Trustee Documented Trusts (TDTs) Reporting for the Common Reporting Standard (CRS)

Bulletin 2017/3

This Bulletin is issued under the provisions of Regulation 12 of The Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015 ("The Regulations").

The intention of this Bulletin is to provide Guidance and example ahead of revised Supplementary Guernsey Guidance Notes on Automatic Exchange of Information (AEOI) for the Common Reporting Standard specific to the treatment of TDTs where reports are submitted on the Information Gateway Online Reporter (IGOR).

It is possible for a trust (which for the purposes of the CRS, trusts are treated as an entity), which would ordinarily meet the criteria to be considered a Reporting Financial Institution (RFI) in accordance with the definition contained in Section VIII of Schedule 2 of the Regulations, to in fact be considered to be a Non-Reporting Financial Institution where the following criteria are met:

1. the trustee of the trust is itself a Reporting Financial Institution (RFI); and

2. in that capacity the trustee completes all of the CRS reporting requirements, as detailed in Section I of Schedule 2 of the Regulations.

In this scenario, where the trustee is submitting a report on behalf of a TDT, the trustee reports for that Trust, the Trustee (so long as this is a Reporting Financial Institution (RFI)) must report the information as the TDT would have reported it (e.g. to the same jurisdiction) AND identify the TDT with respect to which it is fulfilling the reporting and due diligence obligations.

In such circumstances, the "RFI" on the reporting schema (being the electronic template on which CRS data is populated) will be the trust itself and must be identified as such when making a report (namely the <ReportingFI> element of the schema). Paragraph 56 of the OECD commentary on the CRS specifically states that "…*the trustee must not report the information with respect to a Reportable Account of the Trustee-Documented Trust as if it were a Reportable Account of the trustee*…".

The OECD CRS and Commentary can be found here:

[Standard for Automatic Exchange of Financial Account Information in Tax Matters, Second Edition](#)

The reporting trustee may be identified in the Message Header of the Schema as the sender of the report (the <SendingCompanyIN> element of the report) or alternatively named as a "Contact" (the <Contact> element of the report).

In order to make a report, it will be necessary for the trustee to arrange for the trust to be registered as an RFI on IGOR under the relevant organisation structure (in order to register a trust on IGOR please use the following link: IGOR). If a report is made with only the trustee (organisation) registered it will be rejected. This is because when looking at a submitted report, IGOR matches the data in the <ReportingFI> elements of the schema to determine which FI has made a report.
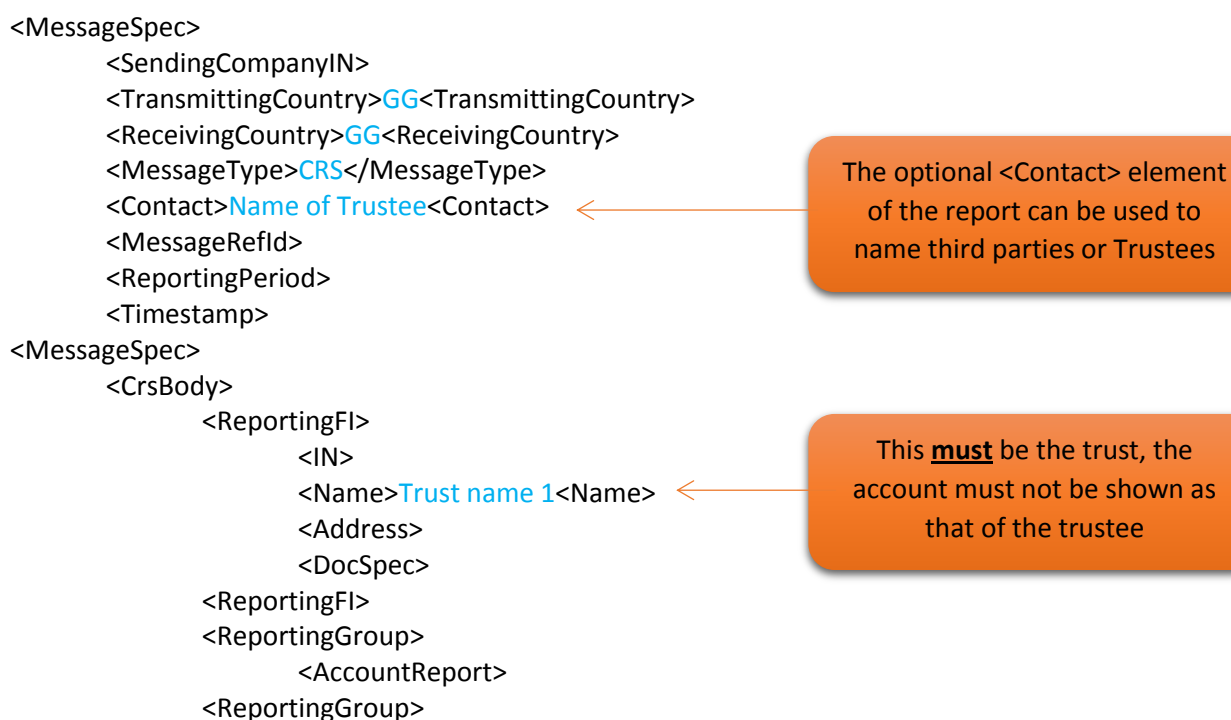
So in the scenario where ABC Trust's accounts are being reported by 123 Trustee Limited, it will be necessary for:

- 123 Trustee Limited to register ABC Trust as an RFI under its organisational name on IGOR;

- the CRS report submitted by 123 Trustee Limited MUST detail ABC Trust in the <ReportingFI> element of the schema; and

- in doing so the schema validation testing carried out by IGOR will reconcile that ABC Trust is a RFI that has submitted a report detailing itself as the <ReportingFI>, therefore, this element of the account report will be validated.

Bulletin 2016/4 was previously issued by the Director addressing the reporting of TDT's for 2015 and 2016, where the Trustee was shown in the sponsor section of the reporting schema. For the avoidance of doubt, this earlier guidance was issued purely in relation to the reporting of TDTs for FATCA and was not intended to be reflective of the treatment for the CRS.

It is also possible to submit consolidated reports (namely reports containing more than one RFI) and this also applies to trustees, reporting on behalf of multiple TDTs. As such, it is not necessary in these circumstances to submit a separate report for each TDT individually. Where consolidated reports are submitted, the use of the Sponsor section of the schema should not be used for the CRS, but the CRS reports can contain multiple RFIs so long as there is only one 'ReportingFI' and 'Reporting Group' in each 'CrsBody' element of the report, as illustrated below:

IMPORTANT: The "Sponsor", "Intermediary" and "Pool Report" elements of the of the CRS schema **should not** be used and may result in a report being rejected by IGOR.

```
<MessageSpec>
       <SendingCompanyIN>
       <TransmittingCountry>GG<TransmittingCountry>
       <ReceivingCountry>GG<ReceivingCountry>
       <MessageType>CRS</MessageType>
       <Contact>Name of Trustee<Contact>
       <MessageRefId>
       <ReportingPeriod>
       <Timestamp>
<MessageSpec>
       <CrsBody>
              <ReportingFI>
                     <IN>
                     <Name>Trust name 1<Name>
                     <Address>
                     <DocSpec>
              <ReportingFI>
              <ReportingGroup>
                     <AccountReport>
              <ReportingGroup>
```

The optional <Contact> element of the report can be used to name third parties or Trustees

This **must** be the trust, the account must not be shown as that of the trustee

```
</CrsBody>
<CrsBody>
     <ReportingFI>
          <IN>
          <Name>Trust name 2<Name>
          <Address>
          <DocSpec>
     <ReportingFI>
     <ReportingGroup>
          <AccountReport>
     <ReportingGroup>
</CrsBody>
```

This is a second report in a consolidated report.

Note: this should only contain one <Reporting FI> and one <ReportingGroup> in each <CrsBody> element

In the event that you wish to test the submission of a report ahead of the deadline for reporting, this can still be done by setting up a test organisation on IGOR.

2 May 2017