

**\*\*\*Important – May Require Action by 11 May 2016\*\*\***

Notice issued in accordance with Regulation 4 of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014 (“the 2014 Regulations”), to Reporting Guernsey Financial Institutions (“RGFIs”) for registration with and reporting through the Information Gateway Online Reporter (“IGOR”) ahead of the second US Intergovernmental Agreement (“US IGA”) reporting deadline and the first UK Intergovernmental Agreement (“UK IGA”) reporting deadline

Bulletin 2016/3

**US IGA Reporting**

The Director of Income Tax (“the Director”) requires all RGFIs to make reports under the US IGA, implementing FATCA, in respect of the calendar year 2015 on or before **30 June 2016**. This is in accordance with The Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014 and The Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) (Amendment) Regulations, 2015 (hereinafter referred to as “the 2014 and 2015 Regulations”).

All RGFIs are required to submit the reports electronically, using the Information Gateway Online Reporter (“IGOR”) system and the reports must be in the Schema format (FATCA XML schema v1.1)

**Practical guidance in respect of the US IGA reporting**

The following provisions of this Bulletin are intended to provide practical guidance and do not replace the requirement for a RGI to ensure they comply with all of the relevant provisions of the 2014 and 2015 Regulations and the provisions of the US IGA as implemented by those Regulations.

In accordance with Annex 1 of the US IGA, the accounts required to be reported to the Director for the calendar year 2015 data will broadly be in respect of:

- Reportable New Individual Accounts opened on or after 1 July 2014;
- Reportable New Entity Accounts opened on or after 1 July 2014 *refer also to Guidance Notice section 17.1.1 relating to IRS Notice 2014-33*; and
- Pre-existing Individual or Entity accounts, where the relevant due diligence procedures have established the accounts to be “U.S. Reportable Accounts”.

In addition, the following will also be required for 2015:

- Payments to a Non-Participating Financial Institution (NPFI).

In accordance with Article 3 of the US IGA, the information to be reported for the calendar year 2015 is expanded from the information you were required to report for 2014 in respect of all identified reportable accounts, as follows:

Custodial Accounts

Total gross amounts of interest, dividends and other income generated with respect to the assets held in the account, paid or credited to the account (see Article 2.2.a)(5)(A) of the US IGA).

Depository Accounts

Total amount of gross interest paid or credited to the account in the calendar year or other reporting period (see Article 2.2a)(6) of the US IGA).

Cash Value Insurance contracts

Amount calculated by the Specified Insurance Company; and any part surrenders (see Article 2.2a)(7) of the US IGA).

#### All other accounts

The total gross amount paid or credited to the account including the aggregate amount of any redemption payments (see Article 2.2.a)(7) of the US IGA).

### **UK IGA Reporting**

#### **Standard reporting**

The Director requires RGFIs to make reports under the Guernsey-UK Intergovernmental Agreement (“UK IGA”), in respect of the calendar year 2014 and the calendar year 2015 on or before **30 June 2016**. This is in accordance with the 2014 and 2015 Regulations.

All RGFIs are required to submit the reports electronically, using the IGOR system and the reports must be in the Schema format, the details of which are set out below.

#### **Practical guidance in respect of the UK IGA reporting**

The following provisions of this Bulletin are intended to provide practical guidance and do not replace the requirement for a RGFI to ensure they comply with all of the relevant provisions of the 2014 and 2015 Regulations and the provisions of the UK IGA as modified by those Regulations.

In accordance with Annex 1 of the UK IGA, the accounts required to be reported to the Director under the UK IGA be in respect of:

- Reportable New Individual Accounts opened on or after 1 July 2014;
- Reportable New Entity Accounts opened on or after 1 July 2014; and
- Pre-existing Individual or Entity accounts, where the relevant due diligence procedures have been carried out and have established the accounts to be “United Kingdom Reportable Accounts” as of 31 December 2014.

In accordance with Article 3 of the UK IGA, the information required under the UK IGA for 2014 data will be:

In respect of each Specified UK Person either holding a Reportable Account **or** as a Controlling Person of an Entity Account:

- Name
- Address
- Date of birth and National Insurance number (where applicable for Pre-existing Accounts)
- Account number or functional equivalent
- Name and identifying number (GIIN or local tax identification number) of Reporting Financial Institution
- Account balance or value

All of the above is detailed in full in Article 2.2a)(1) to 2.2a)(4) of the UK IGA).

