



## Isle of Man Government

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**INCOMETAX**

**INCOME TAX**

### 1. Introduction

Income tax was first introduced in the Isle of Man by the Income Tax Act 1918 which is described in its preamble as being "An Act to provide for a Tax on income in the system of taxation then in operation in the United Kingdom and in many respects the similarities remain. This is an important factor as regards the interpretation of the provisions of the Manx Income Tax Acts because in a case where the interpretation of a provision or an expression in those Acts has been the subject of an appeal in the courts of the United Kingdom, the judgment in that appeal is a persuasive authority for the adoption of the same interpretation in a similar case in the Isle of Man."

The Income Tax Act 1918 was followed by successive amending Acts in the years that followed until the then existing legislation was consolidated in the Income Tax Act 1946. This was, in turn, followed by successive amending Acts until the then existing legislation was consolidated in the Income Tax Act 1970.

The Income Tax Act 1970 has since been amended by the —

- (i) Income Tax Act 1971;
- (ii) Income Tax Act 1973;
- (iii) Income Tax Act 1974;
- (iv) Income Tax Act 1976;
- (v) Income Tax Act 1978;
- (vi) Income Tax (Retirement Benefit Schemes) Act 1978;

and

- (vii) Income Tax (Amendment) Act 1979.

These Acts are collectively referred to as being "the Income Tax Acts 1970 to 1979". Section 120 of the Income Tax Act 1970 includes the following definitions —

"Income Tax Acts" means this Act and any other enactment relating to income tax;

"Manx income tax" and "Manx tax" means income tax payable under the Income Tax Acts."

The Income Tax Bill 1979 contains the new income tax provisions that were proposed by the Finance Board as a part of the Budget for 1979/80. The Bill was given its first and second readings by the House of Keys on 30th October and 6th November, 1979, respectively. It was then referred to a Select Committee for consideration. As it is unlikely to complete all its stages and obtain the Royal Assent before some time in 1980, the Bill is likely to be known as the Income Tax Act 1980 when it is enacted. It is proposed that the provisions of this Bill, when enacted, shall have effect in respect of the income tax year commencing on 6th April, 1979, and of each succeeding income tax year.

# The Common Reporting Standard Isle of Man Regulations

Application of the CRS for Isle of Man Financial Institutions

- UPDATED 5 January 2024 -

## Guidance Note

### GN 53

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ISLE OF MAN GUIDANCE NOTES

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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.

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# THE COMMON REPORTING STANDARD

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### 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 Income Tax \(Common Reporting Standard\) \(Amendment\) Regulations 2017](#), [the Income Tax \(Common Reporting Standard\) \(Amendment\) Regulations 2019](#) and [the Income Tax \(Common Reporting Standard\) \(Amendment\) Regulations 2021](#) (collectively 'the Isle of Man Regulations').

For ease of reading an [unofficial consolidated copy of the regulations](#), encompassing the 2015-2021 amendments is now also available online (correct as of June 2021).

#### 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](#) whilst further technical guidance and interpretation can be found in the CRS-related [Frequently Asked Questions](#) which are maintained and regularly updated by the OECD based on questions asked by businesses and Government delegates.



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This Guidance Note includes references and quotes from the Commentary, Handbook and FAQs; 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 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](#)),
- offer additional guidance on certain aspects of the CRS (see [section 5](#)),
- provide practical guidance on what to report (see [section 6](#)) and how to report it to the Assessor (see [section 8](#)),
- explain the format in which the information should be reported, including important information concerning file validation (see [section 7](#)), 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 9](#))

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.**

### **1.3 Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard**

Since the CRS was approved in 2014 more than 100 jurisdictions across the globe have implemented and begun exchanging financial account information in accordance with the Standard.

Taking into account the experience gained and the growing digitalisation of financial markets, a comprehensive review of the Standard was undertaken. As a result, the Crypto-Asset Reporting Framework (CARF), a new form of automatic exchange of information, and a series of amendments to the CRS (CRS 2.0) were proposed and subsequently approved by the OECD's Committee on Fiscal Affairs in 2023.

The CARF and CRS 2.0 together now comprise the '[International Standards for Automatic Exchange of Information in Tax Matters](#).'

On 10 November 2023 the Isle of Man, along with 47 other jurisdictions made an early commitment to implement both the CARF and the changes to the CRS with an expectation that first exchanges under these International Standards for Automatic Exchange of Information in Tax Matters will take place in 2027, in respect of the reporting year 2026.

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The Isle of Man, like other existing CRS jurisdictions, will need to make changes to its international legal framework in order to facilitate such exchanges and will, in due course also be making amendments to its domestic law, the Isle of Man Regulations.

In the interim, Isle of Man Financial Institutions (as well as any persons or Entities that, as a business, provide services effectuating Exchange Transactions in Crypto-Assets, for or on behalf of customers) may start considering these forthcoming amendments to the CRS and/or the new requirements in respect of the CARF by referring to the OECDs 'International Standards for Automatic Exchange of Information in Tax Matters' publication which can be found at the link below:

[https://www.oecd-ilibrary.org/taxation/international-standards-for-automatic-exchange-of-information-in-tax-matters\\_896d79d1-en#](https://www.oecd-ilibrary.org/taxation/international-standards-for-automatic-exchange-of-information-in-tax-matters_896d79d1-en#)

## **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).

#### **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.

### **2.2 Committed Jurisdictions**

As of November 2021, 112 jurisdictions (see [Appendix I](#)) had made a commitment to implement the CRS with first exchanges no later than September 2022. A further eight jurisdictions have committed to undertake their first exchanges by 2023 or 2024 and an additional 42 developing countries have also committed to implementing the CRS but have not yet set the date for their first automatic exchange.

Under the CRS jurisdictions with a specified implementation date are then 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.

Where an Isle of Man Financial Institution maintains a Financial Account for an Investment Entity it must consider whether that Investment Entity is resident in a Participating Jurisdiction as there are additional obligations where the Entity is resident in a Non-Participating Jurisdiction (see [section 5.2](#)).

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Isle of Man Financial Institutions should refer to the list of Participating Jurisdictions found in [Appendix II](#) of this guide and should note that this can change from time to time. The list was last updated in January 2024 (see [Appendix II](#) for further details concerning this update).

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

### **Example 2.2.1.1**

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 2.2.2.1**

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 Isle of Man Reportable Jurisdictions**

[The Income Tax \(Common Reporting Standard\) \(Amendment\) Regulations 2017](#) substitute the requirement for Isle of Man Financial Institutions to report to the Assessor in respect of Reportable Accounts (as defined in the CRS) with the requirement to report to the Assessor in respect of Isle of Man Reportable Accounts as defined in the Isle of Man Amended Regulations.

As an early adopter of the CRS, the Isle of Man made its first exchange of CRS information, with other early adopter jurisdictions with which it had the necessary agreements in place, by 30 September 2017. However, at the end of the first reporting period, 31 December

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2016, the necessary agreements to exchange information with some of those committed to the 2017 timetable were yet to be finalised, which prevented the Assessor from being able to provide Isle of Man Financial Institutions with a definitive list of Reportable Jurisdictions for that first year.

In order to ease the administrative burden on Isle of Man Financial Institutions, the Income Tax (Common Reporting Standard) Regulations 2015 were amended in March 2017 so that the requirement for the necessary international agreement to be in place at the point the Isle of Man's Reportable Jurisdiction list is published is no longer applicable.

The list of 'Isle of Man Reportable Jurisdictions' that Isle of Man Financial Institutions should rely upon for each reporting year can be found in [Appendix III](#) of this guidance note.

In addition, the Assessor also publishes a provisional list, which can be found in [Appendix V](#), of Isle of Man Reportable Jurisdictions for the forthcoming year that Isle of Man Financial Institutions ceasing operations during the period (see [section 6.4](#)) should refer to in order to compile their final reports.

This measure is intended to give Isle of Man Financial Institutions certainty over which accounts they should report to the Assessor by the **30 June** filing deadline whilst also giving the Isle of Man Government as much time as possible to implement the necessary international agreements to fulfil its commitment to exchanging information under the CRS with as many other committed jurisdictions as possible.

Isle of Man Financial Institutions should be assured, however, that information provided to the Assessor in respect of 'Isle of Man Reportable Accounts' is **only** exchanged with another jurisdiction if the Isle of Man has the necessary agreement in place and in effect at the date of exchange.

### **2.2.4 Update of the Lists**

The Isle of Man Competent Authority will be responsible for maintaining the lists of Participating Jurisdictions (see [Appendix II](#)) and Isle of Man Reportable Jurisdictions (see [Appendix III](#)).

The lists, shown in the Appendix to this guide, will be updated annually.

As further jurisdictions make a commitment to the implementation of the CRS (see [section 2.2](#)) the list of both Participating and Isle of Man Reportable Jurisdictions will change.

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

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### 2.2.5 Data Protection

Isle of Man Financial Institutions are required under the Isle of Man Regulations, as amended, to report in respect of every Isle of Man Reportable Account maintained in the reporting period.

Isle of Man Financial Institutions **must** ensure that data is:

- disclosed lawfully and explicitly with reference to the Isle of Man Reportable Jurisdictions list (see [sections 2.2.3](#) and [2.2.4](#)), published annually by the Assessor, with respect to the CRS;
- collected and reported for the purpose of compliance with the Isle of Man Regulations;
- contains data only prescribed and limited for the purpose of the CRS; and
- is accurate at the time of reporting for the specified period.

This means that CRS returns made to the Assessor **must only** contain Account Holders and/or Controlling Persons of Passive NFEs that are resident in the jurisdictions included in the list of Isle of Man Reportable Jurisdictions for the relevant reporting period.

The reporting of individual Account Holders/Controlling Persons who are not resident in any of the Isle of Man Reportable Jurisdictions is an infringement of the Isle of Man's data protection law as there is no lawful basis to report the personal data of these individuals.

## 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 committed to making its first exchanges under the CRS by 30 September 2017.

49 jurisdictions, including the Isle of Man, were Early Adopters and are listed in the [Appendix](#) to this guide.

#### Example 2.3.1.1

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 2.3.1.2

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.

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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 committed to making its first exchanges under the Standard by 30 September 2018.

51 jurisdictions, as listed in the [Appendix](#) of this guide, were Fast Followers.

#### **Example 2.3.2.1**

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**.



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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 an Isle of Man 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 should have been completed by **31 December 2016**.

Where the balance or value of an account did 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 did 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 should have been 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 3.3.4.1**

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.

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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 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 should have been completed by **31 December 2017** except where the balance of the account does not exceed \$250,000 at the yearend **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 3.3.5.1**

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.

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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

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- 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 any required licence, permit or any other such authority as required 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 6.2](#)) 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.

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### **Example 3.4.1.1**

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.

Please refer to [section 8](#) for details of how to register for reporting as a Third Party and [section 7.6](#) for details of how to report in respect of multiple Isle of Man Financial Institutions in one XML file (consolidated reporting).

## **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;

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- 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
- 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.

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

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.

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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 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 3.5.4.1**

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](#)



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#### **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 £50,000 (which exceeds the contribution limit of \$50,000 (USD) allowed) and have 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.

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#### **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 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 [GN 55](#), The International Tax Compliance (United States of America) Regulations 2014 Guidance Note which can continue to be used by Isle of Man Financial Institutions with reporting and due diligence obligations in respect of US FATCA.

### **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.

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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 4.2.1.1**

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 (US IGA) Investment Entity Definition**

Under the US IGA 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 IGA definition **does 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 that agreement will no longer be Investment Entities, and therefore Financial Institutions, for CRS purposes.

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**Isle of Man entities cannot use the IGA definition of an Investment Entity for the purpose of establishing their status for the CRS, as confirmed by the OECD in the [Section VIII: Definitions FAQ #4 published April 2017](#).**

Any Isle of Man entity wanting consistency for US FATCA and CRS purposes can use the CRS definition of Investment Entity for the purpose of determining their status for FATCA.

**Isle of Man Financial Institutions that maintain accounts for any Isle of Man entities 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.**

#### **Example 4.2.1.2**

T is an Isle of Man Trust, managed by XYZ Limited, an Isle of Man TCSP. 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 purpose of the US IGA, 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 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.

See further example in [section 5.6](#)

#### **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:-

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- provision of co-secretary and/or company secretarial services;
- provision of registered office;
- preparation of final financial statements (from company books and records);
- 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 4.2.2.1**

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 4.2.2.2**

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.

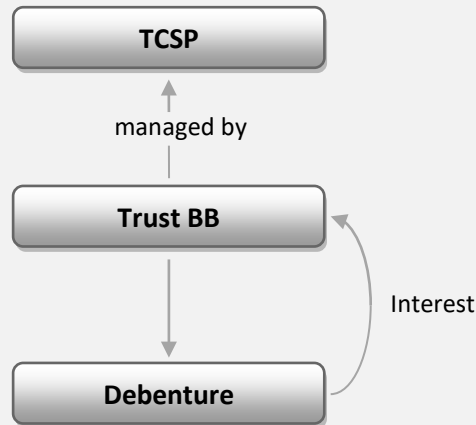
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**Example 4.2.3.1**

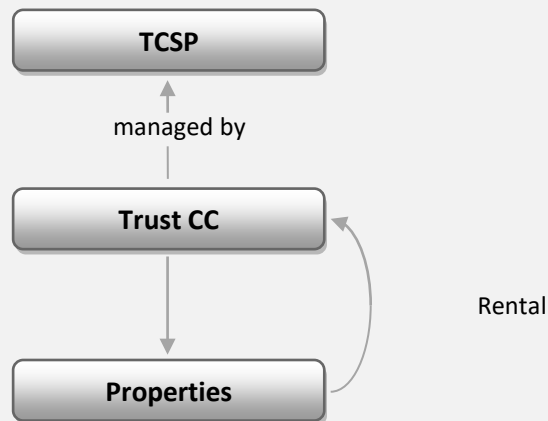
BB is an Isle of Man Trust that holds a debenture, from which it receives interest, the trust's only source of income.



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 4.2.3.2**

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.

