



**XXV
2013**

BILLET D'ÉTAT

WEDNESDAY 11th DECEMBER 2013

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BILLET D'ÉTAT

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I hereby give notice pursuant to Rule (1)(4) of the Rules of Procedure of the States of Deliberation that the items contained in this Billet d'État which have been submitted for debate will be considered at the Meeting of the States of Deliberation already convened for **WEDNESDAY, the 11th DECEMBER, 2013.**

R. J. COLLAS
Bailiff and Presiding Officer

The Royal Court House
Guernsey
22nd November 2013

PRIaulx LIBRARY COUNCIL

NEW MEMBER

The States are asked:-

I.- To elect a member of the Priaulx Library Council to fill the vacancy which will arise on 1st January 2014, by reason of the expiration of the term of office of Deputy Roger Domaille, who is eligible for re-election.

(NB Each year the States elect a member of the Priaulx Library Council, who does not need to be a sitting Member of the States, to serve a two year term.)

POLICY COUNCIL

AUTOMATIC TAX INFORMATION EXCHANGE, GLOBAL STANDARDS IN
TAX TRANSPARENCY AND INTERNATIONAL AGREEMENTS

THE OECD CONVENTION; OECD MODEL; FATCA AND UNITED KINGDOM
INTERGOVERNMENTAL AGREEMENTS

GLOSSARY

The following acronyms and terms are used in this States report:-

AML/KYC	Anti Money Laundering / Know Your Customer
CDs	Crown Dependencies
DTA	Double Tax Agreement
EUSD	European Union Savings Tax Directive
FATCA	Foreign Account Tax Compliance Act
FFIs	Foreign Financial Institutions
FIs	Financial Institutions
G5	A group of five European Union countries, including France, Germany, Italy, United Kingdom and Spain that meet periodically to discuss matters of common importance.
G8	A group of eight countries including United States, Japan, United Kingdom, France, Germany, Italy, Canada and Russia, which brings together eight global leaders to address international issues. The European Union is also represented by the President of the European Commission and by the President of the European Council.
G20	A Group which brings together the finance ministers and central bank governors from 19 countries including Argentina Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, the Republic of Korea, Mexico, Russia, Saudi Arabia, South Africa, Turkey, United Kingdom, and the United States, plus the European Union which is represented by the President of the European Council and by the Head of the European Central Bank, to discuss issues on the global economic and financial agenda.
GIIN	Global Institution Identification Number
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes

HMRC	Her Majesty's Revenue and Customs
IGA	Intergovernmental Agreement
IRS	United States Internal Revenue Service
Non-doms	Non-domiciliaries
OECD	Organisation for Economic Co-operation and Development
OECD Convention	Organisation for Economic Co-operation and Development Multilateral Convention on Mutual Administrative Assistance in Tax Matters
The Income Tax Law	The Income Tax (Guernsey) Law, 1975, as amended.
TIEAs	Tax Information Exchange Agreements

EXECUTIVE SUMMARY

1. The States of Guernsey have a continuing policy commitment to meeting the highest international standards in tax transparency¹. This is based on a moral commitment to fighting tax evasion and rational economic self-interest. Guernsey's international reputation is enhanced by tax transparency and its economic strategy is based on being internationally recognised as a well regulated, tax transparent jurisdiction.
2. The current global standard is based on a model of information exchange on request and, as announced on 4th November 2013 Guernsey now has in place fifty TIEAs including agreements with 26 of the 34 OECD member states.
3. Global standards are continually being improved and there is now a clearly determined move to adopt automatic information exchange² as the new global standard. The principle of automatic exchange as a global aspiration is best demonstrated by the OECD Convention, to which more than 50 countries have become signatories or have stated their intention to do so.
4. The movement to automatic exchange as a new standard was given significant impetus by the United States FATCA. FATCA has effectively driven the creation of a new set of criteria for automatic information reporting. FATCA is global in reach, as the United States taxes on the basis of citizenship, and financial institutions around the world have to comply or face the threat of withholding taxes.
5. Acknowledging automatic exchange was emerging as the new standard, and having already accepted its principle by movement in 2011 to automatic exchange of information under Guernsey's equivalent measures to the EUSD, the Policy Council, after consultation with industry, made an early commitment to seek to enter into an IGA with the United States. Facilitating compliance of firms located in Guernsey via an IGA is preferable to direct reporting by firms to the IRS, owing to potential legal impediments, and as such, IGAs have been negotiated jointly by the three CDs with the United States. Many other jurisdictions have followed a similar route.
6. The United Kingdom Government made clear that prior to its endorsement of any IGA with the United States it expected the CDs (and the Overseas Territories) to agree similar information exchange agreements with the United Kingdom. Over

¹ Fiscal & Economic Plan, Billet d'Etat XVIII, 2009.

² There are three 'levels' of information exchange:

- 1) On request: where specific information is provided subject to a legitimate enquiry from another tax authority.
- 2) Automatic: where set parameters of information are exchanged automatically between tax authorities.
- 3) Spontaneous: where in addition to automatic parameters, tax authorities commit to exchanging additional information to each other if they feel it of value and relevance.

the course of the last twelve months, a similar IGA based on FATCA principles has been negotiated in good faith with the United Kingdom Government ('United Kingdom FATCA').

7. 2013 has been a year of rapid development internationally, culminating in the OECD's consultation on a proposed Model for automatic exchange during September 2013 ('the OECD Model') based on FATCA lines. The rapid adoption of the OECD Model as a formal standard is in Guernsey's economic interest as a formal global standard ensures a level playing field in terms of reporting costs and compliance for firms wherever they are located.
8. Guernsey's leadership on tax transparency is globally recognised. Commenting on Guernsey's TIEA network on 4th November, Pascal Saint-Amans, the OECD's Head of Global Tax Policy said: *"Guernsey has been one of the most active jurisdictions promoting transparency in practice. Guernsey started negotiation of agreements prior to 2009, paving the way for many other jurisdictions. The number of TIEAs signed so far seriously enhances Guernsey's reputation as a responsible and transparent financial centre, as recognised by the Global Forum peer review."* Extending the OECD Convention to Guernsey; entering into an IGA with both the United Kingdom and the United States; and supporting the development, adoption and implementation of the OECD Model are consistent with States policy and will further enhance Guernsey's international reputation for tax transparency and serve Guernsey's best economic interest.
9. This report therefore presents to the States for its decision recommendations to:
 - request the United Kingdom to extend to Guernsey the OECD Convention;
 - agree to enter into an IGA to facilitate automatic information exchange to facilitate Guernsey firms compliance with FATCA;
 - agree and ratify the United Kingdom IGA negotiated in good faith, to facilitate information exchange on similar principles as FATCA, together with the relevant revision to the existing TIEA that will be required to provide the legal platform for automatic information exchange under the United Kingdom FATCA IGA;
 - resolve to continue to engage in the development of the OECD Model and to endorse, promote and adopt, when finalised and introduced as a new standard, the new OECD Model for automatic information exchange;
 - agree to necessary changes to the Income Tax Law to enable the above agreements to be implemented by regulations of the Treasury and Resources Department (but this would not derogate from the principle that approved international agreements would continue to be specified by the States by Ordinance).

INTRODUCTION

10. Tax transparency and information exchange is the basis on which global tax evasion is fought, a process to which the States of Guernsey are fully committed. The States of Guernsey have a continuing policy commitment to meeting the highest international standards on tax transparency.
11. Guernsey's business model is built on legitimate, respectable business. Guernsey's competitive position is enhanced by tax transparency: such a view informed the movement to automatic exchange of information under measures equivalent to EUSD and was done following a full consultation with industry³.
12. Movement to automatic exchange of information under EUSD before certain key competitors had little discernable negative effect on business and anecdotal evidence suggests it was of positive benefit. In the long run total transparency is the best defence of the continued zero rate of corporate tax and the tax neutral business model on which the finance sector is based.
13. The current global standard is based on a model of information exchange on request and, as announced on 4th November 2013 Guernsey now has in place fifty Tax Information Exchange Agreements including agreements with 26 of the 34 OECD member states.
14. Global standards are continually being improved and there is now a clearly determined move to the adoption of automatic information exchange as the new global standard. This has also led to significant changes in attitudes globally.
15. The principle of automatic exchange as a global standard represented by the OECD Convention which provides a legal instrument for such exchange and commits signatories to negotiating automatic exchange agreements with each other. Whilst it remains to be formalised, automatic exchange is close to becoming the new global standard given the sheer volume of signatories to the Convention (currently there are more than 50 countries which are signatories, or are committed to becoming signatories, to the Convention).
16. In addition, on 20th September the OECD circulated for consultation a proposed new common reporting standard, the OECD Model, for automatic exchange of information. The movement to automatic exchange as a new standard was given significant impetus by FATCA and there have been many substantial developments over the course of 2013. The new OECD Model is deliberately being modelled on FATCA.
17. This report recommends that the States commits to the extension of the OECD Convention to Guernsey. It requests that the States agree to enter into an IGA to facilitate automatic information exchange to facilitate Guernsey firms compliance

³ See Billet D'Etat, XXIII, 2010.

with FATCA and agree and ratify the bilateral IGA for information exchange with the United Kingdom (that has been negotiated over the course of the last year in conjunction with officers from Jersey and the Isle of Man) and was signed by the Chief Minister on 22nd October 2013. It also recommends that Guernsey continue to engage in the development of the OECD Model and that the States endorse, promote and adopt, when finalised and introduced as a new standard, the OECD Model as the standard for automatic information exchange agreements in the future.

18. This report sets out in the first section current States Policy. In the following sections it provides: background to information exchange standards and the evolving OECD international standards; background to FATCA and the United Kingdom IGA; a non-technical summary of the IGAs and then sets out the strategic, economic and financial case in support of entering into the IGAs with the United States and United Kingdom. It concludes with the recommendations and resolutions.
19. Given reporting schedules outside the influence of the States (i.e. FATCA deadlines have been imposed by the United States) it is necessary to also present legislation to enact the agreements almost immediately once adopted. The necessary legislation has been prepared and will be presented to the States at its next meeting. The date of signing with the United Kingdom IGA was not consistent with the ordinary Billet publication schedules, as such this report is published as a supplemental Billet. The permission of the Bailiff to do this has been sought and given.

BACKGROUND: STATES POLICY & STRATEGY

20. The States of Guernsey have a continuing policy commitment to meeting the highest international standards on tax transparency. The moves outlined in this report will enhance Guernsey's international reputation for tax transparency and have the full support of industry.
21. The States' economic strategy is based on the view that Guernsey's continuing economic success and future as an international finance centre is best served by continuing to be, and being recognised as being, a well regulated tax transparent jurisdiction.
22. This policy commitment is regularly monitored and reported on by the States Strategic Plan Monitoring Report⁴. Guernsey was an original member of the OECD 'white list' of jurisdictions meeting the then international standard of having negotiated and agreed 12 TIEA agreements. Guernsey's recent signing of its 50th such agreement was acknowledged by Monica Bhatia, Head of the Secretariat to the OECD's Global Forum on Transparency and Exchange of Information with the following comment: *"Guernsey has shown that a small*

⁴ See Appendix I, excerpt from States Strategic Plan Monitoring Report 2013, 'Commitment to international standards on tax transparency'.

jurisdiction with a clear commitment to transparency and exchange of information and strong engagement with partners can set the pace in developing an extensive network of tax information exchange agreements.”

23. Guernsey has long supported the principle of automatic exchange of information. It already automatically exchanges information under measures it adopted equivalent to EUSD, a practice still to be implemented by Luxembourg and Austria.
24. Guernsey’s business model is built on legitimate, respectable business. Guernsey’s competitive position is enhanced by tax transparency. In the long run total transparency is the best defence of the continued zero rate of corporate tax and the tax neutral business model on which the finance sector is based.
25. The moves outlined in this report will enhance Guernsey’s international reputation for tax transparency, have the support of industry and are necessary to secure the continued success and sustainability of Guernsey as an offshore finance centre.

BACKGROUND EVOLVING GLOBAL STANDARDS – THE OECD CONVENTION

26. Over 25 years ago, the OECD and the Council of Europe jointly launched an ambitious project: the development of a multi-lateral convention to facilitate administrative co-operation amongst Member Countries, so they could more effectively counter international tax evasion and other forms of non-compliance. That work culminated, in January 1988, with the opening for signature of the Convention, at that time only to OECD Member countries.
27. In April 2009, the G20 called for action “to make it easier for developing countries to secure the benefits of the new co-operative tax environment, including a multilateral approach for the exchange of information.” At that point, however, it was only open to members of the OECD and of the Council of Europe.
28. In response, the OECD and the Council of Europe developed a Protocol amending the Convention to open it up to all countries. At the G20 Summit in Cannes, France, in November 2011, all G20 countries participated in a ceremony to mark the signing of the amended Convention⁵.
29. In 2 years since the amendment to the Convention, more than 50 countries have either become signatories or have stated their intention to do so.

⁵ See Appendix IIA, IIB, The OECD Convention and Amended Convention respectively.

30. The OECD and Council of Europe said, at the time:

“As amended, the Convention has the potential to become the leading global instrument for tax co-operation around the world. It is the most comprehensive multilateral instrument available in this area. The Convention not only provides for exchange of information (with express provisions on exchange of information on request, spontaneous and automatic), it also includes assistance in recovery [of taxes], the service of documents [relating to tax matters] and can facilitate joint [taxation] audits. This type of multilateral co-operation can also benefit businesses by reducing compliance costs and levelling the playing field.

The Convention is not only a valuable tool for fighting tax evasion; it may also further other law enforcement purposes, such as fighting corruption and money laundering.

While the scope of the Convention is quite broad, the Convention also recognises that not all countries may be interested in engaging in all of the forms of co-operation permitted. It therefore provides the flexibility to lodge reservations in certain areas (e.g. assistance in recovery of taxes) which may be withdrawn at a later stage if the country so desires ...

... a Co-ordinating Body, made up of the competent authorities of the Parties to the Convention, monitors its implementation. All countries that have joined the Convention participate on an equal basis in the Co-ordinating Body and work together to ensure that the Convention operates effectively.”

31. The Convention now provides a legal basis for global multilateral automatic exchange of information, limited only by the number of countries that agree to participate. It provides for a number of possible forms of administrative co-operation between participant countries in the assessment and collection of taxes, in particular with a view to combating tax avoidance and evasion. This co-operation ranges from exchange of information, including automatic exchange, to the recovery of foreign tax claims.
32. As acknowledged in the quotation reproduced above, the Convention itself is very broad and signatories are able to reserve against (i.e. to not commit to) some areas of administrative assistance. However, it is not possible to reserve against the principle of automatic or spontaneous exchange⁶.

⁶ The difference between automatic and spontaneous is real. Automatic exchanges pre-agreed parameters of information. Spontaneous commits to an exchange of information outside these pre-agreed parameters if the information is considered to be likely relevant or useful.

33. Adopting the Convention is a de facto commitment to acceptance of the principle of automatic exchange of information being, inter alia, the basis on which future tax information exchange agreements will be negotiated.
34. As it is a multilateral instrument, adopting the Convention commits a jurisdiction to negotiate bilateral administrative agreements with other signatory jurisdictions on their request. However, the manner and method of automatic exchange of information to date has not been subject to any particular standard. Nor is automatic exchange as yet the accepted formal standard of the Global Forum. Hence the development of the OECD Model (see next section).
35. Guernsey has been requested by the OECD to commit to the Convention at various times in recent years. However, signatories to the convention must be sovereign territories. Thus in 2012, Guernsey, along with Jersey and the Isle of Man, formally requested that the OECD consider amending the convention to allow fiscally independent, but non sovereign jurisdictions to sign the Convention in their own right.
36. Earlier this year, the OECD confirmed that this would not be possible but that the OECD would recognise Guernsey's fiscal independence and confer on it full participation rights in the coordinating body of the Convention in the event of extension to Guernsey of the Convention by the United Kingdom. The United Kingdom confirmed it would respect Guernsey's right to reserve against any permissible articles (and these have been subsequently agreed⁷).
37. In May of this year the Chief Minister wrote to the Secretary General confirming that the Policy Council would bring a report to the States recommending that the Convention be adopted through the United Kingdom.

BACKGROUND EVOLVING GLOBAL STANDARDS – THE OECD MODEL

38. On 19th April 2013, the G20 Finance Ministers and Central Bank Governors endorsed automatic exchange as the expected new standard. On 22nd May 2013 the EU Council unanimously agreed to give priority to efforts to extend automatic exchange at the EU and global level and welcomed the on-going efforts made in the G8, G20 and OECD to develop a global standard.
39. Prior to this, on 9th April 2013, the Ministers of the G5 announced their intention to develop a pilot for multilateral tax information exchange based on their FATCA IGAs negotiated with the United States and to enter into bilateral information exchange agreements with each other in addition to the United States.
40. On 13th April 2013, Belgium, the Czech Republic, the Netherlands, Poland, and Romania also expressed interest in this approach, which by May 14 had been

⁷ These are set out in Appendix IIC.

endorsed by 17 countries, with Mexico and Norway joining the initiative in early June and Australia in July.