In accordance with Article 3 of the UK IGA, the information to be reported for the calendar year 2015 is expanded from the information you are required to report for 2014 in respect of all identified reportable accounts, as follows:

#### Custodial Accounts

Total gross amounts of interest, dividends and other income generated with respect to the assets held in the account, paid or credited to the account (see Article 2.2.a)(5)(A) of the UK IGA).

#### Depository Accounts

Total amount of gross interest paid or credited to the account in the calendar year or other reporting period (see Article 2.2a)(6) of the UK IGA).

#### Cash Value Insurance contracts

Amount calculated by the Specified Insurance Company; and any part surrenders (see Article 2.2a)(7) of the UK IGA).

#### All other accounts

The total gross amount paid or credited to the account including the aggregate amount of any redemption payments (see Article 2.2.a)(7) of the US IGA).

**Important:** If you have an obligation under the 2014 and 2015 regulations to make a report to the Director you will be required to register, using IGOR, in order to submit such reports. Furthermore, if in accordance with the provisions of the UK IGA you have a reporting obligation in respect of both the calendar year 2014 and 2015 you will need to submit a report for each year separately.

Registration for IGOR can be made at the following website:

<https://igor.gov.gg>

This information must be submitted to the Director in the approved XML schema format using IGOR (see below for further details of the schema used). Whilst IGOR has been designed to be used for all online submissions for automatic exchange of information, at present, registration is only available at present for reports under the US IGA and UK IGA.

#### **Alternative Reporting Regime (“ARR”) (a provision available under the UK IGA only)**

Where an RFGI has elected to offer the ARR to its eligible Account Holders, the information required under the UK IGA for 2014 data will be in accordance with Annex IV of the IGA, as follows:

- For each Specified UK Person who has elected for the ARR to apply for the relevant Reporting Period AND, where applicable, has correctly completed the self-certification and will comprise of:

For the reporting period 2014 (covering 30 June 2014 to 5 April 2015).

Where the Account Holder had correctly completed and submitted the self-certification to the RFGI by 28 February 2016, an “ARR FULL” report shall be submitted.

For 2014, the “ARR FULL” report will comprise of the name, address, date of birth and National Insurance Number of the Account Holder and the Gross Payments and Movements of Assets as set out in Annex IV.D.1 and 2 of the UK IGA.

No “ARR BASIC” report is required for 2014, as this will only duplicate the basic identification information already exchanged in the ARR FULL Report.

*N.B. Where an Account Holder had elected for ARR reporting for reporting period 2014 (UK Tax Year 2014/15), but the RFGI has NOT received a correctly completed self-certification form by 28 February 2016, then that Account Holder MUST be reported under the Standard IGA reporting (as detailed above).*

For the reporting period 2015 (covering 6 April 2015 to 5 April 2016)

An 'ARR Basic' return of basic account information (name, address, date of birth and National Insurance Number of the Account Holder) which must list account holders who have completed election for ARR for the UK tax year ending 5 April 2016 (see Annex IV.E.1 of the UK IGA).

Please note that if the RGFI has registered with IGOR to indicate it is offering ARR, but no account holders complete election, the RGFI will be required to submit a nil ARR Basic return.

**N.B. Additional ARR reporting required for persons who are determined to be both Specified U.S. Persons and Specified United Kingdom Persons (“Specified UK Person”)**

Where a Specified UK Person has successfully elected and been reported under the ARR but the Specified UK Person is **also** a Specified US Person, AND has had their Accounts reported to the US for the Reportable Period in question, then regardless of ARR election, you are required (in accordance with Annex IV.D.3 of the UK IGA) to report to the Director the “STANDARD” UK information in respect of that Specified UK Person.

**UK reporting (schema)**

The XML IGOR-FATCA schema for reporting under the UK IGA is almost identical to that of the US schema, with the exception that this has been extended in order to enable reporting under the Alternative Reporting Regime (ARR).