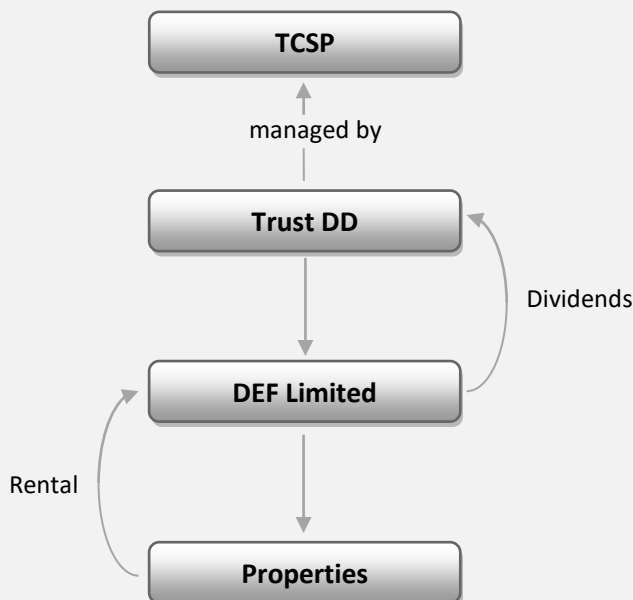
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#### Example 4.2.3.3

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 4.2.3.4

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.



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#### **Example 4.2.3.5**

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.

## 5 ADDITIONAL CRS GUIDANCE

### 5.1 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 Agreement which require the balance or value of the account immediately prior to closure to be reported.

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

#### Example 5.2.1.1

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.

### 5.3 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.

#### 5.3.1 Timing of Self-Certification – New Accounts

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**.

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There may be circumstances, however, where it is not possible 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, **and only in the case of insurance assignments**, it is expected that a valid Self-Certification will be obtained within a period of no more than 90 days. Isle of Man Specified Insurance Companies 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 though it were an Undocumented Account (see [section 5.3.2](#)) until such time as a valid Self-Certification is received.

A detailed explanation, including illustrative examples, of how to report these cases within the XML report can be found later in this guide (see [section 7.4.8](#)).

There should be **no other circumstances** on a New Account opening where a Self-Certification cannot be obtained at the time the account is opened. Isle of Man Financial Institutions failing to collect a valid Self-Certification are committing an offence and may be penalised accordingly (see [section 9](#)).

#### **5.3.2 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 Individual Account that meets the very specific conditions outlined in [Section III B.5](#) and [C.5](#) of the CRS.

In the Isle of Man, a limited number of New Accounts may also need to be reported as Undocumented, in the rare circumstance where a valid Self-Certification cannot be obtained (see [section 5.3.1](#)).

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 and as a result 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 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. In all instances penalties (see [section 9](#)) may be imposed if the Financial Institution is found to be non-compliant.

A detailed explanation, including illustrative examples of how to report an account as Undocumented in XML can be found later in this guide (see [section 7.4.8](#)).

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#### **5.3.3 Self-Certification for Pre-Existing Accounts**

If, following the paper and/or electronic indicia searches required in respect of Pre-Existing accounts (see [section 3.3.2](#)) an Isle of Man Financial Institution finds a potentially Reportable Account they may 'cure/repair' that indicia by requesting the completion of a Self-Certification from the Account Holder to prove that they are not resident in the jurisdiction/s the indicia indicated they may be.

Isle of Man Financial Institutions that are not able to obtain a Self-Certification in this instance, for any reason, **should not** treat the account as Undocumented (see [section 5.3.2](#)) and should instead report on the basis of the original indicia found.

#### **5.4 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.

#### **5.5 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:-

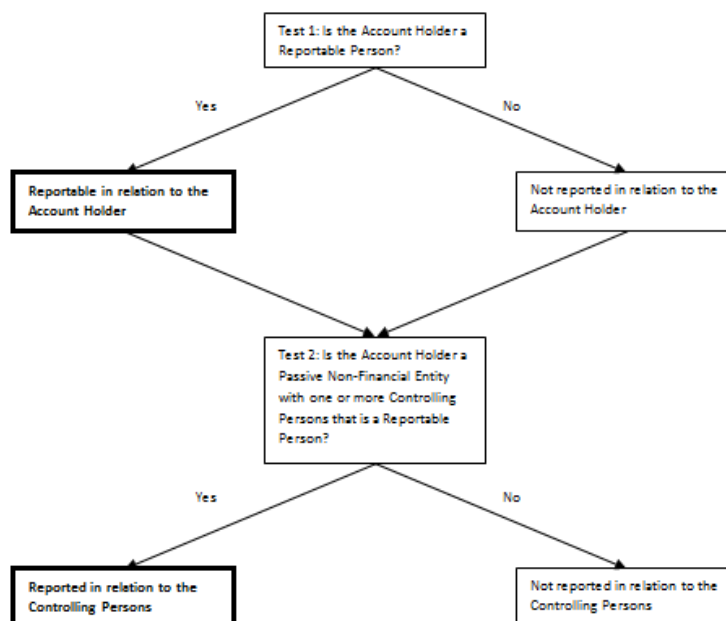
- which is itself a Reportable Person, or
- is a Passive NFE with one or more Controlling Persons who are Reportable Persons

Establishing this requires two tests, illustrated below:-

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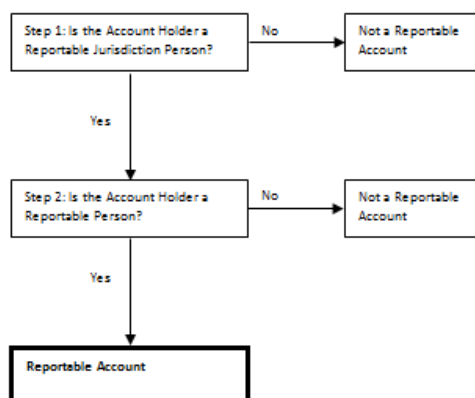
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1

### 5.5.1 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.



2

### 5.5.2 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.

<sup>1</sup> Figure 9 taken from the OECDs CRS Implementation Handbook

<sup>2</sup> Figure 10 taken from the OECDs CRS Implementation Handbook

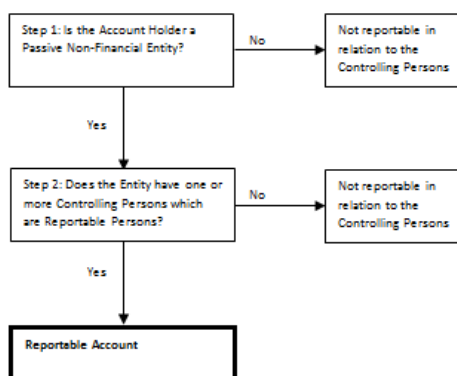
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**Please note, the requirement to apply the second step to an account already identified as a Reportable Account, because the Entity itself is a Reportable Person, is specific to the CRS and is not required under the US IGA.**

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



3

### 5.5.3 CRS Schema Requirements

Where a Financial Institution has applied the two tests shown in [sections 5.5.1](#) and [5.5.2](#) 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 5.5.4, 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 5.5.4, 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 5.5.4, example IV](#)

<sup>3</sup> Figure 11 taken from the OECDs CRS Implementation Handbook

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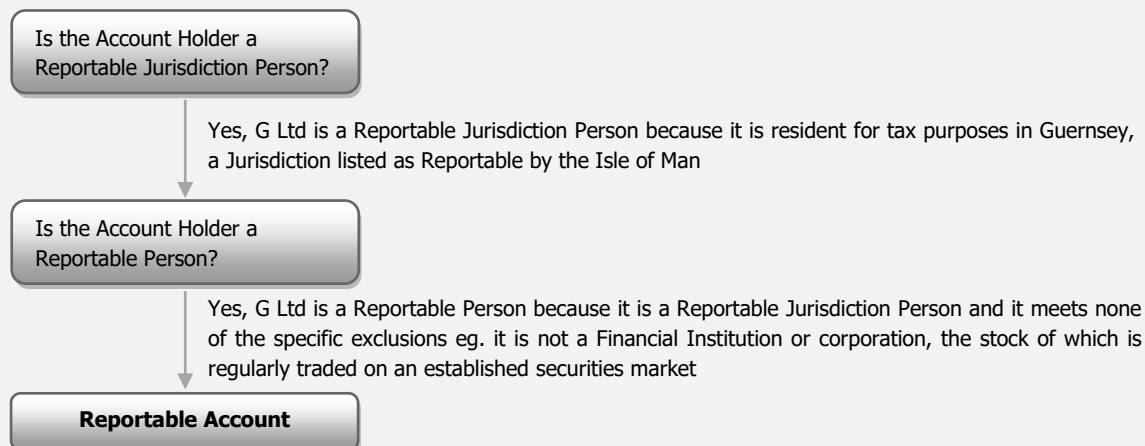
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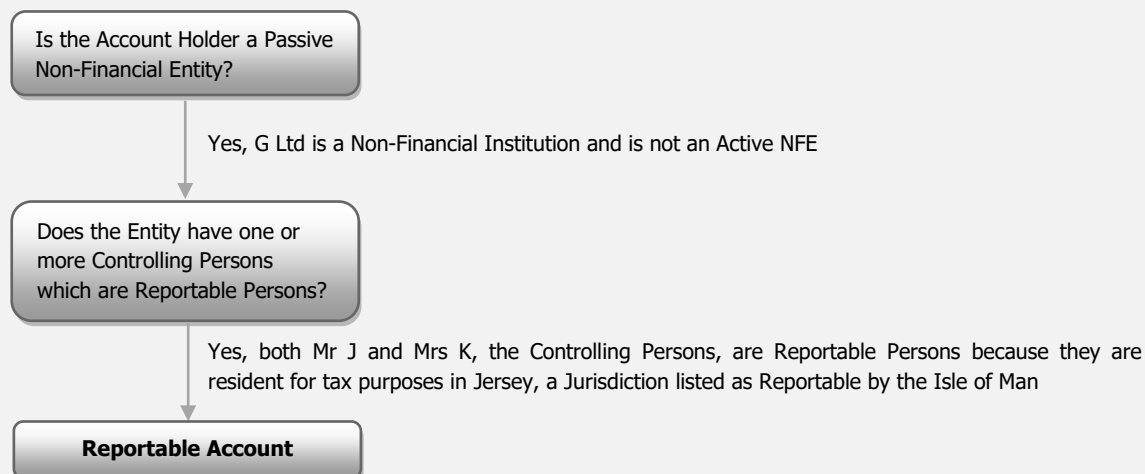
### 5.5.4 Entity Account Examples

#### Example 5.5.4.1

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:-



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

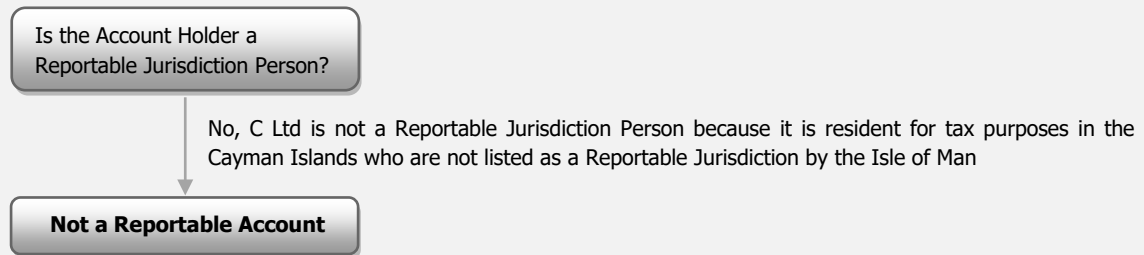
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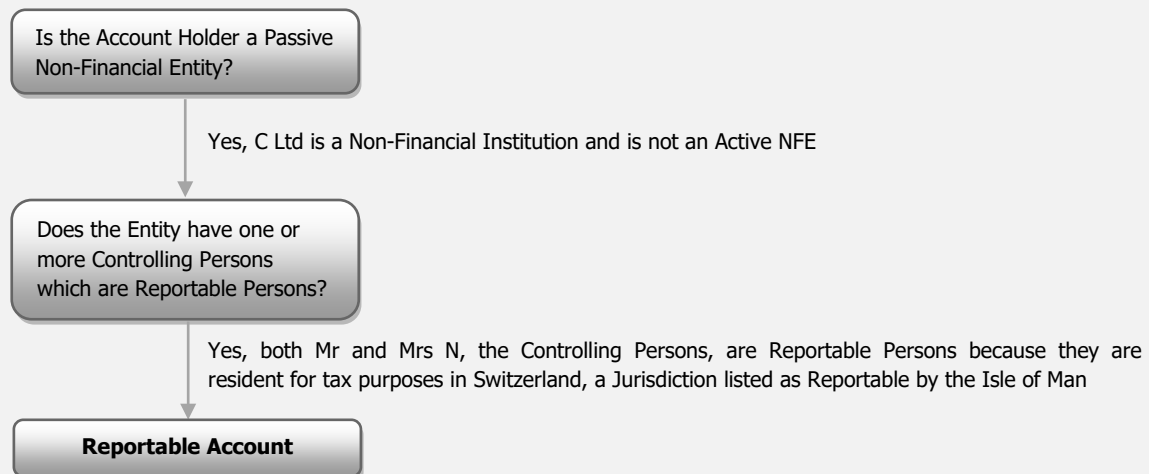
### Example 5.5.4.2

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.

