II, III, IV, V, VI](#) and [VII](#) of the CRS; and
- maintain the information used to identify the territory of residence for a period of six years beginning with the end of the year in which the arrangements applied to the Financial Account

In taking this 'wider approach' to due diligence, by requiring Isle of Man Financial Institutions to identify and maintain a record of **all** territories in which an Account Holder or Controlling Person is resident, regardless of whether those jurisdictions are Participating or Non-Participating Jurisdictions, it is hoped that Isle of Man Financial Institutions will be able to somewhat 'future proof' their processes so that when a new jurisdiction commits to the CRS the work in identifying any new Reportable Accounts is minimised.

3.3 Due Diligence

3.3.1 New Accounts

A New Account (Individual or Entity) is any Financial Account opened by an Isle of Man Financial Institution on or after **1 January 2016**.

3.3.2 Pre-Existing Accounts

A Pre-existing Account (Individual or Entity) is any Financial Account maintained by an Isle of Man Financial Institution as of **31 December 2015**.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

The Isle of Man Regulations permit Isle of Man Financial Institutions to apply the due diligence procedures for New Accounts, as set out in the CRS, to Pre-existing Accounts should the Isle of Man Financial Institution choose to do so.

Where a reporting financial institution uses new account due diligence procedures for pre-existing accounts, the rules otherwise applicable to pre-existing accounts continue to apply.

3.3.3 High Value Accounts

High Value Accounts are Pre-existing Individual Accounts with a balance or value that exceeds \$1,000,000 at 31 December 2015 or of any subsequent year.

The review of Pre-existing Accounts that are High Value Accounts at 31 December 2015 must be completed by **31 December 2016**.

Where the balance or value of an account does not exceed \$1,000,000 as of 31 December 2015, but does as of 31 December of a subsequent calendar year, the Financial Institution must perform the additional procedures described for High Value Accounts by 31 December following the year in which the balance or value exceeded \$1,000,000.

3.3.4 Lower Value Accounts

These are Pre-existing Individual Accounts with a balance or value that does not exceed \$1,000,000 as of 31 December 2015.

The review of Pre-existing Individual Accounts that are Lower Value Accounts at 31 December 2015 must be completed by **31 December 2017**.

Please note Pre-existing Lower Value Accounts that are identified as reportable prior to the 31 December 2017 deadline will be reportable from the year in which they are identified as such.

Example

The due diligence procedures are carried out on a Lower Value Account during March 2016 and the account is determined to be reportable. The Financial Institution is therefore required to report the account from the year ending 31 December 2016 onwards.

The Isle of Man Regulations permit Isle of Man Financial Institutions to apply the due diligence procedures for High Value Accounts, as set out in the CRS, to Lower Value Accounts should the Isle of Man Financial Institution choose to do so.

3.3.4.1 Residence Address Test

In respect of Lower Value Accounts only, the Isle of Man Regulations allow Isle of Man Financial Institutions to apply either the 'residence address test' or an electronic record search to identify if an account is reportable.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

In order to use the 'residence address test' an Isle of Man Financial Institution must have policies and procedures in place to verify an Account Holder's residence address based on documentary evidence.

For the purpose of determining whether an individual Account Holder is a Reportable Person, the Isle of Man Reporting Financial Institution may treat such an individual as being a resident for tax purposes in the jurisdiction in which an address is located if:

- the Reporting Isle of Man Financial Institution has in its records a residence address for the Individual Account Holder,
- such residence address is current, and
- such residence address is based on documentary evidence.

PO Box and 'Care-Of' addresses are not considered to be residence addresses. A residence address is considered to be 'current' where it is the most recent residence address recorded by the Financial Institution but it cannot be considered where mail has been returned undelivered from it.

In order to satisfy the test based on documentary evidence, the address must be located in the same jurisdiction as that on the documentary evidence.

3.3.5 Entity Accounts

The review of Pre-existing Entity Accounts must be completed by **31 December 2017** except where the balance of the account does not exceed \$250,000 at the year end **and** the Financial Institution has elected to apply the threshold exemption (see [section 3.3.5.1](#)) available in respect of entity accounts.

Please note Pre-existing Entity Accounts that are identified as reportable prior to the 31 December 2017 deadline are reportable from the year in which they are identified as such.

Example

The due diligence procedures are carried out on an Entity Account during December 2016 and the account is determined to be reportable. The Financial Institution is therefore required to report the account from the year ending 31 December 2016 onwards.

3.3.5.1 Threshold Exemption

The Isle of Man Regulations allow Isle of Man Financial Institutions to apply a threshold exemption for the review, identification and reporting of Pre-existing Entity Accounts.

If a Financial Institution elects to apply the threshold exemption, accounts with a balance or value not exceeding \$250,000 at 31 December 2015 do not need to be reviewed, identified or reported until the account balance exceeds \$250,000 at 31 December of a subsequent calendar year.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

The election to apply the threshold exemption should be made in writing to the Assessor on or before the date the report, for the calendar year in which the threshold exemption has been applied for the first time, is due to be made. The election will remain in place until such time as the Financial Institution advises the Assessor that it no longer wishes to apply the exemption.

3.3.6 Group Cash Value Insurance or Group Annuity Contracts

Under the Isle of Man Regulations, an Isle of Man Financial Institution can treat an account that is a Group Cash Value Insurance Contract or a Group Annuity Contract, as a non-reportable account until the date on which an amount is payable to an employee/certificate holder or beneficiary, if the Financial Account that is a member's interest in a Group Cash Value Insurance Contract or Group Annuity Contract meets the following requirements:

- the Group Cash Value Insurance Contract or Group Annuity Contract is issued to an employer and covers 25 or more employees/certificate holders;
- the employees/certificate holders are entitled to receive any contract value related to their interests and to name beneficiaries for the benefit payable upon the employee's death; and
- the aggregate amount payable to any employee/certificate holder or beneficiary does not exceed \$1,000,000.

The Isle of Man Regulations define both a 'Group Cash Value Insurance Contract' and a 'Group Annuity Contract'.

The term 'Group Cash Value Insurance Contract' means a Cash Value Insurance Contract that:

- 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.

The term 'Group Annuity Contract' means an Annuity Contract under which the obligees are individuals who are affiliated through an employer, trade association, labour union, or other association.

3.3.7 Standardised Industry Codes and Indicia for Pre-Existing Entities

Under the Isle of Man Regulations an Isle of Man Financial Institution may use as documentary evidence any classification in its records with respect to the Account Holder that –

- was determined based on a standardised industry coding system;
- was recorded by the Financial Institution consistent with its normal business practices for the purposes of AML or KYC procedures or another regulatory purpose (other than for tax purposes); and

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

- was implemented by the Financial Institution no later than 31 December 2015 provided that the Financial Institution does not, or does not have reason to, know that such classification is incorrect or unreliable.

A 'standardised industry coding system' means a coding system used to classify establishments by business type for purposes other than tax purposes.

3.3.8 Pre-existing Cash Value Insurance Contracts or Annuity Contracts Unable to be Sold to Residents of Reportable Jurisdictions

Pre-existing Cash Value Insurance Contracts or Annuity Contracts that are unable to be sold to residents of Reportable Jurisdictions because of legal or regulatory restrictions do not need to be reviewed, identified or reported. This also applies to Insurance policies written in Trust or assigned to a Trust on or before 31 December 2015.

This exemption only applies where one of the following conditions is met:

- the law of the Financial Institution's jurisdiction prohibits or otherwise effectively prevents the sale of such contracts to residents in another jurisdiction, or
- the law of a Reportable Jurisdiction prohibits or otherwise effectively prevents the Financial Institution from selling such contracts to residents of that jurisdiction

No existing Isle of Man law prevents the sale of Cash Value Insurance Products or Annuity Contracts to any non-residents. However, the sale of contracts to residents of Reporting Jurisdictions will be considered to be effectively prevented if the issuing Specified Insurance Company (not including any Reportable Jurisdiction branches) does not hold a licence, permit or other such authority to sell insurance or annuity contract to residents of the Reportable Jurisdiction and its products are not registered with the appropriate authorities in the Reportable Jurisdiction.

3.4 Reporting

3.4.1 Reporting Period

The information to be reported (see [section 5.2](#)) must be that as of the end of the relevant calendar year or other appropriate reporting period.

Although not specifically defined in the Isle of Man Regulations, Isle of Man Financial Institutions are permitted to use an appropriate, alternative reporting period end date in respect of any Financial Account where it is not possible to, or usual to, value the account at 31 December.

In such instances the Isle of Man Financial Institution should use the normal valuation point for the account falling in the year to the 31 December.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Example

Mr A, a Reportable Person, opens a Cash Value Insurance Contract with an Isle of Man Specified Insurance Company on 1 July 2015. The contract is valued annually; therefore, in the reporting year 2016, the Isle of Man Financial Institution can report the account balance or value at 30 June 2016, the normal valuation point for the contract falling in the year to 31 December 2016.

3.4.2 Nil Returns

Isle of Man Financial Institutions are not required to make a return to the Assessor in any year in which they have no Reportable Accounts.

Reporting is required, however, where the balance of an account is nil. Negative balances are also required to be reported as nil balances.

3.4.3 Third Party Service Providers

An Isle of Man Financial Institution can rely on a Third-Party Service Provider to fulfil its obligations under the Isle of Man Regulations, but the obligations remain the responsibility of the Isle of Man Financial Institution and so any failure will be seen as a failure on the part of the Isle of Man Financial Institution.

The Isle of Man Regulations do not prevent an Isle of Man Financial Institution using a non-Isle of Man Third Party Service Provider. However, that service provider must still carry out the due diligence requirements, report to the Assessor in the prescribed format and comply with all other aspects as set out in those Regulations.

3.5 Definitions

3.5.1 Isle of Man Financial Institution

An Isle of Man Financial Institution is any Financial Institution resident in the Isle of Man as well as any non-resident Financial Institution which has a permanent establishment located in the Isle of Man through which it conducts the business of a Financial Institution.

A Financial Institution will be resident in the Isle of Man if it is:-

- tax resident in the Isle of Man; or
- otherwise subject to the jurisdiction of the Isle of Man.

For these purposes resident for tax purposes in the Isle of Man means the following:-

- for a company, if the company is incorporated in the Isle of Man or is managed and controlled in the Isle of Man;
- for a company not resident in the Isle of Man, where it carries on a business of a Financial Institution through a permanent establishment in the Isle of Man;
- for trusts, if any of the trustees are resident in the Isle of Man, even if there are no Isle of Man resident settlors, beneficiaries or protectors; and

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

- for partnerships, if the partnership is managed and controlled in the Isle of Man.

A dual resident entity that is resident in the Isle of Man and resident for the purpose of the CRS in another Participating Jurisdiction will have to apply the Isle of Man Regulations in respect of any Reportable Accounts maintained in the Isle of Man.

Where a Financial Institution does not have a residence for tax purposes it will be considered an Isle of Man Financial Institution for the purposes of the CRS if it is subject to financial supervision in the Isle of Man.

An Isle of Man Financial Institution will be classified as either a Non-Reporting Isle of Man Financial Institution (see [section 3.6](#)) or a Reporting Isle of Man Financial Institution.

3.5.2 Expanded Definition of Pre-Existing Account

Although not specifically defined in the Isle of Man Regulations, where a Pre-existing Account Holder wishes to open a New Account with the same Isle of Man Financial Institution, there is no need to re-document the account holder as long as:

- the appropriate due diligence requirements have already been carried out, or are in the process of being carried out, for the Pre-existing Account; **and**
- the accounts are treated as linked or as a single account or obligation for the purposes of applying any of the due diligence requirements.

This means that the standards of knowledge to be applied, the change of circumstances rules and aggregation requirements will apply to all accounts held by the Account Holder.

Therefore, where there is a change of circumstance or where the Financial Institution has reason to know that the Account Holder's status is inaccurate in relation to one account, this will apply to all other accounts held by the Account Holder.

3.5.3 Expanded Definition of Related Entity

When an Isle of Man Financial Institution is considering its own group, the definition for Related Entity is as set out in the Isle of Man Regulations, which states that an entity is regarded as being related to another entity if:-

- either entity controls the other entity;
- the two entities are under common control; or
- the two entities are Investment Entities (see [section 4.2](#)), are under common management and such management fulfils the due diligence obligations of such Investment Entities.

For this purpose, control means the direct or indirect ownership of more than 50% of the vote or value in an entity.

This definition of a Related Entity replaces that given in [Section VIII E.4](#) of the CRS.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Investment Entities which have been provided with seed capital by a member of a group to which the Investment Entity belongs will not be considered to be a Related Entity for these purposes.

Seed capital investment is the original capital contribution made to an Investment Entity that is intended to be a temporary investment. This would generally be for the purpose of establishing a performance record before selling interests in the entity to unrelated investors or for purposes otherwise deemed appropriate by the manager.

Specifically, an Investment Entity will not be considered to be a Related Entity as a result of a contribution of seed capital by a member of the group if:-

- the member of the group that provides the seed capital is in the business of providing seed capital to Investment Entities that it intends to sell to unrelated investors;
- the Investment Entity is created in the course of its business;
- any equity interest in excess of 50% of the total value of stock of the Investment Entity is intended to be held for no more than three years from the date of acquisition; and
- in the case of an equity interest that has been held for over three years, its value is less than 50% of the total value of the stock of the Investment Entity.

3.5.4 Controlling Person of a Trust

A Controlling Person is defined in the CRS to mean the natural persons who exercise control over an entity.

In the case of a trust, such term means –

- the settlor(s);
- the trustee(s);
- the protector(s) (if any);
- the beneficiary(ies) or classes of beneficiary(ies); and
- any other natural person(s) exercising ultimate effective control over the trust.

Despite all beneficiaries being classed as Controlling Persons, the Isle of Man Regulations allow Isle of Man Financial Institutions to exclude a beneficiary, who would otherwise be a Reportable Person, from reporting where:-

- they are a discretionary beneficiary; and
- they do not receive a discretionary distribution in the reporting period.

