

GUERNSEY STATUTORY INSTRUMENT

2014 No. 55

**The Income Tax  
(Approved International Agreements) (Implementation)  
(United Kingdom and United States of America)  
Regulations, 2014**

<i>Made</i>	<i>19<sup>th</sup> August, 2014</i>
<i>Coming into operation</i>	<i>30<sup>th</sup> June, 2014</i>
<i>Laid before the States</i>	<i>29<sup>th</sup> October, 2014</i>

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SCHEDULE:           Approved International Agreements

**The Income Tax  
(Approved International Agreements) (Implementation)  
(United Kingdom and United States of America)  
Regulations, 2014**

THE TREASURY AND RESOURCES DEPARTMENT, in exercise of the powers conferred upon it by sections 75CC and 203A of the Income Tax (Guernsey) Law, 1975, as amended<sup>a</sup>, and all other powers enabling it in that behalf, hereby makes the following regulations:-

*Introductory*

**Implementation of Agreements.**

1. These regulations implement the provisions of the approved international agreements specified in column 2 of the Schedule ("**the Agreements**").

**Provisions of Agreements to have force of law.**

2. The provisions of the Agreements referred to in column 3 of the Schedule shall, subject to such exceptions, adaptations and modifications as may be specified in that column in respect of those provisions, have the same force and effect as regulations under the Income Tax (Guernsey) Law, 1975 ("**the Law**").

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<sup>a</sup> Ordres en Conseil Vol. XXV, p. 124; section 75CC was inserted by the Income Tax (Approved International Agreements) (Implementation) (Guernsey) Ordinance, 2013 and section 203A was inserted by the Income Tax (Guernsey) (Amendment) Law, 2005 (No. XVII of 2005).

*Obligations of  
Reporting Guernsey Financial Institutions*

**Due diligence procedures.**

3. (1) A Reporting Guernsey Financial Institution must apply the due diligence procedures contained in Annex I to the Agreements as they have effect by virtue of these regulations ("**Annex 1**") to identify -

- (a) for the purposes of the U.S. Agreement, U.S. reportable accounts and accounts held by Nonparticipating Financial Institutions, and
- (b) for the purposes of the U.K. Agreement, United Kingdom Reportable Accounts.

(2) A Reporting Guernsey Financial Institution is taken to comply with the obligation set out in paragraph (1) only if -

- (a) the institution, in relation to all financial accounts which it maintains, establishes and maintains arrangements in conformity with the applicable due diligence procedures set out in Annex I, and
- (b) the arrangements secure that the evidence used in accordance with Annex I, or a record of the steps taken in accordance with Annex I, is kept for a period of six years beginning with the end of the year in which the arrangements applied to the financial accounts.

(3) A Reporting Guernsey Financial Institution which without reasonable excuse fails to comply with any provision of paragraph (1) or Annex 1 is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding one year, to a fine not exceeding twice level 5 on the uniform scale, or to both.

(4) The provisions of the Law shall have effect as if an offence under paragraph (3) were an offence under the Law.

**Reporting obligations.**

4. (1) A Reporting Guernsey Financial Institution must, in respect of the year 2014 and every following calendar year, provide the Director of Income Tax ("the Director"), or such other person, body or authority as the Director may specify (including, without limitation, the Competent Authority in the case of the other party within the meaning of the Agreement concerned) -

(a) for the purposes of the U.S. Agreement -

(i) in respect of any U.S. Reportable Account maintained by the institution in the year in question, with a return of the information specified in paragraph 2(a) of Article 2 of the U.S. Agreement:

Provided that, in respect of any U.S. Reportable Account maintained by a Reporting Guernsey Financial Institution as of the 30<sup>th</sup> June, 2014, there is no requirement to provide a return of the U.S. TIN of each Specified U.S. Person who is an Account Holder of such Account pursuant to paragraph 2(a)(1) of Article 2 of the U.S. Agreement in respect of any calendar year prior to the 1<sup>st</sup> January, 2017,

(ii) where the institution maintains no U.S. Reportable Accounts in the year in question, with a return containing a statement to that effect,

(iii) for each of the calendar years 2015 and 2016,

in respect of any Nonparticipating Financial Institutions to which it has made payments which have been identified in accordance with regulation 3, with a return of the information specified in paragraph 1(b) of Article 4 of the U.S. Agreement ("application of FATCA to Guernsey Financial Institutions"),