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

An example of the XML for this scenario can be seen in [section 7.4.6](#)



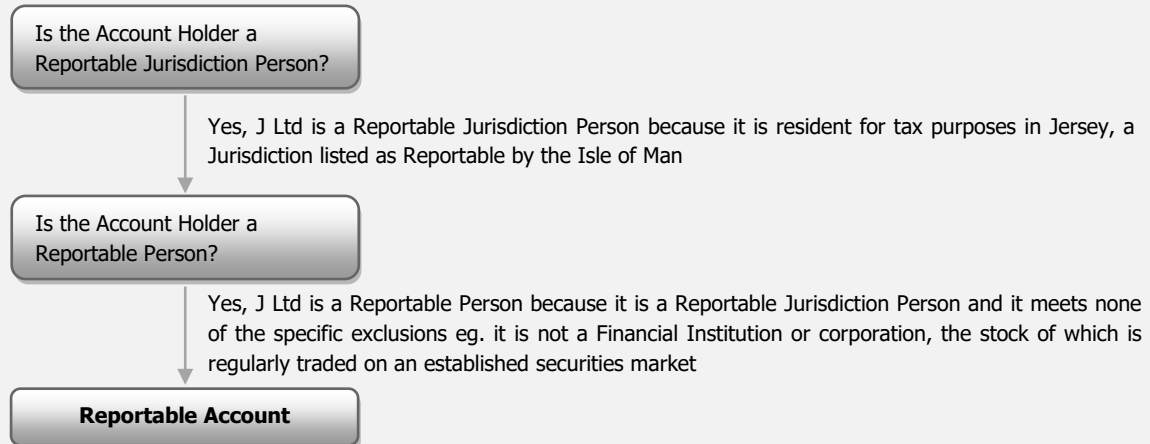
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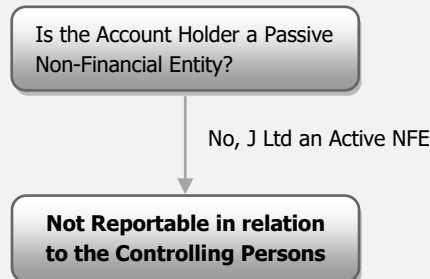
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### Example 5.5.4.3

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:-



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

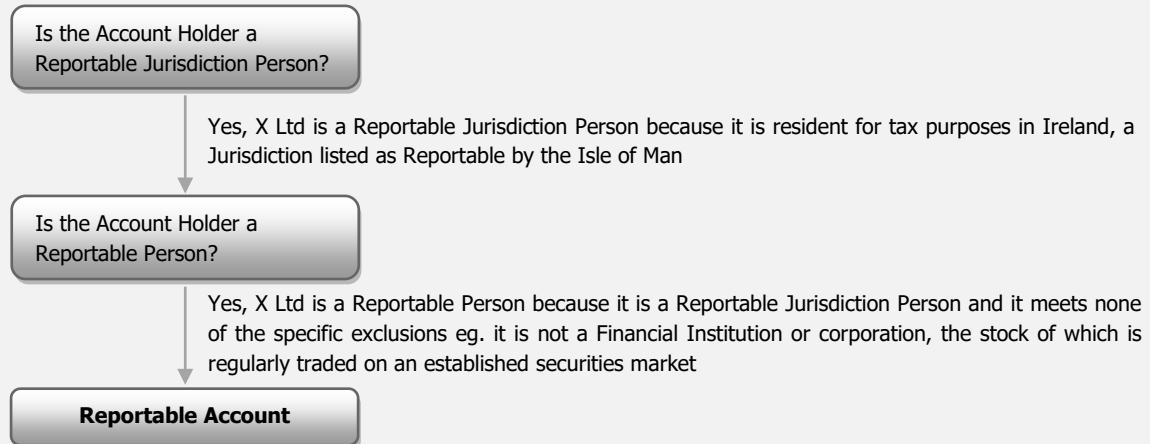
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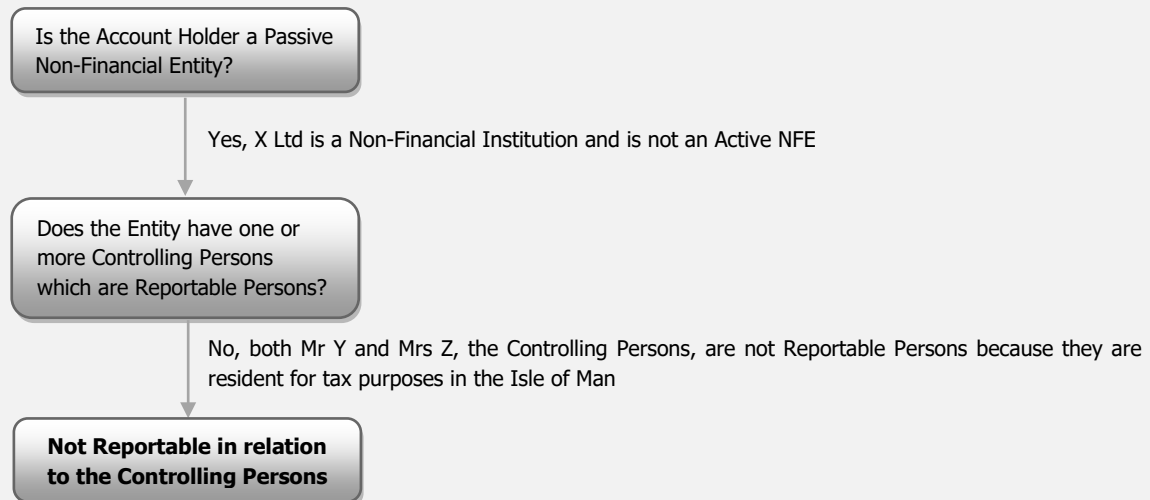
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### Example 5.5.4.4

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:-



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

## 5.6 Controlling Persons

Isle of Man Financial Institutions that maintain entity accounts for Passive NFEs should note the [Sections II-VII: Due Diligence FAQ #5 published April 2017](#) by the OECD, which confirms

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the requirement to look through any entities that are Controlling Persons, even where that entity is a Financial Institution, in order to find the natural persons.

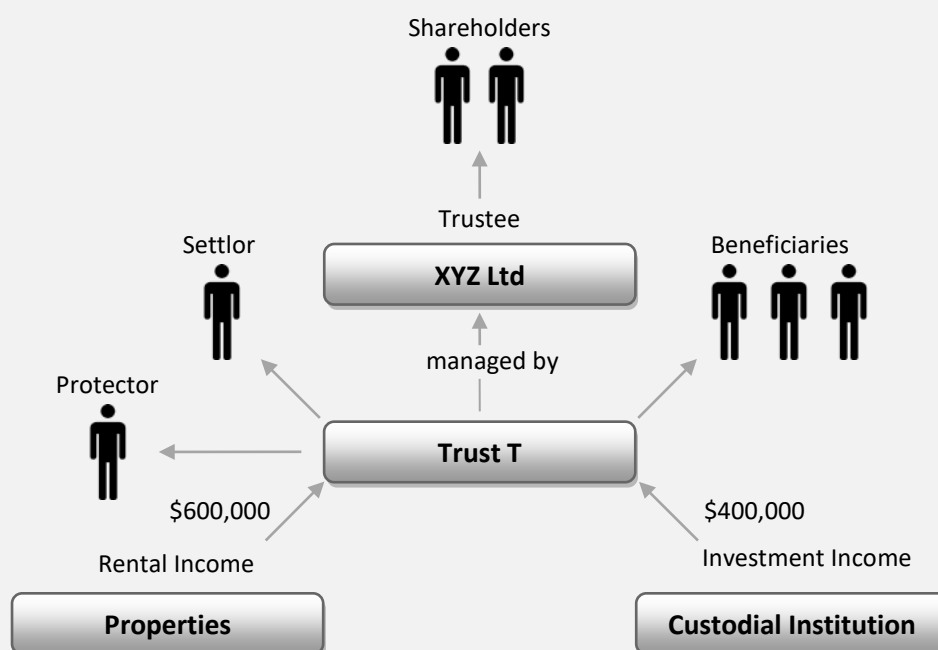
#### Example 5.6.1.1

T, the trust from example 4.2.1.2 in [section 4.2.1](#), is an Isle of Man Trust, managed by XYZ Limited, an Isle of Man TCSP. 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, ABC Ltd, which produces \$400,000 income.

Although T is managed by an Investment Entity (XYZ Ltd), it will not be a Financial Institution as it only receives 40% of its gross income from investing in Financial Assets.

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



The Controlling Persons of a Passive NFE must **always** be natural persons therefore ABC Ltd must look through the trustee, XYZ Ltd, regardless of the fact it is a Financial Institution, to find the natural persons that exercise ultimate control over that entity and report them, along with the protector, settlor and beneficiaries, if any of them are Isle of Man reportable persons.

## 5.7 Specified Insurance Companies - Branches

Insurance companies frequently operate local introducing, sales or distribution offices outside the jurisdiction of tax residence of the head office. Where an insurance company that is a Financial Institution has a branch in another jurisdiction, the branch will be a Financial Institution in its own right in that local jurisdiction.

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It will therefore be necessary to establish whether the Financial Accounts of the insurance company are held or maintained by the branch or by the head office in order to determine where the reporting obligations sit.

When determining whether Financial Accounts of an insurance company are held or maintained by the head office or a branch for CRS purposes, a Financial Institution should consider where the account is maintained in an ordinary sense. The jurisdiction in which an account is maintained is a question of fact having regard to all the circumstances. In the case of the Financial Accounts of an insurance company, the following criteria should be taken into account:-

- Regulation of the branch as an insurer and application of the regulatory framework of the jurisdiction in which the branch is located to the Financial Accounts of the branch (assets and insurance liabilities booked in the branch);
- Customer Due Diligence obligations of the branch with respect to the policy holder;
- Activities of the branch (i.e. sales and sales support or substantive administration of the policy);
- Place of acceptance of the underwriting risk and/or the policy;
- Place of contracting party of the policy;
- Presence of separate records for customer policies sold through the branch;
- Location of the office issuing the policies;
- Law applicable to the policies sold by the branch; and
- Any other relevant criteria.

Where, based on the above criteria, the conclusion is that the Financial Account is considered to be held or maintained by the branch, the branch will fulfil the due diligence and reporting obligations under the CRS. Where, based on the above criteria, the conclusion is that the Financial Account is considered to be held or maintained by the head office, the head office will fulfil the due diligence and reporting obligations under the CRS.

In particular, where the branch merely acts as an introducer to policies that are then issued by the head office, these Financial Accounts would be deemed to be held by the head office which would fulfil the due diligence and reporting obligations under the CRS. Where the book of a branch is in run-off (ie. the branch is not accepting new business and not subscribing new policies), the determination as to whether the Financial Accounts are held or maintained by the branch or the head office should be made on the basis of the location of the data and infrastructure in order to adequately undertake that due diligence and reporting.

### **5.8 Residence by Investment (RBI) and Citizenship by Investment (CBI) Schemes**

Residence and Citizenship by investment (CBI/RBI) schemes allow individuals to obtain citizenship or residence rights through local investments or against a flat fee. Such schemes may be used for perfectly legitimate reasons however, they can also be misused or abused to misrepresent an individual's jurisdiction(s) of tax residence which can endanger the proper operation of the CRS due diligence procedures.

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Potentially high-risk CBI/RBI schemes are those that give access to a low personal income tax rate on offshore financial assets and do not require an individual to spend a significant amount of time in the location offering the scheme.

In order to ensure the CRS is operated properly Isle of Man Financial Institutions are required to take the outcome of the OECD's analysis of high-risk CBI/RBI schemes into account when performing their CRS due diligence obligations which can be found online at:

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/residence-citizenship-by-investment>

As of December 2023 the following jurisdictions had been identified by the OECD as having high-risk CBI/RBI schemes:

- Antigua and Barbuda;
- Bahamas;
- Bahrain;
- Barbados;
- Cyprus;
- Dominica;
- Grenada;
- Malta;
- Saint Kitts and Nevis;
- Saint Lucia;
- Seychelles;
- Turks and Caicos;
- United Arab Emirates; and
- Vanuatu.

Please note the jurisdictions and types of CBI/RBI schemes identified as high-risk are subject to change so please refer to the OECD website at the link above for the most up to date information.

Under Section VII of the CRS, a Financial Institution may not rely on a self-certification or Documentary Evidence if the Financial Institution knows or has reason to know, that the self-certification or Documentary Evidence is incorrect or unreliable. The same applies with respect to Pre-existing High-Value Accounts where a relationship manager has actual knowledge that the self-certification or Documentary Evidence is incorrect or unreliable.

In making the determination whether a Financial Institution has reason to know that a self-certification or Documentary Evidence is incorrect or unreliable, it should take into account all relevant information available which includes the results of the OECD's CBI/RBI risk analysis.

As a result, where, taking into account all relevant information, the facts and circumstances would lead an Isle of Man Financial Institution to have doubts as to the tax residency(ies) of an Account Holder or Controlling Person, it should take appropriate measures to ascertain the tax residency(ies) of such persons.

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To do this Isle of Man Financial Institutions may consider asking further of any account holders purporting to be tax resident in a jurisdiction with a high risk RBI/CBI scheme such as:

- Did you obtain residence rights under a CBI/RBI scheme?
- Do you hold residence rights in any other jurisdiction(s)?
- Have you spent more than 90 days in any other jurisdiction(s) during the previous year?
- In which jurisdiction(s) have you filed personal income tax returns during the previous year?

The responses to the above questions should assist Isle of Man Financial Institutions in ascertaining whether the provided self-certification or Documentary Evidence is incorrect or unreliable.

Isle of Man Financial Institutions are reminded that where they are not satisfied with the reasonableness of a self-certification and/or the Documentary Evidence provided they must instead report with reference to the indicia held until they are satisfied.

## 6 REPORTING OBLIGATIONS

### 6.1 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**<sup>4</sup> following the calendar year end to which the reportable information relates.

Details of the prescribed format and transmission method can be found in [sections 7.2](#) and [7.7](#).

### 6.2 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.

#### 6.2.1 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.

Where this information is held in the records of a Financial Institution, it **must** be reported.

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 Services Authority's [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.

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<sup>4</sup> 2019 reporting due date was extended from 30 June to 30 September 2020 due to COVID-19 global pandemic

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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.

'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](#).

Notwithstanding the above, Isle of Man Financial Institutions should be aware that the Information Providers' Service, through which all XML reports must be filed (see [section 7.7](#)), contains certain validation requirements with respect to both the TIN and Date of Birth schema elements which are detailed in [section 7.4.5](#).

### **6.2.2 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 Services Authority's [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.

### **6.3 Multi-Jurisdiction Reporting**

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



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

### 6.4 Reporting on Cessation

Where an Isle of Man entity ceases to be a Reporting Financial Institution it will need to file any outstanding reports **prior to** its dissolution.

If any of the accounts maintained by the Isle of Man entity were not already closed in the reporting year prior to that in which the Entity intends to dissolve/be liquidated the final report to cessation should reflect the fact the accounts are now closed. The final XML report to cessation should include any final payments made to the Account Holders prior to cessation as would be reported normally however, account balances or values should be 'nil' and the 'closed account' indicator set to 'true' (see [sections 5.1](#) and [7.4.5](#)).