41. In May 2013, the Chief Minister, following a decision of Policy Council, wrote to the United Kingdom expressing Guernsey's support for an international standard of automatic exchange of information and for the G5 pilot. A letter of support was also sent to the Secretary General of the OECD.
42. On 12th June 2013 the European Commission adopted a legislative proposal to extend the scope of automatic exchange of information in its directive on administrative co-operation to new items, including dividends, capital gains and account balances.
43. On the 18th June 2013, the OECD Secretary General published a report entitled "A step change in tax transparency" which set out concrete steps that would need to be undertaken to put a global model of automatic exchange into practice.
44. These four steps are: (i) enacting broad framework legislation to facilitate the expansion of a country's network of partner jurisdictions; (ii) selecting the legal basis for the exchange of information; (iii) adapting the scope of reporting and due diligence requirements and coordinating guidance, and (iv) developing common or compatible Information Technology standards.
45. The report provided potential timeframes for each step and noted that much of this work is already underway at the OECD. The report also stressed that a model would need to have worldwide reach to avoid merely relocating the problem of tax evasion elsewhere and that the process would need to be standardised to minimise costs for businesses and governments and to improve effectiveness.
46. On 20th July 2013 the G20 Finance Ministers and Central Bank Governors endorsed the OECD proposals for a global model of automatic exchange in the multilateral context⁸.
47. On 6th September 2013 the G20 leaders reinforced this message and set out an indicative timetable for the presentation by the OECD of a single global standard for automatic exchange by February 2014, for finalising technical modalities of effective automatic exchange by mid-2014 and also for committing to automatic

⁸ "We commend the progress recently achieved in the area of tax transparency and we fully endorse the OECD proposal for a truly global model for multilateral and bilateral automatic exchange of information. We are committed to automatic exchange of information as the new, global standard and we fully support the OECD work with G20 countries aimed at setting such a new single global standard for automatic exchange of information. We ask the OECD to prepare a progress report by our next meeting, including a timeline for completing this work in 2014. We call on all jurisdictions to commit to implement this standard. We are committed to making automatic exchange of information attainable by all countries, including low-income countries, and will seek to provide capacity building support for them. We call on all countries to join the Multilateral Convention on Mutual Administrative Assistance in Tax Matters without further delay. We look forward to the practical and full implementation of the new standard on a global scale".

exchange between G20 members by the end of 2015.⁹ The G20 leaders also asked the Global Forum to establish a mechanism to monitor and review the implementation of the new global standard on automatic exchange of information.

48. On 20th September 2013, the OECD circulated a consultation document on a standard for automatic exchange of financial account information for comment which was discussed at a working session in Paris on 16th October 2013. Whilst the document remains confidential presently, the proposed common standard draws on the United States FATCA regime. The States of Guernsey are part of the consultation group and participated in the working session.

BACKGROUND TO FATCA

49. FATCA is a United States law aimed at FFIs and other financial intermediaries to prevent tax evasion by United States persons through the use of offshore accounts. The FATCA provisions were included in the HIRE Act, which was signed into United States law on 18th March 2010.
50. FATCA creates a new tax information reporting regime for payments made to certain foreign financial institutions with United States citizens as clients. If reporting requirements are not met from 1st July 2014 a 30% withholding tax will be applied to payments to foreign financial institutions with United States clients. Relevant financial institutions must enter into new reporting arrangements with the IRS of the United States by 1st July 2014 or be subject to the withholding arrangements.
51. As an alternative to company by company agreements five countries, the G5 announced their intent, on 8th February 2012, to pursue government to government frameworks for implementing FACTA. The United Kingdom was the first to conclude such an arrangement in September 2012 and published the final agreement reached with the United States and an accompanying consultation document on implementation of the agreement. Following the announcements of the ‘five’ it is known that 37 further jurisdictions have expressed an interest in negotiating similar arrangements although to date just nine IGAs have been concluded (the CDs would make it twelve).

9 “We commend the progress recently achieved in the area of tax transparency and we fully endorse the OECD proposal for a truly global model for multilateral and bilateral automatic exchange of information. Calling on all other jurisdictions to join us by the earliest possible date, we are committed to automatic exchange of information as the new global standard, which must ensure confidentiality and the proper use of information exchanged, and we fully support the OECD work with G20 countries aimed at presenting such a new single global standard for automatic exchange of information by February 2014 and to finalizing technical modalities of effective automatic exchange by mid-2014. In parallel, we expect to begin to exchange information automatically on tax matters among G20 members by the end of 2015. We call on all countries to join the Multilateral Convention on Mutual Administrative Assistance in Tax Matters without further delay. We look forward to the practical and full implementation of the new standard on a global scale.”

52. The IGA comprised several parts, the preamble or ‘citations’; the IGA Articles; Annex I setting out the due diligence requirements for the identification of United States reportable accounts, and Annex II setting out a series of products and beneficial owners of accounts that are exempt from the reporting requirements.
53. FATCA is United States law and global in reach but implementation through an IGA clearly requires domestic legislation. Thus the implementation of an IGA is within the control of individual jurisdictions and some discretion is retained in implementation to accommodate practical issues but importantly, and obviously, the spirit and intent of the agreement must not be circumnavigated.
54. The United Kingdom included its legislative text for the implementation of its IGA with the United States in its Finance Bill 2013, published in December 2012. The guidance for implementation of the United Kingdom / United States IGA has subsequently been subject to several revisions and subsequent consultations. The latest of which was published on 14th August 2013.
55. The IGA between the United States and United Kingdom effectively defined the template for future IGAs except in the area of Annex II. The United Kingdom, being the first to negotiate such a treaty, negotiated a ‘list’ based Annex II, i.e., setting out by specific reference a list of products and beneficial owners, exempt from the reporting requirements. Subsequently, given the time and resource required to negotiate country by country lists, the United States defaulted to a rules based Annex II, effectively describing the criteria for products and beneficial owners to qualify for exempt status.
56. Following the February 2012 announcement of the G5, the States of Guernsey, through the Fiscal and Economic Policy Group and in consultation with the Finance Sector Group, reviewed the strategic and economic case for an IGA with the United States to implement FATCA. The case in favour of securing an IGA was overwhelming given the immense practical and legal advantages of the implementation of FATCA through an IGA and the clear positive reputational message that entering into such an agreement would send.
57. Thus after confirming with the United Kingdom that Guernsey’s current entrustment for TIEA arrangements extended to encompass an IGA for FACTA, Policy Council under its external relations mandate was asked to confirm that it concurred with the view that entering into an IGA with the United States would be in Guernsey’s best economic interest; and to agree that officers could commence the process of negotiation of an IGA with the United States.
58. On the 9th October 2012, a co-ordinated press statement with Jersey and the Isle of Man announced the CDs intent to negotiate and enter into an IGA with the United States. The negotiations with the United States had to all intents and purposes been concluded until the United States Federal Government shutdown led to a delay in final preparations for signing. On resumption the United States relayed the information that a generic issue with the IGAs had been raised (generic insofar

as it related to all IGAs not specifically to those of the CDs) which was in the process of the United States State Department. Thus at the time of drafting of this report, it has not been possible to finalise sign the United States IGA and thus it cannot be published at this juncture. The States is, therefore, being recommended to agree in principle the agreement of an IGA with the United States to facilitate FATCA compliance for Guernsey firms subject to it being presented to the States for decision in practice at a later date.

BACKGROUND TO THE UNITED KINGDOM IGA

59. During the course of the autumn of 2012, the United Kingdom Government made clear that prior to its endorsement¹⁰ of any IGA negotiated with the United States it expected the CDs (and the Overseas Territories) to agree similar information exchange agreements with the United Kingdom. This effectively became a condition of signing an IGA with the United States.
60. In November 2012 a meeting was held between officers of the three CDs and the United Kingdom to discuss the United Kingdom position, with news of (and the reason for) the meeting being leaked to the media. Within two weeks of the press reports the Isle of Man unconditionally committed to enter into an IGA with the United Kingdom to exchange FATCA style information.
61. Guernsey, together with Jersey, communicated its support in principle for automatic exchange of information but made it clear that the lack of a (then) global standard for such exchange required that economic interests needed to be taken into account before any agreement in practice could be negotiated. Key amongst these were the commitment by the United Kingdom to renegotiate the existing DTA with Guernsey; a deferred implementation date and an alternative reporting regime for non-domiciled United Kingdom payers that accommodated their differing status and required reporting under United Kingdom domestic tax law¹¹.
62. Extensive but informal consultation with industry was undertaken to inform the subsequent negotiations. The Fiscal and Economic Policy Group undertook

¹⁰ Under the terms of the 2009 Letter of Entrustment from the UK's Ministry of Justice the States of Guernsey are empowered to negotiate directly and conclude agreements with sovereign jurisdictions in the area of tax information exchange but any agreements must first be submitted to the UK Government prior to their signature. Ordinarily this is merely a formal technicality, the power is reserved to ensure that agreements are not entered into which would be detrimental to the UK's international reputation.

¹¹ This is a pivotal issue. The information that is required to be reported under US FATCA is extensive. It is justified by the requirement of the IRS to ensure that the taxpayer who is being taxed on the basis of citizenship does not evade tax and thus arguably all information is relevant. The information agreed under UK FATCA is similarly extensive (as it is in the OECD Model) and is again justified by the fact that all information is relevant as the taxpayer is being taxed on the basis of residence. However, for the UK non-domiciliary regime, the basis of taxation is on UK source income and remittances only, the UK regime deliberately disavows any taxation rights on unremitted non-UK source income so the case for the same extent of information exchange is not justified.

quantitative analysis to assess the risks to Guernsey's economy of a failure to enter into a United States IGA.

63. This analysis was unequivocal in its conclusion that it was imperative that a United States IGA was concluded and that the alternative of direct reporting by industry was not a viable alternative¹². This view was supported by industry leaders and representative groups and, therefore, a formal consultation on the alternatives was redundant.
64. The United Kingdom quickly agreed to the principle of a timing deferral and to the principle of renegotiation of the DTA. The agreement in principle of the terms of an alternative reporting regime for non-doms was not reached until early March 2013.
65. At that juncture the Chief Minister, following the agreement of Policy Council, made a public statement that an agreement for an IGA had been reached in principle but that any such agreement remained subject to a subsequent decision of the States.
66. The principles of the terms for the alternative reporting regime were informed by prior consultation with industry and the final detailed terms were also subject to subsequent consultation and confirmation that the proposed level of information exchange should not lead to migration of business¹³. The working groups also noted that the reporting requirements do not take effect under the alternative reporting regime until 2016, by which time automatic information exchange is expected to have formally become the international standard and jurisdictions such as Switzerland¹⁴ have already made clear signals of their intent to adopt automatic exchange.
67. Over the course of the last six months, officers (in close collaboration with officers from Jersey and the Isle of Man) have negotiated the final details of an IGA with the United Kingdom Government. Officers have also worked closely with industry through dedicated working groups during the course of these negotiations. However, if agreed by the States, there will continue to be consultation on the matter of its implementation and further input will be required

¹² Indeed in the impact assessments undertaken, the negative impact of the lack of a US IGA was greater than the negative impact of the scenario of a UK IGA without the alternative reporting regime.

¹³ The obvious concern was that unnecessary levels of information exchange would result in non-doms moving their accounts to jurisdictions where disclosure requirements do not exist for reasons of confidentiality and the principle that the UK has expressed no taxing rights on unremitted non-UK source income. The level of information disclosure that has been agreed is sufficient for the UK to make a reasonable assessment of the risk of tax evasion. See also paragraphs 83 and 84.

¹⁴ In June 2013, the Brunetti Report commissioned for the Swiss Federal Government concluded that automatic exchange for Switzerland was inevitable and recommended it adopt the OECD Convention and enter into negotiations with the EU to agree automatic exchange measures equivalent to the EUSD. The Swiss Federal Government announced its intent to join the Convention in October 2013 and is currently negotiating its mandate for EU negotiations with the Swiss Cantons.

from industry in developing interpretation in the form of guidance notes. This process applies equally to the United States IGA.

68. Cognisant of the probability of an agreed standard or OECD model for automatic information exchange in the near future, the United Kingdom Government committed to revise the IGA if there are future material differences between the two. This is consistent with the recommended approach set out by the Secretary General of the OECD which is to ensure that the processes (for automatic exchange of information) need to be standardised to minimise costs for businesses and governments and to improve effectiveness.
69. The United Kingdom IGA was signed by the Chief Minister on 22nd October 2013 following agreement of the Policy Council with the United Kingdom Exchequer Secretary. Side letters confirming points referred to in paragraph 69 above were also exchanged. In those letters the United Kingdom also acknowledged that the agreement remained subject to the decision of the States.

A NON TECHNICAL SUMMARY OF THE IGAS

FATCA

70. FATCA imposes onerous reporting requirements on Financial Institutions ('FIs') to report on their United States client accounts above set thresholds, with the threat of withholding taxes on United States payments in the event of non-compliance. Given that the obligations under FATCA have their origins in United States law, this creates various data protection issues for Guernsey firms. However, an IGA resolves any such legal issues, and facilitates compliance with FATCA, by imposition of obligations equivalent to FATCA within domestic law, requiring local reporting to the Director of Income Tax ('the Director'). This is similar to the mechanism used for exchange of information under the EUSD style agreements that Guernsey already has with EU member states.
71. As a result of the IGA with the United States, Guernsey FIs will be required to identify their US client accounts above set thresholds and report on them annually to the Director who will pass on the information to the IRS (the first such exchange of information is due to be made by 30th September 2015 (in respect of information relating to the calendar year 2014)). The Guernsey IGA is known as a Model I¹⁵ agreement and, whilst not initially, will ultimately be a reciprocal exchange arrangement with the United States (resulting in information flowing from the United States to Guernsey as well as from Guernsey to the United States. This information will be useful to the Director in ensuring compliance with domestic tax obligations, by Guernsey residents with investments in the United States).

¹⁵ In a Model I agreement local firms provide the local tax authority the required information and the reporting/exchange is between tax authorities. In 'Model II' firms report directly to the IRS.

72. The definition of an FI is extensive and covers banks; trust companies (i.e. fiduciary service providers); trusts (and underlying investment companies, in many instances); funds; fund managers; fund administrators; custodians; life and insurance companies and stock brokers.
73. There are very few exemptions from the FI definition. Exemptions are available for certain institutions which are perceived to present a low risk of tax evasion such as institutions conducting their business solely within the domestic market. Annex II to the IGAs sets out the exemptions agreed between the US and Guernsey and this annex also sets out agreed product exemptions which includes certain retirement products and certain collective investment vehicles.
74. There are provisions within the IGA identifying the different status that FIs will have, depending on their circumstances. Banks, funds, life and similar insurance companies will (generally) be required to identify United States persons within their own shareholder / investor / customer base and report where appropriate. Trust companies will be required to identify and report on United States persons in trust structures that they manage. The trust itself will not need to report. There are arrangements for delegation and outsourcing of the reporting in certain circumstances. There are clear rules in the IGA for determining and identifying United States Persons. The information to be reviewed is essentially based on the AML/KYC data that FIs are already required to collect and maintain.
75. The information to be provided to the United States tax authorities includes the name, address and United States taxpayer identification number of each account holder and the report will ultimately include all “account” balances, income and proceeds on disposal of assets relating to the accounts (the reporting requirements are phased for ease of introduction).
76. Annex I sets out the timing for FIs to carry out the due diligence procedures and the deadlines for account review completion. There are different processes and timelines for lower value, high value accounts and for pre-existing accounts and new accounts (opened post 1st July 2014).
77. Determining reporting requirements is complicated and guidance notes prepared jointly by the CDs will shortly be published for consultation. Common guidance notes are intended but there may be slight variations jurisdiction by jurisdiction. This consultation will give the opportunity to determine final interpretation of the requirements. The guidance is being developed with the aim, as far as possible, of a common interpretation for both the United States and United Kingdom reporting requirements.
78. Finally, irrespective of the IGA, many, but not all, FIs will be required to register with the IRS. The registration (on an IRS Portal) will generate a GIIN. In most cases, counterparties to the FI (other banks, funds, etc.) will require this GIIN in order to confirm that no withholding or report is required. A small number of FIs

(mostly government bodies and certain retirement funds) are exempt and will not need to register or report (these are outlined in the Annex II of the IGA).

THE UNITED KINGDOM IGA

79. The United Kingdom IGA is closely based on the United States Model but has been modified to account for the fact that the United Kingdom taxes on the basis of residence not citizenship.¹⁶ The reporting requirements are similar insofar as they also ultimately require the name, address and national insurance number of each account holder and the report will ultimately include all “account” balances, income and proceeds on disposal of assets relating to the accounts (the reporting requirements are phased for ease of introduction).
80. Actual reporting of the relevant information is a year later than under the United States IGA (therefore, the first exchange of information will take place by 30th September 2016 – in respect of 2014 and 2015 information) although the actual relevant reporting periods are consistent (i.e. the same as the United States). Due diligence and account checking is similarly aligned. As in the United States IGA thresholds apply and these are, perhaps counter intuitively, also set in United States dollar amounts. The rationale for this is to build in global consistency to the IGAs.
81. Again, as in the United States IGA, exemptions for certain beneficial owners and products apply. The agreed exemptions are set out in Annex II of the IGA for United Kingdom beneficial owners/products and in Annex III of the IGA for Guernsey beneficial owners and products. Unlike the United States IGA, the United Kingdom FATCA IGA is to be reciprocal from commencement. Thus, the Director will receive information from the United Kingdom, about Guernsey residents holding United Kingdom investments that will be helpful to ensure compliance with the Income Tax Law.
82. The United Kingdom has a special tax regime for non-doms. The United Kingdom makes no claim on the worldwide income and assets of these individuals in return for payment of an annual fee. A special alternative reporting arrangement has been agreed with the United Kingdom for these individuals. It has been designed to provide HMRC with sufficient information to make a reasonable risk assessment of tax evasion and is limited in comparison to the full FATCA style reporting. Firms will be able to choose to offer this reporting to clients.
83. Non-doms are a significant component of the client base of many local banks and trust providers. Non-dom business is valued by Guernsey and the reporting regime was negotiated to safeguard Guernsey’s continued attractiveness to this group. Officers worked closely with an industry working party to secure this objective. It is of the view that this reporting regime could indeed also improve

¹⁶ The OECD model agreement is also modified to account for the fact that most jurisdictions also tax on a residence basis for individuals.

Guernsey's attractiveness as a location for non-dom business, particularly given the reputational risks for them associated with locating their business in certain competitor jurisdictions. The non-dom regime is set out in Annex IV of the United Kingdom IGA.