- (b) for the purposes of the U.K. Agreement -
  - (i) in respect of any United Kingdom Reportable Account maintained by the institution in the year in question, with a return of the information specified in paragraph 2(a) of Article 2 of the U.K. Agreement:

Provided that, in respect of any United Kingdom Reportable Account maintained by a Reporting Guernsey Financial Institution as of the 30<sup>th</sup> June, 2014 (a Preexisting Account), there is no requirement to provide a return of the date of birth and National Insurance Number of each Specified Person who is an Account Holder of such Account pursuant to paragraph 2(a)(1) of Article 2 of the U.K. Agreement in respect of any calendar year prior to the 1<sup>st</sup> January, 2017,

- (ii) where the institution maintains no United Kingdom Reportable Accounts in the year in question, with a return containing a statement to that effect, and
- (c) for the purposes of the U.S. Agreement or the U.K. Agreement, with such other documents and information or class or description of documents or

information as may be required by, under or for the purposes of these regulations or the Agreements as they have effect by virtue of these regulations and as the Director may by notice specify.

(2) Returns and other documents and information required to be provided by or under paragraph (1) must be provided in such form and manner, by such means and at such times or intervals as the Director may by notice require.

(3) For the purposes of, but without prejudice to the generality of, paragraphs (1) and (2) -

(a) the notices referred to in those paragraphs may require a Reporting Guernsey Financial Institution to register with, to use and to provide information and documents by means of an electronic portal specified in the notices for that purpose,

(b) the notices may be given or published in such form and manner, by such means and at such times or intervals and for such period as the Director thinks fit, including (without limitation) by publication on the official website of the States of Guernsey Income Tax office or by being set out in guidance notes issued under regulation 10.

*Penalties and offences for breach of obligations, etc*

**Civil penalties for contraventions of Agreements.**

5. Section 193 of the Law ("penalties in respect of returns not relating to income") applies in respect of these regulations and the Agreements as if -

(a) references in subsections (1) and (2) of that section to a return other than a return of income included references to a return or other document or information required to be provided by or under -

- (i) these regulations, or
  - (ii) the Agreements as they have effect by virtue of these regulations,
- (b) references in subsection (1) of that section to the time prescribed included references to the time prescribed by or under -
  - (i) these regulations, or
  - (ii) the Agreements as they have effect by virtue of these regulations, and
- (c) subsection (3) of that section were omitted.

**Criminal penalties for false statements, etc.**

6. (1) Section 75L of the Law ("offences in relation to falsification, etc, of documents") applies in respect of these regulations and the Agreements as if-

- (a) references in subsection (1) of that section to a document required by a notice under section 75A to be delivered included references to a return or other document or information required to be provided by or under -
  - (i) these regulations, or
  - (ii) the Agreements as they have effect by virtue of these regulations,
- (b) paragraphs (b) and (c) of subsection (2) were omitted,
- (c) subsection (3), and the reference thereto in subsection (4), were omitted.



(2) Section 75M of the Law (duties of confidentiality, liens, and self-incrimination) applies in respect of these regulations and the Agreements as if in subsection (4)(b)(ii)(A) of that section for the words "section 75L(3)" there were substituted "section 201(1) by virtue of a contravention of section 201(4)".

(3) Section 201 of the Law ("discretion to prosecute in cases involving fraud, etc.") applies in respect of these regulations and the Agreements as if -

- (a) the reference in subsection (2) of that section to section 200 were omitted,
- (b) references in subsections (4) and (5) of that section to regulations under the Law included references to the Agreements as they have effect by virtue of these regulations,
- (c) references in those subsections to the Director included references to any other person, body or authority (including the Competent Authorities in the case of the other party within the meaning of the Agreement concerned) upon whom functions corresponding to those of the Director are conferred by or under -
  - (i) these regulations, or
  - (ii) the Agreements as they have effect by virtue of these regulations, and
- (d) references in those subsections to tax, penalties, surcharges or additional surcharges under the Law included references to tax, penalties and other liabilities imposed by the laws of the other parties to the Agreements -

- (i) which are of a class or description specified in or under the Agreements, or
- (ii) in respect of which the Agreements otherwise have effect.

*Miscellaneous*

**Guernsey representative of a non-resident Reporting Guernsey Financial Institution.**

7. Where a Reporting Guernsey Financial Institution is not resident in Guernsey for the purposes of the Law, the obligations and liabilities of the institution under -

- (a) these regulations, and
- (b) the Agreements as they have effect by virtue of these regulations,

are to be treated as if they were also the obligations and liabilities of any representative of the institution situate in Guernsey.

