

## BULLETIN 2015/3

### Guidance Notes

1. Updated draft guidance for the to The Income Tax ( Approved International Agreements (Implementation) United Kingdom and United States of America Regulations, 2014 (“The Regulations”) guidance notes have now been released, and are available to download from [insert hyperlink]

The latest version of the guidance notes is timed to coincide with necessary legislative updates to The Regulations and incorporates these changes, as well as some additional clarifications and updates. The main changes are as follows;

#### **a) Changes to guidance reflecting Legislative Amendments**

- **Reversal in election by Financial Institutions.** To ensure that RGFIs could not be seen to breach data protection obligations by exchanging information on accounts below the *de minimis* thresholds, RGFIS will now have to elect to not report accounts under the *de minimis* thresholds. However, this election does NOT need to be submitted to the Director; the exact format of an election may be determined by the RGFIs, but should be written and retained by the RGFIs. The Director does not require any other method of election.
- **Consistency in treatment of sponsoring regimes under US and UK reporting.** For US reporting, sponsoring entities must not only agree to perform all due diligence, reporting and other requirements under the IGA that the sponsored entity might have, but actually perform these duties. Failure of the Sponsoring Entity to do so will immediately cause the Sponsored Entity to revert back to its Reporting Guernsey Financial Institution status, and once again responsible for its own due diligence, reporting and liable to the sanctions under the Regulations for such failings.

#### **b) Other amendments**

- Amendment of text to clarify reporting requirements through IGOR, including more information on Nil Returns [19.3]
- Additional information on reporting using the Information Gateway Online Reporter, to include links to additional Reporting Schema information and the IGOR forum, for technical information.
- Format of Elections made by RGFIs (Thresholds and ARR).

- Additional information on Trusts, including classification of trusts when managed by an FI, Due diligence requirements where there have been previous distributions, loans made to settlors/beneficiaries.
- Treatment of liquidated entity [12.9 & 12.10] and expansion on the “Regularly Traded” tests, with addition text relating to “ widely held” [12.10].
- Format of reporting using IGOR [9.11] See also below.