STRATEGIC CASE FOR ENTERING INTO THE IGAs

84. When assessing the strategic case for and against entering into an IGA with the United States an economic assessment was made by the Fiscal and Economic Policy Group of the cost of doing nothing and allowing firms to report directly to the IRS on their client accounts.¹⁷
85. The economic assessment undertaken concluded: *"there is a real risk that Guernsey's sustainability as an international finance sector is eroded without an IGA as, effectively, firms operating in jurisdictions without an IGA (particularly small offshore ones) are closed out of: doing US business; having US investors in their structures; doing business with firms that do have US business; and also large firms which insist on the easiest route of FATCA compliance (i.e. only doing business with firms in IGA jurisdictions) irrespective of any other considerations."*
86. The following is extracted from the website 'Tax Notes Today' of 19th February 2013, providing by way of illustration of this point from independent sources:

"The U.S. promise to allow countries with an IGA to have a simplified process for obtaining a global intermediary identification number (GIIN) is "a good result," according to Malcolm White, FATCA policy lead at HM Revenue & Customs in the United Kingdom. But with the implication in the final regs that even accepted and deemed-compliant financial institutions must have a GIIN, it's likely that all businesses, regardless of status, will need one eventually, he said. Businesses in the financial community have been telling HMRC that their risk profile won't let them do business with an entity that doesn't have a GIIN, White said in London at a February 12 cross-border tax conference sponsored by the International Bar Association and the Chartered Institute of Taxation.

That scenario undermines attempts to lower FATCA's administrative burden and sets up "some interesting business decisions," said White, who spoke on his own behalf. And it is possible that unintended third-party institutions, such as local charities, may be turned down for loan requests if they don't have a GIIN, he said. "It's a message we have to get across" to people who aren't likely to have U.S. investors or

¹⁷ Notwithstanding the fact that data protection issues precluded this route.

investments, he said, adding, "And that's before we get into global financial trading."

White predicted that the global registration system envisioned by the United States and outlined in the final FATCA regs will cast a wide net. Businesses interested in trading with one another will now focus on location, whether the other jurisdiction has an operating IGA, and what the business's status is under that agreement, he said. "All those questions will influence how you do business with someone," he said.

87. This economic assessment was fully supported by representatives of industry bodies, including the Guernsey International Business Association, Guernsey Association of Trustees, The Guernsey Society of Chartered and Certified Accountants, Association of Guernsey Banks, and Guernsey International Insurance Association. This made the need for a formal consultation on the strategic importance of the United States IGA redundant and thus it was clear that it was necessary to fulfil the United Kingdom condition for concluding a similar agreement with the United Kingdom prior to United Kingdom approval of any United States agreement.
88. Notwithstanding, it is absolutely fundamental to the future sustainability of the finance sector for Guernsey to enter into an IGA with the United States. Similarly, the short term costs (that is compliance, monitoring etc.) of entering into an IGA with the United Kingdom are outweighed by the reputational benefits for the Bailiwick¹⁸.

INDUSTRY IMPACT

89. The implementation of FATCA reporting imposes an additional compliance cost on firms. The cost of implementation worldwide is expected to run into many billions of dollars albeit it is acknowledged that large firms with international operations will have economies of scale and scope to leverage. That is not to deny that the additional costs will be unwelcome, but, as stated, they will apply globally. Technology costs will be a major component of those costs (details of the reporting format required under FATCA have yet to be finalised and released by the United States). However, manual account due diligence and review, in preparation for FATCA reporting, will be a further significant cost.
90. It is expected that the additional technology costs for United Kingdom reporting will be limited, given that it is expected that firms will be able to utilise common systems and platforms. However, it is recognised that, given the geographic spread of business in the Island, the volume of United Kingdom accounts will be significantly higher than under the United States IGA for most Guernsey firms

¹⁸ To be clear, the concern with a UK IGA was the additional compliance burden this would unilaterally impose on Guernsey firms in the, current, absence of a new global standard, not the principle of automatic information exchange itself.

and will require a much greater human resource commitment as a consequence. A limited assessment of those costs was made in justifying the case for a delayed implementation to the United Kingdom. The scale of costs for local firms was estimated to be equivalent to approximately £30m over the three year period of implementation. However, as a safeguard, it is intended to use the guidance consultation process to make a more accurate assessment of the costs to industry.

91. These costs were incorporated into the economic impact assessment of the scenario of failure to secure a United States IGA and also failure to secure an alternative reporting regime for non-doms within the United Kingdom IGA. The negative economic impact of these scenarios far outweighed the negative impact of compliance costs of securing the IGAs. However, it is recognised that these costs will impact on employment and profit generation in the short term and this is most likely to disproportionately fall on the fiduciary sector in particular and the banking sector. This is recognised and accepted by industry representatives of these sectors.
92. Whilst these costs are an unwelcome burden in the short term, it is expected that in the longer run, with the intended adoption of the OECD Model as a new global standard, Guernsey and Guernsey firms will be advantageously placed as having made the necessary investment in systems and processes. Irrespective, the anticipated cost is a necessary condition for ensuring the long term sustainability of the finance sector. Entering into the agreements with the United States and the United Kingdom has the full support of the finance sector.

STATES IMPACT

93. At governmental level, the principle resource impact of implementing FATCA and United Kingdom FATCA (and indeed any future agreements, which arise from adoption of the Convention or the OECD Model) will fall on the Income Tax Office.
94. The Director has advised that he considers he has sufficient human resources within the current staffing compliment of the Income Tax Office for the purposes of designing and introducing the necessary administrative systems to deal with the practical aspects of exchange of information, as well as for dealing with the actual exchange of information on an ongoing basis.¹⁹
95. There is a potential risk relating to the need to negotiate additional IGAs at the request of other jurisdictions on an ongoing basis, either through the OECD Model or participation in the Convention. Clearly, the implication will be that workloads will need to be managed and it may be that further human resource may be required in future whether through reallocation and reprioritisation of

¹⁹ This is subject, however, to there being no significant additional call on the resources as a consequence of enquiries arising from the US, the UK, or any other future IGA partner jurisdiction, in relation to the accuracy of information provided by Guernsey FIs. Clearly, at this point in time, the potential risk from this cannot be established.

existing or the request for additional resource. This is similar to but different in scale to the issues faced historically, for instance, in the last five years some fifty TIEAs have been negotiated and concluded. Whilst the potential increased workload is likely to be unavoidable but at this stage unquantifiable, the necessity of entering into the agreements are such that it will just require that this issue will need to be intelligently managed. As previously outlined in The States of Guernsey Budget 2014 Report (paragraph 3.28), additional staff resource has been allocated to the Income Tax Office to address these demands.

96. As explained earlier in this Report, the majority of immediate costs to business, from the introduction of the FATCA, are likely to arise from the introduction of the necessary computer systems, and this is also the case in the Income Tax Office. To address this, an allocation of £250,000 has been incorporated in Treasury and Resources capital programme.

CORPORATE GOVERNANCE

97. In preparing this Report, Policy Council has been mindful of the States Resolution to adopt the six core principles of good governance defined by the United Kingdom Independent Commission on Good Governance in Public Services (Billet IV of 2011). The Policy Council believes that all of the proposals in this Report comply with those principles.

LEGISLATION

98. Following Royal Assent to the Income Tax (Zero 10) (Guernsey) Law 2007, the Income Tax Law was amended to introduce section 208C, which permits the States to amend the Income Tax Law by Ordinance. This is the process which will be used to effect the amendments proposed in this Report.
99. The Law Officers have been consulted about these proposals and propose that an Ordinance be drafted which would amend the Income Tax Law to empower the Treasury and Resources Department to implement the United States and United Kingdom IGAs by regulation. Due to the complex nature of the IGAs, and the fact that some of the minutiae of the interpretation of the terms and requirements is still to be determined, following consultation, the enactment of regulations to enable many of the administrative aspects of implementation is undoubtedly the most pragmatic legislative way of dealing with what may be lengthy technical obligations. The ordinance will also cater for the possibility of future IGAs with other jurisdictions, in line with participation in the Convention and adoption of the OECD Model as an international standard. As mentioned above, however, the regulation-making power would not derogate from the principle that the international agreements intended to be implemented would continue to be approved by the States by Ordinance.

SUMMARY

100. These moves will both enhance Guernsey's international reputation for tax transparency and provide the route to best secure a sustainable future for Guernsey as an offshore finance centre.
101. Guernsey has a demonstrable track record and internationally recognised commitment to tax transparency. Guernsey's economic strategy is based on the assumption that such a commitment will best position it for continued success as an offshore finance centre. The rapid adoption and implementation of the OECD Model as a new global standard is in Guernsey's economic self interest.
102. The adoption of the Convention as a clear further commitment to automatic exchange will help ensure there is no doubt as to Guernsey's position on tax transparency, as will promotion of the OECD Model and working towards, and supporting, its adoption as a global standard.
103. As has been demonstrated, enabling FATCA through an IGA is a necessary step for the continued future of the financial services sector. It is recognised that the United Kingdom IGA is a condition for obtaining the United Kingdom's endorsement of the United States IGA by the CDs. Irrespective of this point, entering into an IGA with the United States and the United Kingdom will enhance Guernsey's reputation for tax transparency.
104. This report thus recommends that the States resolves to adopt the Convention and commits to the support and adoption of the OECD Model and to empower the Policy Council to enter into further agreements (subject to ratification of the States) as part of its external affairs mandate to further cement Guernsey's global reputation. The report also recommends that the States agrees the attached IGA negotiated with the United Kingdom, together with the associated revised TIEA agreement²⁰.
105. Combined, this package of measures sends a powerful message about the status of Guernsey's position on tax transparency to the benefit of its international reputation and economic position.
106. Extensive consultation with industry has been undertaken throughout the last 18 months and there has been significant participation through numerous working groups constituted to advise on the technicalities of many aspects of the agreements. These measures outlined above have the full support of the finance sector.

²⁰ The existing TIEA is the legal instrument through which the IGA is enacted; it required amendment to facilitate automatic and spontaneous exchange.

RECOMMENDATIONS

107. The Policy Council recommends the States:

- a) to request the United Kingdom to extend to Guernsey the Organisation for Economic Co-operation and Development Multilateral Convention on Mutual Administrative Assistance in Tax Matters;
- b) to agree to enter into an Intergovernmental Agreement with the United States to facilitate the automatic exchange of information, to facilitate Guernsey firms' compliance with the United States Foreign Account Tax Compliance Act;
- c) to agree and ratify the United Kingdom Intergovernmental Agreement to facilitate information exchange on similar principles as the United States Foreign Account Tax Compliance Act, together with the relevant revision to the existing Tax Information Exchange Agreement that will be required to provide the legal platform for the automatic exchange of information under the United Kingdom Intergovernmental Agreement;
- d) to resolve to continue to engage in the development of the Organisation for Economic Co-operation and Development Model and to endorse, promote and adopt, when finalised and introduced as a new standard, the new Organisation for Economic Co-operation and Development Model for the automatic exchange of information;
- e) to delegate to the Policy Council powers to negotiate and conclude any future agreements arising from the adoption of the Organisation for Economic Co-operation and Development model for the automatic exchange of information or from participation in the Organisation for Economic Co-operation and Development Multilateral Convention on Mutual Administrative Assistance in Tax Matters or otherwise in respect of the automatic exchange of information (but not derogating from the principle that the international agreements intended to be implemented would continue to be approved by the States by Ordinance);
- f) to agree that the Income Tax (Guernsey) Law, 1975, as amended, be further amended by Ordinance to empower the Treasury and Resources Department to implement the United States and United Kingdom Intergovernmental Agreements (and future Intergovernmental Agreements and other agreements with other jurisdictions from time to time approved by Ordinance of the States) by regulation.

and,

- g) to agree that the Organisation for Economic Co-operation and Development Multilateral Convention on Mutual Administrative Assistance in Tax Matters and the United States and United Kingdom Intergovernmental Agreements be specified by Ordinance as approved international agreements for the purposes of the Income Tax (Guernsey) Law, 1975, as amended.

P A Harwood
Chief Minister
11th November 2013

J P Le Tocq
Deputy Chief Minister

G A St Pier
R Domaille
D B Jones

A H Langlois
K A Stewart
R W Sillars

M H Dorey
M G O'Hara
P A Luxon

Appendix I: Excerpt from States Strategic Plan Monitoring Report 2013: ‘Commitment to international standards on tax transparency’

The States of Guernsey, as set out in the Fiscal and Economic Plan, is committed to meeting the highest international standards of tax transparency. Meeting this commitment includes ensuring that Guernsey maintains its status within tier one of the Organisation for Economic Co-Operation and Development (OECD)’s list of jurisdictions worldwide that have substantially implemented the internationally agreed tax standard.

The States regards the retention of tier one status as essential for maintaining Guernsey’s competitive position and future economic success. Maintaining this and ensuring that Guernsey continues to be viewed in the highest regard internationally is an ongoing programme of work for the States of Guernsey.

Maintenance of OECD tier one status

The OECD Global Forum publishes reports on jurisdictions’ progress on implementing internationally agreed tax standards (see www.oecd.org). In 2009, Guernsey was classified as having tier one status. This is still the case.

The criterion for tier one status requires a minimum of 12 signed Agreements, meeting the international standard, with other jurisdictions to be in place. A TIEA is a bilateral agreement negotiated and signed between two countries to establish formal guidelines for the exchange of information relating to taxes.

As at 30th October 2013, Guernsey had signed TIEAs with 48 jurisdictions, 13 more than at the time of publishing the 2012 States Strategic Monitoring Report. In addition, Guernsey has signed 7 comprehensive DTAs to the international standard. There were another 18 TIEAs and DTAs negotiated and awaiting signature once the appropriate arrangements could be made.

OECD Peer Reviews

The OECD Global Forum currently brings together 120 jurisdictions and international bodies (the number continues to grow), including Guernsey, which have made commitments to transparency and exchange of tax information and have worked together to develop the international standards.

In September 2009, the Global Forum initiated a Peer Review Programme to assess how effectively the international standards are being implemented by individual jurisdictions. The Peer Review process consists of two phases. Phase 1 assesses the legal and regulatory framework against 10 essential elements. Phase 2 focuses on the effectiveness of exchange of information.

Guernsey underwent its Phase 1 Review during 2010. Phase 2 took place in late 2012. The Report, which was adopted by the Global Forum in April 2013, found Guernsey’s

legislative and administrative regime to have in place all of the elements necessary for meeting the international standards on transparency and information exchange (see www.oecd-ilibrary.org/taxation), with only minor elements needing improvement.

Her Majesty's Revenue and Customs (HMRC) Category 1 status

In 2011, HMRC categorised territories worldwide according to the ease with which it is able to obtain tax information. Where a territory had arrangements with the UK for the automatic sharing of information on savings income, the territory has been placed in category 1. Guernsey continues to hold HMRC category 1 status. See www.hmrc.gov.uk/news for more information.

European Union Savings Directive (EUSD)

Guernsey introduced full automatic exchange of information under measures identical to the EUSD in 2011. This means that information relating to accounts held in Guernsey by individuals resident in an EU Member State is now automatically sent to their home jurisdiction each year.

Appendix IIA: The OECD Convention

OECD Convention

PREAMBLE

THE MEMBER STATES OF THE COUNCIL OF EUROPE AND THE MEMBER COUNTRIES OF THE ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD), SIGNATORIES OF THIS CONVENTION;

CONSIDERING that the development of international movement of persons, capital, goods and services - although highly beneficial in itself - has increased the possibilities of tax avoidance and evasion and therefore requires increasing co-operation among tax authorities;

WELCOMING the various efforts made in recent years to combat tax avoidance and tax evasion on an international level, whether bilaterally or multilaterally;

CONSIDERING that a co-ordinated effort between States is necessary in order to foster all forms of administrative assistance in matters concerning taxes of any kind whilst at the same time ensuring adequate protection of the rights of taxpayers;

RECOGNISING that international co-operation can play an important part in facilitating the proper determination of tax liabilities and in helping the taxpayer to secure his rights;

CONSIDERING that fundamental principles entitling every person to have his rights and obligations determined in accordance with a proper legal procedure should be recognised as applying to tax matters in all States and that States should endeavour to protect the legitimate interests of taxpayers, including appropriate protection against discrimination and double taxation;

CONSIDERING therefore that States should not carry out measures or supply information except in conformity with their domestic law and practice, having regard to the necessity of protecting the confidentiality of information, and taking account of international instruments for the protection of privacy and flows of personal data;

DESIRING to conclude a convention on mutual administrative assistance in tax matters;

HAVE AGREED AS FOLLOWS:

CHAPTER I: SCOPE OF THE CONVENTION

Article 1: Object of the Convention and persons covered

1. The Parties shall, subject to the provisions of Chapter IV, provide administrative assistance to each other in tax matters. Such assistance may involve, where appropriate, measures taken by judicial bodies.
2. Such administrative assistance shall comprise:
 - a) exchange of information, including simultaneous tax examinations and participation in tax examinations abroad;

- b) assistance in recovery, including measures of conservancy; and
 - c) service of documents.
3. A Party shall provide administrative assistance whether the person affected is a resident or national of a Party or of any other State.

Article 2: Taxes covered

1. This Convention shall apply:
 - a) to the following taxes:
 - taxes on income or profits,
 - taxes on capital gains which are imposed separately from the tax on income or profits,
 - taxes on net wealth, imposed on behalf of a Party; and
 - b) to the following taxes:
 - taxes on income, profits, capital gains or net wealth which are imposed on behalf of political subdivisions or local authorities of a Party,
 - compulsory social security contributions payable to general government or to social security institutions established under public law, and
 - taxes in other categories, except customs duties, imposed on behalf of a Party, namely:
 - A. estate, inheritance or gift taxes,
 - B. taxes on immovable property,
 - C. general consumption taxes, such as value-added or sales taxes,
 - D. specific taxes on goods and services such as excise taxes,
 - E. taxes on the use or ownership of motor vehicles,
 - F. taxes on the use or ownership of movable property other than motor vehicles,
 - G. any other taxes
 - taxes in categories referred to in sub-paragraph iii) above which are imposed on behalf of political sub-divisions or local authorities of a Party.
2. The existing taxes to which the Convention shall apply are listed in Annex A in the categories referred to in paragraph 1.
3. The Parties shall notify the Secretary General of the Council of Europe or the Secretary General of OECD (hereinafter referred to as the "Depositaries") of any change to be made to Annex A as a result of a modification of the list mentioned in paragraph 2. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

4. The Convention shall also apply, as from their adoption, to any identical or substantially similar taxes which are imposed in a Contracting State after the entry into force of the Convention in respect of that Party in addition to or in place of the existing taxes listed in Annex A and, in that event, the Party concerned shall notify one of the Depositaries of the adoption of the tax in question.