This aligns the scope of the beneficiaries of a trust treated as a Controlling Person with the scope of beneficiaries treated as Reportable Persons where the trust itself is a Financial Institution.

In order for an Isle of Man Financial Institution to apply this amended definition of a Controlling Person, the Isle of Man Regulations require the Isle of Man Financial Institution

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

to have appropriate notification procedures in place, confirming no distributions have been made to the discretionary beneficiaries in the reporting period.

Where no such confirmation is made by the trust, the Isle of Man Financial Institution must continue to treat the discretionary beneficiary as a Controlling Person and report accordingly if that person is a Reportable Person.

Example

ABC Ltd is an Isle of Man Financial Institution, which maintains a Depository Account for D, an Isle of Man Trust.

D is a [Passive NFE](#) and ABC Ltd has identified its Controlling Persons as follows:-

Mrs E – The Settlor, a Cayman Islands resident

Mr F – The Trustee, an Isle of Man resident

Miss G – The Discretionary Beneficiary, a Guernsey resident

The account is therefore a Reportable Account because it is held by a Passive NFE with one Controlling Person, Miss G, who is a Reportable Person.

However, as Mr F, in his capacity as Trustee, confirms in writing to ABC Ltd, that during the year ended 31 December 2016, no distributions were made to Miss G, ABC Ltd does not need to report the account in respect of 2016.

For the avoidance of doubt, although a Settlor is a Controlling Person, Mrs E is not a Reportable Person as she is not resident in a Reportable Jurisdiction and although a Trustee is also a Controlling Person, Mr F is not a Reportable Person because he is a resident of the Isle of Man and there is no domestic reporting, of Isle of Man residents to the Assessor, under the CRS.

3.6 Non-Reporting Financial Institutions

A Non-Reporting Isle of Man Financial Institution is any Isle of Man Financial Institution that falls within the various categories, listed below, as set out in [Section VIII B.1](#) of the CRS:

- [Governmental Entities](#),
- [International Organisations](#),
- [Central Banks](#),
- [Pension Funds of Governmental Entities, International Organisations or Central Banks](#),
- [Qualified Credit Card Issuers](#) (see [section 3.6.1](#)),
- [Trusts where the Trustee is a Reporting Financial Institution](#),
- [Exempt Collective Investment Vehicles](#),
- [Other Low Risk Entities Defined in Domestic Law](#) (see [section 3.6.2](#)),
- [Broad Participation Retirement Funds](#), and
- [Narrow Participation Retirement Funds](#)

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

3.6.1 Qualified Credit Card Issuers

Isle of Man Financial Institutions that are Qualified Credit Card Issuers may be treated as Non-Reporting Financial Institutions, for the purpose of the CRS, where they have satisfied the criteria outlined in [Section VIII, B.8](#) of the CRS and they have, by **1 January 2016**, implemented policies and procedures to either prevent a customer making an overpayment in excess of \$50,000, or to ensure that any customer overpayment in excess of \$50,000 is refunded to the customer within 60 days.

3.6.2 Low Risk Entities

Under the CRS, the Isle of Man, along with all other Participating Jurisdictions, can define any jurisdiction-specific low risk entities as Non-Reporting Financial Institutions in their domestic law.

In order to comply with the Standard the entity must have substantially similar characteristics to the types of Non-Reporting Financial Institutions defined in [Section VIII B.1](#) of the CRS, present a low risk of being used to evade tax and not frustrate the purpose of the CRS.

At present the Isle of Man Regulations do not include any Isle of Man specific Non-Reporting Financial Institutions.

3.7 Excluded Financial Accounts

[Section VIII C.17](#) of the CRS sets out certain products that have been agreed as low risk (in terms of the likelihood of being used for tax evasion) and which are excluded from being treated as Financial Accounts. As such, Financial Institutions will have no reporting obligations under the CRS in respect of these accounts or products.

The CRS also provides the capacity for the jurisdictions to legislate for domestic low risk accounts to also be treated as excluded.

3.7.1 Retirement Accounts and Products

A retirement or pension account that satisfies the requirements set out in [Section VIII C.17\(a\)](#) of the CRS will be an Excluded Account. However, it should be noted that under present Isle of Man legislation, Isle of Man retirement accounts and pensions have an annual maximum contribution of £300,000 and no lifetime limit; therefore, they will not qualify as Excluded Accounts.

3.7.2 Certain Depository Accounts

A Depository Account that satisfies the requirements set out in [Section VIII C.17\(f\)](#) of the CRS will also be treated as an Excluded Account. However, in order to qualify, the Isle of Man Financial Institution must, by **1 January 2016**, implement policies and procedures either to prevent a customer from making an overpayment in excess of \$50,000 (applying the aggregation and currency translation rules), or to ensure such an overpayment would be refunded within 60 days.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

3.7.3 Dormant Accounts

Under the Isle of Man Regulations an Isle of Man Financial Institution may treat dormant accounts as Excluded Financial Accounts so long as the annual balance of the account does not exceed \$1,000.

In order to determine if an account is dormant, the Isle of Man Financial Institution can apply its normal operating procedures that are used to classify an account as dormant.

Where normal operating procedures are not applicable, then the Financial Institution is to classify an account as dormant for the purposes of the CRS where:-

- there has been no activity on the account in the past three years;
- the Account Holder has not contacted the Financial Institution regarding that account or any other account in the past six years;
- the account is not linked to an active account belonging to the same Account Holder.

The Financial Institution should classify the account based upon existing documentation it already has in its possession for the Account Holder. Where this review determines that the dormant account is reportable, then the Financial Institution should make the appropriate report notwithstanding that there has been no contact with the Account Holder.

Where the Financial Institution has closed the account and transferred the customer's account balances to a pooled 'unclaimed balances account', however described, maintained by the bank there will be no customer account to report.

An account that has a nil balance is not necessarily dormant if the above conditions do not apply.

Where the Financial Institution has closed the account and there is no customer account to report, 'reactivation' will be treated as the opening of a New Account. The Financial Institution would then have to establish the Account Holder's status as if the account were any other type of New Account.

An account will no longer be dormant where:-

- under normal operating procedures the account is not considered dormant;
- the Account Holder contacts the Financial Institution in relation to that account or any other account held by the Account Holder with that Financial Institution, including a former Account Holder whose account balances have been transferred to an unclaimed balances account;
- the Account Holder initiates a transaction with respect to the dormant account or any other account held by the Account Holder with that Financial Institution.

The Financial Institution would then have to ensure it establishes the Account Holder's status as if the account were a New Account.

4 FATCA vs. THE CRS

4.1 General

Since the CRS was developed and draws extensively on the intergovernmental approach taken to implementing FATCA, many of the provisions are the same. However, Isle of Man Financial Institutions with reporting obligations under FATCA and/or the UK IGA and the CRS should note that differences do exist.

Part III of the OECD's [CRS Implementation Handbook](#) takes a detailed look, comparing the CRS with FATCA, and highlights many of these differences. Isle of Man Financial Institutions with dual reporting obligations should therefore take care to ensure that the rules specifically applicable to the CRS are followed in respect of their CRS due diligence and reporting.

This section of the guide highlights areas of the CRS which differ from FATCA and which the Assessor believes will be of particular importance to Isle of Man Financial Institutions as the CRS approach is fundamentally different from that in the Isle of Man's [The International Tax Compliance \(United States of America and United Kingdom\) Regulations 2014 Guidance Notes](#) which can continue to be used by Isle of Man Financial Institutions with reporting and due diligence obligations in respect of FATCA and/or the UK IGA.

4.2 Investment Entity Definition

An Investment Entity is defined in [Section VIII A.6](#) of the CRS as any entity:

- a) that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
 - i. trading in money market instruments (cheques, bills, certificates of deposit, derivatives etc); foreign exchange; exchange, interest and index instruments; transferable securities; or commodity futures trading;
 - ii. individual and collective portfolio management; or
 - iii. otherwise investing, administering, or managing Financial Assets or money on behalf of other persons; or
- b) the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company or an Investment Entity described in a) above.

An entity is treated as primarily conducting as a business one of the activities described in a) above, or an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for the purpose of b) above, if the Entity's gross income attributable to the relevant activities equals or exceeds 50% of the Entity's gross income.

This test applies to three years ended 31 December of the year preceding the year in which the determination is made or the period since commencement, if shorter.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Therefore, an entity whose gross income is primarily attributable to non-financial assets such as real property, even if managed by a Financial Institution, would not be an Investment Entity.

Example

A non-financial trading company, for example a real estate company, managed by a Trust and Corporate Service Provider (TCSP) would not be an Investment Entity as although it is managed by an Investment Entity, the TCSP, its gross income is not primarily attributable to investing, reinvesting or trading in financial assets.

Where an entity is managed by an individual who performs the activities prescribed above, the managed entity will not necessarily be an Investment Entity as an individual can never be a Financial Institution. In this case it is necessary to look at the activities of the entity itself.

An entity would generally be considered an Investment Entity if it functions or holds itself out as a collective investment vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leveraged buyout fund, or any similar investment vehicle established with an investment strategy of investing, reinvesting, or trading in financial assets.

An entity that primarily conducts as a business investing, administering, or managing non-debt interests in real property on behalf of other persons such as a type of real estate investment trust, will not be an Investment Entity.

4.2.1 FATCA & UK IGA Investment Entity Definition

Under the US and UK IGAs an Investment Entity is defined as an Entity that conducts as a business, or is managed by an Entity that conducts as a business, one or more of the following activities, for or on behalf of a customer:

- trading in money market instruments (cheques, bills, certificates of deposit, derivatives etc);
- foreign exchange;
- exchange, interest and index instruments;
- transferable securities and commodity futures trading;
- individual and collective portfolio management;
- otherwise investing, administering, or managing funds or money on behalf of other persons.

As the US and UK IGA definitions do not require a 'managed entity' to have income 'primarily attributable to investing, reinvesting, or trading in Financial Assets' it is possible that some entities that were classified as Investment Entity Financial Institutions under those agreements will no longer be Investment Entities, and therefore Financial Institutions, for CRS purposes.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Isle of Man Financial Institutions that maintain accounts for any Isle of Man Entity cannot rely on any previous FATCA or UK IGA Investment Entity or Sponsored Investment Entity certifications to necessarily still be applicable and will need to establish such an Entity's status in respect of the CRS separately.

However, the issue has been raised with the OECD in order to establish if the IGA definitions could be used without frustrating the CRS. This section will therefore be updated in due course.

Example

T is an Isle of Man Trust, managed by XYZ Limited, an Isle of Man TSCP. For the purposes of the CRS XYZ Limited is an Investment Entity and therefore an Isle of Man Financial Institution.

T owns properties, from which it receives \$600,000 per year rental income, and has an investment portfolio account in an Isle of Man Financial Institution which produces \$400,000 income.

As XYZ Limited is an Investment Entity and it manages T, for the purposes of the US and UK IGAs, T can also be classified as an Investment Entity (using the IGA definition) and is therefore responsible for reporting the Balance or Value of any Equity Interest that US and UK Specified Persons hold in T.

However, applying the CRS definition, although T is managed by an Investment Entity, it will not be a Financial Institution as it only receives 40% of its gross income from investing in Financial Assets (real property is not a Financial Asset – see [Section VIII A.7](#) of the CRS for the definition of Financial Asset).

Under the CRS, T would be a Passive NFE; therefore, the Isle of Man Financial Institution holding the investment portfolio account for T would need to determine if any of T's Controlling Persons are Reportable Jurisdiction Persons and report accordingly.

4.2.2 Managed By

The OECD's Commentary confirms that an Entity is 'managed by' another Entity if the managing Entity performs, either directly or through another service provider, any of the activities or operations described in subparagraph a) of [Section VIII A.6](#) on behalf of the managed Entity.

However, an Entity does not manage another Entity if it does not have discretionary authority to manage the Entity's assets (in whole or part).

For the purposes of the 'managed by' test, a distinction should be made between one Entity 'managing' another and one Entity 'administering' another.

For instance, the following services provided by an Entity to another will not constitute the latter entity being 'managed by' the former:-

- provision of co-secretary and/or company secretarial services;
- provision of registered office;
- preparation of final financial statements (from company books and records);

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

- preparation of Tax and/or VAT returns;
- provision of bookkeeping services including budgeting and cash-flow forecasts.

Where an Isle of Man company's directors are employees of an Isle of Man TCSP, which itself is a Financial Institution, or where the director is a corporate director wholly owned by that Isle of Man TCSP, and the Isle of Man company is administered by that Isle of Man TCSP Financial Institution, the Isle of Man company may be treated as being 'managed by' a Financial Institution, and so be an Investment Entity itself, so long as those directors have the discretionary authority to manage the Entity's Financial Assets.

Where an Entity is managed by a mix of Financial Institutions, NFEs or individuals, the Entity is considered to be managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company or an Investment Entity described in subparagraph a), if any of the managing Entities is such another Entity.

The OECD's Handbook provides the following examples to assist an Entity in determining if it meets the 'managed by' test or not.

Example

A Private Trust Company that acts as a registered office or registered agent of a trust or performs administrative services unrelated to the Financial Assets or money of the trust, does not conduct the activities or operations described in [Section VIII A.6.a\)](#) on behalf of the trust and thus is not 'managed by' the Private Trust Company within the meaning of [Section VIII A.6.b\)](#).

Example

An Entity that invests all or a portion of its assets in a mutual fund, exchange traded fund, or similar vehicle will not be considered 'managed by' the mutual fund, exchange traded fund, or similar vehicle.

4.2.3 Direct and Indirect Non-Financial Assets

When using the CRS definition of an Investment Entity an Entity which meets the 'managed by' test must also consider whether its gross income is primarily attributable to Financial Assets.

