The treatment of Sponsors by the Information Gateway Online Reporter (IGOR)

Bulletin 2016/5

Notice issued in accordance with Regulation 4 of the Income Tax (Approved International Agreements) (Implementation) (United Kingdom and United States of America) Regulations, 2014 ("the 2014 Regulations"), to Reporting Guernsey Financial Institutions ("RGFIs") for clarification as to the structure of reporting in the case of Sponsoring Entities for the both the US Intergovernmental Agreement (US IGA) and the UK Intergovernmental Agreement (UK IGA).

US IGA

When determining which Financial Institution (FI) has made a report, IGOR looks to the GIIN of the FI detailed in the ReportingFI element of the XML file submitted. So for example, where a XML file is submitted which included the following:

<ftc:ReportingFI>
       <sfa:TIN issuedBy='US'>12345.00000.SP.999</sfa:TIN>
       <sfa:Name>Example Sponsored company</sfa:Name>

IGOR would identify which FI has made a report, and as such fulfilled its obligations based upon the GIIN which is shown highlighted above. It would then cross reference this against the FI registered on IGOR by this same GIIN.

Where you have a Sponsoring Entity undertaking the reporting for a Sponsored Entity, for the 2014, 2015 and 2016 reporting years, there was no requirement for Sponsored Entities to hold their own GIIN's. This is covered in a FAQ published on the US IRS website which currently states the following:

"*Q1. We are a Sponsoring Entity, and we would like to register our Sponsored Entities. How do we register our Sponsored Entities?*
The Sponsoring Entity that agrees to perform the due diligence, withholding, and reporting obligations of one or more Sponsored Entities pursuant to Treas. Reg. §1.1471-5(f)(1)(i)(F) should register with the IRS via the FATCA registration website to be treated as a Sponsoring Entity. To allow a Sponsoring Entity to register its Sponsored Entities with the IRS, the Sponsoring Entity must register its Sponsored Entities using the FATCA registration website see FATCA Online Registration User Guide for additional instructions on how to add Sponsored Entities.

While a Sponsoring Entity is required to register its Sponsored Entities for those entities to obtain GIINs, the temporary and proposed regulations provide a transitional rule that, for payments prior to January 1, 2016, permit a Sponsored Entity to provide the GIIN of its Sponsoring Entity on withholding certificates if it has not yet obtained a GIIN. Thus, a Sponsored Entity does not need to provide its own GIIN until January 1, 2017 and is not required to register before that date.

Updated: 02-02-2016"

In light of this, for the 2014, 2015 and 2016 reporting years only, the Sponsoring Entity needs to register on IGOR and when making a report, for each Sponsored Entity that it is acting for, these should be named as the ReportingFI in any report being made, but the GIIN given should be that of the Sponsoring Entity. As such, for the purposes of IGOR, it simply checks that a report (or reports) have been submitted by the Sponsoring Entity by checking that an XML file has been received including the GIIN of the Sponsoring Entity by the organisation making the report.

The treatment of the ReportingFI element is also clarified in the FATCA XML v1.1 User Guide published by the US IRS which states the following:

"The reporting FI is the Sponsored FFI and the Sponsoring FFI is identified in the Sponsor group…"

The structure of a XML report should, therefore, include the following:

SendingCompanyIN: Either an IGOR organisation ID (recommended), or the GIIN of a FI which has been registered within your IGOR Organisation. In this case, it would be the GIIN of the Sponsoring Entity (12345.00000.SP.999 using the example above).

ReportingFI: This should include the name of the <u>Sponsored Entity</u>, but the GIIN of the <u>Sponsoring Entity</u>. This is as detailed above:

```
<ftc:ReportingFI>
        <sfa:TIN issuedBy='US'>12345.00000.SP.999</sfa:TIN>
        <sfa:Name>Example Sponsored company</sfa:Name>
```

Sponsor: It is within the ReportingGroup element of the XML file that the Sponsoring Entity is identified and this should include both the name and the GIIN of the Sponsoring Entity, as follows:

```
<ftc:Sponsor>
        <sfa:TIN issuedBy='US'>12345.00000.SP.999</sfa:TIN>
        <sfa:Name>Sponsoring company</sfa:Name>
```

Where a single XML file is being submitted by a Sponsoring Entity for multiple Sponsored Entities, then the above elements should be included for each separate Sponsored Entity.