Isle of Man Financial Institutions should use the provisional list of Isle of Man Reportable Jurisdictions for the applicable year in which they cease if they are filing prior to the final list for that year being published by the Assessor (see [section 2.2.3](#) and [Appendix V](#)).

#### Example 6.4.1.1

ABC Limited, an Isle of Man Depository Institution, intends to surrender its banking licence and cease to operate in the Isle of Man in autumn 2017. ABC Limited has already filed a report to the Assessor in respect of the 2016 reporting year in respect of the depository accounts it maintained for Isle of Man Reportable Persons.

Although, under normal circumstances, ABC Limited would have until 30 June 2018 to report in respect of the 2017 reporting year, ABC Limited should file the final 2017 part year report to the Assessor **as soon as practically possible** after the final financial accounts it maintains are closed in the autumn of 2017, referring to the 2017 provisional list of Isle of Man Reportable Jurisdictions to determine which Account Holders to report in respect of the final period.

If, following the final submission, the Assessor has any follow up queries, eg. receives a notification from a Reportable Jurisdiction after ABC Limited's cessation, they will be directed to the person/s who the Isle of Man Financial Services Authority (FSA) have agreed will be responsible for maintaining ABC Limited's records at the time its banking licence was surrendered.

## **7 FORMAT OF REPORTING**

### **7.1 Extensible Mark-up Language (XML)**

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

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

### **7.2 Schema**

In order for an XML file to be accepted it must be valid, in accordance with the applicable XML schema.

#### **7.2.1 Current Schema**

In June 2019 the OECD published a new version of the CRS Schema (v2.0) which reflects a number of technical changes that have been made following input from jurisdictions and Financial Institutions. This version became operational in the Isle of Man on 1 December 2020, replacing v1.0.

CRS XML Schema v2.0 can be found, along with its user guide, at the links below:

- Schema XSD <https://www.oecd.org/ctp/exchange-of-tax-information/CRS-Schema-v2.0.zip>
- User Guide <https://www.oecd.org/tax/exchange-of-tax-information/common-reporting-standard-xml-schema-user-guide-for-tax-administrations-june-2019.pdf>

An Isle of Man Financial Institution that needs to file a corrected report (or additional data) regardless of the reporting year to which it relates has to do so in accordance with current CRS schema, i.e. v2.0 of the schema..

#### **7.2.1.1 Key Changes**

Some of the key changes between version 1.0 and version 2.0 of the CRS schema are summarised below:

##### **Empty Elements**

Empty elements are no longer allowable for CRS exchanges and the 2.0 schema treats any instances as invalid.

Where an element is optional, rather than mandatory and there is no data to provide (for example, the 'FloorIdentifier' element of an address, where there is no floor identifier) then the element should be excluded from the schema file altogether rather than being left empty, as illustrated in the examples below:

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### Example 7.2.1.1.1 (Invalid)

```
<AddressFix>  
  <Street>Test</Street>  
  <BuildingIdentifier>A</BuildingIdentifier>  
  <SuiteIdentifier/>  
  <FloorIdentifier/>  
  <DistrictName/>  
  <PostCode/>  
  <City>Example</City>  
  <CountrySubentity/>  
</AddressFix>
```

### Example 7.2.1.1.2 (Valid)

```
<AddressFix>  
  <Street>Test</Street>  
  <BuildingIdentifier>A</BuildingIdentifier>  
  <City>Example</City>  
</AddressFix>
```

This is relevant throughout the CRS XML file.

## Updated Namespaces

All Isle of Man Financial Institutions must ensure that their files contain the updated v2.0 XML Schema Instance Namespace at the start of their report in order for it to validate.

### Example 7.2.1.1.3 (Schema Version 1.0)

```
<crs:CRS_OECD xmlns:cfc="urn:oe.cd:ties:commontypesfatcacs:v1" xmlns:stf="urn:oe.cd:ties:stf:v4"  
xmlns:crs="urn:oe.cd:ties:crs:v1">
```

### Example 7.2.1.1.4 (Schema Version 2.0)

```
<crs:CRS_OECD xmlns:cfc="urn:oe.cd:ties:commontypesfatcacs:v2" xmlns:stf="urn:oe.cd:ties:crsstf:v5"  
xmlns:crs="urn:oe.cd:ties:crs:v2">
```

## MessageTypeIndic

The element 'MessageTypeIndic' within the 'MessageSpec' at the start of the XML file is now mandatory.

This should be populated with the code 'CRS701', unless corrections or deletions are required (see [section 7.8](#)), where code 'CRS702' would be used instead.

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### 7.3 Status Messages

The Isle of Man will exchange CRS data securely with other Reportable Jurisdictions using the OECD's Common Transmission System (CTS). The data will then be processed, validated, stored and managed by the recipient jurisdiction.

Reportable Jurisdictions may impose a secondary layer of validation on each individual account contained in a file in order to identify what are known as 'record level' errors in a submission; further details of these errors can be found in the OECD's Status Message User Guides at the link below:

- User Guide v2 <https://www.oecd.org/tax/exchange-of-tax-information/common-reporting-standard-status-message-xml-schema-user-guide-for-tax-administrations-june-2019.pdf>

Where record level errors are found a notification will be issued to the Assessor, who will have a specified period in which to ensure that the Isle of Man Financial Institution corrects the errors and resubmits.

In order to minimise the potential need for corrections by Isle of Man Financial Institutions, where possible, the Income Tax Division has enhanced the validation applied to CRS files uploaded through the Information Providers' Online Service (see [section 7.7](#)), which is explained below (see [section 7.4](#)).

### 7.4 Validation

All reports submitted must be valid in accordance with the applicable schema and any additional validation added to the Information Providers' Online Service as specified by the Assessor and explained below.

#### 7.4.1 Invalid Characters

CRS XML documents should conform to recommended XML schema best practices and therefore certain characters are prohibited. If those characters are included in a report it will cause the file to be rejected when the Isle of Man tries to transmit it through the CTS, generating an error notification.

The tables below detail the non-allowable characters, or combinations of non-allowable characters, for CRS XML files:

Character	Description	Entity Reference
--	Double Dash	n/a
/*	Slash Asterisk	n/a
&#	Ampersand Hash	n/a

Character	Description	Entity Reference
<	Less Than	&lt;
'	Apostrophe	&apos;
&		&amp;

The characters, or combinations of characters, listed above should not appear within the XML file of the data being submitted and should you need to use any of the prohibited characters (with the exception of double dash, slash asterisk and ampersand hash), you should use the 'Entity Reference' instead.

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#### 7.4.1.1 Apostrophes

The Information Providers' Online Service will accept apostrophes and the entity reference for an apostrophe in all instances.

However, due to complex rules that exist within systems used by the recipient jurisdictions to process the data received concerning the acceptance of certain character/letter combinations, the Assessor will, as a matter of prudence, be removing all apostrophes from both FATCA and CRS reports and replacing them with a space prior to exchanging the information, as illustrated below:

##### Example 7.4.1.1.1

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

##### Example 7.4.1.1.2

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

#### 7.4.2 MessageSpec

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

When submitting the data to the Assessor, Isle of Man Financial Institutions should ensure that the 'TransmittingCountry' and 'ReceivingCountry' elements are **both** set to 'IM.'

##### Example 7.4.2.1

```
<MessageSpec>
  <SendingCompanyIN>000000.000000.XX.833</SendingCompanyIN>
  <TransmittingCountry>IM</TransmittingCountry>
  <ReceivingCountry>IM</ReceivingCountry>
  <MessageType>CRS</MessageType>
```

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#### 7.4.3 DocSpec

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

The 'DocRefId' and 'CorrDocRefId', in respect of correction and void files (see section 7.8) elements are used to distinguish each individual account reported.

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

- Option 1 - US Format

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

eg. **000000.00000.XX.833.123abc456def789**

- Option 2 - IOM Format

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

eg. **C000000Q01.123abc456def789**

The [OECD's CRS XML User Guide](#) requires the DocRefId identifier to start with the sending country code followed by the year to which the data relates and the country code of the transmitting country.

However, as the Assessor requires Isle of Man Financial Institutions to submit one report containing data that will be sent to multiple jurisdictions (see [section 6.3](#)) there is no requirement for Isle of Man Financial Institutions to start their DocRefId identifier in this format and they should, instead, follow one of the two formats detailed above.

The country codes and year will be inserted by the Assessor at the point jurisdiction-specific reports are created prior to transmission:

##### Example 7.4.3.1

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

##### Example 7.4.3.2

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

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

Isle of Man Financial Institutions should not submit test files through the Information Providers' Online Service. Therefore, the DocTypeIndic must be set to OECD1 (new), OECD2 (corrected), OCEd3 (void/deletion) or OECD0 (re-send) only.

### 7.4.4 ReportingFI

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

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

- Name Each name must be unique when a third party or trustee files a consolidated report on behalf of multiple RFIs.
- Address Addresses can be provided in a structured format using either the 'AddressFix' elements or free format 'AddressFree' element. Where 'AddressFix' is used the 'City' element must be present and cannot be blank. Where 'AddressFree' is used instead this element cannot be left blank.

### 7.4.5 AccountReport

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

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

- 'AccountNumber' For accounts without a specific account number reporting entities should include the functional equivalent such as a policy number. Where the attribute within this element is set to 'true' this indicates that the account is an 'Undocumented Account' (see [section 5.3.2](#)); in all other cases it should either be omitted or set to 'false.' Further details of how to report an account as 'Undocumented' in XML can be found below in [section 7.4.8](#).
- 'ResCountryCode' See below for further details and specific guidance relating to the rules for Entity Account Holders.
- 'TIN' (Individual)  
'IN' (Entity) Where an Account Holder is tax resident in more than one jurisdiction the number of TINs/INs provided, and the attribute stating the issuing jurisdiction must match the number of 'ResCountryCodes' and jurisdictions.  
**Please note:** unlike FATCA it is mandatory to provide the attribute stating the jurisdiction the TIN was issued by. Where a TIN is not yet held (for pre-existing accounts) please use '00000000' to designate the TIN/IN as unknown.
- 'BirthDate' It is mandatory to complete the 'BirthDate' element from 2024. If a Date of Birth is not held by an Isle of Man Financial Institution in respect of the Individual Account Holder, and/or Controlling Person(s) a 'default Date of Birth' of either 0001-01-01 or 1900-01-01 should be included.
- 'First Name'

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- (Individual)
- 'Last Name' (Individual)
- 'Name' (Entity)
- 'Address' 

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

Negative balances should be reported as nil. Where the account is closed in the period and the account closed attribute has been set, the balance reported must be zero
- 'Payment' 

Type and amount must not be blank, or negative.

### Example 7.4.5.1

```
<AccountNumber>123456789</AccountNumber>
<AccountHolder>
<Individual>
  <ResCountryCode>JE</ResCountryCode>
  <ResCountryCode>GG</ResCountryCode>
  <TIN issuedBy="JE">121212</TIN>
  <TIN issuedBy="GG">343434</TIN>
  <Name>
    <FirstName>John</First Name>
    <LastName>Smith</LastName>
  <Address>
    <CountryCode>IM</CountryCode>
    <AddressFree>123 High Street/Douglas/Isle of Man</AddressFree>
  </Address>
  <BirthInfo>
    <BirthDate>2003-02-01</BirthDate>
  </BirthInfo>
</Individual>
</AccountHolder>
```

'ResCountryCode' must match 'issuedBy'

### Example 7.4.5.2

```
<AccountNumber ClosedAccount="true">123456789</AccountNumber>
<AccountHolder>
<Individual>
  <ResCountryCode>GB</ResCountryCode>
  <TIN issuedBy="GB">111111</TIN>
  <Name>
    <FirstName>John</First Name>
    <LastName>Smith</LastName>
  <Address>
    <CountryCode>GB</CountryCode>
    <AddressFree>99 The Lane/Glasgow/Scotland</AddressFree>
  </Address>
</Individual>
</AccountHolder>
<AccountBalance currCode="GBP">0</AccountBalance>
<Payment>
  <Type>CRS502</Type>
  <PaymentAmnt currCode="GBP">5000</PaymentAmnt>
</Payment>
```

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



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### 7.4.6 Jurisdiction of Residence

In order to report the jurisdiction in which the Account Holder, or Controlling Person of a Passive NFE, is tax resident Isle of Man Financial Institutions must complete the 'ResCountryCode' element, within the AccountReport section of the file, with the appropriate two character ISO country code.

Completion of this element is mandatory and is extremely important as it dictates the jurisdiction/s to which the data is onwardly transmitted by the Assessor. Using the incorrect 'ResCountryCode' can result in data not being sent to the rightful recipient jurisdiction on time, or may even result in the data being sent to the wrong jurisdiction, which is a serious issue for CRS compliance purposes as well as data protection (see [section 2.2.5](#)).

#### Example 7.4.6.1

IOM FI maintains an account for Jane Doe, a United Kingdom resident, an Isle of Man Reportable Jurisdiction for the reporting period. The example XML below shows how her residence should be reported:

```
<Individual>
  <ResCountryCode>GB</ResCountryCode>
  <TIN issuedBy="GB">000000000</TIN>
  <Name>
    <FirstName>Jane</First Name>
    <LastName>Doe</LastName>
  <Address>
    <CountryCode>GB</CountryCode>
    <AddressFree>London/England</AddressFree>
  </Address>
</Individual>
```

ISO Country Code 'GB' designates the AccountHolder as resident in the United Kingdom

It is also important, in terms of data protection (see [section 2.2.5](#)), that Isle of Man Financial Institutions do not report in respect of any Account Holders or Controlling Persons that are resident in jurisdictions other than those published in the list of Isle of Man Reportable Jurisdictions for the appropriate period, as illustrated below:

#### Example 7.4.6.2

IOM FI maintains an account for John Doe, a Cayman Islands resident. As the Cayman Islands is not an Isle of Man Reportable Jurisdiction for the reporting period John's data **should not** be included in the XML file submitted to the Assessor.

```
<Individual>
  <ResCountryCode>KY</ResCountryCode>
  <Name>
    <FirstName>John</First Name>
    <LastName>Doe</LastName>
  <Address>
    <CountryCode>KY</CountryCode>
    <AddressFree>Georgetown/Grand Cayman</AddressFree>
  </Address>
</Individual>
```

ISO Country Code 'KY' designates the AccountHolder as resident in the Cayman Islands

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The only exception to this is where the Account Holder is an Entity that is a Passive NFE with Controlling Persons resident in one or more of the Isle of Man Reportable Jurisdictions listed for the reporting year.