**Accounts with a negative value.**

8. For the purposes of these regulations or (as the case may be) the Agreements as they have effect by virtue of these regulations , an account balance that has a negative value is treated as having a nil value.

**Anti-avoidance.**

9. (1) If -

- (a) a person enters into any transaction or series of transactions, and
- (b) the main purpose, or one of the main purposes, of the person in entering into the transaction or series of

transactions is to avoid any obligation or liability under -

- (i) these regulations, or
- (ii) the Agreements as they have effect by virtue of these regulations,

these regulations or (as the case may be) the Agreements as they have effect by virtue of these regulations are to have effect as if the transaction or series of transactions had not been entered into.

(2) In paragraph (1) "transaction" has the meaning given by subsection (2) of section 67 of the Law (general provision against legal avoidance).

(3) Subsections (3) and (4) of section 67 of the Law have effect for the purposes of this regulation as if references in those subsections to tax under the Law included references to tax imposed by the laws of the other parties to the Agreements -

- (a) which are of a class or description specified in or under the Agreements, or
- (b) in respect of which the Agreements otherwise have effect.

(4) Subsection (5) of section 67 of the Law does not have effect for the purposes of this regulation.

**Guidance notes.**

10. (1) The Director may issue guidance notes for the purpose of providing practical guidance in respect of any provision of, and in connection with the administration of, these regulations and the Agreements.

(2) Guidance notes shall come into force on such date as the Director may appoint.

(3) The Director may revoke or revise guidance notes.

(4) Guidance notes may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient.

(5) The Director shall publish guidance notes and any revision thereof in such manner as he considers appropriate.

(6) Guidance notes must be taken into account by the Director in exercising his functions under these regulations, the Agreements and the Law.

(7) In any legal proceedings, criminal or otherwise, whether or not under the Law or these regulations (including, for the avoidance of doubt, proceedings before the appropriate body under section 76 of the Law), guidance notes are admissible in evidence, and if any provision of guidance notes appears to the court or other tribunal before which the proceedings are being conducted to be relevant to any question arising in the proceedings, then -

(a) the provision may be taken into account in determining that question, and

(b) the provision may be relied on as tending to support or, as the case may be, defeat any representation or submission of any party to the proceedings.

(8) The powers conferred by paragraph (1) are without prejudice to any power conferred by the Law to issue statements of practice.

(9) Section 203A(2) of the Law applies in respect of guidance notes as it applies in respect of regulations.

**Application of provisions as to service of notice.**

11. Without prejudice to the provisions of regulation 4(2) and (3), section 68(1AAA) of the Law (giving of notice from Director) applies in relation to a notice

of the Director under regulation 4(1) or (2) or otherwise given by him under or for the purposes of these regulations or the Agreements as they have effect by virtue of these regulations as it applies in relation to a notice of the Director requiring a person to deliver a return as to his income, and references (however expressed) in these regulations or in the Agreements as they have effect by virtue of these regulations to the giving or receipt of such a notice shall be construed accordingly.

**Application of duty to submit in electronic form and by electronic means.**

12. Section 68AA of the Law ("returns to be submitted in electronic form and by electronic means") applies in respect of these regulations and the Agreements as if -

- (a) references in subsections (1) and (2) of that section to section 68 included references to -
  - (i) these regulations, and
  - (ii) the Agreements as they have effect by virtue of these regulations,
- (b) references in subsection (1) of that section to a return as to a person's income included references to a return or other document or information required or authorised to be provided by, under or for the purposes of -
  - (i) these regulations, or
  - (ii) the Agreements as they have effect by virtue of these regulations,
- (c) paragraph (a) of subsection (1) of that section and, in paragraph (b) thereof, the words "in the case of a company" were omitted.

**Application of provisions as to requests for information.**

13. Section 75C of the Law ("notices under sections 75A and 75B: requests for information) applies in respect of these regulations and the Agreements as if references in subsections (1), (2), (3) and (4) of that section to a request for information included references to a notification by a competent authority pursuant to article 4 of the U.K. Agreement or article 5 of the U.S. Agreement ("Collaboration on Compliance and Enforcement"); and references to "requests" and related expressions shall be construed accordingly.