Income is only primarily attributable where the Entity holds a **direct** investment in the Financial Asset.

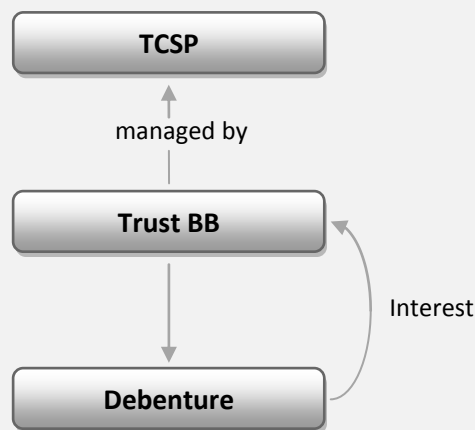
THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Example

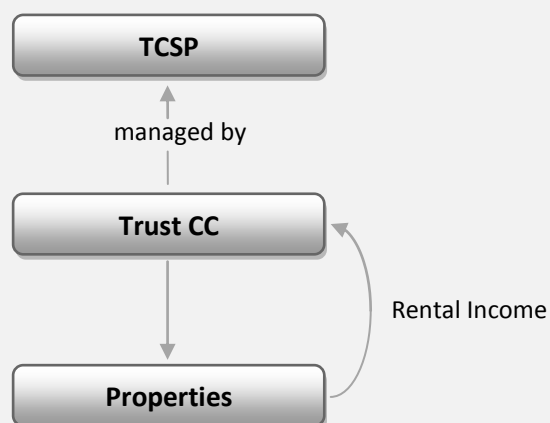
BB is an Isle of Man Trust that holds a debenture, from which it receives interest, the trust's only source of income.



As Trust BB is managed by a TCSP (an Investment Entity), and has 100% of its income derived from its investment in the debenture (a Financial Asset) Trust BB is an Investment Entity and therefore an Isle of Man Financial Institution.

Example

CC is an Isle of Man Trust owning a portfolio of rental properties. The rental income received from the portfolio accounts for 100% of CC's income.



Although Trust CC is managed by a TCSP (an Investment Entity), the Isle of Man properties, from which it receives 100% of its income, are not Financial Assets; therefore, Trust CC cannot be an Investment Entity and is therefore not an Isle of Man Financial Institution.

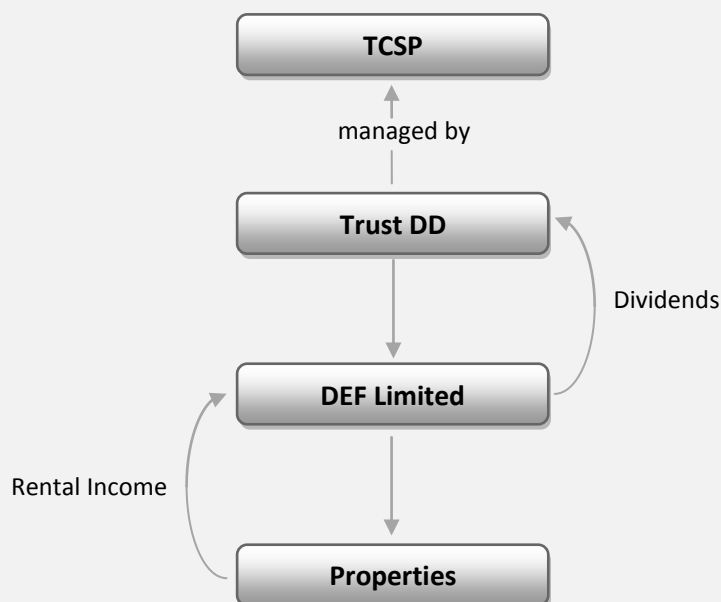
THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Example

DD is an Isle of Man Trust that holds 100% of the shares in DEF Limited, an Isle of Man resident company that owns a portfolio of rental properties.



As Trust DD is managed by a TCSP (an Investment Entity), and derives 100% of its income from the dividends paid on the shares (a Financial Asset) held in DEF Limited, Trust DD is an Investment Entity and therefore an Isle of Man Financial Institution, whilst DEF Limited will be a Passive NFE.

The status of any Entity (Trust, Foundation or Company) that is not managed by a TCSP or another Financial Institution will be determined by its activity and the Entity could therefore be a Financial Institution in its own right or a Passive or Active NFE.

A trust that is managed by an individual, and does engage another Financial Institution to manage the Financial Assets, will not be an Investment Entity under the 'managed by' condition but may still fall to be an Investment Entity by virtue of its activity.

Example

A, an individual, establishes Trust EE, for the benefit of A's children, B and C.

A appoints Trustee F, an individual, to act as the trustee of Trust EE. The trust assets consist solely of Financial Assets, and its income consists solely of income from those Financial Assets.

Pursuant to the terms of the trust instrument, Trustee F manages and administers the assets of the trust. Trustee F does not hire any entity as a third-party service provider to perform any of the activities described in [Section VIII A.6.a](#).

Trust EE is not an Investment Entity because it is managed solely by Trustee F, an individual.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Example

The facts are the same as above, except that A hires Trust Company GHI, a Financial Institution, to act as trustee on behalf of Trust EE.

As trustee, GHI has the discretionary authority to manage and administer the assets of Trust EE in accordance with the terms of the trust instrument for the benefit of B and C.

Trust EE is an Investment Entity because it is managed by GHI, a Financial Institution, and all of its income is attributable to Financial Assets.

The holding of a Financial Account by the trust, such as an investment portfolio, with a Financial Institution, where that Financial Institution does not participate in the management of the trust or Financial Assets, does not in itself make the trust an Investment Entity.

4.3 Non-Participating Jurisdiction Investment Entities

Isle of Man Financial Institutions are required to treat 'managed' Investment Entities, (or branches thereof) that are resident in (or located in) any Non-Participating Jurisdiction, as Passive NFEs and therefore report on the Controlling Persons of such entities that are Reportable Persons as defined in [Section VIII, D.2](#) of the CRS.

'Managed' Investment Entities are those that meet the definition of an Investment Entity as per [Section VIII A.6.b](#) of the CRS.

[Part I](#) of the Appendix to this guide lists the Participating Jurisdictions in full; any Jurisdiction not listed is therefore a Non-Participating Jurisdiction.

Example

MNO Limited is an Isle of Man Financial Institution that maintains a Financial Account for PQR Inc. a US 'managed' Investment Entity.

The sole shareholder in PQR Limited is Mr H who is resident for tax purposes in Ireland.

As the US is a Non-Participating Jurisdiction, and PQR is a 'managed' Investment Entity, MNO Limited will be required to treat PQR Limited as a Passive NFE and as Mr H, the Controlling Person, is a Reportable Person by virtue of his Irish tax residency, MNO Limited will be required to report details of the Financial Account maintained to the Assessor.

4.4 Self-Certification Compliance and Undocumented Accounts

Given that obtaining a valid Self-Certification for all New Accounts, as well as certain Pre-Existing Accounts is a critical aspect of ensuring the CRS is effective, it is expected that jurisdictions have strong measures in place to ensure that valid Self-Certifications are also received when required.

4.4.1 Timing of Self-Certification

It is expected that Isle of Man Financial Institutions will maintain account opening processes that facilitate collection of a valid Self-Certification at the time an account is opened.

There may be circumstances, however, where it is not possible or practical to obtain a Self-Certification on 'day one' of the account opening process, for example where an insurance contract has been assigned from one person to another.

In such circumstances, it is expected that a valid Self-Certification will be obtained within a period of 90 days. Isle of Man Financial Institutions must make proper endeavours to obtain the Self-Certification in these circumstances, including issuing follow up letters on at least an annual basis.

If an Account Holder fails to respond there is no requirement in the Isle of Man Regulations to close that account but it should be reported to the Assessor as Undocumented (see [section 4.4.2](#)) until such time as a valid Self-Certification is received.

4.4.2 Undocumented Accounts

An Undocumented Account generally arises when a Financial Institution is unable to obtain information from an Account Holder in respect of a Pre-existing Account.

In the Isle of Man, New Accounts may also need to be reported as Undocumented, in the rare circumstance where a valid Self-Certification cannot be obtained (see [section 4.4.1](#)).

The reporting of an Account as Undocumented could either be the result of inadequate procedures being implemented by the Financial Institution to obtain the necessary information required under the CRS or because the Account Holder is non-compliant. Either case is a cause for concern.

The Assessor will follow up with any Isle of Man Financial Institution that reports Undocumented Accounts.

In the case of a small number of Undocumented Accounts, a simple inquiry to the Financial Institution may be sufficient. However, if such a Financial Institution reports a larger than average number of Undocumented Accounts in any one year or the number of Undocumented Accounts reported continues to increase, a full audit of the Isle of Man Financial Institution's due diligence procedures may be undertaken and penalties (see [section 7.3](#)) may be imposed.

4.5 Notification Requirement

The Isle of Man Regulations recommend that Isle of Man Financial Institutions notify each individual Reportable Person that information relating to that person will be reported to the Assessor and may be transferred to the Competent Authority of another territory.

The format of the notification is not prescribed and could, for example, be included in a terms and conditions update issued to all Account Holders by a Financial Institution.

4.6 Account Closures and Transfers

[Section I](#) of the CRS, which prescribes the information to be reported in respect of a Reportable Account, advises that if an account is closed during the year, the closure of the account should be reported instead of the account's balance or value.

This differs from the reporting obligations imposed under the US and UK Agreements which require the balance or value of the account immediately prior to closure to be reported.

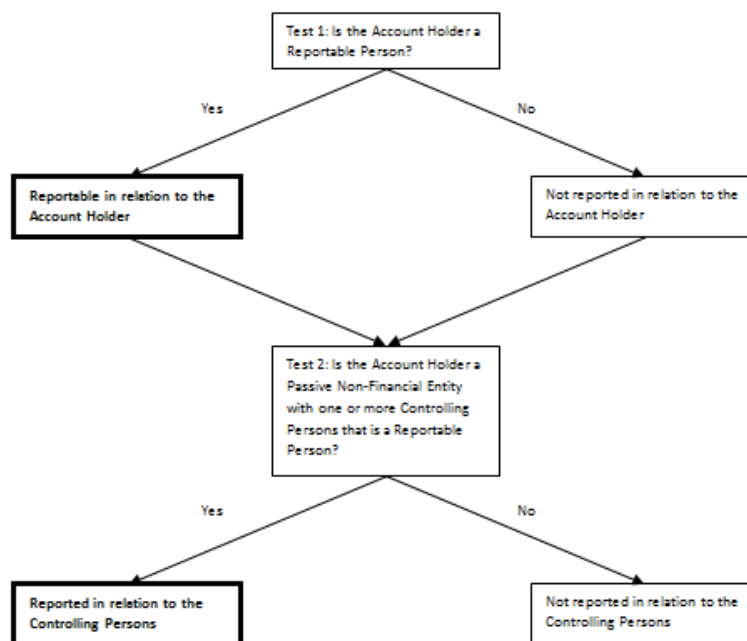
4.7 Entity Account Reporting

[Sections V](#) and [VI](#) of the CRS set out the reporting and due diligence procedures to be applied in respect of Pre-Existing and New Entity Accounts.

Reporting is required in respect of Accounts belonging to an Entity:-

- which is itself a Reportable Person, or
- is a Passive NFE with one or more Controlling Persons who are Reportable Persons

Establishing this requires two tests, illustrated below:-



1

4.7.1 Test 1

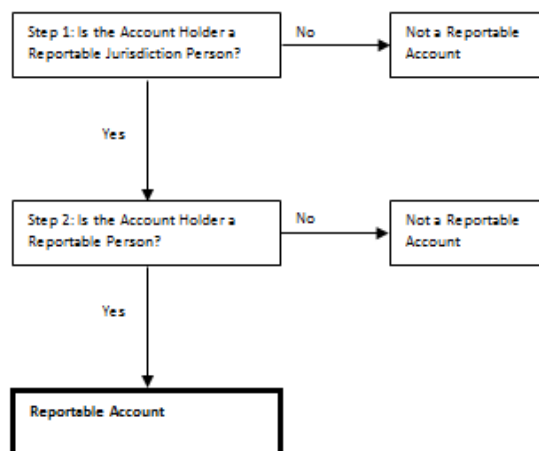
Test 1 establishes whether the Financial Account is a Reportable Account by virtue of the Account Holder (the Entity) and is broken down into two further steps to establish if the Account Holder (the Entity) is a Reportable Person.

¹ Figure 9 taken from the OECDs CRS Implementation Handbook

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016



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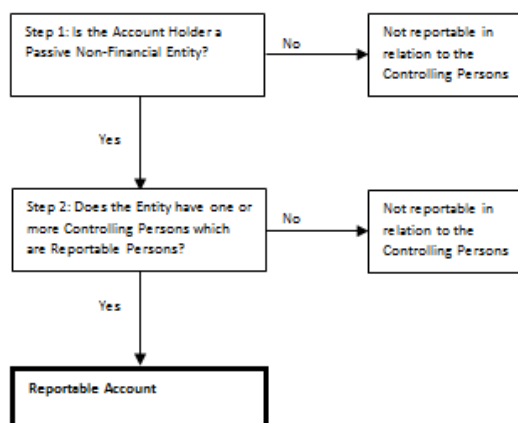
4.7.2 Test 2

Regardless of whether the Entity's Financial Account is a Reportable Account by virtue of the Account Holder (the Entity itself) being a Reportable Person, there is then a second test in relation to the Controlling Persons of certain Entity Account Holders.

This may mean that additional information is required to be reported in respect of the already Reportable Account or that a previously Non-Reportable Account becomes a Reportable Account by virtue of the Controlling Persons.

Please note, the requirement to apply the second step to an account already identified as a Reportable, because the Entity itself is a Reportable Person, is specific to the CRS and was not required under either the US or UK IGAs.