In these instances the Entity should be reported, regardless of where it itself is resident, as illustrated below:

### Example 7.4.6.3 (continued from Example 5.5.4.2 in [section 5.5.4](#))

E Ltd, an Isle of Man Financial Institution, maintains an account for C Ltd, a Cayman Islands company that is a Passive NFE with two Controlling Persons, Mr and Mrs N who are resident in Switzerland, an Isle of Man Reportable Jurisdiction.

```
<AccountHolder>
<Organisation>
  <ResCountryCode>KY</ResCountryCode>
  <Name>C Ltd</Name>
  <Address>
    <CountryCode>KY</CountryCode>
    <AddressFree>Georgetown/Grand Cayman</AddressFree>
  </Address>
</Organisation>
<AccountHolderType>CRS101</AccountHolderType>
<AccountHolder>
</AccountHolder>
<ControllingPerson>
  <Individual>
    <ResCountryCode>CH</ResCountryCode>
    <TIN issuedBy="CH">999999999</TIN>
    <Name>
      <FirstName>Mr</First Name>
      <LastName>N</LastName>
    <Address>
      <CountryCode>CH</CountryCode>
      <AddressFree>Zurich/Switzerland</AddressFree>
    </Address>
  </Individual>
</ControllingPerson>
< ControllingPerson >
  <Individual>
    <ResCountryCode>CH</ResCountryCode>
    <TIN issuedBy="CH">89898989</TIN>
    <Name>
      <FirstName>Mrs</First Name>
      <LastName>N</LastName>
    <Address>
      <CountryCode>CH</CountryCode>
      <AddressFree>Zurich/Switzerland</AddressFree>
    </Address>
  </Individual>
</ControllingPerson>
```

ISO Country Code 'KY' designates the AccountHolder, the Entity, is resident in the Cayman Islands

ISO Country Code 'CH' designates both Controlling Persons as resident in Switzerland

### 7.4.7 AccountHolderType

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

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Entity Account Holders may be reported because the Entity itself is a Reportable Person or because it is a Passive Non-Financial Entity (NFE) with Controlling Persons who are Reportable Persons (see [section 5.5](#)).

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

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

When using the 'CRS102' or 'CRS103' codes, indicating that the Entity Account Holder is a Reportable Person, the 'ResCountryCode' must not be left blank.

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

#### Example 7.4.7.1

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

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

Where 'CRS101' is used to indicate that the Entity Account Holder is a Passive NFE the Isle of Man Financial Institution must also ensure it provides details of the Entity Account Holder's Controlling Persons by completing the 'ControllingPerson' section of the report:

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### Example 7.4.7.2

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

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

### 7.4.8 Undocumented Accounts

As explained in [section 5.3.2](#) an Undocumented Account is defined in Section III B.5 of the CRS. In order to report an Undocumented Account within this meaning Isle of Man Financial Institutions must set the attribute within the 'AccountNumber' element to 'true'. As Undocumented Accounts, within the CRS definition, are Pre-existing Individual Accounts with only a hold-mail/care-of address and no other indicia with respect to the account holder's possible jurisdictions of residence/s, Isle of Man Financial Institution's must also set the 'ResCountryCode' element to 'IM' as illustrated in example 7.4.8.1 below:

### Example 7.4.8.1

```
<AccountNumber UndocumentedAccount="true">11223344</AccountNumber>
<AccountHolder>
  <Individual>
    <ResCountryCode>IM</ResCountryCode>
    <TIN>NOTIN</TIN>
    <Name>
      <FirstName>Anne</First Name>
      <LastName>Brown</LastName>
    <Address>
      <CountryCode>IM</CountryCode>
      <AddressFree>c/o PO Box 123</AddressFree>
    </Address>
  </Individual>
```

[Section 5.3.1](#) of this guide explains that Isle of Man Specified Insurance Companies, reporting in respect to new accounts which have been assigned, should treat such accounts as an 'Undocumented Account' where a self-certification has not been received. In these cases, like the 'Undocumented Account' guidance detailed above, the attribute within the 'AccountNumber' element must be set to 'true' however, the 'ResCountryCode' **should not** be set to 'IM.' Instead, in these cases the 'ResCountryCode' should include the ISO country code of any Isle of Man Reportable Jurisdictions for which indicia held until such time as a valid self-certification is received as illustrated in example 7.4.8.2 below:

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### Example 7.4.8.2

```
<AccountNumber UndocumentedAccount="true">55667788</AccountNumber>
<AccountHolder>
<Individual>
  <ResCountryCode>GB</ResCountryCode>
  <TIN>AAAAAAAA</TIN>
  <Name>
    <FirstName>Bill</First Name>
    <LastName>Brown</LastName>
  <Address>
    <CountryCode>GB</CountryCode>
    <AddressFree>99 Road/Manchester/England/United Kingdom/GB1 1XX</AddressFree>
  </Address>
</Individual>
```

## 7.5 TDTs

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

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

Trustees wishing to report on behalf of more than one TDT may wish to consider consolidated reporting (see [section 7.6](#)).

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

## 7.6 Consolidated Reporting

The Isle of Man Regulations allow Third Parties (see [section 3.4.3](#)) to report on behalf of Isle of Man Financial Institutions.

Third Parties acting on behalf of multiple Isle of Man Financial Institutions can report in a consolidated manner (akin to how a Sponsor reports for FATCA) if they wish.

Trustees reporting on behalf of multiple Trusts (TDTs) may also submit consolidated reports.

Third Parties and Trustees wishing to submit consolidated reports are reminded that use of the Sponsor section of the schema is prohibited for CRS but reports can contain multiple Reporting Financial Institutions so long as there is only one 'ReportingFI' and 'Reporting Group' in each 'CrsBody' element of the report.

In addition, Isle of Man Financial Institutions, Third Parties and Trustees submitting reports are reminded that although a CRS may contain multiple 'CrsBody' and 'ReportingFI' elements each 'ReportingFI' must be a unique Reporting Financial Institution ie. the report should not

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contain multiple 'ReportingFI' elements naming the same Reporting Financial Institution repeatedly, as illustrated below:

### Example 7.6.1.1

```
<CRS_OECD>
<MessageSpec>
  <TransmittingCountry>IM</TransmittingCountry>
  <Contact>TCSP Ltd</Contact>
</MessageSpec>
<CrsBody>
  <ReportingFI>
    <Name>Trust A</Name>
  </ReportingFI>
  <ReportingGroup>
    <AccountReport>
      <AccountHolder>
        <Individual>
        </AccountHolder>
      </AccountReport>
    </ReportingGroup>
  </CrsBody>
<CrsBody>
  <ReportingFI>
    <Name>Trust B</Name>
  </ReportingFI>
  <ReportingGroup>
    <AccountReport>
      <AccountHolder>
        <Individual>
        </AccountHolder>
      </AccountReport>
    </ReportingGroup>
  </CrsBody>
</CRS_OECD>
```

Trustees of TDTs and/or Third Parties can use the optional 'Contact' element to provide their details if they wish

Each 'Reporting FI' must be unique

Consolidated reports should only contain one 'Reporting FI' and one 'ReportingGroup' in each 'CrsBody' element

Consolidated reports should only contain one 'Reporting FI' and one 'ReportingGroup' in each 'CrsBody' element

The XML sample text above is for illustrative purposes only, and therefore does not contain all mandatory elements for a valid CRS file

## 7.7 Transmission to the Isle of Man Competent Authority

Isle of Man Financial Institutions **must** submit their CRS XML reports to the Assessor using the Information Providers' Online Service, which is part of Isle of Man Government's Online Services, accessible at the link below:-

<https://services.gov.im/income-tax/>

Please see [section 8](#) for details of how to register for the Information Providers' Service.

### 7.7.1 Maximum File Size

Users of the Information Providers' Online Service should be advised that, at present, the service has a maximum file size limit of **124mb**. Any users with XML files greater than the maximum file size limit will be required to split their data into separate valid files of less than **124mb**, to ensure that the data is correctly validated and securely transmitted to the Assessor.

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Each file will require a 'MessageSpec' section at the start of the file to ensure it can be correctly validated. Users with large files should contact the Division if they need to submit in this manner so that a new return 'link' can be opened to allow the submission of multiple files for the reporting period.

### **7.8 Deletions (Voids), Corrections and Additional Data Submissions**

After an initial report has been filed, Isle of Man Financial Institutions may need to make amendments if they identify missing data or errors in the data previously submitted.

Amendments may also be required where the Assessor advises the Financial Institution that the recipient jurisdiction has identified an issue with that data, commonly referred to as 'record level' errors (see [section 9.2](#)), which require correction or the Income Tax Division finds an issue following a compliance review.

The process for changing, amending or correcting a previously submitted report will be different depending upon the specific circumstances.

The main factor that will be considered is whether or not the data has been onwardly transmitted to the recipient jurisdiction/s or not.

#### **Change Prior to Exchange**

Where an Isle of Man Financial Institution identifies that they need to delete existing data (or make any other change to that data) after they have submitted it, the Assessor will ask for the amended file, in its entirety, to be re-submitted as a new file (see [section 7.8.4](#)), replacing the original submission in full, if the data has not yet been transmitted to the recipient jurisdiction.

This process will generally apply to cases where the Isle of Man Financial Institution needs to amend the report and can do so before **31 August** following the 30 June due date for the applicable reporting year.

#### **Change Following Exchange**

After data has been transmitted to the recipient jurisdiction/s, Isle of Man Financial Institutions will need to provide the Assessor with either a void file (see [section 7.8.1](#)), a corrected file (see [section 7.8.2](#)) or in some cases both.

Where additional data also needs to be sent after transmission a new file will be required (see [section 7.8.3](#)).

If the error is notified to the Financial Institution by the Assessor, the Income Tax Division will advise what type of file/s are required to rectify the issue.

If the issue is identified by the Isle of Man Financial Institution itself they should contact the Division to advise the reason for the correction so that advice can be provided on the type of file/s required to rectify the issue and to enable a new return 'link' to be opened so that the void/corrected/new data file/s can be submitted using the Information Providers'

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Online Service.

### 7.8.1 Data Deletion (Voiding)

The process for deleting previously submitted data, referred to as voiding, occurs when an issue is identified that requires a record or a whole submission to be removed (deleted) after the data has been sent to the recipient jurisdiction/s.

If the data needs amending/changing rather than deleting then the corrections process (see [section 7.8.2](#)) should be followed instead.

The CRS process is different depending on whether the void data relates to the Reporting Financial Institution itself or is contained in the Account Report, concerning the Account Holder's data, as explained below.

#### Voiding in Full

If the entire CRS report needs to be deleted and replaced, all 'DocTypeIndic' elements should be set to OECD3 and the file should never contain a 'CorrMessageRefId' element.

All 'DocRefIds' used in the original file should be entered into the 'CorrDocRefId' elements and a new unique 'DocRefId' must also be included, as illustrated below., whilst **the remaining content of the file should be left unchanged from the original submission:**

#### Example 7.8.1.1 – Full Void

```
<CrsBody>
  <ReportingFI>
    ...
    <DocSpec>
      <DocTypeIndic>OECD3</DocTypeIndic>
      <DocRefId>C123456Q01.FI.abc123def456.2017.10.11_Void</DocRefId>
      <CorrDocRefId> C123456Q01.FI.abc123def456.2017.06.07_Original</CorrDocRefId>
    </DocSpec>
  </ReportingFI>
  <ReportingGroup>
    <AccountReport>
      < DocSpec>
        <DocTypeIndic>OECD3</DocTypeIndic>
        <DocRefId> C123456Q01.AR.abc123def456.2017.10.11_Void </DocRefId>
        <CorrDocRefId>C123456Q01.AR.abc123def456.2017.06.07_Original</CorrDocRefId>
      </DocSpec >
```

The XML sample text above is for illustrative purposes only, and therefore does not contain all mandatory elements for a valid CRS file

#### Partial Void

If the CRS void relates to a specific Account Report, for example one Account Holder's record, the 'DocTypeIndic' element in the ReportingFI section of the report should be set to **OECD0** (resend), as this data will remain unchanged from the original submission.

The ReportingFI 'DocRefId' should also remain unchanged from the original submission



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and there should be no 'CorrDocRefId'.

A partial void file should only contain the AccountReport records that need voiding and the 'DocTypeIndic' in this section of the report should be set to **OECD3**.

The AccountReport 'DocRefId' used in the original file should now be included in the 'CorrDocRefId' element, and a new unique 'DocRefId' must also be included, as illustrated below:

### Example 7.8.1.2 – Partial Void

```
<CrsBody>
  <ReportingFI>
    ...
    <DocSpec>
      <DocTypeIndic>OECD0</DocTypeIndic>
      <DocRefId> C123456Q01.FI.abc123def456.2017.06.07_Original</DocRefId>
    </DocSpec>
  </ReportingFI>
  <ReportingGroup>
    <AccountReport>
      < DocSpec>
        <DocTypeIndic>OECD3</DocTypeIndic>
        <DocRefId>C123456Q01.AR.abc123def456.2017.10.11_Void</DocRefId>
        <CorrDocRefId> C123456Q01.AR.abc123def456.2017.06.07_Original</CorrDocRefId>
      </DocSpec >
```

The XML sample text above is for illustrative purposes only, and therefore does not contain all mandatory elements for a valid CRS file

The ReportingFI and AccountReport data should be left unchanged from the original submission.

## 7.8.2 Corrections

The process for amending previously submitted data, referred to as a correction, occurs when an issue is identified that requires part of the data that has already been transmitted to the recipient jurisdiction/s to be changed.

If the data needs to be deleted rather than changing then the voiding process (see [section 7.8.1](#)) should be followed instead.