**General modification of provisions of Law.**

14. For the purposes of these regulations and the Agreements as they have effect by virtue of these regulations, and without prejudice to any other provision of these regulations -

- (a) any reference in the Law to the Law (whether by use of the expression "this Law" or otherwise) or any provision thereof has effect as if the reference were to the Law or that provision as modified in its application by these regulations, and
- (b) the provisions of the Law shall be construed and shall have effect subject to those modifications.

*Supplementary*

**Interpretation.**

15. (1) In these regulations -

"the Agreements" mean the approved international agreements specified in the Schedule,

"Annex I" means Annex I to the Agreements as they have effect by virtue of these regulations,

"the Director" means the Director of Income Tax,

"the Law" means the Income Tax (Guernsey) Law, 1975,

**"Reporting Guernsey Financial Institution"** : see Article 1 of the U.K. Agreement or (as the case may require) the U.S. Agreement,

**"the U.K. Agreement"** mean the approved international agreement specified in item (1) of the Schedule,

**"the U.S. Agreement"** mean the approved international agreement specified in item (2) the Schedule,

and other expressions have the same respective meanings as in the Law.

(2) However, unless the context requires otherwise, any expression defined in, or the meaning of which is determined in accordance with, any of the Agreements has the same meaning in or for the purposes of -

- (a) these regulations,
- (b) the Agreement as it has effect by virtue of these regulations, and
- (c) the Law,

as in, or as may be determined in accordance with, the Agreement.

(3) The Interpretation (Guernsey) Law, 1948<sup>b</sup> applies to the interpretation of these regulations as it applies to the interpretation of an enactment.

(4) Any reference in these regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

**Citation.**

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<sup>b</sup> Ordres en Conseil Vol. XIII, p. 355.

**16.** These Regulations may be cited as the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014.

**Commencement.**

**17.** These Regulations shall be deemed to have come into force on the 30<sup>th</sup> day of June, 2014.



SCHEDULE  
APPROVED INTERNATIONAL AGREEMENTS

Regulation 2

1.	2. APPROVED INTERNATIONAL AGREEMENTS IMPLEMENTED BY THESE REGULATIONS	3. PROVISIONS OF AGREEMENTS TO HAVE FORCE OF LAW
(1)	<p style="text-align: center;"><b>AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE STATES OF GUERNSEY TO IMPROVE INTERNATIONAL TAX COMPLIANCE</b></p> <p>The agreement providing for the obtaining, furnishing and exchanging of information in relation to tax made between the States of Guernsey and the Government of the United Kingdom of Great Britain and Northern Ireland signed at London on the 22<sup>nd</sup> October, 2013<sup>c</sup>, as that agreement has effect from time to time.</p>	<p><b>Article 1</b> (Definitions) subject to the following exceptions, adaptations and modifications -</p> <p>(a) in paragraph 2 of that Article the words "(as permitted by domestic law)" are omitted,</p> <p>(b) in paragraph 3 of that Article -</p> <p>(i) for the words "and may permit its Financial Institutions to use" there is substituted "and (provided they make, and subsequently retain a copy of, a written election to do so in such form if any as the Director of Income Tax may require) Guernsey Financial Institutions may use",</p> <p>(ii) following the words "in the relevant U.S. Treasury Regulations" add "or the Common Reporting Standard for the Automatic Exchange of Financial Account Information published by the Organisation for Economic Co-operation and Development and approved by the Committee of Fiscal Affairs on the 26<sup>th</sup> June 2014".</p> <p><b>Article 2</b> (Obligations to Obtain and Exchange Information with Respect to</p>

<sup>c</sup> The agreement is an approved international agreement within the meaning of the Law, having been specified for the purposes of the Law pursuant to section 75C thereof by the Income Tax (Approved International Agreements) (Implementation) (Guernsey) Ordinance, 2013.

