

JERSEY

THE COMMON REPORTING STANDARD (CRS) AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION GUIDANCE NOTES

Revised October 2016

Extracts

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 The UK Guidance is also followed in respect of equity and debt interests in an Investment Entity where those interests are regularly traded on an established securities market.

Where such interests are held in uncertified form through CREST, the CREST members and sponsors will be Reporting Financial Institutions and will be carrying out due diligence and reporting for CRS purposes. In those circumstances an ITC, for example, would not need to report in respect of its uncertified shareholders as that would otherwise lead to duplicated reporting.

Where new accounts arise as a result of interests acquired on the secondary market, a periodic check for new shareholders will be required. The frequency of such checks will depend on the systems and processes that are in place. An annual check may be considered adequate if performed at the year-end if the systems in place are sufficiently robust. However, for operational reasons the registrar may perform the checks at six monthly or more frequent intervals.

For new primary market issues the share application form can be amended to include the self-certification required on new account opening. Any incomplete applications would need to be returned to the applicant. In accordance with existing AML practice, incomplete applications could be accepted and the missing information be requested but if the missing information was not received the shares could be re-allotted or sold to a third party and/or the register of members rectified, provided that the terms and conditions of the Offer allowed this.

6.4 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]