### ReportingFI Data Unchanged

Where the correction is in relation to AccountReport data and the ReportingFI data remains unchanged, the Isle of Man Financial Institution should submit the CRS correction file with the 'resend' **OECD0** 'DocTypeIndic' in the ReportingFI section of the file, whilst all of the corrected AccountReport data should have the 'DocTypeIndic' set to **OECD2**.

Only the accounts that have been corrected should be included in the re-submitted file and where a 'resend' is used in the ReportingFI section of the report, the original 'DocRefId' must be retained, as illustrated below:

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### Example 7.8.2.1 – ReportingFI Unchanged

```
<CrsBody>
  <ReportingFI>
    ...
    <DocSpec>
      <DocTypeIndic>OECD0</DocTypeIndic>
      <DocRefId>C123456Q01.FI.abc123def456.2017.06.07_Original</DocRefId>
    </DocSpec>
  </ReportingFI>
  <ReportingGroup>
    <AccountReport>
      <DocSpec>
        <DocTypeIndic>OECD2</DocTypeIndic>
        <DocRefId>C123456Q01.AR.abc123def456.2017.10.11_Correction</DocRefId>
        <CorrDocRefId>C123456Q01.AR.abc123def456.2017.06.07_Original</CorrDocRefId>
      </DocSpec>
    </AccountReport>
  </ReportingGroup>
</CrsBody>
```

The XML sample text above is for illustrative purposes only, and therefore does not contain all mandatory elements for a valid CRS file

### AccountReport Data Unchanged

If the ReportingFI data is the only data that needs correcting the correction file only needs to contain the ReportingFI section with an **OECD2** 'DocTypeIndic'.

The AccountReport section should not be re-submitted whilst the ReportingFI 'DocRefId' used in the original file should now be entered in the 'CorrDocRefId' element and a new unique 'DocRefId' must also be included, as illustrated below:

### Example 7.8.2.2 – AccountReport Unchanged

```
<CrsBody>
  <ReportingFI>
    ...
    <DocSpec>
      <DocTypeIndic>OECD2</DocTypeIndic>
      <DocRefId> C123456Q01.FI.abc123def456.2017.10.11_Correction </DocRefId>
      <CorrDocRefId>C123456Q01.AR.abc123def456.2017.06.07_Original</CorrDocRefId>
    </DocSpec>
  </ReportingFI>
  <ReportingGroup>
    <AccountReport>
      <DocSpec>
        <DocTypeIndic>OECD2</DocTypeIndic>
        <DocRefId>C123456Q01.AR.abc123def456.2017.10.11_Correction</DocRefId>
        <CorrDocRefId>C123456Q01.FI.abc123def456.2017.06.07_Original</CorrDocRefId>
      </DocSpec>
    </AccountReport>
  </ReportingGroup>
</CrsBody>
```

The XML sample text above is for illustrative purposes only, and therefore does not contain all mandatory elements for a valid CRS file

### ReportingFI and AccountReport Data Changed

Where both the ReportingFI and Account Report data require corrections the 'DocTypeIndic' should all be set to **OECD2**. The 'DocRefId' used in the original file should now be entered in the 'CorrDocRefId' element, and a new unique 'DocRefId' must also be included as illustrated below:

**Example 7.8.2.3 – ReportingFI and AccountReport Data Changed**

```

<CrsBody>
  <ReportingFI>
    ...
    <DocSpec>
      <DocTypeIndic>OECD2</DocTypeIndic>
      <DocRefId>C123456Q01.FI.abc123def456.2017.10.11_Correction</DocRefId>
      <CorrDocRefId> C123456Q01.FI.abc123def456.2017.06.07_Original</CorrDocRefId>
    </DocSpec>
  </ReportingFI>
  <ReportingGroup>
    <AccountReport>
      < DocSpec>
        <DocTypeIndic>OECD2</DocTypeIndic>
        <DocRefId>C123456Q01.AR.abc123def456.2017.10.11_Correction</DocRefId>
        <CorrDocRefId>C123456Q01.AR.abc123def456.2017.06.07_Original</CorrDocRefId>
      </DocSpec >

```

The XML sample text above is for illustrative purposes only, and therefore does not contain all mandatory elements for a valid CRS file

**7.8.3 Additional (New) Data**

The 'new data' 'DocTypeIndic' is most commonly used when submitting a CRS data file for the first time but might also be used when a Financial Institution needs to replace an existing file in full that has yet to be transmitted to the recipient jurisdiction/s.

If the data has not yet been transmitted to the recipient jurisdiction/s and an Isle of Man Financial Institution identifies that they need to correct that data (or make any other change) after they have submitted it, the Assessor will ask for the amended file, in its entirety, to be re-submitted as a new file, replacing the original submission in full (see [section 7.8](#)).

In such instances the file can include the original 'DocRefId' for all accounts, as this information is still considered new. The 'DocTypeIndic' should also be unchanged, set to **OECD1**.

This process will generally apply to cases where the Isle of Man Financial Institution needs to amend the report and can do so before **31 August**.

In addition, if a Financial Institution identifies missing account information that needs to be reported, after the Assessor has transmitted the original data to the recipient jurisdiction/s that is also 'new data'.

Isle of Man Financial Institutions that wish to add data to a period for which they have already submitted data, should submit a CRS file with the 'resend' code **OECD0** entered in the 'DocTypeIndic' element for the ReportingFI section of the report whilst any new Account Report data should have the corresponding 'DocTypeIndic' elements set to **OECD1**.

No other Account Report data should be re-submitted and where 'resend' is used in the ReportingFI section of the report, the original 'DocRefId' must be retained, as illustrated below:

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### Example 7.8.3.1 – Additional Data

```
<CrsBody>
  <ReportingFI>
    ...
  <DocSpec>
    <DocTypeIndic>OECD0</DocTypeIndic>
    <DocRefId>C123456Q01.FI.abc123def456.2017.06.07_Original</DocRefId>
  </DocSpec>
</ReportingFI>
<ReportingGroup>
  <AccountReport>
    < DocSpec>
      <DocTypeIndic>OECD1</DocTypeIndic>
      <DocRefId>C123456Q01.AR.abc123def456.2017.10.11_New</DocRefId>
    </DocSpec >
```

The XML sample text above is for illustrative purposes only, and therefore does not contain all mandatory elements for a valid CRS file

The Isle of Man Financial Institution will also need to contact the Division to advise the reason for the omission and to enable a new return 'link' to be opened so that the missing data can be submitted using the Information Providers' Online Service.

### 7.8.4 What are the consequences of correcting data?

Isle of Man Financial Institutions are reminded of their legal obligations under the Isle of Man's CRS Regulations and should note that penalties may be applied for non-compliance.

Consideration will therefore be given to whether penalties (see [section 9.4](#)) will be issued for data being filed late and/or being inaccurate/missing from an original report.

Isle of Man Financial Institutions are encouraged to report any discrepancies in their reports as soon as they are identified as penalties may be reduced for the fact the disclosure is made voluntarily (see [section 9.7](#)), is made in a timely manner and for co-operation.

## **8 REGISTRATION**

### **8.1 General**

Registration with the Isle of Man authorities is only required where a Financial Institution has reporting obligations under the CRS (or the US Agreement – see [GN55](#) for more information on US FATCA reporting).

In order to report CRS information to the Assessor, Isle of Man Financial Institutions will need to register for Government Online Services at <http://services.gov.im> 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.

To obtain this information, Isle of Man Financial Institutions, their Sponsor or Third Party should complete the Information Providers' registration form found at the link below:-

- <https://www.gov.im/categories/tax-vat-and-your-money/income-tax-and-national-insurance/international-agreements/other-agreements/information-providers-reporting-registration-form/>

### **8.2 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.

## 9 COMPLIANCE

### 9.1 Record Keeping

In fulfilling their due diligence and reporting obligations Isle of Man Financial Institutions must secure the appropriate information (such as self-certifications and/or documentary evidence) as required per the applicable sections of the CRS **and** record the steps taken to review, identify and report any applicable financial accounts.

The information obtained and the record of the steps taken **must** kept for at least **six years** beginning with the end of the year in which the arrangements applied to the financial accounts; that is the end of every reporting period in which the account is reportable.

#### Example 9.1.1.1

Mr X opens an account with A Ltd, an Isle of Man Financial Institution, 1 April 2017. As the account is new A Ltd must ensure Mr X completes a self-certification which they do as part of the account opening procedure on 1 April. Mr X certifies that he is resident in Jersey (an Isle of Man Reportable Jurisdiction) – A Ltd confirm the self-certification as reasonable based on the documentary evidence also collected on account opening and records this fact on their internal IT system.

Mr X's account will be reportable from 2017 and A Ltd will be required to keep the self-certification, other documentary evidence obtained and the IT record of the steps undertaken in order to verify the reasonableness of the self-certification, along with any other steps taken in order to identify the account as reportable until 31 December 2023 (six years from the end of the 2017 reporting period).

Jersey is identified as an Isle of Man Reportable Jurisdiction again in 2018 and as Mr X remains resident in Jersey A Ltd identifies him as reportable for 2018 too. As a result, the original self-certification, documentary evidence and the record of the steps taken to identify the account as reportable now need to be maintained until at least 31 December 2024 (six years from the end of the latest reporting period).

In January 2019 Mr X closes his account with A Ltd. Jersey is identified as an Isle of Man Reportable Jurisdiction again for 2019 so A Ltd must report the closure of Mr X's account in that year. The original self-certification, documentary evidence and record of the steps taken to identify the account as reportable now need to be maintained until 31 December 2025 but for no longer after that as the account, from 2020, will no longer be reportable.

### 9.2 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;

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- use of an incompatible format.

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

Penalties (see [section 9.4](#)) may be imposed by the Assessor if the error is considered to contravene the Isle of Man Regulations, even if the error is a minor error.

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.

### **9.3 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.

In addition, the [Income Tax \(Common Reporting Standard\) \(Amendment\) Regulations 2021](#) introduced, in regulation 14, a specific penalty for significant non-compliance (see [section 9.4.3](#) for further details).

### **9.4 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.

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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.

### 9.4.1 Failure to Comply

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

A failure to comply penalty may be issued for a singular failure, such as for failing to file a return by the 30 June<sup>5</sup> due date, or for multiple failures, such as for failing to report the correct information in respect of the Reportable Accounts. In the latter case each separate account level failure may be penalised.

#### Example 9.4.1.1

Bank Ltd, an Isle of Man Financial Institution, fails to file its CRS return for the 2020 reporting period by 30 June 2021. As a result, Bank Ltd is issued a £300 Failure to Comply penalty on 7 July 2021.

#### Example 9.4.1.2

Life Co Ltd, an Isle of Man Financial Institution, reports in respect of a large number of accounts on time before 30 June 2021. In early 2022 it is discovered that Life Co Ltd reported the incorrect jurisdiction of residence in respect of 10 of those accounts.

As Life Co Ltd failed to report the correct information when it should have been, as required under the Isle of Man Regulations, Failure to Comply penalties of £300 are issued in respect of each incorrectly reported account. The penalty, totalling £3,000, is issued 31 March 2022.

Life Co Ltd is also required to submit an amended report correcting the data in respect of the 10 accounts.

#### Example 9.4.1.3

TCSP Ltd, an Isle of Man Financial Institution and Third Party that files on behalf of five other Reporting Financial Institutions, fails to file its CRS return containing all six RFIs data for the 2020 reporting period by 30 June 2021.

As a result, TCSP Ltd is issued a £300 Failure to Comply penalty on 7 July 2021. In addition each of the five RFIs it files on behalf of are also issued £300 Failure to Comply penalties too.

---

<sup>5</sup> 2019 reporting due date was extended from 30 June to 30 September 2020 due to COVID-19 global pandemic



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#### 9.4.2 Daily Default Penalty

Where a 'Failure to Comply' penalty (see [section 9.4.1](#)) has been imposed the Financial Institution may be liable to further £60 per day penalties until such time as the failure is rectified.

Where the 'Failure to Comply' penalty relates to failing to submit a return on time the date of imposition of the penalty will be deemed to be the day after the return should have been submitted. In all other cases the daily penalty will only begin to accrue once the initial 'Failure to Comply' penalty has been issued to the Financial Institution.

##### **Example 9.4.2.1**

Following on from Example 9.4.1.1 Bank Ltd, an Isle of Man Financial Institution, files its CRS return for the 2020 reporting period 10 July 2021.

As a result, Bank Ltd is issued Daily Default Penalties totalling £480 for the 8 days between 2 – 9 July 2021 where the return was outstanding in addition to the initial £300 Failure to Comply penalty for failing to file by 30 June 2021.

As the failure relates to late filing it does not matter that the Failure to Comply penalty was not issued until 7 July 2021, the deemed issue date is 1 July 2021 therefore the Daily Default begins to accrue from 2 July 2021 until the day before the return is eventually received.

##### **Example 9.4.2.2**

Following on from Example 9.4.1.2 Life Co Ltd is issued the penalty, totalling £3,000, 31 March 2022 for reporting the incorrect jurisdiction of residence for 10 Account Holders.

Life Co Ltd fails to submit the amended data until 16 April 2022 therefore Life Co Ltd is also issued with Daily Default penalties for the 15 days between 1-15 April when the required data was outstanding, totalling £900.

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).

##### **Example 9.4.2.3**

Again, following on from Example 9.4.2.1, but in this case Life Co Ltd has failed to correct the data by 30 April 2022.

As a result the Assessor makes an application to the Income Tax Commissioners who on 1 May 2022 decide that the penalty should be doubled to £120 per day.

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Life Co Ltd fails to submit the amended data until 16 May 2022 therefore Life Co Ltd is issued with Daily Default penalties totalling £3,600, made up of 30 days at £60 per day (for the period between 1 – 30 April and 15 days at £120 per day (for the period between 1-15 May).

#### **9.4.3 Penalties for Significant Non-Compliance**

An Isle of Man Financial Institution may be liable to a penalty of up to the higher of:

- £10,000; or
- Double the amount of any 'Failure to Comply' penalty (see section 9.4.1)

if the Assessor determines a person (which includes the Financial Institution itself) to be significantly non-compliant.

For this purpose significant non-compliance includes, but is not limited to:

- intentionally failing to comply with any requirement of the Isle of Man Regulations;
- providing information or producing any document which is false or misleading in a material particular; or
- discovering an inaccuracy and failing to take reasonable steps to inform the Assessor.