CHAPTER II: GENERAL DEFINITIONS

Article 3: Definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) the terms "applicant State" and "requested State" mean respectively any Party applying for administrative assistance in tax matters and any Party requested to provide such assistance;
 - b) the term "tax" means any tax or social security contribution to which the Convention applies pursuant to Article 2;
 - c) the term "tax claim" means any amount of tax, as well as interest thereon, related administrative fines and costs incidental to recovery, which are owed and not yet paid;
 - d) the term "competent authority" means the persons and authorities listed in Annex B;
 - e) the term "nationals", in relation to a Party, means:
 - all individuals possessing the nationality of that Party, and
 - all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in that Party.

For each Party that has made a declaration for that purpose, the terms used above will be understood as defined in Annex C.

2. As regards the application of the Convention by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that Party concerning the taxes covered by the Convention.
3. The Parties shall notify one of the Depositaries of any change to be made to Annexes B and C. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary in question.

CHAPTER III: FORMS OF ASSISTANCE

Section I: Exchange of Information

Article 4: General provision

1. The Parties shall exchange any information, in particular as provided in this Section, that is foreseeably relevant to:

- a) the assessment and collection of tax, and the recovery and enforcement of tax claims, and
 - b) the prosecution before an administrative authority or the initiation of prosecution before a judicial body. Information which is unlikely to be relevant to these purposes shall not be exchanged under this Convention.
2. A Party may use information obtained under this Convention as evidence before a criminal court only if prior authorisation has been given by the Party which has supplied the information. However, any two or more Parties may mutually agree to waive the condition of prior authorisation.
 3. Any Party may, by a declaration addressed to one of the Depositories, indicate that, according to its internal legislation, its authorities may inform its resident or national before transmitting information concerning him, in conformity with Articles 5 and 7.

Article 5: Exchange of information on request

1. At the request of the applicant State, the requested State shall provide the applicant State with any information referred to in Article 4 which concerns particular persons or transactions.
2. If the information available in the tax files of the requested State is not sufficient to enable it to comply with the request for information, that State shall take all relevant measures to provide the applicant State with the information requested.

Article 6: Automatic exchange of information

With respect to categories of cases and in accordance with procedures which they shall determine by mutual agreement, two or more Parties shall automatically exchange the information referred to in Article 4.

Article 7: Spontaneous exchange of information

1. A Party shall, without prior request, forward to another Party information of which it has knowledge in the following circumstances:
 - a) the first-mentioned Party has grounds for supposing that there may be a loss of tax in the other Party;
 - b) a person liable to tax obtains a reduction in or an exemption from tax in the first-mentioned Party which would give rise to an increase in tax or to liability to tax in the other Party;
 - c) business dealings between a person liable to tax in a Party and a person liable to tax in another Party are conducted through one or more countries in such a way that a saving in tax may result in one or the other Party or in both;
 - d) a Party has grounds for supposing that a saving of tax may result from artificial transfers of profits within groups of enterprises;
 - e) information forwarded to the first-mentioned Party by the other Party has enabled information to be obtained which may be relevant in assessing liability to tax in the latter Party.

2. Each Party shall take such measures and implement such procedures as are necessary to ensure that information described in paragraph 1 will be made available for transmission to another Party.

Article 8: Simultaneous tax examinations

1. At the request of one of them, two or more Parties shall consult together for the purposes of determining cases and procedures for simultaneous tax examinations. Each Party involved shall decide whether or not it wishes to participate in a particular simultaneous tax examination.
2. For the purposes of this Convention, a simultaneous tax examination means an arrangement between two or more Parties to examine simultaneously, each in its own territory, the tax affairs of a person or persons in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain.

Article 9: Tax examinations abroad

1. At the request of the competent authority of the applicant State, the competent authority of the requested State may allow representatives of the competent authority of the applicant State to be present at the appropriate part of a tax examination in the requested State.
2. If the request is acceded to, the competent authority of the requested State shall, as soon as possible, notify the competent authority of the applicant State about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the requested State for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the requested State.
3. A Party may inform one of the Depositories of its intention not to accept, as a general rule, such requests as are referred to in paragraph 1. Such a declaration may be made or withdrawn at any time.

Article 10: Conflicting information

If a Party receives from another Party information about a person's tax affairs which appears to it to conflict with information in its possession, it shall so advise the Party which has provided the information.

Section II: Assistance in Recovery

Article 11: Recovery of tax claims

1. At the request of the applicant State, the requested State shall, subject to the provisions of Articles 14 and 15, take the necessary steps to recover tax claims of the first-mentioned State as if they were its own tax claims.
2. The provision of paragraph 1 shall apply only to tax claims which form the subject of an instrument permitting their enforcement in the applicant State and, unless otherwise agreed between the Parties concerned, which are not contested. However, where the claim is against a person who is not a resident of the applicant State,

paragraph 1 shall only apply, unless otherwise agreed between the Parties concerned, where the claim may no longer be contested.

3. The obligation to provide assistance in the recovery of tax claims concerning a deceased person or his estate, is limited to the value of the estate or of the property acquired by each beneficiary of the estate, according to whether the claim is to be recovered from the estate or from the beneficiaries thereof.

Article 12: Measures of conservancy

At the request of the applicant State the requested State shall, with a view to the recovery of an amount of tax, take measures of conservancy even if the claim is contested or is not yet the subject of an instrument permitting enforcement.

Article 13: Documents accompanying the request

1. The request for administrative assistance under this Section shall be accompanied by:
 - a) a declaration that the tax claim concerns a tax covered by the Convention and, in the case of recovery that, subject to paragraph 2 of Article 11, the tax claim is not or may not be contested,
 - b) an official copy of the instrument permitting enforcement in the applicant State, and
 - c) any other document required for recovery or measures of conservancy.
2. The instrument permitting enforcement in the applicant State shall, where appropriate and in accordance with the provisions in force in the requested State, be accepted, recognised, supplemented or replaced as soon as possible after the date of the receipt of the request for assistance, by an instrument permitting enforcement in the latter State.

Article 14: Time limits

1. Questions concerning any period beyond which a tax claim cannot be enforced shall be governed by the law of the applicant State. The request for assistance shall give particulars concerning that period.
2. Acts of recovery carried out by the requested State in pursuance of a request for assistance, which, according to the laws of that State, would have the effect of suspending or interrupting the period mentioned in paragraph 1, shall also have this effect under the laws of the applicant State. The requested State shall inform the applicant State about such acts.
3. In any case, the requested State is not obliged to comply with a request for assistance which is submitted after a period of 15 years from the date of the original instrument permitting enforcement.

Article 15: Priority

The tax claim in the recovery of which assistance is provided shall not have in the requested State any priority specially accorded to the tax claims of that State even if the recovery procedure used is the one applicable to its own tax claims.

Article 16: Deferral of payment

The requested State may allow deferral of payment or payment by instalments if its laws or administrative practice permit it to do so in similar circumstances, but shall first inform the applicant State.

Section III: Service of Documents

Article 17: Service of documents

1. At the request of the applicant State, the requested State shall serve upon the addressee documents, including those relating to judicial decisions, which emanate from the applicant State and which relate to a tax covered by this Convention.
2. The requested State shall effect service of documents:
 - a) by a method prescribed by its domestic laws for the service of documents of a substantially similar nature;
 - b) to the extent possible, by a particular method requested by the applicant State or the closest to such method available under its own laws.
3. A Party may effect service of documents directly through the post on a person within the territory of another Party.
4. Nothing in the Convention shall be construed as invalidating any service of documents by a Party in accordance with its laws.
5. When a document is served in accordance with this Article, it need not be accompanied by a translation. However, where it is satisfied that the addressee cannot understand the language of the document, the requested State shall arrange to have it translated into or a summary drafted in its or one of its official languages. Alternatively, it may ask the applicant State to have the document either translated into or accompanied by a summary in one of the official languages of the requested State, the Council of Europe or the OECD.

CHAPTER IV: PROVISIONS RELATING TO ALL FORMS OF ASSISTANCE

Article 18: Information to be provided by the applicant State

1. A request for assistance shall indicate where appropriate:
 - a) the authority or agency which initiated the request made by the competent authority;
 - b) the name, address and any other particulars assisting in the identification of the person in respect of whom the request is made;
 - c) in the case of a request for information, the form in which the applicant State wishes the information to be supplied in order to meet its needs;

- d) in the case of a request for assistance in recovery or measures of conservancy, the nature of the tax claim, the components of the tax claim and the assets from which the tax claim may be recovered;
 - e) in the case of a request for service of documents, the nature and the subject of the document to be served;
 - f) whether it is in conformity with the law and administrative practice of the applicant State and whether it is justified in the light of the requirements of Article 19.
2. As soon as any other information relevant to the request for assistance comes to its knowledge, the applicant State shall forward it to the requested State.

Article 19: Possibility of declining a request

The requested State shall not be obliged to accede to a request if the applicant State has not pursued all means available in its own territory, except where recourse to such means would give rise to disproportionate difficulty.

Article 20: Response to the request for assistance

1. If the request for assistance is complied with, the requested State shall inform the applicant State of the action taken and of the result of the assistance as soon as possible.
2. If the request is declined, the requested State shall inform the applicant State of that decision and the reason for it as soon as possible.
3. If, with respect to a request for information, the applicant State has specified the form in which it wishes the information to be supplied and the requested State is in a position to do so, the requested State shall supply it in the form requested.

Article 21: Protection of persons and limits to the obligation to provide assistance

1. Nothing in this Convention shall affect the rights and safeguards secured to persons by the laws or administrative practice of the requested State.
2. Except in the case of Article 14, the provisions of this Convention shall not be construed so as to impose on the requested State the obligation:
 - a) to carry out measures at variance with its own laws or administrative practice or the laws or administrative practice of the applicant State;
 - b) to carry out measures which it considers contrary to public policy (ordre public) or to its essential interests;
 - c) to supply information which is not obtainable under its own laws or its administrative practice or under the laws of the applicant State or its administrative practice;
 - d) to supply information which would disclose any trade, business, industrial, commercial or professional secret, or trade process, or information the disclosure of which would be contrary to public policy (ordre public) or to its essential interests;
 - e) to provide administrative assistance if and insofar as it considers the taxation in the applicant State to be contrary to generally accepted taxation principles

or to the provisions of a convention for the avoidance of double taxation, or of any other convention which the requested State has concluded with the applicant State;

- f) to provide assistance if the application of this Convention would lead to discrimination between a national of the requested State and nationals of the applicant State in the same circumstances.

Article 22: Secrecy

1. Any information obtained by a Party under this Convention shall be treated as secret in the same manner as information obtained under the domestic laws of that Party, or under the conditions of secrecy applying in the supplying Party if such conditions are more restrictive.
2. Such information shall in any case be disclosed only to persons or authorities (including courts and administrative or supervisory bodies) involved in the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, taxes of that Party. Only the persons or authorities mentioned above may use the information and then only for such purposes. They may, notwithstanding the provisions of paragraph 1, disclose it in public court proceedings or in judicial decisions relating to such taxes, subject to prior authorisation by the competent authority of the supplying Party. However, any two or more Parties may mutually agree to waive the condition of prior authorisation.
3. If a Party has made a reservation provided for in sub-paragraph a) of paragraph 1 of Article 30, any other Party obtaining information from that Party shall not use it for the purpose of a tax in a category subject to the reservation. Similarly, the Party making such a reservation shall not use information obtained under this Convention for the purpose of a tax in a category subject to the reservation.
4. Notwithstanding the provisions of paragraphs 1, 2 and 3, information received by a Party may be used for other purposes when such information may be used for such other purposes under the laws of the supplying Party and the competent authority of that Party authorises such use. Information provided by a Party to another Party may be transmitted by the latter to a third Party, subject to prior authorisation by the competent authority of the first-mentioned Party.

Article 23: Proceedings

1. Proceedings relating to measures taken under this Convention by the requested State shall be brought only before the appropriate body of that State.
2. Proceedings relating to measures taken under this Convention by the applicant State, in particular those which, in the field of recovery, concern the existence or the amount of the tax claim or the instrument permitting its enforcement, shall be brought only before the appropriate body of that State. If such proceedings are brought, the applicant State shall inform the requested State which shall suspend the procedure pending the decision of the body in question. However, the requested State shall, if asked by the applicant State, take measures of conservancy to safeguard recovery. The requested State can also be informed of such proceedings

by any interested person. Upon receipt of such information the requested State shall consult on the matter, if necessary, with the applicant State.

3. As soon as a final decision in the proceedings has been given, the requested State or the applicant State, as the case may be, shall notify the other State of the decision and the implications which it has for the request for assistance.

CHAPTER V: SPECIAL PROVISIONS

Article 24: Implementation of the Convention

1. The Parties shall communicate with each other for the implementation of this Convention through their respective competent authorities. The competent authorities may communicate directly for this purpose and may authorise subordinate authorities to act on their behalf. The competent authorities of two or more Parties may mutually agree on the mode of application of the Convention among themselves.
2. Where the requested State considers that the application of this Convention in a particular case would have serious and undesirable consequences, the competent authorities of the requested and of the applicant State shall consult each other and endeavour to resolve the situation by mutual agreement.
3. A coordinating body composed of representatives of the competent authorities of the Parties shall monitor the implementation and development of this Convention, under the aegis of the OECD. To that end, the co-ordinating body shall recommend any action likely to further the general aims of the Convention. In particular it shall act as a forum for the study of new methods and procedures to increase international co-operation in tax matters and, where appropriate, it may recommend revisions or amendments to the Convention. States which have signed but not yet ratified, accepted or approved the Convention are entitled to be represented at the meetings of the coordinating body as observers.
4. A Party may ask the co-ordinating body to furnish opinions on the interpretation of the provisions of the Convention.
5. Where difficulties or doubts arise between two or more Parties regarding the implementation or interpretation of the Convention, the competent authorities of those Parties shall endeavour to resolve the matter by mutual agreement. The agreement shall be communicated to the co-ordinating body.
6. The Secretary General of OECD shall inform the Parties and the Signatory States which have not yet ratified, accepted or approved the Convention, of opinions furnished by the co-ordinating body according to the provisions of paragraph 4 above and of mutual agreements reached under paragraph 5 above.

Article 25: Language

Requests for assistance and answers thereto shall be drawn up in one of the official languages of the OECD and of the Council of Europe or in any other language agreed bilaterally between the Contracting States concerned.

Article 26: Costs

Unless otherwise agreed bilaterally by the Parties concerned:

- a) ordinary costs incurred in providing assistance shall be borne by the requested State;
- b) extraordinary costs incurred in providing assistance shall be borne by the applicant State.

CHAPTER VI: FINAL PROVISIONS

Article 27: Other international agreements or arrangements

1. The possibilities of assistance provided by this Convention do not limit, nor are they limited by, those contained in existing or future international agreements or other arrangements between the Parties concerned or other instruments which relate to co-operation in tax matters.
2. Notwithstanding the rules of the present Convention, those Parties which are members of the European Economic Community shall apply in their mutual relations the common rules in force in that Community.

Article 28: Signature and entry into force of the Convention

1. This Convention shall be open for signature by the member States of the Council of Europe and the Member countries of OECD. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with one of the Depositaries.
2. This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five States have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 1.
3. In respect of any member State of the Council of Europe or any Member country of OECD which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 29: Territorial application of the Convention

1. Each State may, at the time of signature, or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Convention shall apply.
2. Any State may, at any later date, by a declaration addressed to one of the Depositaries, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Depositary.
3. Any declaration made under either of the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification

addressed to one of the Depositaries. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

Article 30: Reservations

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval or at any later date, declare that it reserves the right:
 - a) not to provide any form of assistance in relation to the taxes of other Parties in any of the categories listed in sub-paragraph b) of paragraph 1 of Article 2, provided that it has not included any domestic tax in that category under Annex A of the Convention;
 - b) not to provide assistance in the recovery of any tax claim, or in the recovery of an administrative fine, for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;
 - c) not to provide assistance in respect of any tax claim, which is in existence at the date of entry into force of the Convention in respect of that State or, where a reservation has previously been made under sub-paragraph a) or b) above, at the date of withdrawal of such a reservation in relation to taxes in the category in question;
 - d) not to provide assistance in the service of documents for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;
 - e) not to permit the service of documents through the post as provided for in paragraph 3 of Article 17.
2. No other reservation may be made.
3. After the entry into force of the Convention in respect of a Party, that Party may make one or more of the reservations listed in paragraph 1 which it did not make at the time of ratification, acceptance or approval. Such reservations shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the reservation by one of the Depositaries.
4. Any Party which has made a reservation under paragraphs 1 and 3 may wholly or partly withdraw it by means of a notification addressed to one of the Depositaries. The withdrawal shall take effect on the date of receipt of such notification by the Depositary in question.
5. A Party which has made a reservation in respect of a provision of this Convention may not require the application of that provision by any other Party; it may, however, if its reservation is partial, require the application of that provision insofar as it has itself accepted it.