The second test can also be broken down into two steps, as shown below:-



3

² Figure 10 taken from the OECDs CRS Implementation Handbook

³ Figure 11 taken from the OECDs CRS Implementation Handbook

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

4.7.3 CRS Schema Requirements

Where a Financial Institution has applied the two tests shown in [sections 4.7.1](#) and [4.7.2](#) and identified that an Entity's Account is reportable the CRS schema requires the Financial Institution to specify the reason by selecting one of three possible Account Holder codes:-

CRS101 Passive Non-Financial Entity with one or more Controlling Persons that are Reportable Persons

To be used where the Entity is a Passive NFE (regardless of whether the Entity itself is also a Reportable Person or not) with Controlling Persons who are Reportable Persons – see [section 4.7.4, example I](#) and [II](#)

CRS102 CRS Reportable Person

To be used where the Entity is a Reportable Person and is an Active NFE with no requirement to look further to the Controlling Persons – see [section 4.7.4, example III](#)

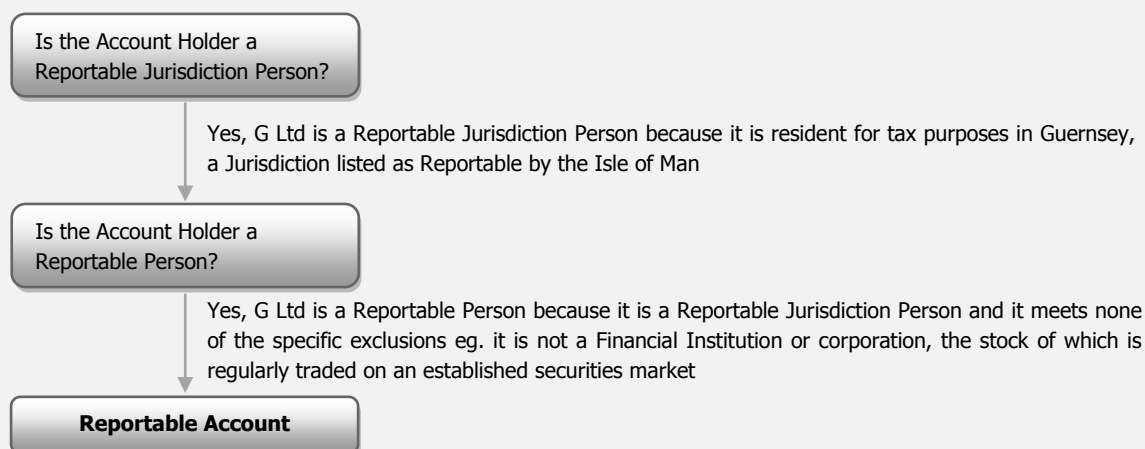
CRS103 Passive Non-Financial Entity that is a CRS Reportable Person

To be used where the Entity itself is a CRS Reportable Person and Passive NFE but has no Controlling Persons who are Reportable Persons – see [section 4.7.4, example IV](#)

4.7.4 Entity Account Examples

Example I

E Ltd, an Isle of Man Financial Institution, wishes to establish if the Financial Account it holds for G Ltd, a Guernsey company, that is a Non-Financial Institution, is Reportable. Applying the first test:-



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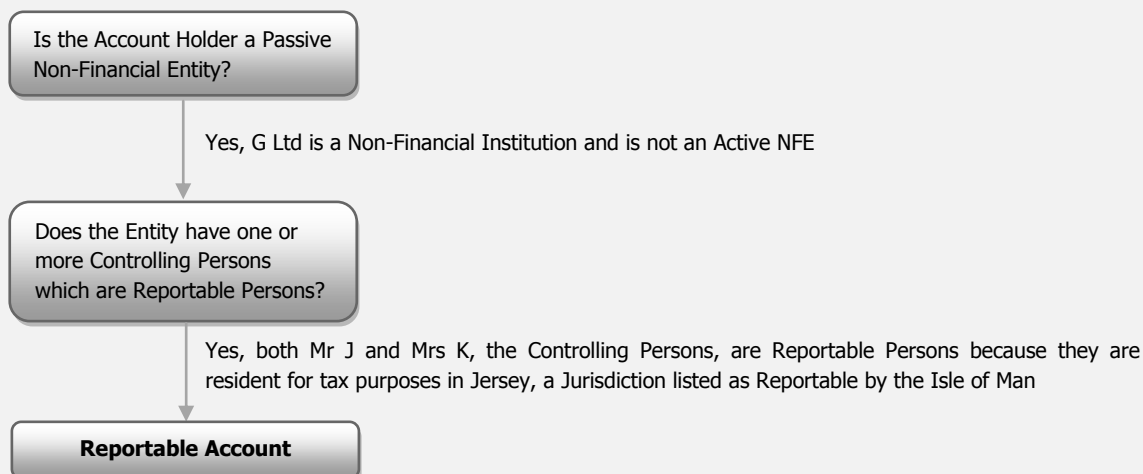
THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Example I Continued

Having established that G Ltd is a Reportable Person in its own right E Ltd must now establish if there is any further reporting required in respect of G Ltd's Controlling Persons. G Ltd's primary source of income is derived from a portfolio of rental properties and its two Controlling Persons, Mr J and Mrs K, are Jersey residents. Applying the second test:-



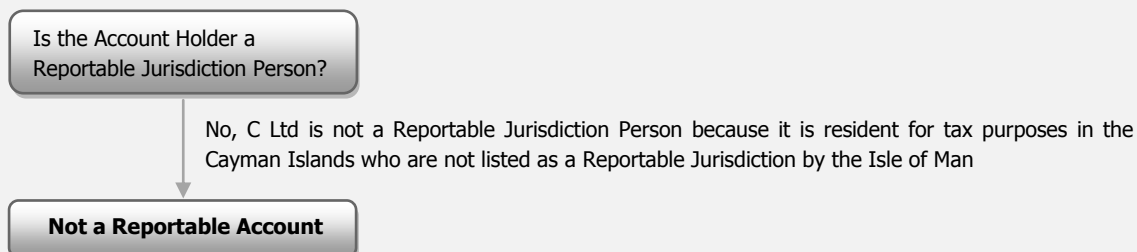
As a result E Ltd will be required to provide the Assessor with details of G Ltd and of Mr J and Mrs K.

The Assessor will exchange the information with the Guernsey and Jersey Competent Authorities.

The Entity Account Holder Type will be CRS101

Example II

E Ltd, an Isle of Man Financial Institution, wishes to establish if the Financial Account it holds for C Ltd, a Cayman Islands company, that is a Non-Financial Institution, is Reportable. Applying the first test:-



Although C Ltd is not a Reportable Person, E Ltd must still establish if there is reporting by virtue of C Ltd's Controlling Persons.

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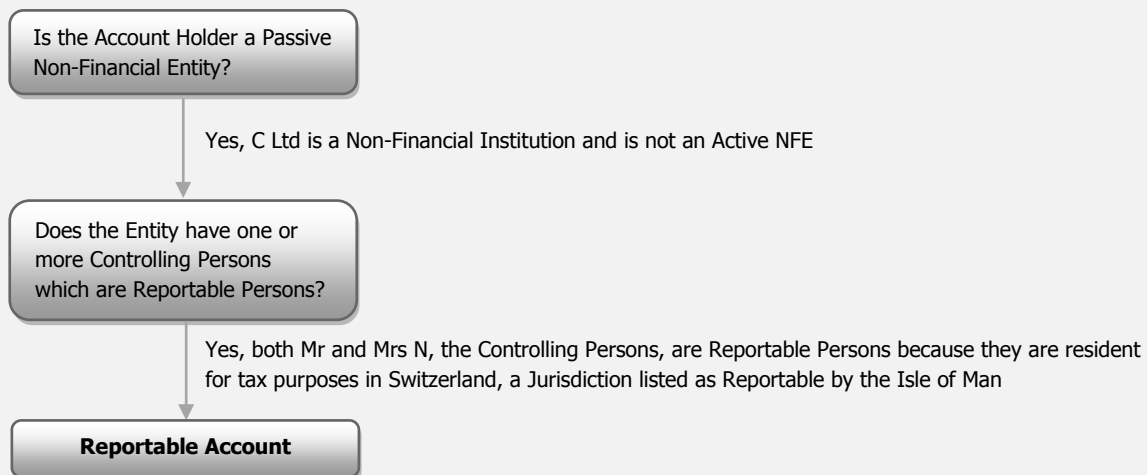
THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Example II Continued

C Ltd's only source of income is derived from its investment portfolio and its two Controlling Persons, Mr and Mrs N, are Swiss residents. Applying the second test:-



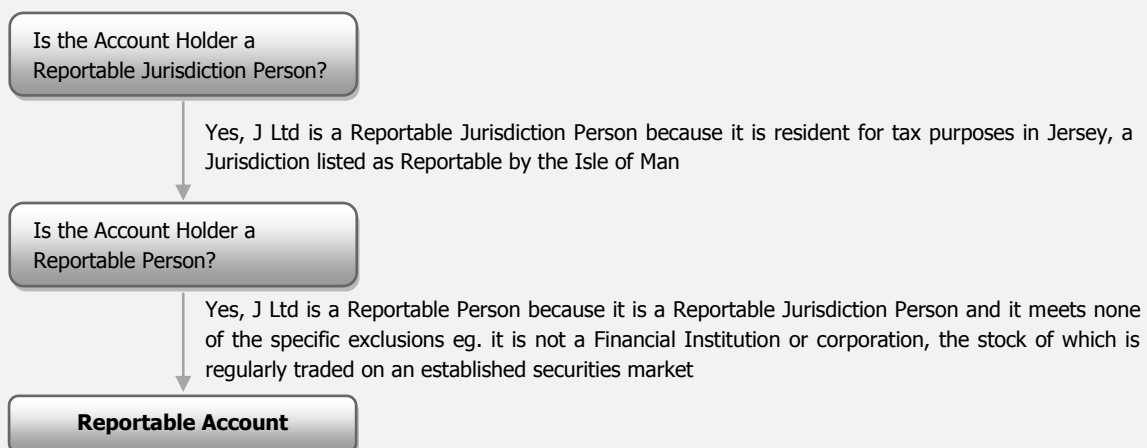
As a result E Ltd will be required to provide the Assessor with details of C Ltd and of Mr and Mrs N.

The Assessor will exchange the information with the Swiss Competent Authority.

The Entity Account Holder Type will be CRS101

Example III

E Ltd, an Isle of Man Financial Institution, wishes to establish if the Financial Account it holds for J Ltd, a Jersey company, that is a Non-Financial Institution, is Reportable. Applying the first test:-



...continued on next page

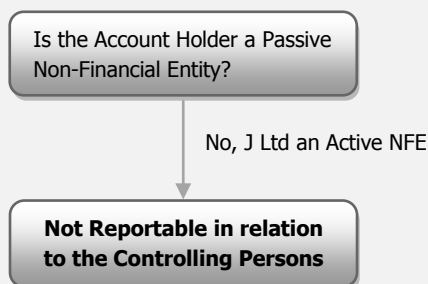
THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Example III Continued

Having established that J Ltd is a Reportable Person in its own right E Ltd must now establish if there is any further reporting required in respect of J Ltd's Controlling Persons. J Ltd's primary source of income is derived from trade and its two Controlling Persons, Mr I and Mr M, are Isle of Man residents. Applying the second test:-



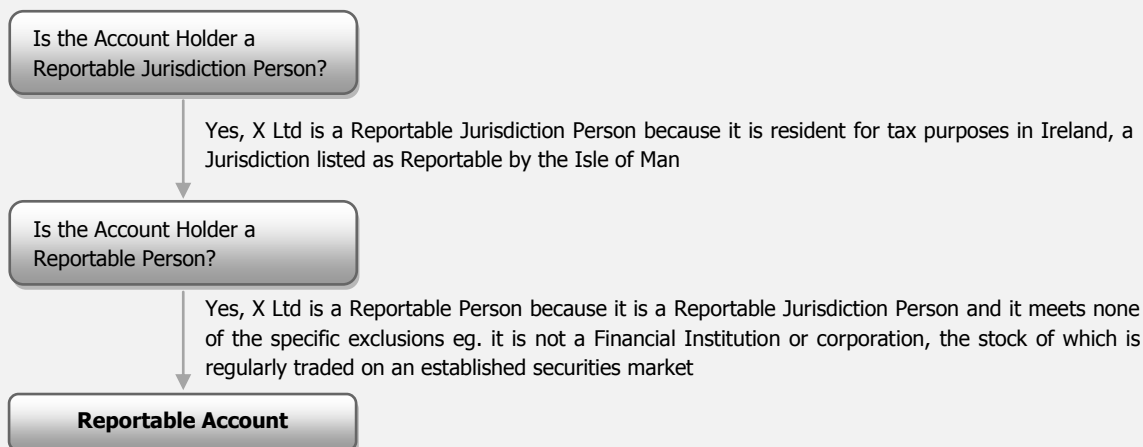
As a result E Ltd will only be required to provide the Assessor with details of J Ltd.

The Assessor will exchange the information with the Jersey Competent Authority.