#### **9.4.4 Appeals**

A Financial Institution can appeal the imposition of 'Failure to Comply', 'Daily Default' and 'Significant Non-Compliance' 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.

The Assessor may reduce any penalty without the necessity of an appeal and will do so where there are appropriate mitigating factors.

If a Financial Institution does not agree with the imposition of a penalty or the amount levied 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.

## 9.5 Prosecution

Under the Isle of Man Regulations failing to file a return within 6 months of the 30 June due date is an offence. Any person found guilty of this offence is liable on summary conviction to a fine not exceeding £2,000.

In addition to prosecution, any Isle of Man Financial Institution's that fail to file their returns on time will also be liable to Failure to Comply (see [section 9.4.1](#)) and Daily Default penalties (see [section 9.4.2](#)).

## 9.6 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.

## 9.7 Compliance Strategy

The Income Tax Division implements legislation and policy in order to support the Isle of Man Government's commitment to operating a responsible tax system and its long-standing policy of compliance with international standards as promulgated by bodies such as the FATF and the OECD Global Forum.

The Income Tax Division will look to ensure that there is consistent and effective Financial Institution classification and that due diligence procedures and reporting measures are implemented and maintained by all affected entities in the Isle of Man.

The Income Tax Division will respond to non-compliance depending on the specific nature of the risk created by the non-compliance and/or the behaviour of the entity regarding its non-compliance.

The Income Tax Division's Compliance Strategy is unpinned with the overarching fact that CRS compliance is mandatory for **all** Isle of Man Financial Institutions.

In order to achieve CRS compliance the Division's approach is built around the principle of progressive actions which can be summarised as an 'Engagement to Enforcement' strategy.

### Education and Awareness

The Income Tax Division believes that it is essential for Isle of Man industry to be well informed in order to achieve compliance with the CRS. As a result, the Income Tax Division has focused its early efforts on industry engagement, education, and awareness in order to support good compliance.

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The Income Tax Division also actively supports open dialogue with entities in order to assist them with their CRS compliance.

#### **Voluntary Compliance**

The Income Tax Division wants to build a culture of voluntary compliance and will consider suitable reductions to penalties (see [section 9.4](#)) as one of the methods in order to achieve this.

#### **Constructive Relationships**

The Income Tax Division will assist and support entities that are willing to and genuinely want to comply with their CRS reporting obligations and wherever possible undertake good faith engagement when working with non-compliant entities.

#### **Monitoring**

The Income Tax Division will conduct monitoring activities to assess Isle of Man Financial Institution's compliance with their obligations under the Isle of Man Regulations.

Monitoring activities may include, but are not limited to information gathering, aspect enquiries, inspection of documentation and on-site audits.

#### **Enforcement**

When managing cases of non-compliance the Income Tax Division will carry out assessments based on the evidence and will apply a fair and consistent approach.

In determining an appropriate response to cases of non-compliance the Income Tax Division will consider the following factors:

- Risk - what is the nature of the risk, what solutions are available and what effect does non-compliance have on the Isle of Man's compliance with international standards?
- Proportionality – how serious is the non-compliance?
- Engagement – what is the Financial Institution's attitude towards compliance, how co-operative is the entity and what is its compliance history?

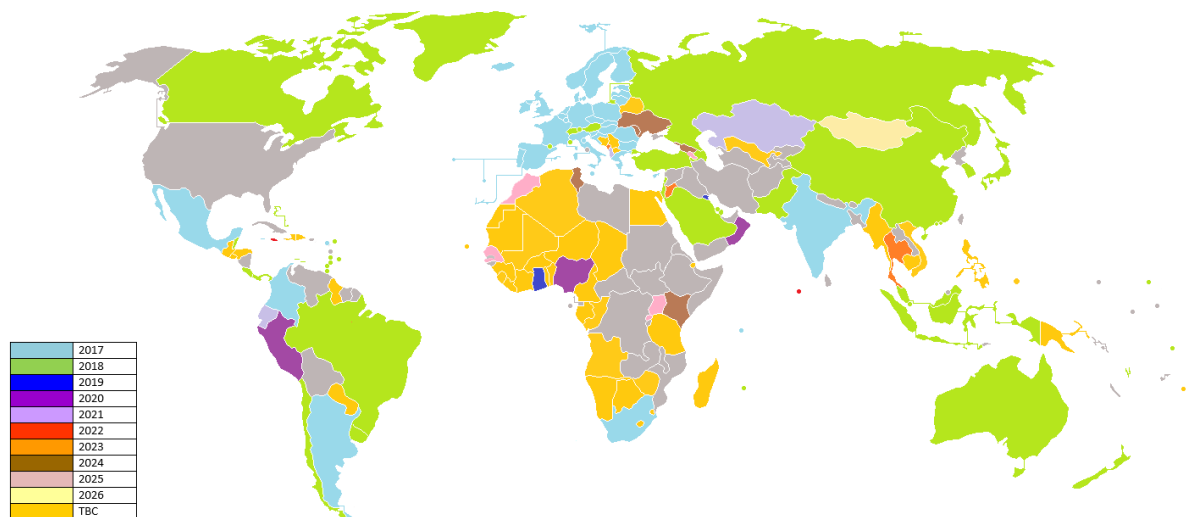
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**APPENDIX**

**I. Status of AEOI Commitments**



**Jurisdiction Undertaking First Exchanges By 2017 (49)**

Anguilla	Argentina	Belgium	Bermuda
British Virgin Islands	Bulgaria	Cayman Islands	Colombia
Croatia	Cyprus	Czech Republic	Denmark
Estonia	Faroe Islands	Finland	France
Germany	Gibraltar	Greece	Guernsey
Hungary	Iceland	India	Ireland
Isle of Man	Italy	Jersey	Korea
Latvia	Liechtenstein	Lithuania	Luxembourg
Malta	Mexico	Montserrat	Netherlands
Norway	Poland	Portugal	Romania
San Marino	Seychelles	Slovak Republic	Slovenia
South Africa	Spain	Sweden	Turks & Caicos Islands
United Kingdom			

**Jurisdiction Undertaking First Exchanges By 2018 (51)**

Andorra	Antigua & Barbuda	Aruba	Australia
Austria	Azerbaijan	Bahamas	Bahrain
Barbados	Belize	Brazil	Brunei Darussalam
Canada	Chile	China	Costa Rica
Cook Islands	Curacao	Dominica	Greenland
Grenada	Hong Kong	Indonesia	Israel
Japan	Lebanon	Macao	Malaysia
Marshall Islands	Mauritius	Monaco	Nauru
New Zealand	Niue	Pakistan	Panama
Qatar	Russia	Saint Kitts & Nevis	Saint Lucia
Saint Vincent & the Grenadines	Samoa	Saudi Arabia	Singapore
Sint Maarten	Switzerland	Trinidad & Tobago	Turkey
United Arab Emirates	Uruguay	Vanuatu	

**Jurisdiction Undertaking First Exchanges By 2019 (2)**

Ghana	Kuwait		
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<b>Jurisdiction Undertaking First Exchanges By 2020 (3)</b>			
Nigeria	Oman	Peru	
<b>Jurisdiction Undertaking First Exchanges By 2021 (3)</b>			
Albania	Ecuador	Kazakhstan	
<b>Jurisdiction Undertaking First Exchanges By 2022 (2)</b>			
Jamaica	Maldives		
<b>Jurisdiction Undertaking First Exchanges By 2023 (3)</b>			
Jordan	Montenegro	Thailand	
<b>Jurisdiction Undertaking First Exchanges By 2024 (5)</b>			
Georgia	Kenya	Moldova	Tunisia
Ukraine			
<b>Jurisdictions Undertaking First Exchanges By 2025 (5)</b>			
Armenia	Morocco	Rwanda	Senegal
Uganda			
<b>Jurisdictions Undertaking First Exchanges By 2026 (1)</b>			
Mongolia			
<b>Developing Countries – Date for First Exchange TBC (45)</b>			
Algeria	Angola	Belarus	Benin
Bosnia & Herzegovina	Botswana	Burkina Faso	Cape Verde
Cambodia	Cameroon	Chad	Congo (Republic of the)
Côte d'Ivoire	Democratic Republic of Congo	Djibouti	Dominican Republic
Egypt	El Salvador	Eswatini	Fiji
Gabon	Guatemala	Guinea	Guyana
Haiti	Honduras	Lesotho	Liberia
Madagascar	Mali	Mauritania	Namibia
Niger	North Macedonia	Palau	Papua New Guinea
Paraguay	Philippines	Serbia	Sierra Leone
Tanzania	Togo	Uzbekistan	Vietnam
Zimbabwe			

## II. Participating Jurisdictions

In order to exchange information with another jurisdiction, or to treat a jurisdiction as Participating, 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](#)).

At present the legal basis for exchange has yet to be finalised with a small number of the jurisdictions that have made a commitment to implement the CRS. However, all jurisdictions listed below will be treated as a **Participating Jurisdiction** for the purpose of the look through provisions for Investment Entities (see [section 5.2](#)) 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 updates the list of Participating Jurisdictions, shown below, annually before the start of each reporting year.

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To date the Isle of Man list of Participating Jurisdictions has been based upon the list of jurisdictions that have made a public commitment to automatic exchange of information by a specified date (see [Appendix I](#)), in line with the transitional provisions in the OECDs CRS Handbook.

However, those transitional provisions have now expired and as previously advised, if at the time of an update there are any committed 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. In such cases the jurisdictions will become **Non-Participating Jurisdictions** and the look through provisions for 'managed' Investment Entities will need to be applied accordingly.

In January 2024 the Isle of Man removed **nine** jurisdictions that have committed to making their first exchanges in 2018 or later however, do not yet have the necessary international legal framework in place, as of January 2024, to facilitate the exchange of information with the Isle of Man. These nine jurisdictions have therefore been removed from the Isle of Man's list and are highlighted in bold and struck through below.

In addition, **one** jurisdiction that was previously removed now has the necessary international legal framework in place to exchange data with the Isle of Man therefore they have been added back to the list and are highlighted in bold below.

<b>Participating Jurisdictions (January 2024)</b>			
Albania	Denmark	Kuwait	Qatar
Andorra	Dominica	Latvia	Romania
Anguilla	Ecuador	Lebanon	Russia
Antigua & Barbuda	Estonia	Liechtenstein	<b>Rwanda</b>
Argentina	Faroe Islands	Lithuania	Saint Kitts & Nevis
Aruba	Finland	Luxembourg	Saint Lucia
Australia	France	Macao	Saint Vincent & the Grenadines
Austria	<b>Georgia</b>	Malaysia	Samoa
Azerbaijan	Germany	Maldives	San Marino
Bahamas	Ghana	Malta	Saudi Arabia
Bahrain	Gibraltar	Marshall Islands	Seychelles
Barbados	Greece	Mauritius	Singapore
Belgium	Greenland	Mexico	<b>Sint Maarten</b>
Belize	Grenada	<b>Moldova</b>	Slovak Republic
Bermuda	Guernsey	Monaco	Slovenia
Brazil	Hong Kong	<b>Montenegro</b>	South Africa
British Virgin Islands	Hungary	<b>Montserrat</b>	Spain
Brunei Darussalam	Iceland	<b>Morocco</b>	Sweden
Bulgaria	India	Nauru	Switzerland
Canada	Indonesia	Netherlands	Thailand
Cayman Islands	Ireland	New Zealand	<b>Tunisia</b>
Chile	Israel	Nigeria	Turkey
China	Italy	<b>Niue</b>	Turks & Caicos Islands
Colombia	Jamaica	Norway	<b>Uganda</b>
Cook Islands	Japan	Oman	<b>Ukraine</b>
Costa Rica	Jersey	Pakistan	United Arab Emirates
Croatia	<b>Jordan</b>	Panama	United Kingdom
Curacao	Kazakhstan	Peru	Uruguay
Cyprus	Kenya	Poland	Vanuatu
Czech Republic	Korea	Portugal	

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An excel version of the latest version of this Participating Jurisdiction list is available online in the 'CRS and FATCA Industry Advisory Notices' section at the link below:

<https://www.gov.im/categories/tax-vat-and-your-money/income-tax-and-national-insurance/international-agreements/fatca-and-common-reporting-standard>

**III. Isle of Man Reportable Jurisdictions**

The table below shows the Jurisdictions that are the Isle of Man Reportable Jurisdictions for **2016**.

<b>Isle of Man Reportable Jurisdictions 2016</b>			
Anguilla	Argentina	Barbados	Belgium
Bulgaria	Colombia	Croatia	Curacao
Cyprus	Czech Republic	Denmark	Estonia
Faroe Islands	Finland	France	Germany
Gibraltar	Greece	Greenland	Guernsey
Hungary	Iceland	India	Ireland
Italy	Jersey	Korea	Latvia
Liechtenstein	Lithuania	Luxembourg	Malta
Mexico	Montserrat	Netherlands	Niue
Norway	Poland	Portugal	Romania
San Marino	Seychelles	Slovak Republic	Slovenia
South Africa	Spain	Sweden	United Kingdom

The table below shows the Jurisdictions that are the Isle of Man Reportable Jurisdictions for **2017**.

<b>Isle of Man Reportable Jurisdictions 2017</b>			
Andorra	Antigua & Barbuda	Argentina	Aruba
Australia	Austria	Azerbaijan	Barbados
Belgium	Belize	Brazil	Brunei Darussalam
Bulgaria	Canada	Chile	China
Colombia	Cook Islands	Costa Rica	Croatia
Curacao	Cyprus	Czech Republic	Denmark
Dominica	Estonia	Faroe Islands	Finland
France	Germany	Ghana	Gibraltar
Greece	Greenland	Grenada	Guernsey
Hong Kong	Hungary	Iceland	India
Indonesia	Ireland	Israel	Italy
Japan	Jersey	Korea	Latvia
Lebanon	Liechtenstein	Lithuania	Luxembourg
Macao	Malaysia	Malta	Mauritius
Mexico	Monaco	Montserrat	Netherlands
New Zealand	Niue	Norway	Pakistan
Panama	Poland	Portugal	Romania
Russia	Saint Kitts & Nevis	Saint Lucia	Saint Vincent & the Grenadines
Samoa	San Marino	Saudi Arabia	Seychelles
Singapore	Sint Maarten	Slovak Republic	Slovenia
South Africa	Spain	Sweden	Switzerland
Trinidad & Tobago	Turkey	United Kingdom	Uruguay
Vanuatu			



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The table below shows the Jurisdictions that are the Isle of Man Reportable Jurisdictions for **2018**.

