



## **Bulletin 2021/3**

### **FATCA Tax Identification Numbers (TINs) & Reporting Requirements**

This Bulletin is issued under the provisions of Regulation 10 of The Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014 (the “FATCA Regulations”) and also the provisions of Regulation 12 of The Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015 (“the CRS Regulations”).

The purpose of this Bulletin is to inform financial institutions of changes being introduced regarding FATCA reporting obligations and provide an update on the Compliance Statement Assurance points.

#### **Obtaining US TIN**

Under the terms of the Agreement between the government of the United States of America and the States of Guernsey to implement FACTA and the aforementioned FATCA Regulations, Guernsey Financial Institutions are required to obtain and report the US taxpayer identification number (“TIN”) for each specified US person that is an account holder or a controlling person.

#### **New Accounts & Controlling Persons**

Guernsey Financial Institutions have been obliged under the FATCA Regulations to obtain a self-certification from the account holder as part of the on-boarding process and consequently obtain a valid US TIN for the account holder and/or controlling persons.

#### **Pre-Existing Accounts**

In respect of pre-existing accounts Guernsey Financial Institutions have been required under the FATCA Regulations to obtain a valid US TIN from 1 January 2017.

#### **Bulletin 2020/1**

Bulletin 2020/1 informed FIs that a TIN must be reported in accordance with the conditions as specified by the IRS Notice 2017-46. The Bulletin included that the transitional relief for missing TINs expired on 31 December 2019.

#### **Revised Requirements**

The US recognise that Foreign Financial Institutions (“FFI”) require more time to obtain the required TIN and have therefore developed a series of codes that may be used by a reporting Model 1 FFI (which includes Guernsey).

Despite the transitional period expiring the IRS has developed a series of codes that may be used by Financial Institutions to populate the TIN data field, which are set out below.

## TIN Field Codes & Purpose

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Pre-existing individual account where only the US indicia is a US place of birth.

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New individual account that have indicia indicating a U.S. place of birth, and either:

- has had a change in circumstances causing the self-certification originally obtained at account opening to be incorrect or unreliable, and a new self-certification has not been obtained, or
- was below the threshold for documenting and reporting the account at the time of account opening and subsequently exceeded the threshold, and a self-certification has not been obtained.

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Pre-existing individual and entity account that have U.S., indicia other than a U.S. place of birth, and either:

- has had a change in circumstances, causing the self-certification or other documentation originally obtained to be incorrect or unreliable, and a new self-certification or other documentation has not been obtained, or
- was below the threshold for documenting and reporting the account at the time of account opening and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.

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New individual and entity account that has a U.S., indicia other than a U.S. place of birth, and either:

- has had a change in circumstances causing the self-certification or other documentation originally obtained to be incorrect or unreliable, and a new self-certification or other documentation has not been obtained, or
- was below the threshold for documenting and reporting the account at the time of account opening and subsequently exceeded the threshold, and a self-certification or other documentation has not been obtained.

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Pre-existing entity account with account balance exceeding \$1,000,000 held by a passive NFFE with respect to which no self-certifications have been obtained, and no U.S. indicia have been identified in relation to its controlling persons.

## **TIN Field Code Use**

Use of the above codes is not mandatory and does not mean that a Guernsey Financial Institution will be at risk of being found significantly non-compliant due to a failure to report each required US TIN. However Financial Institutions are strongly advised to use the new codes.

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

Guernsey Financial Institutions that cannot implement the reporting of the new codes or have accounts to report without valid U.S. TINs that do not fall within the categories listed above should continue to use the previous default code of nine capital letter A's (AAAAAAAAA). Please note that this will result in the US authorities notifying the Guernsey Competent Authority of an error in respect of each account with a missing TIN following the exchange of data in September 2021. In turn these errors will be notified to the relevant Guernsey Financial Institutions which will require an explanation and, if necessary, correction of the data thereafter.

## **IGOR Update**

The Information Gateway Online Reporter ("IGOR") will be updated to accept all the above codes in the relevant TIN fields of the schema for reporting in respect of the 2020 reporting year (where reports should be submitted no later than 30 June 2021) and beyond. An IGOR message will be issued to FIs once the changes have been implemented.

## **IGOR Compliance Assurance Statement**

Further to Bulletins 2021.1 & 2021.2 the Compliance Assurance Statement for 2020 reporting has been set as follows:

### **CRS Compliance Assurance Statement**

1. All appropriate policies, procedures and systems were in place in order to comply with the CRS Regulations reporting requirements for all financial accounts which it maintained and established during the reporting period.
2. The evidence used to comply with the Schedule 2 due diligence requirements has been retained and a record of the steps taken when performing due diligence reviews on accounts has been made.
3. The evidence used to comply with the due diligence requirements and a record of the steps taken when performing due diligence reviews on accounts will be retained for a minimum period of 6 years.
4. All appropriate policies, procedures and systems are in place to ensure that the tax residency information of Account Holders has been obtained for all New Accounts.
5. All reportable accounts closed during the period covered by the report have been included in the report and identified as such.

6. Only reportable accounts that comply with the “undocumented” criteria have been reported accordingly.
7. The report is full and complete containing all the required reportable details for all reportable accounts for the reporting period.

#### FATCA Compliance Assurance Statement

1. All appropriate policies, procedures and systems were in place in order to comply with the FATCA Regulations reporting requirements for all financial accounts which it maintained and established during the reporting period.
2. The evidence used to comply with the due diligence requirements and a record of the steps taken when performing due diligence reviews on accounts will be retained for a minimum period of 6 years.
3. All reportable accounts closed during the reporting period have been included in the report and identified as such.
4. The TIN is in a format consistent with Bulletin 2021/3.
5. The report is full and complete containing all the required reportable details for all reportable accounts for the reporting period.

Please note that the Compliance Assurance Statement is subject to an annual review. The matters covered by the Compliance Assurance Statement may change from time to time as a result of analysis of reports identifying specific areas of attention. For example, CRS 2020 Point 6 refers to undocumented as a reminder to confirm compliance with the approved criteria.

#### **Further Information**

If you require further information regarding this Bulletin, please forward a message via the IGOR message facility or an email to [AEOI@gov.gg](mailto:AEOI@gov.gg)

N Garland

Head of Policy (Deputy Director)

24 February 2021