		<p>Reportable Accounts) subject to the following exceptions, adaptations and modifications -</p> <p>(a) in paragraph 1 of that Article after the words "each Party, shall obtain" there is inserted "(and each Reporting Guernsey Financial Institution must obtain and provide to the Competent Authority)",</p> <p>(b) in paragraph 2(a) of that Article for the words "each Reportable Account of each Reporting Financial Institution" there is substituted "each United Kingdom Reportable Account of each Reporting Guernsey Financial Institution".</p> <p><b>Article 3</b> (Time and Manner of Exchange of Information) subject to the following exceptions, adaptations and modifications -</p> <p>(a) in paragraph 1 of that Article the words following "Guernsey's tax laws" are omitted,</p> <p>(b) at the end of paragraph 4 of that Article add the following sentence -</p> <p>"This paragraph is subject to the provisions of regulation 4 of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014.",</p> <p>(c) paragraphs 5 and 6 of that Article are omitted.</p> <p><b>Article 4</b> (Collaboration on Compliance and Enforcement) subject to the following exceptions, adaptations and modifications -</p> <p>(a) paragraphs 1 and 2 of that Article are omitted,</p> <p>(b) in paragraph 3 of that Article for the words "Each Party may allow Reporting Financial Institutions to use" there is substituted "Reporting</p>
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		<p>Guernsey Financial Institutions may use",</p> <p>(c) paragraph 4 of that Article is omitted.</p> <p><b>Article 6</b> (Consistency in the Application of FATCA to Partner Jurisdictions) subject to the following exceptions, adaptations and modifications -</p> <p>(a) paragraphs 3 and 4 of that Article are omitted.</p> <p><b>Article 8</b> (Annexes)</p> <p><b>Annex I</b> (due diligence obligations for identifying and reporting on reportable accounts) subject to the following exceptions, adaptations and modifications -</p> <p>(a) in Section I of that Annex (General), in paragraph A for the words "Under the Agreement each Party shall require that Reporting Financial Institutions apply" there is substituted "Reporting Guernsey Financial Institutions must apply",</p> <p>(b) in Section I of that Annex (General), paragraph C is omitted,</p> <p>(c) in Section I of that Annex (General), in paragraph E -</p> <p>(i) for the words "either Party may allow its Reporting Financial Institutions to apply" there is substituted "Reporting Guernsey Financial Institutions may make (and must subsequently retain a copy of) a written election, in such form if any as the Director of Income Tax may require, to apply",</p> <p>(ii) for the words "Either Party may allow its Reporting Financial Institutions to make" there is substituted "Reporting Guernsey Financial Institutions may make",</p>
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	<p>(d) in Section II of that Annex (Pre-existing Individual Accounts), in paragraph A (Accounts not Required to Be Reviewed, Identified, or Reported) -</p> <p>(i) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election otherwise, in such form if any as the Director of Income Tax may require,"</p> <p>(ii) the words "where the implementing rules in the jurisdiction provide for such an election," are omitted,</p> <p>(e) in Section III of that Annex (New Individual Accounts), in paragraph A (Accounts not Required to Be Reviewed, Identified, or Reported) -</p> <p>(i) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election otherwise, in such form if any as the Director of Income Tax may require,"</p> <p>(ii) the words "where the implementing rules in both jurisdictions provide for such an election," are omitted,</p> <p>(f) in Section IV of that Annex (Pre-existing Entity Accounts), in paragraph A (Entity Accounts not Required to Be Reviewed, Identified, or Reported) -</p> <p>(i) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election otherwise, in such form if any as the Director of Income Tax may require,"</p> <p>(ii) the words "where the implementing rules in the jurisdiction provide for such an election," are omitted,</p> <p>(g) in Section V of that Annex (New Entity Accounts), in paragraph A (Entity Accounts not Required to Be Reviewed, Identified, or Reported) -</p>
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	<p>(i) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election otherwise, in such form if any as the Director of Income Tax may require,"</p> <p>(ii) the words "where the implementing rules in both jurisdictions provide for such an election," are omitted,</p> <p>(h) in Section VI of that Annex (Special Rules and Definitions) -</p> <p>(i) in paragraph D.4 (Documentary Evidence), the words "other than a Form W-8 or W-9," are omitted,</p> <p>(ii) in paragraph F (Reliance on Third Parties), for the words "either Party may permit Reporting Financial Institutions to rely" there is substituted "Reporting Guernsey Financial Institutions may rely".</p> <p><b>Annex II (Non-Reporting UK Financial Institutions and Exempt Products) subject to the following exceptions, adaptations and modifications -</b></p> <p>(a) in Section III of that Annex (Exempt Products), in paragraph B (Qualifying Credit Cards) -</p> <p>(i) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election otherwise, in such form if any as the Director of Income Tax may require,"</p> <p>(ii) the words "where the implementing rules in both jurisdictions provide for such election" are omitted.</p> <p><b>Annex III (Non-Reporting Guernsey Financial Institutions and Exempt Products) subject to the following exceptions, adaptations and modifications -</b></p>
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		<p>(a) the second paragraph of that Annex (the text of which begins with the words "This Annex III may be modified by a mutual agreement") is omitted,</p> <p>(b) in Section IV of that Annex (Exempt Products), in paragraph A (Qualifying Credit Cards) -</p> <p>(i) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election otherwise, in such form if any as the Director of Income Tax may require,"</p> <p>(ii) the words "where the implementing rules in both jurisdictions provide for such an election," are omitted.</p> <p><b>Annex IV</b> (Alternative Reporting Regime for Certain United Kingdom Reportable Accounts) subject to the following exceptions, adaptations and modifications -</p> <p>(a) in paragraph B.1(a) of that Annex (United Kingdom Reportable Accounts Eligible for the Alternative Reporting Regime) for the words "an election" there is substituted "(and must subsequently retain a copy of) a written election, in such form if any as the Director of Income Tax may require,".</p>
<p>(2)</p>	<p><b>AGREEMENT BETWEEN THE GOVERNMENT OF THE STATES OF GUERNSEY AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO IMPROVE INTERNATIONAL TAX COMPLIANCE AND TO IMPLEMENT FATCA</b></p> <p>The agreement providing for the obtaining, furnishing and exchanging of information in</p>	<p><b>Article 1</b> (Definitions) subject to the following exceptions, adaptations and modifications -</p> <p>(a) in paragraph 2 of that Article the words "(as permitted by domestic law)" are omitted.</p> <p><b>Article 2</b> (Obligations to Obtain and Exchange Information with Respect to Reportable Accounts) subject to the following exceptions, adaptations and modifications -</p> <p>(a) in paragraph 1 of that Article after</p>