<b>Isle of Man Reportable Jurisdictions 2018</b>			
Andorra	Antigua & Barbuda	Argentina	Aruba
Australia	Austria	Azerbaijan	Barbados
Belgium	Belize	Brazil	Brunei Darussalam
Bulgaria	Canada	Chile	China
Colombia	Cook Islands	Costa Rica	Croatia
Curacao	Cyprus	Czech Republic	Denmark
Dominica	Estonia	Faroe Islands	Finland
France	Germany	Ghana	Gibraltar
Greece	Greenland	Grenada	Guernsey
Hong Kong	Hungary	Iceland	India
Indonesia	Ireland	Israel	Italy
Japan	Jersey	Korea	Latvia
Lebanon	Liechtenstein	Lithuania	Luxembourg
Macao	Malaysia	Malta	Mauritius
Mexico	Monaco	Montserrat	Netherlands
New Zealand	Nigeria	Niue	Norway
Pakistan	Panama	Poland	Portugal
Romania	Russia	Saint Kitts & Nevis	Saint Lucia
Saint Vincent & the Grenadines	Samoa	San Marino	Saudi Arabia
Seychelles	Singapore	Sint Maarten	Slovak Republic
Slovenia	South Africa	Spain	Sweden
Switzerland	Trinidad & Tobago	Turkey	United Kingdom
Uruguay	Vanuatu		

The table below shows the Jurisdictions that are the Isle of Man Reportable Jurisdictions for **2019**.

<b>Isle of Man Reportable Jurisdictions 2019</b>			
Albania	Andorra	Antigua & Barbuda	Argentina
Aruba	Australia	Austria	Azerbaijan
Barbados	Belgium	Belize	Brazil
Brunei Darussalam	Bulgaria	Canada	Chile
China	Colombia	Cook Islands	Costa Rica
Croatia	Curacao	Cyprus	Czech Republic
Denmark	Dominica	Ecuador	Estonia
Faroe Islands	Finland	France	Germany
Ghana	Gibraltar	Greece	Greenland
Grenada	Guernsey	Hong Kong	Hungary
Iceland	India	Indonesia	Ireland
Israel	Italy	Japan	Jersey
Kazakhstan	Korea	Latvia	Lebanon
Liechtenstein	Lithuania	Luxembourg	Macao
Malaysia	Maldives	Malta	Mauritius
Mexico	Monaco	Montserrat	Netherlands
New Zealand	Nigeria	Niue	Norway
Oman	Pakistan	Panama	Peru
Poland	Portugal	Romania	Russia
Saint Kitts & Nevis	Saint Lucia	Saint Vincent & the Grenadines	Samoa
San Marino	Saudi Arabia	Seychelles	Singapore
Sint Maarten	Slovak Republic	Slovenia	South Africa
Spain	Sweden	Switzerland	Trinidad & Tobago
Turkey	United Kingdom	Uruguay	Vanuatu

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The table below shows the Jurisdictions that are the Isle of Man Reportable Jurisdictions for **2020**.

<b>Isle of Man Reportable Jurisdictions 2020</b>			
Albania	Andorra	Antigua & Barbuda	Argentina
Aruba	Australia	Austria	Azerbaijan
Barbados	Belgium	Belize	Brazil
Brunei Darussalam	Bulgaria	Canada	Chile
China	Colombia	Cook Islands	Costa Rica
Croatia	Curacao	Cyprus	Czech Republic
Denmark	Dominica	Ecuador	Estonia
Faroe Islands	Finland	France	Germany
Ghana	Gibraltar	Greece	Greenland
Grenada	Guernsey	Hong Kong	Hungary
Iceland	India	Indonesia	Ireland
Israel	Italy	Japan	Jersey
Kazakhstan	Korea	Latvia	Lebanon
Liechtenstein	Lithuania	Luxembourg	Macao
Malaysia	Maldives	Malta	Mauritius
Mexico	Monaco	Montserrat	Netherlands
New Zealand	Nigeria	Niue	Norway
Oman	Pakistan	Panama	Peru
Poland	Portugal	Romania	Russia
Saint Kitts & Nevis	Saint Lucia	Saint Vincent & the Grenadines	Samoa
San Marino	Saudi Arabia	Seychelles	Singapore
Sint Maarten	Slovak Republic	Slovenia	South Africa
Spain	Sweden	Switzerland	Trinidad & Tobago
Turkey	United Kingdom	Uruguay	Vanuatu

The table below shows the Jurisdictions that are the Isle of Man Reportable Jurisdictions for **2021**.

<b>Isle of Man Reportable Jurisdictions 2021</b>			
Albania	Andorra	Antigua & Barbuda	Argentina
Aruba	Australia	Austria	Azerbaijan
Barbados	Belgium	Belize	Brazil
Brunei Darussalam	Bulgaria	Canada	Chile
China	Colombia	Cook Islands	Costa Rica
Croatia	Curacao	Cyprus	Czech Republic
Denmark	Dominica	Ecuador	Estonia
Faroe Islands	Finland	France	Germany
Ghana	Gibraltar	Greece	Greenland
Grenada	Guernsey	Hong Kong	Hungary
Iceland	India	Indonesia	Ireland
Israel	Italy	Jamaica	Japan
Jersey	Kazakhstan	Kenya	Korea
Latvia	Lebanon	Liechtenstein	Lithuania
Luxembourg	Macao	Malaysia	Maldives
Malta	Mauritius	Mexico	Monaco
Montserrat	Morocco	Netherlands	New Zealand
Nigeria	Niue	Norway	Oman
Pakistan	Panama	Peru	Poland
Portugal	Romania	Russia	Saint Kitts & Nevis
Saint Lucia	Saint Vincent & the Grenadines	Samoa	San Marino
Saudi Arabia	Seychelles	Singapore	Sint Maarten

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Slovak Republic	Slovenia	South Africa	Spain
Sweden	Switzerland	Trinidad & Tobago	Turkey
United Kingdom	Uruguay	Vanuatu	

The table below shows the Jurisdictions that are the Isle of Man Reportable Jurisdictions for **2022**.

<b>Isle of Man Reportable Jurisdictions 2022</b>			
Albania	Andorra	Antigua & Barbuda	Argentina
Aruba	Australia	Austria	Azerbaijan
Barbados	Belgium	Belize	Brazil
Brunei Darussalam	Bulgaria	Canada	Chile
China	Colombia	Cook Islands	Costa Rica
Croatia	Curacao	Cyprus	Czech Republic
Denmark	Dominica	Ecuador	Estonia
Faroe Islands	Finland	France	Germany
Ghana	Gibraltar	Greece	Greenland
Grenada	Guernsey	Hong Kong	Hungary
Iceland	India	Indonesia	Ireland
Israel	Italy	Jamaica	Japan
Jersey	Jordan	Kazakhstan	Kenya
Korea	Latvia	Lebanon	Liechtenstein
Lithuania	Luxembourg	Macao	Malaysia
Maldives	Malta	Mauritius	Mexico
Moldova	Monaco	Montenegro	Montserrat
Netherlands	New Zealand	Nigeria	Niue
Norway	Oman	Pakistan	Panama
Peru	Poland	Portugal	Romania
Saint Kitts & Nevis	Saint Lucia	Saint Vincent & the Grenadines	Samoa
San Marino	Saudi Arabia	Seychelles	Singapore
Sint Maarten	Slovak Republic	Slovenia	South Africa
Spain	Sweden	Switzerland	Thailand
Trinidad & Tobago	Turkey	Uganda	Ukraine
United Kingdom	Uruguay	Vanuatu	

An excel version of the 2022 Reportable Jurisdiction list is available online in the 'CRS and FATCA Industry Advisory Notices' section at the link below:

<https://www.gov.im/categories/tax-vat-and-your-money/income-tax-and-national-insurance/international-agreements/fatca-and-common-reporting-standard>

The table below shows the Jurisdictions that are the Isle of Man Reportable Jurisdictions for **2023**.

<b>Isle of Man Reportable Jurisdictions 2023</b>			
Albania	Andorra	Antigua & Barbuda	Argentina
Aruba	Australia	Austria	Azerbaijan
Barbados	Belgium	Belize	Brazil
Brunei Darussalam	Bulgaria	Canada	Chile
China	Colombia	Cook Islands	Costa Rica
Croatia	Curacao	Cyprus	Czech Republic
Denmark	Dominica	Ecuador	Estonia

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Faroe Islands	Finland	France	Georgia
Germany	Ghana	Gibraltar	Greece
Greenland	Grenada	Guernsey	Hong Kong
Hungary	Iceland	India	Indonesia
Ireland	Israel	Italy	Jamaica
Japan	Jersey	Jordan	Kazakhstan
Kenya	Korea	Latvia	Lebanon
Liechtenstein	Lithuania	Luxembourg	Macao
Malaysia	Maldives	Malta	Mauritius
Mexico	Moldova	Monaco	Montenegro
Montserrat	Netherlands	New Zealand	Nigeria
Niue	Norway	Oman	Pakistan
Panama	Peru	Poland	Portugal
Romania	Saint Kitts & Nevis	Saint Lucia	Saint Vincent & the Grenadines
Samoa	San Marino	Saudi Arabia	Seychelles
Singapore	Sint Maarten	Slovak Republic	Slovenia
South Africa	Spain	Sweden	Switzerland
Thailand	Trinidad & Tobago	Tunisia	Turkey
Ukraine	United Kingdom	Uruguay	Vanuatu

An excel version of the 2023 Reportable Jurisdiction list is available online in the 'CRS and FATCA Industry Advisory Notices' section at the link below:

<https://www.gov.im/categories/tax-vat-and-your-money/income-tax-and-national-insurance/international-agreements/fatca-and-common-reporting-standard>

#### **IV. Non-Reciprocal Jurisdictions**

The table below shows the permanent non-reciprocal jurisdictions with which the Isle of Man has an Agreement to receive information from, but is not required to provide information to. The table also shows the legal instrument and the type of competent authority agreement under which CRS information will be received:

<b>Jurisdiction</b>	<b>Method</b>	<b>Agreement</b>
Anguilla	<a href="#">TIEA</a>	<a href="#">CAA</a>
Bahamas	<a href="#">Convention</a>	<a href="#">MCAA</a>
Bahrain	<a href="#">Convention</a>	<a href="#">MCAA</a>
Bermuda	<a href="#">TIEA</a>	<a href="#">CAA</a>
British Virgin Islands	<a href="#">TIEA</a>	<a href="#">CAA</a>
Cayman Islands	<a href="#">TIEA</a>	<a href="#">CAA</a>
Kuwait	<a href="#">Convention</a>	<a href="#">MCAA</a>
Marshall Islands	<a href="#">Convention</a>	<a href="#">MCAA</a>
Nauru	<a href="#">Convention</a>	<a href="#">MCAA</a>
Qatar	<a href="#">Convention</a>	<a href="#">MCAA</a>
Turks & Caicos Islands	<a href="#">TIEA</a>	<a href="#">CAA</a>
United Arab Emirates	<a href="#">Convention</a>	<a href="#">MCAA</a>

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**V. 2024 – PROVISIONAL Isle of Man Reportable Jurisdictions**

The provisional list of Isle of Man Reportable Jurisdictions for **2024** is shown below:

<b>Isle of Man Reportable Jurisdictions 2024 (Provisional)</b>			
Albania	Andorra	Antigua & Barbuda	Argentina
Armenia	Aruba	Australia	Austria
Azerbaijan	Barbados	Belgium	Belize
Brazil	Brunei Darussalam	Bulgaria	Canada
Chile	China	Colombia	Cook Islands
Costa Rica	Croatia	Curacao	Cyprus
Czech Republic	Denmark	Dominica	Ecuador
Estonia	Faroe Islands	Finland	France
Georgia	Germany	Ghana	Gibraltar
Greece	Greenland	Grenada	Guernsey
Hong Kong	Hungary	Iceland	India
Indonesia	Ireland	Israel	Italy
Jamaica	Japan	Jersey	Jordan
Kazakhstan	Kenya	Korea	Latvia
Lebanon	Liechtenstein	Lithuania	Luxembourg
Macao	Malaysia	Maldives	Malta
Mauritius	Mexico	Moldova	Monaco
Montenegro	Montserrat	Morocco	Netherlands
New Zealand	Nigeria	Niue	Norway
Oman	Pakistan	Panama	Peru
Poland	Portugal	Romania	Rwanda
Saint Kitts & Nevis	Saint Lucia	Saint Vincent & the Grenadines	Samoa
San Marino	Saudi Arabia	Senegal	Seychelles
Singapore	Sint Maarten	Slovak Republic	Slovenia
South Africa	Spain	Sweden	Switzerland
Thailand	Trinidad & Tobago	Tunisia	Turkey
Uganda	Ukraine	United Kingdom	Uruguay
Vanuatu			

An excel version of this Provisional Reportable Jurisdiction list is available online in the 'CRS and FATCA Industry Advisory Notices' section at the link below:

<https://www.gov.im/categories/tax-vat-and-your-money/income-tax-and-national-insurance/international-agreements/fatca-and-common-reporting-standard>

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### **VI. COMMON REPORTING STANDARD**

For ease of reference the text of the CRS is replicated in full below, and has been annotated to include the dates specific to the Isle of Man's implementation of the CRS and options taken (highlighted in red text), in line with the Isle of Man Regulations.

#### **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.

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- 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.

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**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)



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through (e) are identified for the Account Holder, the Reporting Financial Institution must, 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;

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- 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

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is identified unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.

- 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.

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#### Section IV: Due Diligence for New Individual Accounts

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

- 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:

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### 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 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.

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#### **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 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

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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.
- 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

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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 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.



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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
    - 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

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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 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.

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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 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:

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- 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;
  - 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;~~

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- ~~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].~~

### 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.

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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 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.

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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.
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

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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
- 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;



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- 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 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

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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 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

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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;
- 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

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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.

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;

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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;
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.