Article 31: Denunciation

1. Any Party may, at any time, denounce this Convention by means of a notification addressed to one of the Depositaries.

2. Such denunciation shall become effective on the first day of the month following the expiration of period of three months after the date of receipt of the notification by the Depositary.
3. Any Party which denounces the Convention shall remain bound by the provisions of Article 22 for as long as it retains in its possession any documents or information obtained under the Convention.

Article 32: Depositaries and their functions

1. The Depositary with whom an act, notification or communication has been accomplished, shall notify the member States of the Council of Europe and the Member countries of OECD of:
 - a) any signature;
 - b) the deposit of any instrument of ratification, acceptance or approval;
 - c) any date of entry into force of this Convention in accordance with the provisions of Articles 28 and 29;
 - d) any declaration made in pursuance of the provisions of paragraph 3 of Article 4 or paragraph 3 of Article 9 and the withdrawal of any such declaration;
 - e) any reservation made in pursuance of the provisions of Article 30 and the withdrawal of any reservation effected in pursuance of the provisions of paragraph 4 of Article 30;
 - f) any notification received in pursuance of the provisions of paragraph 3 or 4 of Article 2, paragraph 3 of Article 3, Article 29 or paragraph 1 of Article 31;
 - g) any other act, notification or communication relating to this Convention.
2. The Depositary receiving a communication or making a notification in pursuance of the provisions of paragraph 1 shall inform immediately the other Depositary thereof.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, the 25th day of January 1988, in English and French, both texts being equally authentic, in two copies of which one shall be deposited in the archives of the Council of Europe and the other in the archives of OECD. The Secretaries General of the Council of Europe and of OECD shall transmit certified copies to each member State of the Council of Europe and Member country of OECD.

Appendix IIB: The Amending Convention

PREAMBLE

THE MEMBER STATES OF THE COUNCIL OF EUROPE AND THE MEMBER COUNTRIES OF THE ORGANISATION FOR ECONOMIC CO OPERATION AND DEVELOPMENT (OECD), SIGNATORIES OF THIS PROTOCOL,

CONSIDERING that the Convention on Mutual Administrative Assistance in Tax Matters, done at Strasbourg on 25 January 1988 (hereinafter “the Convention”), was concluded before agreement was reached on the internationally agreed standard to exchange information in tax matters;

CONSIDERING that a new cooperative environment has emerged since the Convention was concluded;

CONSIDERING that it is desirable that a multilateral instrument is made available to allow the widest number of States to obtain the benefit of the new co-operative environment and at the same time to implement the highest international standards of co-operation in the tax field;

HAVE AGREED AS FOLLOWS:

Article I

1. The seventh recital of the Preamble to the Convention shall be deleted and replaced by the following:

“Convinced therefore that States should carry out measures or supply information, having regard to the necessity of protecting the confidentiality of information, and taking account of international instruments for the protection of privacy and flows of personal data;”

2. The following shall be added after the seventh recital of the Preamble to the Convention:

“Considering that a new co-operative environment has emerged and that it is desirable that a multilateral instrument is made available to allow the widest number of States to obtain the benefits of the new co-operative environment and at the same time implement the highest international standards of co-operation in the tax field;”

Article II

Article 4 of the Convention shall be deleted and replaced by the following:

“Article 4 – General provision

1. The Parties shall exchange any information, in particular as provided in this section, that is foreseeably relevant for the administration or enforcement of their domestic laws concerning the taxes covered by this Convention.
2. Deleted.
3. Any Party may, by a declaration addressed to one of the Depositaries, indicate that, according to its internal legislation, its authorities may inform its resident or national before transmitting information concerning him, in conformity with Articles 5 and 7.”

Article III

- 1 The term “and” in paragraph 1.b of Article 18 of the Convention shall be replaced by the term “, or”.
2. The reference to “Article 19” in paragraph 1.f of Article 18 of the Convention shall be replaced by a reference to “Article 21.2.g”.

Article IV

Article 19 of the Convention shall be deleted.

Article V

Article 21 of the Convention shall be deleted and replaced by the following:

“Article 21 – Protection of persons and limits to the obligation to provide assistance

1. Nothing in this Convention shall affect the rights and safeguards secured to persons by the laws or administrative practice of the requested State.
2. Except in the case of Article 14, the provisions of this Convention shall not be construed so as to impose on the requested State the obligation:
 - a. to carry out measures at variance with its own laws or administrative practice or the laws or administrative practice of the applicant State;
 - b. to carry out measures which would be contrary to public policy (ordre public);
 - c. to supply information which is not obtainable under its own laws or its administrative practice or under the laws of the applicant State or its administrative practice;

- d. to supply information which would disclose any trade, business, industrial, commercial or professional secret, or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*);
 - e. to provide administrative assistance if and insofar as it considers the taxation in the applicant State to be contrary to generally accepted taxation principles or to the provisions of a convention for the avoidance of double taxation, or of any other convention which the requested State has concluded with the applicant State;
 - f. to provide administrative assistance for the purpose of administering or enforcing a provision of the tax law of the applicant State, or any requirement connected therewith, which discriminates against a national of the requested State as compared with a national of the applicant State in the same circumstances;
 - g. to provide administrative assistance if the applicant State has not pursued all reasonable measures available under its laws or administrative practice, except where recourse to such measures would give rise to disproportionate difficulty;
 - h. to provide assistance in recovery in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the applicant State.
3. If information is requested by the applicant State in accordance with this Convention, the requested State shall use its information gathering measures to obtain the requested information, even though the requested State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations contained in this Convention, but in no case shall such limitations, including in particular those of paragraphs 1 and 2, be construed to permit a requested State to decline to supply information solely because it has no domestic interest in such information.
 4. In no case shall the provisions of this Convention, including in particular those of paragraphs 1 and 2, be construed to permit a requested State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person."

Article VI

Paragraphs 1 and 2 of Article 22 shall be deleted and replaced with the following:

- "1. Any information obtained by a Party under this Convention shall be treated as secret and protected in the same manner as information obtained under the domestic law of that Party and, to the extent needed to ensure the necessary

level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Party as required under its domestic law.

2. Such information shall in any case be disclosed only to persons or authorities (including courts and administrative or supervisory bodies) concerned with the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, taxes of that Party, or the oversight of the above. Only the persons or authorities mentioned above may use the information and then only for such purposes. They may, notwithstanding the provisions of paragraph 1, disclose it in public court proceedings or in judicial decisions relating to such taxes.”

Article VII

Paragraph 2 of Article 27 of the Convention shall be deleted and replaced by the following:

- “2. Notwithstanding paragraph 1, those Parties which are member States of the European Union can apply, in their mutual relations, the possibilities of assistance provided for by the Convention in so far as they allow a wider co-operation than the possibilities offered by the applicable European Union rules.”

Article VIII

1. The following paragraphs shall be added at the end of Article 28 of the Convention:

- “4. Any member State of the Council of Europe or any member country of OECD which becomes a Party to the Convention after the entry into force of the Protocol amending this Convention, opened for signature on 27th May 2010 (the “2010 Protocol”), shall be a Party to the Convention as amended by that Protocol, unless they express a different intention in a written communication to one of the Depositaries.
5. After the entry into force of the 2010 Protocol, any State which is not a member of the Council of Europe or of the OECD may request to be invited to sign and ratify this Convention as amended by the 2010 Protocol. Any request to this effect shall be addressed to one of the Depositaries, who shall transmit it to the Parties. The Depositary shall also inform the Committee of Ministers of the Council of Europe and the OECD Council. The decision to invite States which so request to become Party to this Convention shall be taken by consensus by the Parties to the Convention through the co-ordinating body. In respect of any State ratifying the Convention as amended by the 2010 Protocol in accordance with this paragraph, this Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of ratification with one of the Depositaries.

6. The provisions of this Convention, as amended by the 2010 Protocol, shall have effect for administrative assistance related to taxable periods beginning on or after 1 January of the year following the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party, or where there is no taxable period, for administrative assistance related to charges to tax arising on or after 1 January of the year following the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party. Any two or more Parties may mutually agree that the Convention, as amended by the 2010 Protocol, shall have effect for administrative assistance related to earlier taxable periods or charges to tax.
 7. Notwithstanding paragraph 6, for tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the applicant Party, the provisions of this Convention, as amended by the 2010 Protocol, shall have effect from the date of entry into force in respect of a Party in relation to earlier taxable periods or charges to tax.”
2. The following subparagraph shall be added after subparagraph e of paragraph 1 of Article 30 of the Convention:

“f. to apply paragraph 7 of Article 28 exclusively for administrative assistance related to taxable periods beginning on or after 1 January of the third year preceding the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party, or where there is no taxable period, for administrative assistance related to charges to tax arising on or after 1 January of the third year preceding the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party.”
 3. The words “and any Party to this Convention” shall be added after the words “member countries of the OECD” in paragraph 1 of Article 32 of the Convention.

Article IX

1. This Protocol shall be open for signature by the Signatories to the Convention. It is subject to ratification, acceptance or approval. A signatory may not ratify, accept or approve this Protocol unless it has previously or simultaneously ratified, accepted or approved the Convention. Instruments of ratification, acceptance or approval shall be deposited with one of the Depositaries.
2. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five Parties to the Convention have expressed their consent to be bound by the Protocol in accordance with the provisions of paragraph 1.
3. In respect of any Party to the Convention which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month

following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article X

1. The Depositary with whom an act, notification or communication has been accomplished, shall notify the member States of the Council of Europe, the member countries of OECD and any Party to the Convention as amended by this Protocol of:
 - a. any signature;
 - b. the deposit of any instrument of ratification, acceptance or approval;
 - c. any date of entry into force of this Protocol in accordance with the provisions of Article IX;
 - d. any other act, notification or communication relating to this Protocol.
2. The Depositary receiving a communication or making a notification in pursuance of the provisions of paragraph 1 shall inform the other Depositary thereof.
3. The Depositaries shall transmit to the member States of the Council of Europe and the member countries of the OECD a certified copy of this Protocol.
4. When this Protocol enters into force in accordance with Article IX, one of the Depositaries shall establish the text of the Convention as amended by this Protocol and shall send a certified copy to all the Parties to the Convention as amended by this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed the Protocol.

Done at Paris, this 27th day of May 2010, in English and French, both texts being equally authentic, in two copies, one of which shall be deposited in the archives of the Council of Europe and the other in the archives of the OECD.

Appendix IIC: Reservations & Declarations proposed by Guernsey agreed with the UK

Reservations

Pursuant to Article 30 of the Convention as amended Guernsey declares that it reserves the right:

- (a) not to provide any form of assistance in relation to the taxes of other Parties in any of the categories listed in sub-paragraph b of paragraph 1 of Article 2;
- (b) not to provide assistance in the recovery of any tax claim, or in the recovery of an administrative fine, for all taxes listed in paragraph 1 of Article 2;
- (c) not to provide assistance in respect of any tax claim, which is in existence at the date that a reservation made under subparagraph (a) or (b) above, is withdrawn in relation to taxes in the category in question;
- (d) not to provide assistance in the service of documents for all taxes listed in paragraph 1 of Article 2;
- (e) not to permit the service of documents through the post as provided for in paragraph 3 of Article 17.

Declarations

In accordance with Article 2 of the Convention the existing taxes to which the Convention shall apply, and which are to be listed in Annex A, are income tax and dwellings profits tax.

In accordance with paragraph 1(d) of Article 3 of the Convention the competent authority to be listed in Annex B is the Director of Income Tax, or his delegate.

In accordance with paragraph 1(e) of Article 3 of the Convention the word ‘national’ is to be defined for the purposes of the Convention in Annex C as;

“any individual who has a place of abode in Guernsey and possesses British citizenship and any legal person, partnership or association deriving its status as such under the laws of Guernsey”.

**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
STATES OF GUERNSEY TO IMPROVE INTERNATIONAL TAX
COMPLIANCE**

Whereas, the Government of the United Kingdom of Great Britain and Northern Ireland and the States of Guernsey (each, a “Party”) have an ongoing relationship with respect to mutual assistance in tax matters and desire to conclude an agreement to improve international tax compliance by further building on that relationship;

Whereas, Articles 5, 5a and 5b of the 2009 Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the States of Guernsey for the exchange of information relating to tax matters (the “TIEA”) authorise exchange of information for tax purposes, including on an automatic basis;

Whereas, both Parties are committed to compliance with international standards of transparency and exchange of information for tax purposes and are supportive of improving tax compliance;

Whereas, the Parties are committed to working together over the longer term towards achieving common reporting and due diligence standards for financial institutions;

Whereas, the Parties are committed to promoting a new single global standard in the automatic exchange of tax information and will look to align this agreement to that new global standard in due course;

Whereas, the Parties desire to conclude an agreement to improve international tax compliance based on domestic reporting and reciprocal automatic exchange of information pursuant to the TIEA and subject to the confidentiality and other protections provided for therein, including the provisions limiting the use of the information exchanged under the TIEA;

Now, therefore, the Parties have agreed as follows:

ARTICLE 1

Definitions

1. For purposes of this agreement and any annexes thereto (“Agreement”), the following terms shall have the meanings set forth below:
 - a) The term “**United Kingdom**” means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the

Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised.

- b) The term **“Guernsey”** means the islands of Guernsey, Alderney and Herm and the territorial sea adjacent thereto, in accordance with international law, save that any reference to the law of Guernsey is to the law of the island of Guernsey as it applies there and in the islands of Alderney and Herm.
- c) The term **“TIEA”** means the 2009 Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the States of Guernsey for the exchange of information relating to tax matters, as amended from time to time or such successor arrangement as may henceforth be agreed between the Parties. References to paragraphs of the TIEA shall be read as references to the paragraphs of the TIEA as amended from time to time or to such equivalent provisions contained in any successor arrangement.
- d) The term **“HMRC”** means Her Majesty’s Revenue and Customs.
- e) The term **“Competent Authority”** means:
 - (1) in the case of the United Kingdom, the Commissioners for HMRC or their authorised representative; and
 - (2) in the case of Guernsey, the Director of Income Tax or his delegate.
- f) The term **“U.S. Treasury Regulations”** means the U.S. Regulations Relating to Information Reporting by Foreign Financial Institutions and Withholding on Certain Payments to Foreign Financial Institutions and Other Foreign Entities. In the event that these Regulations are amended, then the term **“U.S. Treasury Regulations”** shall mean the amended Regulations where both Parties agree that any or all of the amendments should apply.
- g) The term **“Financial Institution”** means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.
- h) The term **“Custodial Institution”** means any Entity that holds, as a substantial portion of its business, financial assets for the account of others. An Entity holds financial assets for the account of others as a substantial portion of its business if the Entity’s gross income attributable to the holding of financial assets and related financial services equals or exceeds 20 percent of the Entity’s gross income during the shorter of: (i) the three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being

made; or (ii) the period during which the Entity has been in existence.

- i) The term **“Depository Institution”** means any Entity that accepts deposits in the ordinary course of a banking or similar business.
- j) The term **“Investment Entity”** means any Entity that conducts as a business (or is managed by an Entity that conducts as a business) one or more of the following activities or operations for or on behalf of a customer:
 - (1) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
 - (2) individual and collective portfolio management; or
 - (3) otherwise investing, administering, or managing funds or money on behalf of other persons.

This subparagraph 1(j) shall be interpreted in a manner consistent with similar language set forth in the definition of “financial institution” in the Financial Action Task Force Recommendations.

- k) The term **“Specified Insurance Company”** means any Entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.
- l) The term **“United Kingdom Financial Institution”** means (i) any Financial Institution resident in the United Kingdom, but excluding any branches of such Financial Institution that are located outside the United Kingdom, and (ii) any branch of a Financial Institution not resident in the United Kingdom, if such branch is located in the United Kingdom.
- m) The term **“Guernsey Financial Institution”** means (i) any Financial Institution resident in Guernsey, but excluding any branches of such Financial Institution that are located outside Guernsey, and (ii) any branch of a Financial Institution not resident in Guernsey, if such branch is located in Guernsey.
- n) The term **“Reporting Financial Institution”** means a Reporting United Kingdom Financial Institution or a Reporting Guernsey Financial Institution, as the context requires.
- o) The term **“Reporting United Kingdom Financial Institution”** means any United Kingdom Financial Institution that is not a Non-Reporting Financial Institution.

- p) The term **“Reporting Guernsey Financial Institution”** means any Guernsey Financial Institution that is not a Non-Reporting Financial Institution.
- q) The term **“Non-Reporting Financial Institution”** means any Financial Institution, or other Entity resident in the United Kingdom or Guernsey that is described in Annex II for the United Kingdom or Annex III for Guernsey as a Non-Reporting Financial Institution, other than a Sponsored Investment Entity or a Sponsored Closely Held Investment Vehicle where the sponsoring entity has failed to comply with the obligations contained in subparagraph B.2. or C.5. of section III of Annex III.
- r) The term **“Financial Account”** means an account maintained by a Financial Institution, and includes:
 - (1) in the case of an Entity that is a Financial Institution solely because it is an Investment Entity, any equity or debt interest (other than interests that are regularly traded on an established securities market) in the Financial Institution;
 - (2) in the case of a Financial Institution not described in subparagraph 1(r)(1) of this Article, any equity or debt interest in the Financial Institution (other than interests that are regularly traded on an established securities market), if the class of interests was established with a purpose of avoiding reporting in accordance with this Agreement; and
 - (3) any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a noninvestment-linked, nontransferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account, product, or arrangement that is excluded from the definition of Financial Account in Annex II for the United Kingdom or Annex III for Guernsey.

Notwithstanding the foregoing, the term “Financial Account” does not include any account, product, or arrangement that is excluded from the definition of Financial Account in Annex II for the United Kingdom or Annex III for Guernsey.

- s) The term **“Depository Account”** includes any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a Financial Institution in the ordinary course of a banking or similar business. A Depository Account also generally includes an amount held by an insurance

company under an agreement to pay or credit interest thereon.