The Entity Account Holder Type will be CRS102

Example IV

E Ltd, an Isle of Man Financial Institution, wishes to establish if the Financial Account it holds for X Ltd, an Irish company, that is a Non-Financial Institution, is Reportable. Applying the first test:-



...continued on next page

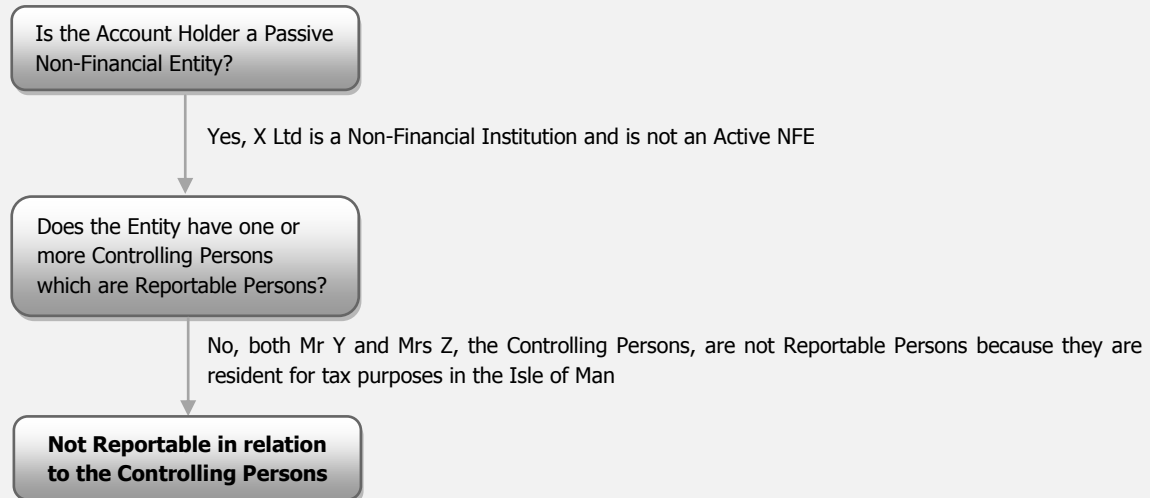
THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Example IV Continued

X Ltd's only source of income is derived from its investment portfolio and its two Controlling Persons, Mr Y and Mr Z, are Isle of Man residents. Applying the second test:-



As a result E Ltd will only be required to provide the Assessor with details of X Ltd.

The Assessor will exchange the information with the Irish Competent Authority.

The Entity Account Holder Type will be CRS103

5 REPORTING OBLIGATIONS

5.1 General

Once a Financial Institution has identified Reportable Accounts it must then report the information required to be reported, as set out in [Section I](#) of the CRS, to the Assessor no later than **30 June** following the calendar year end to which the reportable information relates.

Details of the prescribed format and transmission method can be found in [sections 5.3](#) and [5.4](#).

5.2 Information Required

In relation to each Reportable Person that is the holder of a Reportable Account and in relation to each Controlling Person of certain Entity Accounts (ie. a Passive NFE) who is a Reportable Person, the information to be reported by Isle of Man Financial Institutions is set out in [Section I A to E](#) of the CRS.

5.2.1 Taxpayer Identification Numbers (TINs) & Date of Birth

The TIN to be reported with respect to a Reportable Account is the TIN assigned to the Account Holder by the authorities in their tax jurisdiction(s) of residence.

Where it has been established that a Pre-existing Account Holder is a Reportable Person, a Financial Institution is not required to report that Account Holder's TIN and/or Date of Birth where:

- the TIN and/or Date of Birth is not held in the Financial Institution's records; and
- there is no requirement for the TIN and/or Date of Birth to be collected by the Financial Institution under Isle of Man law.

Records in this instance include the Account Holder's customer master file as well as any electronically searchable information.

Isle of Man AML legislation requires Financial Institutions to be able to 'identify' Account Holders and the Isle of Man's Financial Supervision Commissions' [AML Handbook](#), which supports the AML legislation, states that in order to 'identify' a natural person that person's Date of Birth must be established.

It is therefore expected that the only exception for an Isle of Man Financial Institution to report an Account Holder's Date of Birth will be in respect of historic accounts opened prior to Date of Birth becoming an AML requirement.

Notwithstanding the above, where the TIN and/or Date of Birth is not held, Isle of Man Financial Institutions are required to use reasonable efforts to obtain the outstanding information by the end of the second calendar year following the year in which the account was identified as reportable.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

'Reasonable efforts' require a Financial Institution to make genuine attempts to acquire the TIN and/or Date of Birth, at least once a year.

The only exception to this is where the Reportable Jurisdiction does not issue a TIN or the domestic law of that Reportable Jurisdiction does not require the collection of the TIN.

Financial Institutions can find further information with respect to the issuance, collection, and, in some cases, the structure of a Reportable Jurisdiction's TIN online at the [OECD AEOI Portal](#).

5.2.2 Place of Birth

Where it has been established that an Account Holder is a Reportable Person a Financial Institution is not required to report that Account Holder's Place of Birth if:-

- the Place of Birth is not held in the Financial Institution's electronically searchable records; and
- there is no requirement for the Place of Birth to be collected by the Financial Institution under Isle of Man law.

Isle of Man AML legislation requires Financial Institutions to be able to 'identify' Account Holders and the Isle of Man's Financial Supervision Commissions' [AML Handbook](#), which supports this legislation, states that in order to 'identify' a 'standard or high risk' natural person that person's place of birth must be established.

Although it is expected that some Isle of Man Financial Institutions will therefore hold the Place of Birth for some or all of their Account Holders as a result of this legislation, Place of Birth will only be reportable by an Isle of Man Financial Institution where:-

- it was required to report that information as part of its reporting obligations in respect of the European Union Savings Directive; and
- the Place of Birth information is held electronically.

5.3 Format of Reporting

Reporting of CRS Reportable Accounts must be made to the Assessor in the prescribed XML format set by the OECD.

The schema for reporting, CRS XML Schema v1.0, can be found, along with a user guide, on the [OECD AEOI Portal](#).

The XML format to be used is mandatory and returns in any other format will not be accepted.

5.4 Transmission to the Isle of Man Competent Authority

Under the Isle of Man Regulations, Isle of Man Financial Institutions **must** submit their CRS XML reports using the Information Providers' Online Service, which will form part of Isle of Man Government's Online Services from early 2016.

6 REGISTRATION

6.1 General

Registration with the Isle of Man authorities is only required where a Financial Institution has reporting obligations under the CRS.

In order to report CRS information to the Assessor, Isle of Man Financial Institutions will need to register for Government Online Services at www.gov.im/onlineservices and enrol for the Information Providers' Service within Income Tax Services.

In order to enrol for the Information Providers' Service an Isle of Man Financial Institution will require:-

- an Information Providers' Tax Reference Number;
- a security code; and
- an activation code.

Enrolment for the Information Providers' Service will open in early 2016 and details of how to register and obtain the information listed above will be made available shortly.

6.2 Which Financial Institutions Do Not Need to Register?

The following entities do not need to register:-

- any Financial Institution whose reporting is undertaken by a third-party;
- any Financial Institution with no Reportable Accounts;
- any Non-Reporting Financial Institution;
- any entity that maintains only Excluded Financial Accounts; and
- any Active or Passive NFE.

7 COMPLIANCE

7.1 Minor Errors

In the event that the CRS information reported is corrupted or incomplete, the recipient Reportable Jurisdiction will notify the Assessor.

The Assessor will contact the Reporting Isle of Man Financial Institution to resolve the problem. Examples of minor errors could include:-

- data fields missing or incomplete;
- data that has been corrupted;
- use of an incompatible format.

Where this leads to the information having to be resubmitted this will be via the Assessor.

Penalties (see [section 7.3](#)) may be imposed by the Assessor if the error is considered to contravene the Isle of Man Regulations.

Continual and repeated administrative or minor errors could be considered as significant non-compliance where they continually and repeatedly disrupt and prevent transfer of the information.

7.2 Significant Non-Compliance

Significant non-compliance may be determined by either the Recipient Reportable Jurisdiction's Competent Authority or the Assessor. In any event the relevant Competent Authorities will notify the other regarding the circumstances.

Where the Assessor is notified of or identifies significant non-compliance by a Reporting Isle of Man Financial Institution, the Assessor will apply any relevant penalties under the Isle of Man Regulations.

The Assessor will also engage with the Reporting Isle of Man Financial Institution to:-

- discuss the areas of non-compliance;
- discuss remedies/solution to prevent future non-compliance; and
- agree measures and a timetable to resolve its significant non-compliance.

The Assessor will inform the Competent Authority of the other Jurisdiction of the outcome of these discussions.

The following are examples of what would be regarded as significant non-compliance:-

- repeated failure to file a return or repeated late filing;
- ongoing or repeated failure to register, supply accurate information or establish appropriate governance or due diligence processes;
- the intentional provision of substantially incorrect information; and
- the deliberate or negligent omission of required information.

7.3 Penalties

The Isle of Man Regulations set out various penalties that may be imposed where an Isle of Man Financial Institution fails to provide the required information or where it provides inaccurate information.

In determining whether a Financial Institution has complied with any requirement of the Regulations, a court must have regard to any guidance issued or approved by the Assessor.

A Reporting Isle of Man Financial Institution may use a Third-Party Service Provider (see [section 3.4.3](#)) for the purpose of complying with these Regulations but compliance with such requirements remains the responsibility of the Reporting Isle of Man Financial Institution.

7.3.1 Failure to Comply

Failure to comply with any obligation under the Isle of Man Regulations could result in a penalty of £300.

7.3.2 Daily Default Penalty

Where the £300 'Failure to Comply' penalty (see [section 7.3.1](#)) has been imposed and the failure in question continues after the Isle of Man Financial Institution has been notified by the Assessor, the Financial Institution may be liable to a further £60 per day penalty until such time as the failure is rectified.

If the failure continues for more than 30 days, following notification the Assessor may advise the Financial Institution that an increased daily penalty may be imposed.

In order to impose an increased daily penalty the Assessor must apply to the Income Tax Commissioners who will then decide if an increased penalty should be applied and how much the penalty should be (the maximum is £1,000 per day).

7.3.3 Penalties for Inaccurate Information

An Isle of Man Financial Institution may be liable to a penalty of up to £3,000 if it provides the Assessor with inaccurate information and one of the following three conditions is also met:-

- the inaccuracy is due to a failure to comply with the due diligence requirements or is deliberate on the part of the Financial Institution;
- the Financial Institution knows the inaccuracy at the time the information is provided but does not inform the Assessor; or
- the Financial Institution discovers the inaccuracy sometime later and fails to take reasonable steps to inform the Assessor.

7.3.4 Appeals

A Financial Institution can appeal the imposition of both 'Failure to Comply' and 'Daily Default' penalties if there is a reasonable excuse for the failure.

A reasonable excuse does not include:-

- insufficiency of funds to do something; or
- relying upon another person to do something.

An appeal must be made in writing to the Assessor, stating the grounds for the appeal, within 30 days of the penalty being issued.

An appeal may be referred to the Income Tax Commissioners who may:-

- confirm the penalty imposed;
- overturn the penalty imposed; or
- substitute another penalty that the Assessor has the power to impose.

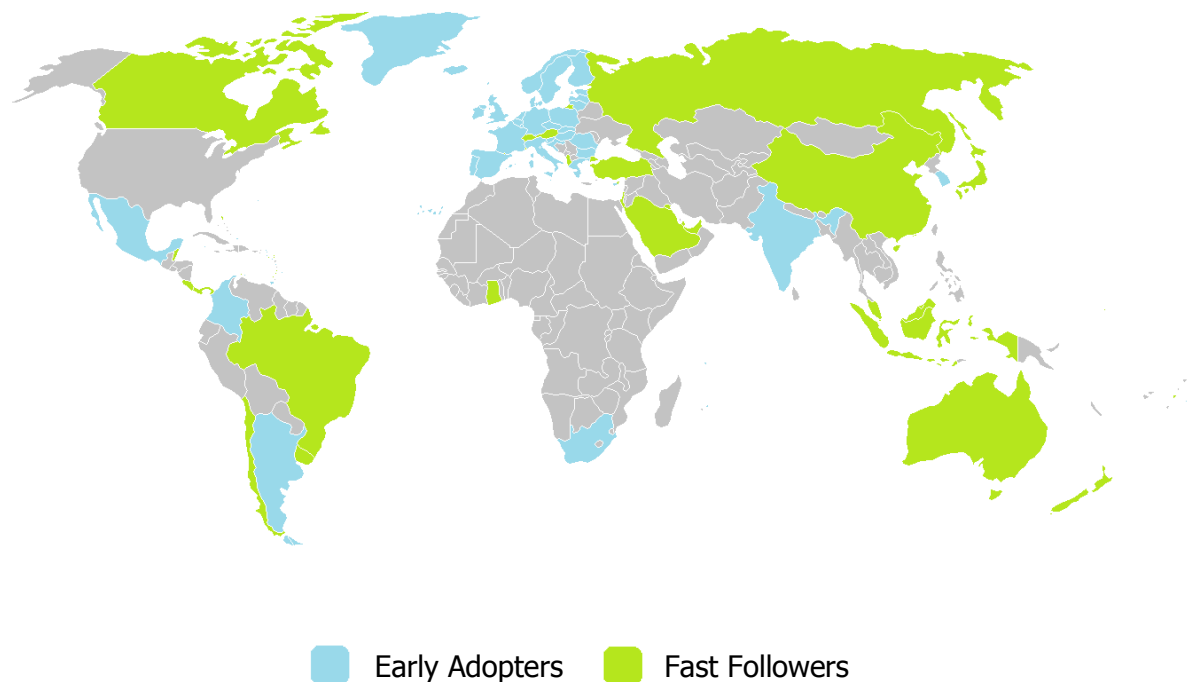
7.4 Prevention of Avoidance

The Isle of Man Regulations also include an anti-avoidance measure which is aimed at 'arrangements' taken by any person to avoid the obligations placed upon them by the Regulations.

It is intended that 'arrangements' will be interpreted widely and the effect of the rule is that the Regulations will apply as if the arrangements had not been entered into.

APPENDIX

I. PARTICIPATING JURISDICTIONS



Transition Years - 2016 and 2017

In order to exchange information with another jurisdiction, the Isle of Man needs a legal instrument to be in place; this will either be the Convention, a DTA or TIEA (see [section 2](#)).

The 2017 – Early Adopter and 2018 – Fast Follower lists below, show the 97 countries who, as of March 2016, have committed to implementing the CRS. The lists also show the mechanism for exchange that will be used between those jurisdictions and the Isle of Man.

