

instance, the Reporting Financial Institution would require notification from the trustee that a distribution has been made to that discretionary beneficiary. **This option is offered.**

17. Transitional challenge resulting from staggered adoption of CRS

The CRS contains a so called “look-through” provision pursuant to which Reporting Financial Institutions must treat an account that is held by an Investment Entity which is not a Participating Jurisdiction Financial Institution as a Passive NFE and report the Controlling Persons of such entity that are Reportable Persons. This presents operational challenges given that certain jurisdictions have agreed to start exchanging information in 2017 or 2018. As such, Financial Institutions will need to manage entity account classifications on a jurisdiction by jurisdiction basis. The CRS provides an option for jurisdictions to address this transitional implementation issue by treating all jurisdictions that have publicly, and at government level, committed to adopt the CRS by 2018 as Participating Jurisdictions for a transitional period. This therefore means that any Investment Entity resident in a Schedule 3 jurisdiction will be treated as a Financial Institution and not as a Passive NFE. As a result, Reporting Financial Institutions will not be required to apply the due diligence procedures for determining the Controlling Persons of such Investment Entities or for determining whether such Controlling Persons are Reportable Persons. **This option is offered.**

5. EXCLUDED ACCOUNTS

5.1. Certain Financial accounts are seen to be low risk of being used to evade tax and are specifically excluded from needing to be reviewed. These excluded accounts include several of the categories of accounts excluded from the

definition of Financial Accounts in the FATCA IGA. The non-reportable accounts are jurisdiction specific in that what is low risk can vary from jurisdiction to jurisdiction. It is proposed that for Jersey the following are to be considered non-reportable accounts –

- Retirement and pension accounts
- Non-retirement tax favoured accounts
- Term Life Insurance contracts
- Estate accounts
- Escrow accounts
- Depository accounts due to not returned overpayments
- Other low risk excluded accounts

Details of what is covered by the above categories is to be found in Section VIII of the CRS Commentaries.

5.2 Low risk excluded accounts can be specified if the CRS criteria set out in the Commentary on Section VIII (para 97) can be met.

5.3 Dormant accounts as defined in paragraph 9 of the CRS Commentary on Section III will be viewed as excluded accounts if the annual balance does not exceed 1000 US Dollars

[Note: there may be other accounts that are considered to meet the CRS definition of low risk and representations made to this effect will be carefully considered by the Jersey authorities]

6. NON-REPORTING FINANCIAL INSTITUTIONS

6.1 The concept of Non-Reporting Financial Institution is similar to that in FATCA whereby some are specifically excluded from being required to report and some are reported by other Reporting Financial Institutions. It is considered that a starting point in compiling a list of non-reporting financial institutions are those so treated with respect to the FATCA IGA. It is proposed that for Jersey the list of non-reporting financial institutions would include the following –

- Governmental entities ; and their pension funds
- International organisations
- Central Banks
- Certain retirement funds
- Qualified Credit Card Issuers
- Exempt Collective Investment Vehicles
- Trustee Documented Trusts
- Other low risk Financial Institutions

Details of what is covered by the above categories is to be found in Section VIII of the CRS Commentaries.

6.2 Low risk non-reporting financial institutions can be specified if the CRS criteria set out in the Commentary on Section VIII (para 45) can be met. In this respect regard will also be had for the approach adopted by the UK. For example the intention is to follow the UK Guidance Notes on CREST as follows:-

FINANCIAL INSTITUTIONS: CUSTODIAL INSTITUTION: CENTRAL SECURITIES DEPOSITORY

In the UK a Central Securities Depository (CSD) will not be treated as maintaining financial accounts. The participants of UK securities settlement systems that hold interests recorded in the CSD are either Financial Institutions in their own right, or they access the system through a Financial Institution (a sponsor). It is these Financial Institutions that maintain the

accounts and it is these participants and/or sponsors that are responsible for undertaking any reporting obligations. For example, members of the CREST securities settlement system operated by Euroclear UK & Ireland Limited (EUI), or the Financial Institution that accesses EUI on their behalf, are responsible for any reporting required in respect of securities held by means of EUI. EUI acting as the CSD is not required to undertake any reporting in respect of such securities. This treatment will also apply to a UK entity which is a direct or indirect subsidiary used solely to provide services ancillary to the business operated by that CSD (CSD Related Entity). The relationship between the securities settlement system and its participants is not a financial account and accordingly the CSD and any CSD Related Entity is not required to undertake any reporting required in connection with interests held by, or on behalf of, participants.

Notwithstanding the foregoing, the CSD may act as a third party service provider and report on behalf of such participants in respect of reportable interests.

6.3 In considering the reporting requirements for occupational pension plans the position set out in Appendix 4 of the FATCA/IGA Guidance is maintained taking account of the definitions for Broad Participation Retirement Fund and Narrow Participation Retirement Fund in the CRS. Plans that are registered with the Jersey tax authorities and where Form 11SF is submitted are considered to meet the requirement of “subject to government regulation and provides information reporting to the tax authorities”.

[Note: there may be other financial institutions that are considered to meet the CRS definition of low risk and representations made to this effect will be carefully considered by the Jersey authorities]