- t) The term **“Custodial Account”** means an account (other than an Insurance Contract or Annuity Contract) for the benefit of another person that holds any financial instrument or contract held for investment (including, but not limited to, a share or stock in a corporation, a note, bond, debenture, or other evidence of indebtedness, a currency or commodity transaction, a credit default swap, a swap based upon a nonfinancial index, a notional principal contract, an Insurance Contract or Annuity Contract, and any option or other derivative instrument).
- u) The term **“Equity Interest”** means, in the case of a partnership that is a Financial Institution, either a capital or profits interest in the partnership. In the case of a trust that is a Financial Institution, an Equity Interest is considered to be held by any person treated as a settlor or beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust. A Specified Person shall be treated as being a beneficiary of a trust if such Specified Person has the right to receive directly or indirectly (for example, through a nominee) a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust.
- v) The term **“Insurance Contract”** means a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.
- w) The term **“Annuity Contract”** means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.
- x) The term **“Cash Value Insurance Contract”** means an Insurance Contract (other than an indemnity reinsurance contract between two insurance companies) that has a Cash Value.
- y) The term **“Cash Value”** means the greater of (i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan), and (ii) the amount the policyholder can borrow under or with regard to the contract. Notwithstanding the foregoing, the term “Cash Value” does not include an amount payable under an Insurance Contract as:
 - (1) a personal injury or sickness benefit or other benefit providing

indemnification of an economic loss incurred upon the occurrence of the event insured against;

- (2) a refund to the policyholder of a previously paid premium under an Insurance Contract (other than under a life insurance contract) due to policy cancellation or termination, decrease in risk exposure during the effective period of the Insurance Contract, or arising from a redetermination of the premium due to correction of posting or other similar error; or
 - (3) a policyholder dividend based upon the underwriting experience of the contract or group involved.
- z) The term **“Preexisting Account”** means a Financial Account maintained by a Reporting Financial Institution as of 30 June 2014.
- aa) The term **“Reportable Account”** means a United Kingdom Reportable Account or a Guernsey Reportable Account, as the context requires.
- bb) The term **“United Kingdom Reportable Account”** means a Financial Account maintained by a Reporting Guernsey Financial Institution and held by one or more Specified United Kingdom Persons or by a non-United Kingdom Entity with one or more Controlling Persons that is a Specified United Kingdom Person. Notwithstanding the foregoing, an account shall not be treated as a United Kingdom Reportable Account if such account is not identified as a United Kingdom Reportable Account after application of the due diligence procedures in Annex I.
- cc) The term **“Guernsey Reportable Account”** means a Financial Account maintained by a Reporting United Kingdom Financial Institution and held by one or more Specified Guernsey Persons or by a non-Guernsey Entity with one or more Controlling Persons that is a Specified Guernsey Person. Notwithstanding the foregoing, an account shall not be treated as a Guernsey Reportable Account if such account is not identified as a Guernsey Reportable Account after application of the due diligence procedures in Annex I.
- dd) The term **“Account Holder”** means the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment adviser, or intermediary, is not treated as holding the account for the purposes of this Agreement, and such other person is treated as holding the account. In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary,

the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder.

- ee) The term **“Specified Person”** means a Specified United Kingdom Person or a Specified Guernsey Person, as the context requires.
- ff) The term **“Specified United Kingdom Person”** means a person or Entity who is resident in the United Kingdom for tax purposes, and includes a person or Entity who is resident in both the United Kingdom and Guernsey under the respective domestic law of each Party, other than: (i) a corporation the stock of which is regularly traded on one or more established securities markets; (ii) a corporation that is a member of the same affiliated group, as defined in Section 1471(e)(2) of the U.S. Internal Revenue Code, as a corporation described in (i) above; (iii) a Depository Institution; (iv) a broker or dealer in securities, commodities, or derivative financial instruments (including notional principle contracts, futures, forwards, and options) that is registered as such under the laws of the United Kingdom; or (v) an exempt beneficial owner as defined in Annex II.
- gg) The term **“Specified Guernsey Person”** means a person or Entity who is resident in Guernsey for tax purposes, and includes a person or Entity who is resident in both Guernsey and the United Kingdom under the respective domestic law of each Party, other than: (i) a corporation the stock of which is regularly traded on one or more established securities markets; (ii) a corporation that is a member of the same affiliated group, as defined in Section 1471(e)(2) of the U.S. Internal Revenue Code, as a corporation described in (i) above; (iii) a Depository Institution; (iv) a broker or dealer in securities, commodities, or derivative financial instruments (including notional principle contracts, futures, forwards, and options) that is registered as such under the laws of Guernsey; or (v) an exempt beneficial owner as defined in Annex III.
- hh) The term **“Entity”** means a legal person or a legal arrangement such as a trust, partnership or limited liability partnership. An Entity such as a partnership, limited liability partnership or similar arrangement shall be resident in a Party if the control and management of the business takes place in that Party.
- ii) The term **“Non-United Kingdom Entity”** means an Entity that is not a person or Entity who is resident in the United Kingdom for tax purposes.
- jj) The term **“Non-Guernsey Entity”** means an Entity that is not a person or Entity who is resident in Guernsey for tax purposes.

- kk) An Entity is a **“Related Entity”** of another Entity if either Entity controls the other Entity, or the two Entities are under common control. For this purpose control includes direct or indirect ownership of more than 50 percent of the vote or value in an Entity. Notwithstanding the foregoing, either Party may treat an Entity as not a related entity if the two Entities are not members of the same affiliated group, as defined in Section 1471(e)(2) of the U.S. Internal Revenue Code.
 - ll) The term **“Controlling Persons”** means the natural persons who exercise control over an Entity. In the case of a trust, such term means the settlor, the trustees, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term **“Controlling Persons”** shall be interpreted in a manner consistent with the Recommendations of the Financial Action Task Force.
2. Any term not otherwise defined in this Agreement shall, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the Party applying the Agreement, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.
 3. Notwithstanding paragraphs 1 and 2 of Article 1, and the definitions provided in the Annexes to this Agreement, in implementing this Agreement either Party may use, and may permit its Financial Institutions to use, any definition in the relevant U.S. Treasury Regulations instead of the corresponding definition in this Agreement in so far as they have been accepted by both Parties provided that such use would not frustrate the purposes of this Agreement.

ARTICLE 2

Obligations to Obtain and Exchange Information with Respect to Reportable Accounts

1. Subject to the provisions of Article 3, each Party, shall obtain the information specified in paragraph 2 of this Article with respect to all Reportable Accounts and shall annually exchange this information with the other Party on an automatic basis pursuant to the provisions of Paragraph 5a of the TIEA.
2. The information to be obtained and exchanged is:
 - a) With respect to each Reportable Account of each Reporting Financial Institution:

- (1) the name, address, date of birth and, where available, the National Insurance or Social Security Number that is allocated by the other Party for each Specified Person that is an Account Holder of such account and, in the case of an Entity that, after application of the due diligence procedures set forth in Annex I, is identified as having one or more Controlling Persons that is a Specified Person in the other Party, the name and address of such Entity and the name, address, date of birth and, where available, the National Insurance or Social Security Number that is allocated by the other Party for each such Specified Person;
- (2) the account number (or functional equivalent in the absence of an account number);
- (3) the name of the Reporting Financial Institution and, where provided when registering with the U.S. Internal Revenue Service for FATCA purposes, the Global Intermediary Identification Number (GIIN). Where the Reporting Financial Institution does not have a GIIN the local tax identification number of the Reporting Financial Institution must be reported instead;
- (4) the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) as of the end of the relevant calendar year or other appropriate reporting period or, if the account was closed during such year, immediately before closure;
- (5) in the case of any Custodial Account:
 - (A) the total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in the account, in each case paid or credited to the account (or with respect to the account) during the calendar year or other appropriate reporting period; and
 - (B) the total gross proceeds from the sale or redemption of property paid or credited to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;
- (6) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
- (7) in the case of any account not described in subparagraph 2.a)(5) or 2.a)(6) of this Article, the total gross amount paid or credited to the

Account Holder with respect to the account during the calendar year or other appropriate reporting period with respect to which the Reporting Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

ARTICLE 3

Time and Manner of Exchange of Information

1. For purposes of the exchange obligation in Article 2, the amount and characterisation of payments made with respect to a United Kingdom Reportable Account may be determined in accordance with the principles of Guernsey's tax laws, and the amount and characterisation of payments made with respect to a Guernsey Reportable Account may be determined in accordance with the principles of the United Kingdom's tax laws.
2. For purposes of the exchange obligation in Article 2, the information exchanged shall identify the currency in which each relevant amount is denominated.
3. With respect to paragraph 2 of Article 2, information is to be obtained and exchanged with respect to 2014 and all subsequent years, except that:
 - a) the information to be obtained and exchanged with respect to 2014 is only the information described in subparagraphs 2.a)(1) to 2.a)(4) of this Agreement;
 - b) the information to be obtained and exchanged with respect to 2015 is the information described in subparagraphs 2.a)(1) to 2.a)(7), except for gross proceeds described in subparagraph 2.a)(5)(B) of Article 2 of this Agreement; and
 - c) the information to be obtained and exchanged with respect to 2016 and subsequent years is the information described in subparagraphs 2.a)(1) to 2.a)(7) of Article 2 of this Agreement.
4. Subject to paragraph 3 of this Article, the information described in Article 2 shall be exchanged within nine months after the end of the calendar year to which the information relates. Notwithstanding the foregoing, the information that relates to calendar year 2014 shall be exchanged no later than 30 September 2016.
5. Unless otherwise agreed, the information to be exchanged under Article 2 will be provided in the agreed format to be used when complying with the agreements between the Government of the United Kingdom and the Government of the States of Guernsey, as the context requires, and the Government of the United States of America to Improve International Tax Compliance and to Implement

FATCA.

6. The Competent Authorities of each Party shall enter into an agreement under the mutual agreement procedure provided for in Paragraph 5a of the TIEA, which shall:
 - a) establish the procedures for the automatic exchange obligations described in Article 2; and
 - b) prescribe rules and procedures as may be necessary to implement Article 4.
7. All information exchanged shall be subject to the confidentiality and other protections provided for in Paragraph 5a of the TIEA, including the provisions limiting the use of the information exchanged.

ARTICLE 4

Collaboration on Compliance and Enforcement

1. **Minor and Administrative Errors.** Subject to any further terms set forth in a competent authority agreement executed pursuant to paragraph 6 of Article 3, a Competent Authority may make an inquiry directly to a Reporting Financial Institution in the other jurisdiction where it has reason to believe that administrative errors or other minor errors may have led to incorrect or incomplete information reporting or resulted in other infringements of this Agreement. The competent authority agreement may provide that a Competent Authority shall notify the Competent Authority of the other Party when the first-mentioned Competent Authority makes such an inquiry of a Reporting Financial Institution in the other jurisdiction regarding the Reporting Financial Institution's compliance with the conditions set forth in this Agreement.
2. **Significant Non-Compliance.** A Competent Authority shall notify the Competent Authority of the other Party when the first-mentioned Competent Authority has determined that there is significant non-compliance with the obligations under this Agreement with respect to a Reporting Financial Institution in the other jurisdiction. The Competent Authority of such other Party shall apply its domestic law (including applicable penalties) to address the significant non-compliance described in the notice in a timely manner.
3. **Reliance on Third Party Service Providers.** Each Party may allow Reporting Financial Institutions to use third party service providers to fulfil the obligations imposed on them by a Party, as contemplated in this Agreement, but these obligations shall remain the responsibility of the Reporting Financial Institutions.
4. **Prevention of Avoidance.** The Parties shall:

- a) support the full and effective implementation of this Agreement including through any changes to domestic legislation or administrative practice;
- b) implement, as necessary, requirements to prevent Financial Institutions, any persons or intermediaries from adopting practices intended to circumvent the reporting required under this Agreement. This shall include legislation with the equivalent effect, and introduced to the same timetable as, that required by any agreement each Party has with Government of the United States of America to Improve International Tax Compliance and to Implement FATCA.

ARTICLE 5

Mutual Commitment to Continue to Enhance the Effectiveness of Information Exchange and Transparency

1. **Development of Common Reporting and Exchange Model.** The Parties are committed to working with other partners and the Organisation for Economic Co-operation and Development on adapting the terms of this Agreement to a common model for automatic exchange of information, including the development of reporting and due diligence standards for financial institutions.
2. **Documentation of Accounts Maintained as of 30 June 2014.** With respect to Reportable Accounts that are Pre-existing Accounts maintained by a Reporting Financial Institution, both parties commit to establish, by 1 January 2017, for reporting with respect to 2017 and subsequent years, rules requiring Reporting Financial Institutions to obtain and report the date of birth and National Insurance or Social Security Number for each Account Holder of a Reportable Account as required pursuant to subparagraph 2.a)(1) of Article 2.

ARTICLE 6

Consistency in the Application of the Agreement

1. Guernsey shall be granted the benefit of any more favourable terms afforded to another jurisdiction under a signed bilateral agreement with the United Kingdom pursuant to which the other jurisdiction commits to undertake substantially the same obligations as described in Articles 2 and 3 of this Agreement, and subject to substantially the same terms and conditions as described therein and in Articles 4 to 8 of the Agreement.
2. The United Kingdom shall notify Guernsey of any more favourable terms and such more favourable terms shall apply automatically under this Agreement as if

they were specified in this Agreement and effective as of the date of the entry into force of the agreement incorporating the more favourable terms.

3. The United Kingdom shall be granted the benefit of any more favourable terms afforded to another jurisdiction under a signed bilateral agreement with Guernsey pursuant to which the other jurisdiction commits to undertake substantially the same obligations as described in Articles 2 and 3 of this Agreement, and subject to substantially the same terms and conditions as described therein and in Articles 4 to 8 of the Agreement.
4. Guernsey shall notify the United Kingdom of any more favourable terms and such more favourable terms shall apply automatically under this Agreement as if they were specified in this Agreement and effective as of the date of the entry into force of the agreement incorporating the more favourable terms.

ARTICLE 7

Consultations and Amendments

1. In case any difficulties in the implementation of this Agreement arise, either Party may request consultations to develop appropriate measures to ensure the fulfilment of this Agreement.
2. This Agreement may be amended by written mutual consent of the Parties. Unless otherwise agreed upon, such an amendment shall enter into force through the same procedures as set forth in Article 9.

ARTICLE 8

Annexes

The annexes form an integral part of this Agreement.

ARTICLE 9

Entry into Force

The Parties shall notify each other in writing when their necessary internal procedures for entry into force have been completed. The Agreement shall enter into force on the date of the later of these written notifications.

ARTICLE 10

Termination

This Agreement shall remain in force until it is terminated by one of the Parties. Either Party may terminate this Agreement by giving written notice of termination. This Agreement shall cease to have effect on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination.

In witness whereof, the undersigned, being duly authorised thereto by their respective Governments, have signed this agreement.

Done at London, in duplicate, this 22nd day of October, 2013.

FOR THE GOVERNMENT OF THE
UNITED KINGDOM:

FOR THE STATES OF
GUERNSEY:

ANNEX I

DUE DILIGENCE OBLIGATIONS FOR IDENTIFYING AND REPORTING ON REPORTABLE ACCOUNTS

I. General

- A. Under the Agreement each Party shall require that Reporting Financial Institutions apply the due diligence procedures contained in this Annex I to identify Reportable Accounts.
- B. For the purpose of this Annex I, as it applies to Guernsey Reporting Financial Institutions, Reportable Account shall be read to mean United Kingdom Reportable Account, Specified Person shall be read to mean United Kingdom Specified Person, a Resident Entity shall be read to be an Entity who is resident in the United Kingdom and Non-Resident Entity shall be read to be an Entity who is not resident in the United Kingdom.
- C. For the purpose of this Annex I, as it applies to United Kingdom Reporting Financial Institutions, Reportable Account shall be read to mean Guernsey Reportable Account, Specified Person shall be read to mean Guernsey Specified Person, Resident Entity shall be read to be an Entity who is resident in Guernsey and Non-Resident Entity shall be read to be an Entity who is not resident in Guernsey.
- D. For purposes of the Agreement:
 - 1. All dollar amounts are US dollars and shall be read to include the equivalent in other currencies.
 - 2. Except as otherwise provided herein, the balance or value of an account shall be determined as of the last day of the calendar year or other appropriate reporting period.
 - 3. Where a balance or value threshold is to be determined as of 30 June 2014 under this Annex I, the relevant balance or value shall be determined as of the last day of the reporting period ending immediately before 30 June 2014, and where a balance or value threshold is to be determined as of the last day of a calendar year under this Annex I, the relevant balance or value shall be determined as of the last day of the reporting period that ends with or within that calendar year.
 - 4. Subject to subparagraph E.1. of section II of this Annex I., an account shall be treated as a Reportable Account beginning as of the date it is identified as such pursuant to the due diligence procedures in this Annex I.