Where the 'Method' and/or 'Agreement' columns are blank, the jurisdiction may still be treated as a **Participating Jurisdiction** for the purpose of the look through provisions for Investment Entities (see [section 4.3](#)) even though information may not be legally exchanged by the Isle of Man Competent Authority with that jurisdiction until the appropriate Agreements are put in place.

The Isle of Man Competent Authority intends to update the list of Participating Jurisdictions, shown below, annually before the start of each reporting year.

If, by **31 December 2017**, there are any remaining jurisdictions with which the Isle of Man does not have a legal agreement in place to facilitate the exchange of CRS information, those jurisdictions will be removed from the list and will become **Non-Participating Jurisdictions** and the look through provisions will need to be applied accordingly.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

2017 – Early Adopters

The following Participating Jurisdictions are committed to make their first exchange under the CRS in 2017, in respect of the year 1 January 2016 – 31 December 2016.

Jurisdictions with a status of 'Non-Reciprocal' will be providing the Assessor with information in respect of accounts maintained by Isle of Man residents.

Jurisdictions with a status of 'Reciprocal' will be providing the Assessor with information in respect of accounts maintained by Isle of Man residents and will be receiving information on their residents who have accounts maintained by Isle of Man Reporting Financial Institutions, once the appropriate method of exchange and agreement is in force.

Please note, the 'Status', 'Method' and 'Agreement' columns shown below will be updated in due course and at present show the known position for each Committed Jurisdiction as of March 2016.

Jurisdiction	Status	Method	Agreement
Anguilla			
Argentina		Convention	MCAA
Barbados		Convention ⁴	MCAA
Belgium		Convention	MCAA
Bermuda			
British Virgin Islands			
Bulgaria		Convention ⁵	MCAA
Cayman Islands	Non-Reciprocal	TIEA	CAA
Colombia		Convention	MCAA
Croatia		Convention	MCAA
Curacao		Convention	MCAA
Cyprus		Convention	MCAA
Czech Republic		Convention	MCAA
Denmark		Convention	MCAA
Dominica			
Estonia		Convention	MCAA
Faroe Islands		Convention	MCAA
Finland		Convention	MCAA
France		Convention	MCAA
Germany		Convention	MCAA
Gibraltar			
Greece		Convention	MCAA
Greenland		Convention	MCAA
Guernsey	Reciprocal	DTA	CAA
Hungary		Convention	MCAA
Iceland		Convention	MCAA
India		Convention	MCAA
Ireland		Convention	MCAA
Italy		Convention	MCAA

⁴ Awaiting Entry Into Force

⁵ Awaiting Entry Into Force

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Jurisdiction	Status	Method	Agreement
Jersey	Reciprocal	DTA	CAA
Korea		Convention	MCAA
Latvia		Convention	MCAA
Liechtenstein		Convention ⁶	MCAA
Lithuania		Convention	MCAA
Luxembourg		Convention	MCAA
Malta		Convention	MCAA
Mauritius		Convention	MCAA
Mexico		Convention	MCAA
Montserrat			
Netherlands		Convention	MCAA
Niue		Convention ⁷	MCAA
Norway		Convention	MCAA
Poland		Convention	MCAA
Portugal		Convention	MCAA
Romania		Convention	MCAA
San Marino		Convention	MCAA
Seychelles		Convention	MCAA
Slovak Republic		Convention	MCAA
Slovenia		Convention	MCAA
South Africa		Convention	MCAA
Spain		Convention	MCAA
Sweden		Convention	MCAA
Trinidad & Tobago			
Turks & Caicos Islands			
United Kingdom		DTA	

⁶ Awaiting Entry Into Force

⁷ Awaiting Entry Into Force

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

2018 – Fast Followers

The following Participating Jurisdictions are committed to make their first exchange under the CRS in 2018, in respect of the year 1 January 2017 – 31 December 2017.

Jurisdictions with a status of 'Non-Reciprocal' will be providing the Assessor with information in respect of accounts maintained by Isle of Man residents.

Jurisdictions with a status of 'Reciprocal' will be providing the Assessor with information in respect of accounts maintained by Isle of Man residents and will be receiving information on their residents who have accounts maintained by Isle of Man Reporting Financial Institutions.

Please note, the 'Status', 'Method' and 'Agreement' columns shown below will be updated in due course and at present show the known position for each Committed Jurisdiction as of December 2015.

Jurisdiction	Status	Method	Agreement
Albania		Convention	MCAA
Andorra		Convention ⁸	MCAA
Antigua & Barbuda			MCAA
Aruba		Convention	MCAA
Australia		Convention	MCAA
Austria		Convention	MCAA
Bahamas			
Belize		Convention	MCAA
Brazil		Convention ⁹	
Brunei Darussalam			
Canada		Convention	MCAA
Chile		Convention ¹⁰	MCAA
China		Convention	MCAA
Cook Islands			MCAA
Costa Rica		Convention	MCAA
Ghana		Convention	MCAA
Grenada			MCAA
Hong Kong			
Indonesia		Convention	MCAA
Israel		Convention ¹¹	
Japan		Convention	MCAA
Kuwait			
Macao			
Malaysia			MCAA
Marshall Islands			MCAA
Monaco		Convention ¹²	MCAA
New Zealand		Convention	MCAA

⁸ Awaiting Entry Into Force

⁹ Awaiting Entry Into Force

¹⁰ Awaiting Entry Into Force

¹¹ Awaiting Entry Into Force

¹² Awaiting Entry Into Force

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

Jurisdiction	Status	Method	Agreement
Panama			
Qatar			
Russia		Convention	
Saint Kitts & Nevis			
Saint Lucia			MCAA
Saint Vincent & the Grenadines			MCAA
Samoa			MCAA
Saudi Arabia		Convention	
Singapore		Convention	
Sint Maarten		Convention	MCAA
Switzerland	Reciprocal	Convention ¹³	MCAA + Joint Declaration
Turkey		Convention ¹⁴	
United Arab Emirates			
Uruguay			

¹³ Awaiting Entry Into Force

¹⁴ Awaiting Entry Into Force

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

II. COMMON REPORTING STANDARD

For ease of reference the text of the CRS is replicated in full below, and has been annotated to include the date's specific to the Isle of Man's implementation of the CRS and options taken, in line with the Income Tax (Common Reporting Standard) Regulations 2015.

COMMON STANDARD ON REPORTING AND DUE DILIGENCE FOR FINANCIAL ACCOUNT INFORMATION

Section I: General Reporting Requirements

- A. Subject to paragraphs C through F, each Reporting Financial Institution must report the following information with respect to each Reportable Account of such Reporting Financial Institution:
1. the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of the due diligence procedures consistent with Sections V, VI and VII, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, jurisdiction(s) of residence and TIN(s) of the Entity and the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth of each Reportable Person;
 2. the account number (or functional equivalent in the absence of an account number);
 3. the name and identifying number (if any) of the Reporting Financial Institution;
 4. the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) 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;
 5. in the case of any Custodial Account:
 - a. the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
 - b. the 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;
 6. in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
 7. in the case of any account not described in subparagraph A(5) or (6), 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 with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

- B. The information reported must identify the currency in which each amount is denominated.
- C. Notwithstanding subparagraph A(1), with respect to each Reportable Account that is a Pre-existing Account, the TIN(s) or date of birth is not required to be reported if such TIN(s) or date of birth is not in the records of the Reporting Financial Institution and is not otherwise required to be collected by such Reporting Financial Institution under domestic law. However, a Reporting Financial Institution is required to use reasonable efforts to obtain the TIN(s) and date of birth with respect to Pre-existing Accounts by the end of the second calendar year following the year in which such Accounts were identified as Reportable Accounts.
- D. Notwithstanding subparagraph A(1), the TIN is not required to be reported if (i) a TIN is not issued by the relevant Reportable Jurisdiction or (ii) the domestic law of the relevant Reportable Jurisdiction does not require the collection of the TIN issued by such Reportable Jurisdiction.
- E. Notwithstanding subparagraph A(1), the place of birth is not required to be reported 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.
- ~~F. Notwithstanding paragraph A, the information to be reported with respect to [xxxx] is the information described in such paragraph, except for gross proceeds described in subparagraph A(5)(b).~~

Section II: General Due Diligence Requirements

- A. An account is treated as a Reportable Account beginning as of the date it is identified as such pursuant to the due diligence procedures in Sections II through VII and, unless otherwise provided, information with respect to a Reportable Account must be reported annually in the calendar year following the year to which the information relates.
- B. The balance or value of an account is determined as of the last day of the calendar year or other appropriate reporting period.
- C. Where a balance or value threshold is to be determined as of the last day of a calendar year, the relevant balance or value must be determined as of the last day of the reporting period that ends with or within that calendar year.
- D. ~~Each Jurisdiction may allow~~ Reporting Financial Institutions ~~to~~ **may** use service providers to fulfil the reporting and due diligence obligations imposed on such Reporting Financial Institutions, ~~as contemplated in domestic law~~, but these obligations shall remain the responsibility of the Reporting Financial Institutions.
- E. ~~Each Jurisdiction may allow~~ Reporting Financial Institutions ~~to~~ **may** apply the due diligence procedures for New Accounts to Pre-existing Accounts, and the due diligence procedures for High Value Accounts to Lower Value Accounts. ~~Where a Jurisdiction allows New Account due diligence procedures to be used for Pre-existing Accounts~~, the rules otherwise applicable to Pre-existing Accounts continue to apply.

Section III: Due Diligence for Pre-existing Individual Accounts

The following procedures apply for purposes of identifying Reportable Accounts among Pre-existing Individual Accounts.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

A. Accounts Not Required to be Reviewed, Identified, or Reported.

A Pre-existing Individual Account that is a Cash Value Insurance Contract or an Annuity Contract is not required to be reviewed, identified or reported, provided the Reporting Financial Institution is effectively prevented by law from selling such Contract to residents of a Reportable Jurisdiction.

B. Lower Value Accounts. The following procedures apply with respect to Lower Value Accounts.

1. **Residence Address.** If the Reporting Financial Institution has in its records a current residence address for the individual Account Holder based on Documentary Evidence, the Reporting Financial Institution may treat the individual Account Holder as being a resident for tax purposes of the jurisdiction in which the address is located for purposes of determining whether such individual Account Holder is a Reportable Person.

2. **Electronic Record Search.** If the Reporting Financial Institution does not rely on a current residence address for the individual Account Holder based on Documentary Evidence as set forth in subparagraph B(1), the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the following indicia and apply subparagraphs B(3) through (6):

- a. identification of the Account Holder as a resident of a Reportable Jurisdiction;
- b. current mailing or residence address (including a post office box) in a Reportable Jurisdiction;
- c. one or more telephone numbers in a Reportable Jurisdiction and no telephone number in the jurisdiction of the Reporting Financial Institution;
- d. standing instructions (other than with respect to a Depository Account) to transfer funds to an account maintained in a Reportable Jurisdiction;
- e. currently effective power of attorney or signatory authority granted to a person with an address in a Reportable Jurisdiction; or
- f. a "hold mail" instruction or "in-care-of" address in a Reportable Jurisdiction if the Reporting Financial Institution does not have any other address on file for the Account Holder.

3. If none of the indicia listed in subparagraph B(2) 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, or the account becomes a High Value Account.

4. If any of the indicia listed in subparagraph B(2)(a) through (e) are discovered in the electronic search, or if there is a change in circumstances that results in one or more indicia being associated with the account, then the Reporting Financial Institution must treat the Account Holder as a resident for tax purposes of each Reportable Jurisdiction for which an indicium is identified, unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.

5. If a "hold mail" instruction or "in-care-of" address is discovered in the electronic search and no other address and none of the other indicia listed in subparagraph B(2)(a) through (e) are identified for the Account Holder, the Reporting Financial Institution must,

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

in the order most appropriate to the circumstances, apply the paper record search described in subparagraph C(2), or seek to obtain from the Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of such Account Holder. If the paper search fails to establish an indicium and the attempt to obtain the self-certification or Documentary Evidence is not successful, the Reporting Financial Institution must report the account as an undocumented account.