	<p>relation to tax made between the States of Guernsey and the Government of the United States of America, signed at London on the 13<sup>th</sup> December, 2013<sup>d</sup>, as that agreement has effect from time to time.</p>	<p>the words "each Party shall obtain" there is inserted "(and each Reporting Guernsey Financial Institution must obtain and provide to the Competent Authority)",</p> <p>(b) paragraph 2(b) of that Article is omitted.</p> <p><b>Article 3</b> (Time and Manner of Exchange of Information) subject to the following exceptions, adaptations and modifications -</p> <p>(a) in paragraph 1 of that Article the words following "the tax laws of Guernsey" are omitted,</p> <p>(b) paragraph 3(b) of that Article is omitted,</p> <p>(c) in paragraph 4 of that Article the reference to the Guernsey TIN is omitted,</p> <p>(d) at the end of paragraph 5 of that Article add the following sentence -</p> <p>"This paragraph is subject to the provisions of regulation 4 of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014.",</p> <p>(e) paragraph 6 of that Article is omitted.</p> <p><b>Article 4</b> (Application of FATCA to Guernsey Financial Institutions) subject to the following exceptions, adaptations and modifications -</p> <p>(a) paragraphs 1 to 5 are omitted,</p> <p>(b) in paragraph 6 of that Article, subparagraphs (c) and (d) are omitted,</p>
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<sup>d</sup> The agreement is an approved international agreement within the meaning of the Law, having been specified for the purposes of the Law pursuant to section 75C thereof by the Income Tax (Guernsey) (Approval of Agreements with Costa Rica, Mauritius, the Seychelles, the United States of America and the United Kingdom) Ordinance, 2014.

	<p>(c) in paragraph 7 of that Article, for the words "and may permit Guernsey Financial Institutions to use" there is substituted "and Guernsey Financial Institutions may use".</p> <p><b>Article 5</b> (Collaboration on Compliance and Enforcement) subject to the following exceptions, adaptations and modifications -</p> <p>(a) paragraphs 1 and 2 of that Article are omitted,</p> <p>(b) in paragraph 3 of that Article for the words "Each Party may allow Reporting Financial Institutions to use" there is substituted "Reporting Guernsey Financial Institutions may use",</p> <p>(c) paragraph 4 of that Article is omitted.</p> <p><b>Article 7</b> (Consistency in the Application of FATCA to Partner Jurisdictions)</p> <p><b>Article 9</b> (Annexes)</p> <p><b>Annex I</b> (due diligence obligations for identifying and reporting on U.S. reportable accounts and on payments to certain nonparticipating financial institutions) subject to the following exceptions, adaptations and modifications -</p> <p>(a) in Section I of that Annex (General), in paragraph A, for the words "Guernsey shall require that Reporting Guernsey Financial Institutions apply" there is substituted "Reporting Guernsey Financial Institutions must apply",</p> <p>(b) in Section I of that Annex (General), in paragraph C -</p> <p>(i) for the words "Guernsey may permit Reporting Guernsey Financial Institutions to rely" there is substituted</p>
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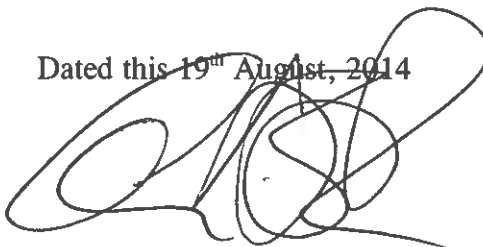


