
INDUSTRY ADVISORY NOTICE

Date: 28 May 2021

AUTOMATIC EXCHANGE OF INFORMATION – MAY 2021 UPDATE

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

FATCA – Tax Identification Numbers (TINs)

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

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

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

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

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

Despite that transitional period having now ended the US, understanding that in certain **limited** circumstances Financial Institutions may still not have obtained a valid U.S. TIN in respect of all US Specified Persons, has updated the reporting options in respect of the 'default' U.S. TIN.

The updated option, developed by the IRS, consists of a series of codes that may be used by Financial Institutions to populate the TIN field in their XML FATCA report as detailed below:

- 22222222 – to be used in respect of Pre-Existing Individual Account where the only US indicia is a US place of birth;

- 333333333 – to be used in respect of New Individual Accounts that have indicia indicating a US place of birth, **and** either:
 - has had a change in circumstances causing the self-certification originally obtained at account opening to be incorrect or unreliable, and a new self-certification has not been obtained, or
 - was below the threshold for documenting and reporting the account at the time of account opening and subsequently exceeded the threshold, and a self-certification has not been obtained.

- 444444444 – to be used in respect of Pre-Existing Individual and Entity Accounts that have US indicia other than a US place of birth **and** either:
 - has had a change in circumstances, causing the self-certification or other documentation originally obtained to be incorrect or unreliable, and a new self-certification or other documentation has not been obtained, or
 - was below the threshold for documenting and reporting the account at the time of account opening and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.

- 555555555 – to be used in respect of New Individual and Entity Accounts that have US indicia other than a US place of birth, **and** either:
 - has had a change in circumstances causing the self-certification or other documentation originally obtained to be incorrect or unreliable, and a new self-certification or other documentation has not been obtained, or
 - was below the threshold for documenting and reporting the account at the time of account opening and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.

- 666666666 – to be used in respect of Pre-Existing Entity Accounts with account balance exceeding \$1,000,000 held by a passive NFFE with respect to which no self-certifications have been obtained, and no US indicia have been identified in relation to its controlling persons.

- 777777777 - to be used in respect of Pre-Existing Accounts where there is no U.S. TIN available and the account has been dormant or inactive, but remains above the reporting threshold, also known as a “dormant account”. For reference, the U.S. defines “dormant account” in U.S. Treasury Regulations §1.1471-4(d)(6)(ii).

The use of these codes is **not mandatory** and using them does not mean that an Isle of Man Financial Institution will not still be at risk of being found significantly non-compliant due to a failure to report each required U.S.TIN.

The US has advised that it will take into account the facts and circumstances leading to the absence of the U.S. TIN, such as the reasons why it has not been obtained and the efforts made by the Financial Institution to obtain the TIN. The use of the new codes will therefore help the US authorities to better understand the issues Financial Institutions are facing and the reasons why the TIN has not yet been obtained.

As a result the Information Provider’s Online Service, through which all FATCA reports must be submitted in the prescribed XML format (see section 19 of [GN55](#)), is scheduled to be updated on 1 June 2021 to accept all of the above codes in the relevant TIN fields of the schema for reporting in respect of the **2020** reporting year and beyond.

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

Isle of Man Financial Institutions should however be aware that this will result in the US authorities notifying the Isle of Man Competent Authority of an error in respect of each account with a missing U.S. TIN following the exchange of data in September 2021. In turn these errors will be notified to the relevant Isle of Man Financial Institutions which will require an explanation and, if necessary, correction of the data thereafter.

FATCA – Filing Deadline Extension

Although, as stated above, it is not compulsory to use the new codes the Assessor strongly advises Isle of Man Financial Institutions to use the new codes where they can in order to help the US authorities to better understand the issues Financial Institutions are facing and the reasons why valid TINs have not yet been obtained.

As such the Assessor is prepared to extend the filing deadline for 2020 reports from 30 June 2021 to **31 August 2021** if an Isle of Man Financial Institution commits to using the new codes. Any Isle of Man Financial Institution wishing to implement the new codes but requiring this additional time should email aeoi.admin@itd.treasury.gov.im to request the extension.

FATCA – Reporting of Entities

Updates will also be made to the XML validation carried out when FATCA reports are submitted through the Information Providers' Service in respect of the reporting of entities.

Where a reportable entity does not have and never will have a valid U.S. TIN (eg. because it is a passive NFFE) the TIN element, in respect of the **entity only**, should be populated with either:

- The entity's foreign TIN (example 1 below); or
- 'NA' to designate there is no foreign TIN or that it is unknown (example 2 below).

In these instance a valid U.S. TIN, or in the absence of a valid U.S. TIN, an appropriate 'default TIN' (see above) **must** be provided for each US Controlling Person as illustrated below:

Example 1

```
<AccountHolder>
<Organisation>
  <ResCountryCode>IM</ResCountryCode>
  <TIN issuedBy="IM">C000000-00</TIN>
  <Name>Example PNFFE</Name>
  <Address>
    <CountryCode>IM</CountryCode>
    <AddressFree>123 High Street/Douglas/Isle of Man</AddressFree>
  </Address>
</Organisation>
<AcctHolderType>FATCA102</ AcctHolderType >
</AccountHolder>
<SubstantialOwner>
  <Individual>
    <ResCountryCode>US</ResCountryCode>
    <TIN issuedBy="US">AAAAAAAAA</TIN>
    <Name>Mr A</Name>
  ...
```

Example 2

```
<AccountHolder>
<Organisation>
  <ResCountryCode>IM</ResCountryCode>
  <TIN issuedBy="IM">NA</TIN>
  <Name>Example PNFFE</Name>
  <Address>
    <CountryCode>IM</CountryCode>
    <AddressFree>123 High Street/Douglas/Isle of Man</AddressFree>
  </Address>
</Organisation>
<AcctHolderType>FATCA102</ AcctHolderType >
</AccountHolder>
<SubstantialOwner>
  <Individual>
    <ResCountryCode>US</ResCountryCode>
    <TIN issuedBy="US">66666666</TIN>
    <Name>Mrs B</Name>
  ...
```

FATCA – Guidance

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

Nicola Guffogg
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