6. Notwithstanding a finding of indicia under subparagraph B(2), a Reporting Financial Institution is not required to treat an Account Holder as a resident of a Reportable Jurisdiction if:
 - a. the Account Holder information contains a current mailing or residence address in the Reportable Jurisdiction, one or more telephone numbers in the Reportable Jurisdiction (and no telephone number in the jurisdiction of the Reporting Financial Institution) or standing instructions (with respect to Financial Accounts other than Depository Accounts) to transfer funds to an account maintained in a Reportable Jurisdiction, the Reporting Financial Institution obtains, or has previously reviewed and maintains a record of:
 - i. 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
 - ii. Documentary Evidence establishing the Account Holder's non-reportable status.
 - b. 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, the Reporting Financial Institution obtains, or has previously reviewed and maintains a record of:
 - i. a self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction; or
 - ii. Documentary Evidence establishing the Account Holder's non-reportable status.
- C. **Enhanced Review Procedures for High Value Accounts.** The following enhanced review procedures apply with respect to High Value Accounts.
 1. **Electronic Record Search.** With respect to High Value Accounts, the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the indicia described in subparagraph B(2).
 2. **Paper Record Search.** If the Reporting Financial Institution's electronically searchable databases include fields for, and capture all of the information described in, subparagraph C(3), then a further paper record search is not required. If the electronic databases do not capture all of this information, then with respect to a High Value Account, the Reporting Financial Institution must also review the current customer master file and, to the extent not contained in the current customer master file, the following documents associated with the account and obtained by the Reporting Financial Institution within the last five years for any of the indicia described in subparagraph B(2):
 - a. the most recent Documentary Evidence collected with respect to the account;
 - b. the most recent account opening contract or documentation;

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

- c. the most recent documentation obtained by the Reporting Financial Institution pursuant to AML/KYC Procedures or for other regulatory purposes;
 - d. any power of attorney or signature authority forms currently in effect; and
 - e. any standing instructions (other than with respect to a Depository Account) to transfer funds currently in effect.
3. **Exception To The Extent Databases Contain Sufficient Information.** A Reporting Financial Institution is not required to perform the paper record search described in subparagraph C(2) to the extent the Reporting Financial Institution's electronically searchable information includes the following:
- a. the Account Holder's residence status;
 - b. the Account Holder's residence address and mailing address currently on file with the Reporting Financial Institution;
 - c. the Account Holder's telephone number(s) currently on file, if any, with the Reporting Financial Institution;
 - d. 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);
 - e. whether there is a current "in-care-of" address or "hold mail" instruction for the Account Holder; and
 - f. whether there is any power of attorney or signatory authority for the account.
4. **Relationship Manager Inquiry for Actual Knowledge.** In addition to the electronic and paper record searches described above, the Reporting Financial Institution must treat as a Reportable Account any High Value Account assigned to a relationship manager (including any Financial Accounts aggregated with that High Value Account) if the relationship manager has actual knowledge that the Account Holder is a Reportable Person.
5. **Effect of Finding Indicia.**
- a. If none of the indicia listed in subparagraph B(2) are discovered in the enhanced review of High Value Accounts described above, and the account is not identified as held by a Reportable Person in subparagraph C(4), then further action is not required until there is a change in circumstances that results in one or more indicia being associated with the account.
 - b. If any of the indicia listed in subparagraph B(2)(a) through (e) are discovered in the enhanced review of High Value Accounts described above, or if there is a subsequent change in circumstances that results in one or more indicia being associated with the account, then the Reporting Financial Institution must treat the account as a Reportable Account with respect to each Reportable Jurisdiction for which an indicium is identified unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

- c. If a “hold mail” instruction or “in-care-of” address is discovered in the enhanced review of High Value Accounts described above, and no other address and none of the other indicia listed in subparagraph B(2)(a) through (e) are identified for the Account Holder, the Reporting Financial Institution must obtain from such Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of the Account Holder. If the Reporting Financial Institution cannot obtain such self-certification or Documentary Evidence, it must report the account as an undocumented account.
 6. If a Pre-existing Individual Account is not a High Value Account as of 31 December [2015], 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 described in paragraph C with respect to such account within the calendar year following the year in which the account becomes a High Value Account. If based on this review such account is identified as a Reportable Account, the Reporting Financial Institution must report the required information about such account with respect to the year in which it is identified as a Reportable Account and subsequent years on an annual basis, unless the Account Holder ceases to be a Reportable Person.
 7. Once a Reporting Financial Institution applies the enhanced review procedures described in paragraph C to a High Value Account, the Reporting Financial Institution is not required to re-apply such procedures, other than the relationship manager inquiry described in subparagraph C(4), to the same High Value Account in any subsequent year unless the account is undocumented where the Reporting Financial Institution should re-apply them annually until such account ceases to be undocumented.
 8. If there is a change of circumstances with respect to a High Value Account that results in one or more indicia described in subparagraph B(2) being associated with the account, then the Reporting Financial Institution must treat the account as a Reportable Account with respect to each Reportable Jurisdiction for which an indicium is identified unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.
 9. A Reporting Financial Institution must implement procedures to ensure that a relationship manager identifies any change in circumstances of an account. For example, if a relationship manager is notified that the Account Holder has a new mailing address in a Reportable Jurisdiction, the Reporting Financial Institution is required to treat the new address as a change in circumstances and, if it elects to apply subparagraph B(6), is required to obtain the appropriate documentation from the Account Holder.
- D. Review of Pre-existing Individual Accounts must be completed by [31/12/2016] for High Value Accounts and by 31/12/17 for Lower Value Accounts.

Any Pre-existing Individual Account that has been identified as a Reportable Account under this Section must be treated as a Reportable Account in all subsequent years, unless the Account Holder ceases to be a Reportable Person.

Section IV: Due Diligence for New Individual Accounts

The following procedures apply for purposes of identifying Reportable Accounts among New Individual Accounts.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

- A. With respect to New Individual Accounts, upon account opening, the Reporting Financial Institution must obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Financial Institution to determine the Account Holder's residence(s) for tax purposes and 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 AML/KYC Procedures.
- B. If the self-certification establishes that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account and the self-certification must also include the Account Holder's TIN with respect to such Reportable Jurisdiction (subject to paragraph D of Section I) and date of birth.
- C. If there is a change of 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, the Reporting Financial Institution cannot rely on the original self-certification and must obtain a valid self-certification that establishes the residence(s) for tax purposes of the Account Holder.

Section V: Due Diligence for Pre-existing Entity Accounts

The following procedures apply for purposes of identifying Reportable Accounts among Pre-existing Entity Accounts.

- A. **Entity Accounts Not Required to Be Reviewed, Identified or Reported.** ~~Unless~~ **Where** the Reporting Financial Institution elects ~~otherwise~~, either with respect to all Pre-existing Entity Accounts or, separately, with respect to any clearly identified group of such accounts, a Pre-existing Entity Account with an aggregate account balance or value that does not exceed USD 250 000 as of 31 December [2015], is not required to be reviewed, identified, or reported as a Reportable Account until the aggregate account balance or value exceeds USD 250 000 as of the last day of any subsequent calendar year.
- B. **Entity Accounts Subject to Review.** A Pre-existing Entity Account that has an aggregate account balance or value that exceeds USD 250 000 as of 31 December [2015], and a Pre-existing Entity Account that does not exceed USD 250 000 as of 31 December [2015] but the aggregate account balance or value of which exceeds USD 250 000 as of the last day of any subsequent calendar year, must be reviewed in accordance with the procedures set forth in paragraph D.
- C. **Entity Accounts With Respect to Which Reporting Is Required.** With respect to Pre-existing Entity Accounts described in paragraph B, only accounts that are held by one or more Entities that are Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons, shall be treated as Reportable Accounts.
- D. **Review Procedures for Identifying Entity Accounts With Respect to Which Reporting Is Required.** For Pre-existing Entity Accounts described in paragraph B, a Reporting Financial Institution must apply the following review procedures to determine whether the account is held by one or more Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons:
 - 1. **Determine Whether the Entity Is a Reportable Person.**
 - a. Review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

whether the information indicates that the Account Holder is resident in a Reportable Jurisdiction. For this purpose, information indicating that the Account Holder is resident in a Reportable Jurisdiction includes a place of incorporation or organisation, or an address in a Reportable Jurisdiction.

- b. If the information indicates that the Account Holder is resident in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account unless it obtains a self-certification from the Account Holder, or reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person.
2. **Determine Whether the Entity is a Passive NFE with One or More Controlling Persons Who Are Reportable Persons.** With respect to an Account Holder of a Pre-existing Entity Account (including an Entity that is a Reportable Person), the Reporting Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons who are Reportable Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. In making these determinations the Reporting Financial Institution must follow the guidance in subparagraphs D(2)(a) through (c) in the order most appropriate under the circumstances.
- a. **Determining whether the Account Holder is a Passive NFE.** For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Financial Institution must obtain a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.
 - b. **Determining the Controlling Persons of an Account Holder.** For the purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.
 - c. **Determining whether a Controlling Person of a Passive NFE is a Reportable Person.** For the purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Financial Institution may rely on:
 - i. information collected and maintained pursuant to AML/KYC Procedures in the case of a Pre-existing Entity Account held by one or more NFEs with an aggregate account balance or value that does not exceed USD 1 000 000; or
 - ii. a self-certification from the Account Holder or such Controlling Person of the jurisdiction(s) in which the Controlling Person is resident for tax purposes.
- E. **Timing of Review and Additional Procedures Applicable to Pre-existing Entity Accounts.**
1. Review of Pre-existing Entity Accounts with an aggregate account balance or value that exceeds USD 250 000 as of 31 December [2015] must be completed by 31 December [2017].
 2. Review of Pre-existing Entity Accounts with an aggregate account balance or value that does not exceed USD 250 000 as of 31 December [2015], but exceeds USD 250 000 as of

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

31 December of a subsequent year, must be completed within the calendar year following the year in which the aggregate account balance or value exceeds USD 250 000.

3. If there is a change of circumstances with respect to a Pre-existing 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 in accordance with the procedures set forth in paragraph D.

Section VI: Due Diligence for New Entity Accounts

The following procedures apply for purposes of identifying Reportable Accounts among New Entity Accounts.

- A. **Review Procedures for Identifying Entity Accounts With Respect to Which Reporting Is Required.** For New Entity Accounts, a Reporting Financial Institution must apply the following review procedures to determine whether the account is held by one or more Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons:

1. **Determine Whether the Entity Is a Reportable Person.**

- a. Obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Financial Institution to determine the Account Holder's residence(s) for tax purposes and 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 AML/KYC Procedures. If the Entity certifies that it has no residence for tax purposes, the Reporting Financial Institution may rely on the address of the principal office of the Entity to determine the residence of the Account Holder.
- b. If the self-certification indicates that the Account Holder is resident in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account unless it reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person with respect to such Reportable Jurisdiction.

2. **Determine Whether the Entity is a Passive NFE with One or More Controlling Persons Who Are Reportable Persons.** With respect to an Account Holder of a New Entity Account (including an Entity that is a Reportable Person), the Reporting Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons who are Reportable Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. In making these determinations the Reporting Financial Institution must follow the guidance in subparagraphs A(2)(a) through (c) in the order most appropriate under the circumstances.

- a. **Determining whether the Account Holder is a Passive NFE.** For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Financial Institution must rely on a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

- b. **Determining the Controlling Persons of an Account Holder.** For purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.
- c. **Determining whether a Controlling Person of a Passive NFE is a Reportable Person.** For purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Financial Institution may rely on a self-certification from the Account Holder or such Controlling Person.

Section VII: Special Due Diligence Rules

The following additional rules apply in implementing the due diligence procedures described above:

- A. **Reliance on Self-Certifications and Documentary Evidence.** A Reporting Financial Institution may not rely on a self-certification or Documentary Evidence if the Reporting Financial Institution knows or has reason to know that the self-certification or Documentary Evidence is incorrect or unreliable.
- B. **Alternative Procedures for Financial Accounts Held by Individual Beneficiaries of a Cash Value Insurance Contract or an Annuity Contract.** A Reporting Financial Institution may presume that an individual beneficiary (other than the owner) 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 a Reportable Account unless the Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person. A Reporting Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract or 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 paragraph B of Section III. 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 in paragraph B of Section III.
- C. **Account Balance Aggregation and Currency Rules.**
 1. **Aggregation of Individual Accounts.** For purposes of determining the aggregate balance or value of Financial Accounts held by an individual, a Reporting Financial Institution is required to aggregate all Financial Accounts maintained by the Reporting 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 client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this subparagraph.
 2. **Aggregation of Entity Accounts.** For purposes of determining the aggregate balance or value of Financial Accounts held by an Entity, a Reporting Financial Institution is required to take into account all Financial Accounts that are maintained by the Reporting 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 client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this subparagraph.

3. **Special Aggregation Rule Applicable to Relationship Managers.** For purposes of determining the aggregate balance or value of Financial Accounts held by a person to determine whether a Financial Account is a High Value Account, a Reporting Financial Institution is also required, in the case of any Financial Accounts that a relationship manager knows, or has reason to know, are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person, to aggregate all such accounts.
4. **Amounts Read to Include Equivalent in Other Currencies.** All dollar amounts are in US dollars and shall be read to include equivalent amounts in other currencies, as determined by domestic law.

Section VIII: Defined Terms

The following terms have the meanings set forth below:

A. Reporting Financial Institution

1. The term **"Reporting Financial Institution"** means any Participating Jurisdiction Financial Institution that is not a Non-Reporting Financial Institution.
2. The term **"Participating Jurisdiction Financial Institution"** means (i) any Financial Institution that is resident in a Participating Jurisdiction, but excludes any branch of that Financial Institution that is located outside such Participating Jurisdiction, and (ii) any branch of a Financial Institution that is not resident in a Participating Jurisdiction, if that branch is located in such Participating Jurisdiction.
3. The term **"Financial Institution"** means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.
4. The term **"Custodial Institution"** means any Entity that holds, as a substantial portion of its business, Financial Assets for the account of others. 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: (i) 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 (ii) the period during which the Entity has been in existence.
5. The term **"Depository Institution"** means any Entity that accepts deposits in the ordinary course of a banking or similar business.
6. The term **"Investment Entity"** means any Entity:
 - a. that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
 - i. trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
 - ii. individual and collective portfolio management; or

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

- iii. otherwise investing, administering, or managing Financial Assets or money on behalf of other persons; or
- b. the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in subparagraph A(6)(a).

An Entity is treated as primarily conducting as a business one or more of the activities described in subparagraph A(6)(a), or an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of subparagraph A(6)(b), 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: (i) the three-year period ending on 31 December of the year preceding the year in which the determination is made; or (ii) the period during which the Entity has been in existence. The term "Investment Entity" does not include an Entity that is an Active NFE because it meets any of the criteria in subparagraphs D(9)(d) through (g). This paragraph shall be interpreted in a manner consistent with similar language set forth in the definition of "financial institution" in the Financial Action Task Force Recommendations.

- 7. The term "**Financial Asset**" 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; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (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 Contract or Annuity Contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, Insurance Contract, or Annuity Contract. The term "Financial Asset" does not include a non-debt, direct interest in real property.
- 8. The term "**Specified Insurance Company**" means any 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.