The above process would only be accepted for the 2014, 2015 and 2016 reporting years, and as from 1 January 2017, the US IRS require all Sponsored Entities to hold a GIIN and as such, when making a report, the correct GIIN for the Sponsored Entities should be included in the ReportingFI elements. Additionally, the Sponsored Entities will also need to be registered on IGOR in order for the reports made to correlate.

UK IGA

*** Please be reminded that under the Guernsey-UK IGA (Annex III.III.B.2, guidance notes 5.3.2), the Sponsoring Entity MUST be a Guernsey Financial Institution (i.e. a US or a UK Financial Institution may not act as Sponsoring Entity for a Guernsey Sponsored Entity. It may, however, file the report on the Third Party basis).***

Unlike the US IGA, there is no requirement for FIs to hold a GIIN. For the purposes of registration on IGOR, if a GIIN is held, then this can be given, but alternatively a FI can be registered based solely on its legal name, which is checked by the Income Tax Office. The same would obviously apply to Sponsoring Entities registering on IGOR.

As there is no requirement to hold a GIIN, the treatment when determining which Financial Institution (FI) has made a report is slightly different. IGOR will first look at the GIIN of the FI detailed in the ReportingFI element of the XML file submitted, and if there is no such FI in the IGOR organisation, then this report will be rejected. If no GIIN is provided for the ReportingFI IGOR will then look for a registered FI with a name which matches exactly the name given as the ReportingFI Name. Again, if this does no correlate with a FI registered by the organisation then this report will be rejected.

As a consequence of the above, the treatment of a Sponsoring Entity will be determined by how this has been registered on IGOR based upon whether this has been registered by giving a GIIN or based solely on the name of the Sponsoring Entity.

1.   **Where the Sponsoring Entity has been registered <u>with</u> a GIIN**

The treatment of the Sponsoring Entity will duplicate that of the US IGA as detailed above.

2.   **Where the Sponsoring Entity has been registered <u>without</u> a GIIN**

As the Sponsoring Entity has not been registered with a GIIN and the details included in the ReportingFI elements need to detail the <u>Sponsored Entity</u>, it is not possible to follow the same treatment of the US reporting whereby the name is given as the Sponsored Entity, but the GIIN is given as the Sponsoring Entity. This is due to the fact that in the absence of a GIIN, IGOR looks to the name of the Sponsored entity to determine which FI has made a report.

As detailed above, it is the name of the FI that IGOR looks to when determining which FI has made a report. It is necessary that this name matches exactly the name given as the ReportingFI Name and also a FI registered within the organisation making the report. If this does not correlate with a FI registered by the organisation then this report will be rejected.

As such, unlike US IGA Sponsoring Entities or UK IGA Sponsoring Entities where a GIIN is held and has been used when registering, it is necessary that **all Sponsored Entities are registered with IGOR** in order to correlate the reports made against a FI.

The structure of a XML report should, therefore, include the following:

SendingCompanyIN: If this is the Sponsoring Entity then this would be the IGOR organisation ID.

ReportingFI: This should include the name of the <u>Sponsored Entity</u>, and the GIIN of the <u>Sponsored Entity</u> if applicable and if the Sponsored entity has been registered with a GIIN on IGOR:

```
<ftc:ReportingFI>
        <sfa:TIN issuedBy='US'>67890.99999.SL.999</sfa:TIN>
        <sfa:Name>Example Sponsored company</sfa:Name>
```

Sponsor: It is within the ReportingGroup element of the XML file that the Sponsoring Entity is identified and this should include the name of the Sponsoring Entity, as follows:

```
<ftc:Sponsor>
        <sfa:Name>Sponsoring company</sfa:Name>
```

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