	<p>"Reporting Guernsey Financial Institutions may make (and must subsequently retain a copy of) a written election, in such form if any as the Director of Income Tax may require, to rely",</p> <p>(ii) for the words "Guernsey may permit Reporting Guernsey Financial Institutions to make" there is substituted "Reporting Guernsey Financial Institutions may make",</p> <p>(c) in Section II of that Annex (Pre-existing Individual Accounts), in paragraph A (Accounts not Required to Be Reviewed, Identified, or Reported) -</p> <p>(i) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election otherwise, in such form if any as the Director of Income Tax may require," ,</p> <p>(ii) the words "where the implementing rules in Guernsey provide for such an election," are omitted,</p> <p>(d) in Section III of that Annex (New Individual Accounts), in paragraph A (Accounts not Required to Be Reviewed, Identified, or Reported) -</p> <p>(i) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election otherwise, in such form if any as the Director of Income Tax may require," ,</p> <p>(ii) the words "where the implementing rules in Guernsey provide for such an election," are omitted,</p> <p>(e) in Section IV of that Annex (Pre-existing Entity Accounts), in paragraph A (Entity Accounts not Required to Be Reviewed, Identified, or Reported) -</p> <p>(i) for the words "elects otherwise" there is substituted "makes (and</p>
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		<p>subsequently retains a copy of) a written election otherwise, in such form if any as the Director of Income Tax may require,"</p> <p>(ii) the words "where the implementing rules in Guernsey provide for such an election," are omitted,</p> <p>(f) in Section V of that Annex (New Entity Accounts), in paragraph A (Entity Accounts not Required to Be Reviewed, Identified, or Reported) -</p> <p>(i) for the words "elects otherwise" there is substituted "makes (and subsequently retains a copy of) a written election otherwise, in such form if any as the Director of Income Tax may require,"</p> <p>(ii) the words "where the implementing rules in Guernsey provide for such election," are omitted,</p> <p>(g) in Section VI of that Annex (Special Rules and Definitions), in paragraph D.4 (Documentary Evidence), the words "other than a Form W-8 or W-9," are omitted,</p> <p>(h) in Section VI of that Annex (Special Rules and Definitions), in paragraph F (Reliance on Third Parties), for the words "Guernsey may permit Reporting Guernsey Financial Institutions to rely" there is substituted "Reporting Guernsey Financial Institutions may make (and must subsequently retain a copy of) a written election, in such form if any as the Director of Income Tax may require, to rely".</p> <p><b>Annex II (Exempt Beneficial Owners and Deemed-Compliant FFIs) subject to the following exceptions, adaptations and modifications -</b></p> <p>(a) the second paragraph of that Annex (the text of which begins with the words "This Annex II may be modified by a mutual agreement") is omitted.</p>
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Dated this 19<sup>th</sup> August, 2014



DEPUTY G. A. ST PIER

Minister of the Treasury and Resources Department

For and on behalf of the Department

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#### EXPLANATORY NOTE

*(This note is not part of the regulations)*

These Regulations implement and enable the administration and enforcement in domestic law of the approved international agreements providing for the obtaining, furnishing and exchanging of information in relation to tax made between the States of Guernsey and the Government of the United Kingdom of Great Britain and Northern Ireland, signed at London on the 22<sup>nd</sup> October, 2013 (the Agreement to Improve International Tax Compliance) and between the States of Guernsey and the Government of the United States of America, signed at London on the 13<sup>th</sup> December, 2013 (the Agreement to Improve International Tax Compliance and to Implement FATCA).