B. **Non-Reporting Financial Institution**

- 1. The term "**Non-Reporting Financial Institution**" means any Financial Institution that is:
 - a. a Governmental Entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution;
 - b. a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organisation or Central Bank; or a Qualified Credit Card Issuer;
 - c. any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in subparagraphs B(1)(a) and (b), and is defined in domestic law as a Non-Reporting Financial Institution, provided

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

that the status of such Entity as a Non-Reporting Financial Institution does not frustrate the purposes of the Common Reporting Standard;

- d. an Exempt Collective Investment Vehicle; or
 - e. a trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to Section I with respect to all Reportable Accounts of the trust.
2. The term "**Governmental Entity**" means the government of a jurisdiction, any political subdivision of a jurisdiction (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of a jurisdiction or of any one or more of the foregoing (each, a "Governmental Entity"). This category is comprised of the integral parts, controlled entities, and political subdivisions of a jurisdiction.
- a. An "integral part" of a jurisdiction means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of a jurisdiction. The net earnings of the governing authority must be credited to its own account or to other accounts of the jurisdiction, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity.
 - b. A controlled entity means an Entity that is separate in form from the jurisdiction or that otherwise constitutes a separate juridical entity, provided that:
 - i. the Entity is wholly owned and controlled by one or more Governmental Entities directly or through one or more controlled entities;
 - ii. the Entity's net earnings are credited to its own account or to the accounts of one or more Governmental Entities, with no portion of its income inuring to the benefit of any private person; and
 - iii. the Entity's assets vest in one or more Governmental Entities upon dissolution.
 - c. Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of government. Notwithstanding the foregoing, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a governmental entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons.
3. The term "**International Organisation**" means any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation (including a supranational organisation) (1) that is comprised primarily of governments; (2) that has in effect a headquarters or substantially similar agreement with the jurisdiction; and (3) the income of which does not inure to the benefit of private persons.
4. The term "**Central Bank**" means an institution that is by law or government sanction the principal authority, other than the government of the jurisdiction itself, issuing

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the jurisdiction, whether or not owned in whole or in part by the jurisdiction.

5. The term **"Broad Participation Retirement Fund"** means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that the fund:
 - a. does not have a single beneficiary with a right to more than five per cent of the fund's assets;
 - b. is subject to government regulation and provides information reporting to the tax authorities; and
 - c. satisfies at least one of the following requirements:
 - i. the fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;
 - ii. the fund receives at least 50% of its total contributions (other than transfers of assets from other plans described in subparagraphs B(5) through (7) or from retirement and pension accounts described in subparagraph C(17)(a)) from the sponsoring employers;
 - iii. distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death (except rollover distributions to other retirement funds described in subparagraphs B(5) through (7) or retirement and pension accounts described in subparagraph C(17)(a)), or penalties apply to distributions or withdrawals made before such specified events; or
 - iv. contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed USD 50 000 annually, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.
6. The term **"Narrow Participation Retirement Fund"** means a fund established to provide retirement, disability, or death benefits to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that:
 - a. the fund has fewer than 50 participants;
 - b. the fund is sponsored by one or more employers that are not Investment Entities or Passive NFEs;
 - c. the employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described in subparagraph C(17)(a)) are limited by reference to earned income and compensation of the employee, respectively;

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

- d. participants that are not residents of the jurisdiction in which the fund is established are not entitled to more than 20% of the fund's assets; and
 - e. the fund is subject to government regulation and provides information reporting to the tax authorities.
7. The term **"Pension Fund of a Governmental Entity, International Organisation or Central Bank"** means a fund established by a Governmental Entity, International Organisation or Central Bank to provide retirement, disability, or death benefits to beneficiaries or participants that are current or former employees (or persons designated by such employees), or that are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services performed for the Governmental Entity, International Organisation or Central Bank.
8. The term **"Qualified Credit Card Issuer"** means a Financial Institution satisfying the following requirements:
- a. the Financial Institution is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and
 - b. beginning on or before [01/01/2016], the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of USD 50 000, or to ensure that any customer overpayment in excess of USD 50 000 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.
9. The term **"Exempt Collective Investment Vehicle"** means an Investment Entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through individuals or Entities that are not Reportable Persons, except a Passive NFE with Controlling Persons who are Reportable Persons. ~~An Investment Entity that is regulated as a collective investment vehicle does not fail to qualify under subparagraph B(9) as an Exempt Collective Investment Vehicle, solely because the collective investment vehicle has issued physical shares in bearer form, provided that:~~
- ~~a. the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after [xx/xx/xxxx];~~
 - ~~b. the collective investment vehicle retires all such shares upon surrender;~~
 - ~~c. the collective investment vehicle performs the due diligence procedures set forth in Sections II through VII 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~~
 - ~~d. the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilised as soon as possible, and in any event prior to [xx/xx/xxxx].~~

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

C. Financial Account

1. The term "**Financial Account**" means an account maintained by a Financial Institution, and includes a Depository Account, a Custodial Account and:
 - a. in the case of an Investment Entity, any equity or debt interest in the Financial Institution. Notwithstanding the foregoing, the term "Financial Account" does not include any equity or debt interest in an Entity that is an Investment Entity solely because it (i) renders investment advice to, and acts on behalf of, or (ii) manages portfolios for, and acts on behalf of, a customer for the purpose of investing, managing, or administering 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 in subparagraph C(1)(a), any equity or debt interest in the Financial Institution, if the class of interests was established with a purpose of avoiding reporting in accordance with Section I; and
 - c. any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a noninvestment-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.

The term "Financial Account" does not include any account that is an Excluded Account.

2. The term "**Depository Account**" includes any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a Financial Institution in the ordinary course of a banking or similar business. A Depository Account also includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon.
3. 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.
4. The term "**Equity Interest**" means, in the case of a partnership that is a Financial Institution, either a capital or profits interest in the partnership. In the case of a trust that is a Financial Institution, an Equity Interest is considered to be held by any person treated as a settlor or beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust. A Reportable Person will be 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.
5. 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.
6. 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, regulation, or practice

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.

7. 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.
8. The term "**Cash Value**" means the greater of (i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan), and (ii) the amount the policyholder can borrow under or with regard to the contract. Notwithstanding the foregoing, the term "Cash Value" does not include an amount payable under an Insurance Contract:
 - a. solely by reason of the death of an individual insured under a life insurance contract;
 - b. as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;
 - c. as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an Insurance Contract (other than an investment-linked life insurance or annuity contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;
 - d. as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an Insurance Contract under which the only benefits payable are described in subparagraph C(8)(b); or
 - e. as a return of an advance premium or premium deposit for an Insurance Contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract.
9. The term "**Pre-existing Account**" means a Financial Account maintained by a Reporting Financial Institution as of [31/12/2015].
10. The term "**New Account**" means a Financial Account maintained by a Reporting Financial Institution opened on or after [01/01/2016].
11. The term "**Pre-existing Individual Account**" means a Pre-existing Account held by one or more individuals.
12. The term "**New Individual Account**" means a New Account held by one or more individuals.
13. The term "**Pre-existing Entity Account**" means a Pre-existing Account held by one or more Entities.
14. The term "**Lower Value Account**" means a Pre-existing Individual Account with an aggregate balance or value as of 31 December [2017] that does not exceed USD 1 000 000.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

15. The term **"High Value Account"** means a Pre-existing Individual Account with an aggregate balance or value that exceeds USD 1 000 000 as of 31 December [2016] or 31 December of any subsequent year.
16. The term **"New Entity Account"** means a New Account held by one or more Entities.
17. The term **"Excluded Account"** means any of the following accounts:
- a. a retirement or pension account that satisfies the following requirements:
 - i. 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);
 - ii. 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 taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
 - iii. information reporting is required to the tax authorities with respect to the account;
 - iv. withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and
 - v. either (i) annual contributions are limited to USD 50 000 or less, or (ii) there is a maximum lifetime contribution limit to the account of USD 1 000 000 or less, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

A Financial Account that otherwise satisfies the requirement of subparagraph C(17)(a)(v) will not fail to satisfy such requirement solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of subparagraph C(17)(a) or (b) or from one or more retirement or pension funds that meet the requirements of any of subparagraphs B(5) through (7).

- b. an account that satisfies the following requirements:
 - i. the account is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market, or the account is subject to regulation as a savings vehicle for purposes other than for retirement;
 - ii. 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 taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
 - iii. withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (for example, the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met; and

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

- iv. annual contributions are limited to USD 50 000 or less, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

A Financial Account that otherwise satisfies the requirement of subparagraph C(17)(b)(iv) will not fail to satisfy such requirement solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of subparagraph C(17)(a) or (b) or from one or more retirement or pension funds that meet the requirements of any of subparagraphs B(5) through (7).

- c. a life insurance contract with a coverage period that will end before the insured individual attains age 90, provided that the contract satisfies the following requirements:
 - i. 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;
 - ii. the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;
 - iii. the amount (other than a death benefit) payable upon 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; and
 - iv. the contract is not held by a transferee for value.
- d. an account that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate.
- e. an account established in connection with any of the following:
 - i. a court order or judgment.
 - ii. a sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:
 - 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 thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or then 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 subparagraph C(17)(f).
- iii. 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.
- iv. an obligation of a Financial Institution solely to facilitate the payment of taxes at a later time.
- f. a Depository Account that satisfies the following requirements:
 - i. 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
 - ii. beginning on or before [01/01/2016], the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of USD 50 000, or to ensure that any customer overpayment in excess of USD 50 000 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.
 - g. any other account that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the accounts described in subparagraphs C(17)(a) through (f), and is defined in domestic law as an Excluded Account, provided that the status of such account as an Excluded Account does not frustrate the purposes of the Common Reporting Standard.

D. Reportable Account

1. The term "**Reportable Account**" means an account held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person, provided it has been identified as such pursuant to the due diligence procedures described in Sections II through VII.
2. The term "**Reportable Person**" means a Reportable Jurisdiction Person other than: (i) a corporation the stock of which is regularly traded on one or more established securities markets; (ii) any corporation that is a Related Entity of a corporation described in clause (i); (iii) a Governmental Entity; (iv) an International Organisation; (v) a Central Bank; or (vi) a Financial Institution.
3. The term "**Reportable Jurisdiction Person**" means an individual or Entity that is resident in a Reportable Jurisdiction under the tax laws of such jurisdiction, or an estate of a decedent that was a resident of a Reportable Jurisdiction. For this purpose, an Entity

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated.

4. The term "**Reportable Jurisdiction**" means a jurisdiction *(i)* with which an agreement is in place pursuant to which there is an obligation in place to provide the information specified in Section I, and *(ii)* which is identified in a published list.
5. The term "**Participating Jurisdiction**" means a jurisdiction *(i)* with which an agreement is in place pursuant to which it will provide the information specified in Section I, and *(ii)* which is identified in a published list.
6. The term "**Controlling Persons**" means the natural persons who exercise control over an Entity. In the case of a trust, such term means the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term "Controlling Persons" must be interpreted in a manner consistent with the Financial Action Task Force Recommendations.
7. The term "**NFE**" means any Entity that is not a Financial Institution.
8. The term "**Passive NFE**" means any: *(i)* NFE that is not an Active NFE; or *(ii)* an Investment Entity described in subparagraph A(6)(b) that is not a Participating Jurisdiction Financial Institution.
9. The term "**Active NFE**" means any NFE that meets any of the following criteria:
 - a. 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;
 - b. the stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
 - c. the NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
 - d. substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
 - e. the NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE;

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

- f. the NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution;
- g. the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or
- h. the NFE meets all of the following requirements:
 - i. it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is 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;
 - ii. it is exempt from income tax in its jurisdiction of residence;
 - iii. it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - iv. the applicable laws 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 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
 - v. the applicable laws 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.

E. Miscellaneous

1. 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 Common Reporting Standard, and such other person is treated as holding the account. In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. 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.

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

2. The term **"AML/KYC Procedures"** means the customer due diligence procedures of a Reporting Financial Institution pursuant to the anti-money laundering or similar requirements to which such Reporting Financial Institution is subject.
3. The term **"Entity"** means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation.
4. An Entity is a **"Related Entity"** of another Entity if either Entity controls the other Entity, ~~or the two Entities are under common control~~ **or the two entities are investment entities described in Section VIII subparagraph A(6)(b) of the CRS, are under common management, and such management fulfils the due diligence obligations of such investment entities.** For this purpose control includes direct or indirect ownership of more than 50% of the vote and value in an Entity.
5. The term **"TIN"** means Taxpayer Identification Number (or functional equivalent in the absence of a Taxpayer Identification Number).
6. The term **"Documentary Evidence"** includes any of the following:
 - a. a certificate of residence issued by an authorised government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the payee claims to be a resident.
 - b. with respect to an individual, any valid identification issued by an authorised government body (for example, a government or agency thereof, or a municipality), that includes the individual's name and is typically used for identification purposes.
 - c. with respect to an Entity, any official documentation issued by an authorised government body (for example, a government or agency thereof, or a municipality) that includes the name of the Entity and either the address of its principal office in the jurisdiction in which it claims to be a resident or the jurisdiction in which the Entity was incorporated or organised.
 - d. any audited financial statement, third-party credit report, bankruptcy filing, or securities regulator's report.

Section IX: Effective Implementation

- A. A jurisdiction must have rules and administrative procedures in place to ensure effective implementation of, and compliance with, the reporting and due diligence procedures set out above including:
 1. rules to prevent any Financial Institutions, persons or intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures;
 2. rules requiring Reporting Financial Institutions to keep records of the steps undertaken and any evidence relied upon for the performance of the above procedures and adequate measures to obtain those records;
 3. administrative procedures to verify Reporting Financial Institutions' compliance with the reporting and due diligence procedures; administrative procedures to follow up with a Reporting Financial Institution when undocumented accounts are reported;

THE COMMON REPORTING STANDARD

ISLE OF MAN GUIDANCE NOTES

RELEASE DATE 1 MARCH 2016

4. administrative procedures to ensure that the Entities and accounts defined in domestic law as Non-Reporting Financial Institutions and Excluded Accounts continue to have a low risk of being used to evade tax; and
5. effective enforcement provisions to address non-compliance.