5. Unless otherwise provided, information with respect to a Reportable Account shall be reported annually in the calendar year following the year to which the information relates.
- E. As an alternative to the procedures described in each section of this Annex I either Party may allow its Reporting Financial Institutions to apply the procedures described in the relevant U.S. Treasury Regulations, in so far as they have been accepted by both Parties, to establish whether an account is a Reportable Account. Either Party may allow its Reporting Financial Institutions to make such an election separately for each section of this Annex I either with respect to all relevant Financial Accounts or, separately, with respect to any clearly identified group of such accounts (such as by line of business or the location of where the account is maintained).
- II. **Preexisting Individual Accounts.** The following rules and procedures apply for identifying Reportable Accounts among Preexisting Accounts held by individuals (“Preexisting Individual Accounts”).
- A. **Accounts Not Required to Be Reviewed, Identified or Reported.** Unless the Reporting Financial Institution elects otherwise, either with respect to all Preexisting Individual Accounts or, separately, with respect to any clearly identified group of such accounts, where the implementing rules in the jurisdiction provide for such an election, the following accounts are not required to be reviewed, identified, or reported as Reportable Accounts:
1. Subject to subparagraph E.2. of this section, Preexisting Individual Accounts with a balance or value that does not exceed \$50,000 as of 30 June 2014.
 2. Subject to subparagraph E.2. of this section, Preexisting Individual Accounts that are Cash Value Insurance Contracts and Annuity Contracts with a balance or value of \$250,000 or less as of 30 June 2014.
 3. Any Depository Account with a balance or value of \$50,000 or less.
- B. **Review Procedures for Preexisting Individual Accounts With a Balance or Value as of 30 June 2014, that Exceeds \$50,000 (\$250,000 for a Cash Value Insurance Contract or Annuity Contract), But Does Not Exceed \$1,000,000 (“Lower Value Accounts”).**
1. **Electronic Record Search.** The Reporting Financial Institution must review electronically searchable data maintained by them for any of the following indicia:
 - a) Identification of the Account Holder as tax resident in the other

Party;

- b) Current mailing or residence address (including a post office box, “in-care-of” or “hold mail” address) in the other Party;
 - c) Currently effective power of attorney or signatory authority granted to a person with an address in the other Party; **and**
 - d) For accounts that are not Depository Accounts the Reporting Financial Institution must also review electronically searchable data maintained by them for standing instructions to transfer funds to an account maintained in the other Party.
2. If none of the indicia listed in subparagraph B.1. of this section are discovered in the electronic search, then no further action is required until there is a change in circumstances described in subparagraph C.2. of this section with respect to the account that results in one or more indicia being associated with the account.
 3. If any of the indicia in subparagraph B.1. of this section are discovered in the electronic search, then the Reporting Financial Institution must treat the account as a Reportable Account unless subparagraph B.4. applies.
 4. Notwithstanding a finding of indicia under subparagraph B.1. of this section, a Reporting Financial Institution is not required to treat an account as a Reportable Account if:
 - a) Where Account Holder information contains a current mailing or residence address (including a post office box, “in-care-of” or “hold mail” address) in the other Party, the Reporting Financial Institution obtains or has previously reviewed and maintains a record of:
 - (1) a self-certification that the Account Holder is not resident in the other Party for tax purposes; **and**
 - (2) **either;**
 - (a) a certificate of residence for tax purposes issued by an appropriate official of the country or jurisdiction in which the Account Holder claims to be resident; **or**
 - (b) the provision of a local tax identification number of the country or jurisdiction in which the Account Holder claims to be resident, **and**, a passport

issued by the jurisdiction in which the Account Holder claims to be resident.

- b) Where Account Holder information contains a currently effective power of attorney or signatory authority granted to a person with an address in the other Party, or in the case of Financial Accounts other than Depository Accounts where Account Holder information contains standing instructions to transfer funds to an account maintained in the other Party, the Reporting Financial Institution obtains or has previously reviewed and maintains a record of:
 - (1) a self-certification that the Account Holder is not resident in the other Party for tax purposes; *and*
 - (2) documentary evidence, as defined in subparagraph VI.D. of this Annex I, establishing the Account Holder's non-residence status.

C. **Additional Procedures Applicable to Preexisting Individual Accounts That Are Lower Value Accounts.**

- 1. Review of Preexisting Individual Accounts that are Lower Value Accounts for indicia must be completed by 30 June 2016.
- 2. If there is a change of circumstances with respect to a Preexisting Individual Account that is a Lower Value Account that results in one or more indicia described in subparagraph B.1. of this section being associated with the account, then Reporting Financial Institution must treat the account as a Reportable Account unless subparagraph B.4. of this section applies.
- 3. Except for Depository Accounts described in subparagraph A.3. of this section, any Preexisting Individual Account that has been identified as a Reportable Account under this section shall be treated as a Reportable Account in all subsequent years, unless the Account Holder ceases to be a Specified Person.

D. **Enhanced Review Procedures for Preexisting Individual Accounts With a Balance or Value That Exceeds \$1,000,000 as of 30 June 2014, or 31 December of 2015 or Any Subsequent Year ("High Value Accounts").**

- 1. **Electronic Record Search.** The Reporting Financial Institution must review electronically searchable data maintained by them for any of the indicia described in subparagraph B.1. of this section.

2. **Paper Record Search.** If the Reporting Financial Institution's electronically searchable databases include fields for and capture all of the information described in subparagraph D.3. of this section, then no further paper record search is required. If the electronic databases do not capture all of this information, then with respect to High Value Accounts, the Reporting Financial Institution must also review the current customer master file and, to the extent not contained in the current customer master file, the following documents associated with the account and obtained by the Reporting Financial Institution within the last five years for any of the indicia described in subparagraph B.1. of this section:
 - a) the most recent documentary evidence collected with respect to the account;
 - b) the most recent account opening contract or documentation;
 - c) the most recent documentation obtained by the Reporting Financial Institution pursuant to AML/KYC Procedures or for other regulatory purposes;
 - d) any power of attorney or signature authority forms currently in effect; *and*
 - e) in the case of Financial Accounts other than Depository Accounts, any standing instructions to transfer funds currently in effect.

3. **Exception Where Databases Contain Sufficient Information.** A Reporting Financial Institution is not required to perform the paper record search described in subparagraph D.2. of this section if the Reporting Financial Institution's electronically searchable information includes the following:
 - a) the Account Holder's residence address and mailing address currently on file with the Reporting Financial Institution;
 - b) whether there is a current "in-care-of" address or "hold mail" address for the Account Holder;
 - c) whether there is any power of attorney or signatory authority for the account; *and*
 - d) in the case of Financial Accounts other than Depository Accounts whether there are standing instructions to transfer funds in the account to another account (including an account at

another branch of the Reporting Financial Institution or another Financial Institution).

4. **Relationship Manager Inquiry for Actual Knowledge.** In addition to the electronic and paper record searches described above, the Reporting Financial Institution must treat as Reportable Accounts any High Value Accounts assigned to a relationship manager (including any accounts aggregated with such account) if the relationship manager, has actual knowledge that the Account Holder is a Specified Person.
5. **Effect of Finding Indicia.**
 - a) If none of the indicia listed in subparagraph B.1. of this section are discovered in the enhanced review of High Value Accounts described above, and the account is not identified as held by a Specified Person in subparagraph D.4. of this section, then no further action is required until there is a change in circumstances described in subparagraph E.4. of this section.
 - b) If any of the indicia listed in subparagraph B.1. of this section are discovered in the enhanced review of High Value Accounts described above, or if there is a subsequent change in circumstances that results in one or more indicia being associated with the account, then the Reporting Financial Institution must treat the account as a Reportable Account unless it elects to apply subparagraph B.4. of this section and one or more of the exceptions in that subparagraph applies with respect to that account.
 - c) Except for Depository Accounts described in subparagraph A.3. of this section, any Preexisting Individual Account that has been identified as a Reportable Account under this section shall be treated as a Reportable Account in all subsequent years, unless the Account Holder ceases to be a Specified Person.

E. **Additional Procedures Applicable to High Value Accounts**

1. If a Preexisting Individual Account is a High Value Account as of 30 June 2014, the Reporting Financial Institution must complete the enhanced review procedures described in paragraph D of this section with respect to such account by 30 June 2015. If based on this review such account is identified as a Reportable Account on or before 31 December 2014, the Reporting Financial Institution must report the required information about such account with respect to 2014 in the first report on the Account and on an annual basis thereafter. In the

case of an account identified as a Reportable Account after 31 December 2014 and on or before 30 June 2015, the Reporting Financial Institution is not required to report information about such account with respect to 2014, but must report information about the account on an annual basis thereafter.

2. If a Preexisting Individual Account is not a High Value Account as of 30 June 2014, but becomes a High Value Account as of 31 December 2015 or of any subsequent calendar year, the Reporting Financial Institution must complete the enhanced review procedures described in paragraph D of this section with respect to such account within six months after the last day of the calendar year in which the account becomes a High Value Account. If based on this review such account is identified as a Reportable Account, the Reporting Financial Institution must report the required information about such account with respect to the year in which it is identified as a Reportable Account and subsequent years on an annual basis, unless the Account Holder ceases to be a Specified Person.
3. Once a Reporting Financial Institution applies the enhanced review procedures described in paragraph D of this section to a High Value Account, the Reporting Financial Institution shall not be required to re-apply such procedures, other than the relationship manager inquiry in subparagraph D.4. of this section, to the same High Value Account in any subsequent year.
4. If there is a change of circumstances with respect to a High Value Account that results in one or more indicia described in subparagraph B.1. of this section being associated with the account, then the Reporting Financial Institution must treat the account as a Reportable Account unless it elects to apply subparagraph B.4. of this section and one of the exceptions in that subparagraph applies with respect to that account.
5. A Reporting Financial Institution must implement procedures to ensure that a relationship manager identifies any change in circumstances of an account. For example, if a relationship manager is notified that the Account Holder has a new mailing address in the other Party, the Reporting Financial Institution shall be required to treat the new address as a change in circumstances and shall be required to obtain the appropriate documentation from the Account Holder.

III. **New Individual Accounts.** The following rules and procedures apply for identifying Reportable Accounts among accounts held by individuals and opened on or after 1 July 2014 (“New Individual Accounts”).

- A. **Accounts Not Required to Be Reviewed, Identified, or Reported.** Unless the Reporting Financial Institution elects otherwise, either with respect to all New Individual Accounts or, separately, with respect to any clearly identified group of such accounts, where the implementing rules in both jurisdictions provide for such an election:
1. A New Individual Account that is a Depository Account is not required to be reviewed, identified, or reported as a Reportable Account unless the account balance exceeds \$50,000 at the end of any calendar year or other appropriate reporting period.
 2. A New Individual Account that is a Cash Value Insurance Contract is not required to be reviewed, identified, or reported as a Reportable Account unless the Cash Value exceeds \$50,000 at the end of any calendar year or other appropriate reporting period.
- B. **Other New Individual Accounts.** With respect to New Individual Accounts not described in paragraph A of this section, upon account opening, (or within 90 days after the end of the calendar year in which the account ceases to be as described in paragraph A of this section), the Reporting Financial Institution must obtain a self-certification which may be part of the account opening documentation, that allows the Reporting Financial Institution to determine whether the Account Holder is resident in the other Party for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures.
- C. If the self-certification establishes that the Account Holder is resident in the other Party for tax purposes, the Reporting Financial Institution must treat the account as a Reportable Account.
- D. If there is a change of circumstances with respect to a New Individual Account that causes the Reporting Financial Institution to know or have reason to know that the original self-certification is incorrect or unreliable, the Reporting Financial Institution cannot rely on the original self-certification and must obtain a valid self-certification that establishes whether the Account Holder is a tax resident in the other Party. If the Reporting Financial Institution is unable to obtain a valid self-certification, the Reporting Financial Institution must treat the account as a Reportable Account.
- IV. **Preexisting Entity Accounts.** The following rules and procedures apply for purposes of identifying Reportable Accounts (“Preexisting Entity Accounts”).
- A. **Entity Accounts Not Required to Be Reviewed, Identified, or Reported.** Unless the Reporting Financial Institution elects otherwise, either with

respect to all Preexisting Entity Accounts or, separately, with respect to any clearly identified group of such accounts, where the implementing rules in the jurisdiction provide for such an election, Preexisting Entity Accounts with account balances that do not exceed \$250,000 as of 30 June 2014, are not required to be reviewed, identified, or reported as Reportable Accounts until the account balance exceeds \$1,000,000.

- B. **Entity Accounts Subject to Review.** Preexisting Entity Accounts that have an account balance or value that exceeds \$250,000 as of 30 June 2014, and Preexisting Entity Accounts that do not exceed \$250,000 as of 30 June 2014 but the account balance of which exceeds \$1,000,000 as of the 31 December 2015 or any subsequent calendar year, must be reviewed in accordance with the procedures set forth in paragraph C of this section.
- C. **Entity Accounts With Respect to Which Reporting is Required.** With respect to Preexisting Entity Accounts described in paragraph B of this section, only accounts that are held by one or more Entities that are Specified Persons or by Passive NFFEs with one or more Controlling Persons who are Specified Persons, shall be treated as Reportable Accounts.
- D. **Review Procedures for Identifying Entity Accounts With Respect to Which Reporting is Required.** For Preexisting Entity Accounts described in paragraph B of this section, the Reporting Financial Institution must apply the following review procedures to determine whether the account is held by one or more Specified Persons, or by Passive NFFEs with one or more Controlling Persons who are Specified Persons:
 1. **Determine Whether the Entity is a Specified Person.**
 - a) Review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine whether the information indicates that the Entity Account Holder is a Specified Person. For this purpose, information indicating that the Entity is a Specified Person includes the place of incorporation or organisation, or an address in the other Party.
 - b) If the information indicates that the Entity Account Holder is a Specified Person, the Reporting Financial Institution must treat the account as a Reportable Account unless it obtains a self-certification from the Account Holder, or reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Specified Person.
 2. **Determine Whether a Non-Resident Entity is a Financial Institution.**

- a) Review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine whether the information indicates that the Non-Resident Entity Account Holder is a Financial Institution.
- b) If the information indicates that the Non-Resident Entity Account Holder is a Financial Institution, then the account is not a Reportable Account.

3. **Determine Whether an Account Held by an NFFE is a Reportable Account.** With respect to an Entity Account Holder of a Preexisting Entity Account that is not identified as either a Specified Person or a Financial Institution, the Reporting Financial Institution must identify (i) whether the Entity has Controlling Persons, (ii) whether the Entity is a Passive NFFE, and (iii) whether any of the Controlling Persons of the Entity is a Specified Person. In making these determinations the Reporting Financial Institution should follow the guidance in a) through d) of this subparagraph in the order most appropriate under the circumstances.

- a) For purposes of determining the Controlling Persons of an Entity, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.
- b) For purposes of determining whether the Entity is a Passive NFFE, the Reporting Financial Institution must obtain a self-certification from the Entity Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Entity is an Active NFFE.
- c) For purposes of determining whether a Controlling Person of a Passive NFFE is a Specified Person, a Reporting Financial Institution may rely on:
 - (1) Information collected and maintained pursuant to AML/KYC Procedures in the case of a Preexisting Entity Account held by one or more NFFEs with an account balance that does not exceed \$1,000,000; *or*
 - (2) A self-certification from the Entity Account Holder or such Controlling Person in the case of a Preexisting Entity Account held by one or more NFFEs with an account balance that exceeds \$1,000,000.
- d) If any Controlling Person of a Passive NFFE is a Specified

Person in the other jurisdiction, the account shall be treated as a Reportable Account.

E. **Timing of Review and Additional Procedures Applicable to Preexisting Entity Accounts.**

1. Review of Preexisting Entity Accounts with an account balance or value that exceeds \$250,000 as of 30 June 2014, must be completed by 30 June 2016.
2. Review of Preexisting Entity Accounts with a balance or value that does not exceed \$250,000 as of 30 June 2014, but exceeds \$1,000,000 as of 31 December of 2015 or any subsequent year, must be completed within six months after the end of the calendar year in which the account balance exceeds \$1,000,000.
3. If there is a change of circumstances with respect to a Preexisting Entity Account that causes the Reporting Financial Institution to know or have reason to know that the self-certification or other documentation associated with an account is incorrect or unreliable, the Reporting Financial Institution must re-determine the status of the account in accordance with the procedures set forth in paragraph D of this section.

V. **New Entity Accounts.** The following rules and procedures apply to accounts held by Entities and opened on or after 1 July 2014 (“New Entity Accounts”).

A. **Entity Accounts Not Required to Be Reviewed, Identified or Reported.**

Unless the Reporting Financial Institution elects otherwise, either with respect to all New Entity Accounts or, separately, with respect to any clearly identified group of such accounts, where the implementing rules in both jurisdictions provide for such election, a revolving credit facility treated as a New Entity Account is not required to be reviewed, identified, or reported, provided that the Reporting Financial Institution maintaining such account, in each case applying the rules at paragraph C of section VI of this Annex I, for account aggregation and currency translation, implements policies and procedures to prevent an account balance owed to the Account Holder that exceeds \$50,000.

B. **Other New Entity Accounts.** With respect to New Entity Accounts not described in paragraph A of this section, the Reporting Financial Institution must determine whether the Account Holder is: (i) a Specified Person; (ii) a Non-Resident Entity which is a Financial Institution; (iii) a Non-Reporting Financial Institution; (iv) an exempt beneficial owner; (v) an Active NFFE or Passive NFFE.

- C. A Reporting Financial Institution may determine that an Account Holder is an Active NFFE or a Non-Resident Entity which is a Financial Institution in the other Party, if the Reporting Financial Institution reasonably determines that the Entity has such status on the basis of information that is publicly available or in the possession of the Reporting Financial Institution.
- D. In all other cases, a Reporting Financial Institution must obtain a self-certification from the Entity Account Holder to establish the Account Holder's status. Based on the self-certification, the following rules apply:
 - 1. If the Entity Account Holder is a Specified Person, the Reporting Financial Institution must treat the account as a Reportable Account.
 - 2. If the Entity Account Holder is a Passive NFFE, the Reporting Financial Institution must identify the Controlling Persons as determined under AML/KYC Procedures, and must determine whether any such person is a tax resident in the other Party on the basis of a self-certification from the Account Holder or such person. If any such person is a tax resident of the other Party, the account shall be treated as a Reportable Account.
 - 3. If the Entity Account Holder is: (i) a Person resident in the other Party that is not a Specified Person; (ii) a Non-Resident Entity which is a Financial Institution; (iii) a Non-Reporting Financial Institution; (iv) an exempt beneficial owner; (v) an Active NFFE; or, (vi) a Passive NFFE where none of the Controlling Persons of which is a Specified Person, then the account is not a Reportable Account and no reporting is required with respect to the account.