Information detailing the IGOR schema for UK IGA reporting (including a link to schema XSD files) can be found by following the link detailed below:

<https://igor.gov.gg/About/UKReporting>

**Format for standard reporting (i.e. excluding ARR data) under the UK IGA**

The format of a standard reporting is the same as a US FATCA report, but using the namespaces and the UK\_STANDARD MessageType specific to the XML IGOR-FATCA schema. This follows an agreement in place with the UK competent authority, namely, that a report under the UK IGA will be made utilising the IRS FATCA XML schema v1.1. Whilst that does not cause any problems in respect of the majority of the format of the schema, the schema element AcctHolderType does not align with the UK IGA, in that the definition of these entries for this data element are very specific to the US IGA and not immediately applicable to the UK IGA.

In order to accommodate the reporting to the UK, the Director has agreed that the allowable entries will be as follows:

1. IGOR102 = Passive Non-Financial Entity with substantial UK owner(s)
2. IGOR104 = Specified UK Person

As an alternative to the above, the following existing US specific entries can still be used, but will be taken to relate to the equivalent in the UK:

1. FATCA102 = Passive Non-Financial Entity with substantial UK owner(s)
2. FATCA104 = Specified UK Person

All other entries detailed in the IRS FATCA XML schema v1.1, namely FATCA101, FATCA103 and FATCA 105 are not applicable to reporting under the UK IGA and where used, a report using these AcctHolderType's will not be accepted by IGOR.

### **IGOR Registration process (applicable to both US and UK IGA reporting requirements)**

Prior to making returns in accordance with either/or both the US IGA and the UK IGA, the RGFI will need to register with IGOR. A Global Intermediary Identification Number (GIIN) is a requirement for registration with IGOR (for the purposes of reporting under the US IGA only). This number is generated by the IRS and maybe obtained by using the online FATCA registration tool.

If a RGFI is registering with IGOR for the purpose of reporting under the UK IGA only and has no US reporting obligations, it will not be a requirement to supply the GIIN when registering, instead the Income Tax Office will authorise based upon the name of the RGFI. If a GIIN is held by the RGFI, this can, however, still be supplied on registration and will pre-populate the name of the RGFI based upon the US registered name.

When registering a RGFI on IGOR for the purposes of reporting under the US IGA this registration includes a cross reference with the most recent FATCA GIIN list, and an RGFI is only able to register with IGOR (for the purposes of reporting under the US IGA) once they have registered with the IRS AND the GIIN list has been updated to include them.

Once online registration has been completed, it will be reviewed and processed by the Income Tax Office. Only once registration has been approved, will the RGFI be able to submit reports for any of the reporting regimes (which, as detailed above, reporting using IGOR is currently restricted to the US IGA and the UK IGA only).

RGFIs should be aware, that the IRS only refresh the GIIN list on the first day of the month, and applications for a GIIN made and approved in the last 5 days of the preceding month are not likely to make that month's updated list. The Director understands that typically a GIIN may take a minimum of 1-2 weeks to be approved following application. With the approaching deadline for reporting 2015 data, it is possible that the approval process may take even longer than this as the volume of registration may significantly increase.

Accordingly, it is recommended that if RGFIs have not already registered, that they ensure that they have left adequate time to submit their registration with the IRS, in order to receive approval and a GIIN to then be in a position to register with IGOR for timely reporting of 2015 data by 30 June 2016.

**In view of the timeframe detailed above the Director has estimated that the final date for a RGFI to register with the IRS for a GIIN, (assuming a 1-2 week approval time) is likely to be 11 May 2016 or earlier, in order to ensure their GIIN appears on the Global GIIN list on 1 June 2016, to then enable the RGFI to register on IGOR.**

**Any messages or queries from the Director arising from the submitted Schemas will be communicated to the RGFIs using the IGOR messaging service. RGFIs should, therefore, ensure that their messages are monitored regularly.**

**Should you wish to obtain further information concerning the US or UK IGAs please visit the Income Tax Office webpage which is dedicated to these matters:**

**<http://www.gov.gg/article/109356/Intergovernmental-Agreements-FATCA>**

**22/04/2016**