VI. **Special Rules and Definitions.** The following additional rules and definitions apply in implementing the due diligence procedures described above:

- A. **Reliance on Self-Certifications and Documentary Evidence.** A Reporting Financial Institution may not rely on a self-certification or documentary evidence if the Reporting Financial Institution knows or has reason to know that the self-certification or documentary evidence is incorrect or unreliable.
- B. **Definitions.** The following definitions apply for purposes of this Annex I.
 - 1. **AML/KYC Procedures.** "AML/KYC Procedures" means the customer due diligence (CDD) procedures of a Reporting Financial Institution pursuant to the anti-money laundering or similar requirements of the jurisdiction concerned to which such Reporting Financial Institution is subject.
 - 2. **Resident Entity.** A "Resident Entity" means an Entity that is resident in the other Party for the purposes of this Agreement and includes an

Entity that is resident in both Parties under the respective domestic law of each Party.

3. **Non-Resident Entity.** A Non-Resident Entity means an Entity that is not resident in the other Party for the purposes of this Agreement.
4. **NFFE.** An “NFFE” means any Non-Resident Entity that is not a Financial Institution as defined in this Agreement.
5. **Passive NFFE.** A “Passive NFFE” means any NFFE that is not an Active NFFE.
6. **Active NFFE.** An “Active NFFE” means any NFFE that meets any of the following criteria:
 - a) Less than 50 percent of the NFFE’s gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50 percent of the assets held by the NFFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
 - b) The stock of the NFFE is regularly traded on an established securities market or the NFFE is a Related Entity of an Entity the stock of which is traded on an established securities market;
 - c) The NFFE is a government, a political subdivision of such government or a public body performing a function of such government or a political subdivision thereof, or an Entity wholly owned by one or more of the foregoing;
 - d) Substantially all of the activities of the NFFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an NFFE shall not qualify for this status if the NFFE functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
 - e) The NFFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution; provided, that the NFFE shall not qualify for this

exception after the date that is 24 months after the date of the initial organisation of the NFFE;

- f) The NFFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution; *or*
- g) The NFFE primarily engages in financing and hedging transactions with or for Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution.

C. **Account Balance Aggregation and Currency Translation Rules.**

1. **Aggregation of Individual Accounts.** For purposes of determining the aggregate balance or value of accounts held by an individual, a Reporting Financial Institution shall be required to aggregate all accounts maintained by the Reporting Financial Institution, or Related Entities, but only to the extent that the Reporting Financial Institution's computerised systems link the accounts by reference to a data element such as client number or taxpayer identification number, and allow account balances to be aggregated. Each holder of a jointly held account shall be attributed the entire balance or value of the jointly held account for purposes of applying the aggregation requirements described in this paragraph.
2. **Aggregation of Entity Accounts.** For purposes of determining the aggregate balance or value of accounts held by an Entity, a Reporting Financial Institution shall be required to take into account all accounts held by Entities that are maintained by the Reporting Financial Institution, or Related Entities, to the extent that the Reporting Financial Institution's computerised systems link the accounts by reference to a data element such as client number or taxpayer identification number and allow account balances or values to be aggregated.
3. **Special Aggregation Rule Applicable to Relationship Managers.** For purposes of determining the aggregate balance or value of accounts held by a person to determine whether an account is a High Value Account, a Reporting Financial Institution shall also be required, in the case of any accounts that a relationship manager knows or has reason to know are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person, to aggregate all such accounts.

4. **Currency Translation Rule.** For purposes of determining the balance or value of accounts denominated in a currency other than the U.S. dollar, a Reporting Financial Institution must convert the dollar threshold amounts described in this Annex I into such currency using a published spot rate determined as of the last day of the calendar year preceding the year in which the Reporting Financial Institution is determining the balance or value.

D. **Documentary Evidence.** For purposes of this Annex I, acceptable documentary evidence includes any of the following:

1. A certificate of residence for tax purposes issued by an appropriate official of the country or jurisdiction in which the Account Holder claims to be resident.
2. With respect to an individual, any valid identification issued by an authorised government body (for example, a government or agency thereof, or a municipality), that includes the individual's name and is typically used for identification purposes.
3. With respect to an Entity, any official documentation issued by an authorised government body (for example, a government or agency thereof, or a municipality) that includes the name of the Entity and either the address of its principal office in the country in which it claims to be a resident or the country in which the Entity was incorporated or organised.
4. With respect to an account maintained in a jurisdiction with anti-money laundering rules that have been approved by the U.S. Internal Revenue Service in connection with a Qualifying Intermediary agreement (as described in relevant U.S. Treasury Regulations), any of the documents other than a Form W-8 or W-9 referenced in the jurisdiction's attachment to the Qualifying Intermediary agreement for identifying individuals or Entities.
5. Any financial statement, third-party credit report, bankruptcy filing.

E. **Alternative Procedures for Financial Accounts Held by Individual Beneficiaries of a Cash Value Insurance Contract.** A Reporting Financial Institution may presume that an individual beneficiary (other than the owner) of a Cash Value Insurance Contract receiving a death benefit is not a Specified Person and may treat such Financial Account as other than a Reportable Account unless the Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Specified Person. A Reporting Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract is a Specified Person if the information

collected by the Reporting Financial Institution and associated with the beneficiary contains indicia as described in subparagraph B.1. of section II of this Annex I. If a Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Specified Person, the Reporting Financial Institution must follow the procedures in subparagraph B.3. of section II of this Annex I.

- F. **Reliance on Third Parties.** Subject to paragraph 3 of Article 4, regardless of whether an election is made under paragraph E of section I of this Annex I, either Party may permit Reporting Financial Institutions to rely on due diligence procedures performed by third parties to the extent provided in the U.S. Treasury Regulations.

ANNEX II

NON-REPORTING UK FINANCIAL INSTITUTIONS AND EXEMPT PRODUCTS

The following Entities are treated as either exempt beneficial owners, and/or as other Non-Reporting Financial Institutions, as the case may be, and the following Exempt Products are excluded from the definition of Financial Accounts.

This Annex II may be updated by a mutual agreement entered into between the Competent Authorities of the United Kingdom and Guernsey: (1) to include additional entities, accounts, and products that present a low risk of being used by Guernsey Persons to evade Guernsey tax and that have similar characteristics to the entities, accounts, and products identified in this Annex II as of the date of entry into force of the Agreement; or (2) to remove entities, accounts, and products that, due to changes in circumstances, no longer present a low risk of being used by Guernsey Persons to evade Guernsey tax. Procedures for reaching such an agreement may be included in the mutual agreement described in paragraph 6 of Article 3 of the Agreement.

I. **Exempt Beneficial Owners.** The following Entities are exempt beneficial owners and are treated as Non-Reporting United Kingdom Financial Institutions.

A. **UK Governmental Organisations, any political subdivision of the UK Government or any wholly owned agency or instrumentality of any one or more of the foregoing including:**

- The Devolved Administrations as per:
 - the Northern Ireland Act 1998 (updated by The Northern Ireland (St Andrews Agreement) Acts 2006 & 2007, and the Northern Ireland Act 2009)
 - the Scotland Act 1998
 - the Government of Wales Act 2006
- Local Government Authorities as per:
 - Section 33 of the Local Government Act 2003
 - the Local Government Act (NI) 1972 (as amended by The Local Government (Miscellaneous Provisions) Act (NI) 2010 and Local Government Finance Act (NI) 2011)
 - the Local Government etc. (Scotland) Act 1994
 - the Local Government (Wales) Act 1994

B. **Central Bank.**

The Bank of England and any of its wholly owned subsidiaries.

C. **International Organisations.**

Any UK office of:

- The International Monetary Fund
- The World Bank
- The International Bank for Reconstruction and Development
- The International Finance Corporation
- The International Finance Corporation Order, 1955 (SI 1955 No.1954)
- The International Development Association
- The Asian Development Bank
- The African Development Bank
- The European Community
- The European Coal and Steel Community
- The European Atomic Energy Community
- The European Investment Bank
- The European Bank for Reconstruction and Development
- The OECD Support Fund
- The Inter-American Development Bank

D. **Retirement Funds.**

- Pension schemes or other arrangements registered with HMRC under Part 4 of the Finance Act 2004
- The UK Pension Protection Fund

II. **Non-Reporting United Kingdom Financial Institution.** The following categories of institutions are to be treated as Non-Reporting United Kingdom Financial Institutions for the purposes of this Annex II.

A. **Certain Collective Investment Vehicles.**

In the case of an Investment Entity that is a collective investment vehicle regulated under the laws of the United Kingdom:

1. if all of the interests in the collective investment vehicle (including debt interests in excess of US\$50,000) are held by or through one or more Reporting Financial Institutions such collective investment vehicle will be treated as a Non-Reporting Financial Institution; or
2. if the collective investment vehicle is not as described in subparagraph (a), then, consistent with paragraph 3 of Article 4 of the Agreement, if the information required to be reported by the collective investment vehicle under the Agreement with respect to interests in the collective investment vehicle is reported by the collective investment vehicle or another Investment Entity, the reporting obligations of all other Investment Entities required to

report with respect to the interests in the collective investment vehicle will be deemed fulfilled with respect to such interests.

B. Trustee-Documented Trusts.

A trust resident in the United Kingdom to the extent that the trustee of the trust is a Reporting United Kingdom Financial Institution and reports all information required to be reported pursuant to the Agreement with respect to all Guernsey Reportable Accounts of the trust.

C. Qualified Credit Card Issuer.

A UK Financial Institution satisfying the following criteria:

1. The Financial Institution is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and
2. Beginning on or before 1 July 2014, the Financial Institution implements policies and procedures to either prevent a customer deposit in excess of US\$50,000, or to ensure that any customer deposit in excess of US\$50,000, in each case applying the rules set out in paragraph C of section VI of Annex I for account aggregation and currency translation, is refunded to the customer within 60 days. For this purpose, a customer deposit does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.

D. Credit Unions.

A body corporate registered under the Industrial and Provident Societies Act 1965 as a credit union in accordance with the Credit Unions Act or a body corporate registered under the Credit Unions (Northern Ireland) Order 1985 or a body corporate registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 as a credit union.

III. Exempt Products. The following categories of accounts and products established in the United Kingdom and maintained by a United Kingdom Financial Institution shall not be treated as Financial Accounts, and therefore shall not be Guernsey Reportable Accounts, under the Agreement.

A. Certain Retirement Accounts or Products.

- Pension schemes registered with HMRC under Part 4 of the Finance Act 2004, and non registered pension arrangements where the annual

contributions are limited to £50,000 and funds contributed cannot be accessed before the age of 55 except in circumstances of serious ill health.

- Those that are UK-registered pension arrangements (including authorised payments) as set out in the Finance Act 2004 that are excluded from the definition of Financial Account pursuant to Article 1.r)(3) of the Agreement.
- **Immediate Needs Annuities** qualifying as such under Section 725 Income Tax (Trading and Other Income) Act 2005.

B. Qualifying Credit Cards.

Unless the Reporting Financial Institution elects otherwise, either with respect to all accounts or, separately, with respect to any clearly identified group of such accounts, where the implementing rules in both jurisdictions provide for such election, a credit card account is not required to be reviewed, identified, or reported, provided that the Reporting Financial Institution maintaining such account, in each case applying the rules set forth in paragraph C of section VI of Annex I, for account aggregation and currency translation;

1. implements policies and procedures to prevent an account balance owed to the Account Holder that exceeds \$50,000; *or*,
2. has policies and procedures in place to ensure that any customer deposit in excess of \$50,000 is refunded to the customer within 60 days. For this purpose, a customer deposit does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.

C. Account Held by an Estate.

An account maintained in the United Kingdom that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate.

D. Escrow Accounts.

An account maintained in the United Kingdom established in connection with any of the following:

1. A court order or judgment.
2. A sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:

- a) The account is funded solely with a deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a financial asset that is deposited in the account in connection with the sale, exchange, or lease of the property;
 - b) The account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease;
 - c) The assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates;
 - d) The account is not a margin or similar account established in connection with a sale or exchange of a financial asset; **and**
 - e) The account is not associated with a credit card account.
3. An obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time.
 4. An obligation of a Financial Institution solely to facilitate the payment of taxes at a later time.

E. Certain Other Tax-Favoured Accounts or Products.

- **Individual Savings Accounts (ISAs)** - as defined in the Individual Savings Account Regulations 1998 (SI 1998 No.1870) and subsequent Amendment Regulations
- **Junior ISAs** - as defined in the Individual Savings Account Regulations 1998 No.1870, and subsequent Amendment Regulations
- **Child Trust Funds** - as defined in the Child Trust Funds Act 2004 and subsequent Amendment Regulations
- **Premium Bonds** - where issued by NS&I (UK National Savings and Investments)
- **Children's Bonus Bonds** - where issued by NS&I (UK National Savings and Investments)
- **Fixed Interest Savings Certificates** - where issued by NS&I (UK National Savings and Investments)
- **Index Linked Savings Certificates** - where issued by NS&I (UK National Savings and Investments)

- **Tax Exempt Savings Plans** - where issued by a friendly society within the meaning of the Friendly Societies Act 1992 (c. 40)
- **Save As You Earn Share Option Schemes** - approved by HMRC under Schedule 3 Income Tax (Earnings and Pensions) Act 2003
- **Share Incentive Plans** - approved by HMRC under Schedule 2 Income Tax (Earnings and Pensions) Act 2003
- **Company Share Option Plans** - approved by HMRC under Schedule 4 Income Tax (Earnings and Pensions) Act 2003

F. **Partner Jurisdiction Accounts.**

An account or product that would be excluded from the definition of Financial Account under an Agreement to Improve International Tax Compliance (or similar Arrangement) between Guernsey and another Jurisdiction (Jurisdiction X) where:

1. the account or product is established in Jurisdiction X but is maintained in the United Kingdom; *and*
2. the account or product maintained in the United Kingdom is subject to the same requirements and oversight under the laws of Jurisdiction X, as it would be if that account or product was maintained by a Financial Institution in Jurisdiction X.

ANNEX III

NON-REPORTING GUERNSEY FINANCIAL INSTITUTIONS AND EXEMPT PRODUCTS

The following Entities are treated as either exempt beneficial owners, and/or as other Non-Reporting Guernsey Financial Institutions, as the case may be, and the following Exempt Products are excluded from the definition of Financial Accounts.

This Annex III may be modified by a mutual agreement entered into between the Competent Authorities of Guernsey and the United Kingdom: (1) to include additional Entities and accounts that present a low risk of being used by United Kingdom Persons to evade United Kingdom tax and that have similar characteristics to the Entities and accounts described in this Annex III as of the date of signature of the Agreement; or (2) to remove Entities and accounts that, due to changes in circumstances, no longer present a low risk of being used by United Kingdom Persons to evade United Kingdom tax. Any such addition or removal shall be effective on the date of signature of the mutual agreement, unless otherwise provided therein. Procedures for reaching such an agreement may be included in the mutual agreement described in paragraph 6 of Article 3 of the Agreement.

I. **Exempt Beneficial Owners.** The following Entities are exempt beneficial owners and are treated as Non-Reporting Guernsey Financial Institutions.

A. **Governmental Entity.** The States of Guernsey, any political subdivision of Guernsey (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of Guernsey or any one or more of the foregoing (each, a “Guernsey Governmental Entity”). This category is comprised of the integral parts, controlled entities, and political subdivisions of Guernsey.

1. An integral part of Guernsey means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of Guernsey. The net earnings of the governing authority must be credited to its own account or to other accounts of a Guernsey Governmental Entity, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity.
2. A controlled entity means an Entity that is separate in form from Guernsey or that otherwise constitutes a separate juridical entity, provided that:
 - a) The Entity is wholly owned and controlled by one or more Guernsey Governmental Entities directly or through one or more controlled entities;

b) The Entity's net earnings are credited to its own account or to the accounts of one or more Guernsey Governmental Entities, with no portion of its income inuring to the benefit of any private person; and

c) The Entity's assets vest in one or more Guernsey Governmental Entities upon dissolution.

3. Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental program, and the program activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of government. Notwithstanding the foregoing, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a governmental entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons.

B. International Organisation. Any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation (including a supranational organisation) (1) that has in effect a headquarters agreement with Guernsey; and (2) the income of which does not inure to the benefit of private persons.

C. Broad Participation Retirement Fund. A fund established in Guernsey to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that the fund:

1. Does not have a single beneficiary with a right to more than five percent of the fund's assets;
2. Is subject to government regulation and provides annual information reporting about its beneficiaries to the relevant tax authorities in Guernsey; and
3. Satisfies at least one of the following requirements:
 - a) The fund is generally exempt from tax in Guernsey on investment income under the laws of Guernsey due to its status as a retirement or pension plan;
 - b) The fund receives at least 50 percent of its total contributions (other than transfers of assets from other plans described in paragraphs C

through F of this section or from retirement and pension accounts described in subparagraph B.1. of section IV of this Annex III) from the sponsoring employers;

- c) Distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death (except rollover distributions to other retirement funds described in paragraphs C through F of this section or retirement and pension accounts described in subparagraph B.1. of section IV of this Annex III), or penalties apply to distributions or withdrawals made before such specified events; or
- d) Contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed \$50,000 annually, applying the rules set forth in paragraph C of section IV Annex I for account aggregation and currency translation.

D. Narrow Participation Retirement Fund. A fund established in Guernsey to provide retirement, disability, or death benefits to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that:

- 1. The fund has fewer than 50 participants;
- 2. The fund is sponsored by one or more employers that are not Investment Entities or Passive NFFEs;
- 3. The employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described in subparagraph B.1. of section IV of this Annex III) are limited by reference to earned income and compensation of the employee, respectively;
- 4. Participants that are not residents of Guernsey are not entitled to more than 20 percent of the fund's assets; *and*
- 5. The fund is subject to government regulation and provides annual information reporting about its beneficiaries to the relevant tax authorities in Guernsey.

E. Pension Fund of an Exempt Beneficial Owner. A fund established in Guernsey by an exempt beneficial owner to provide retirement, disability, or death benefits to beneficiaries or participants that are current or former employees of the exempt beneficial owner (or persons designated by such employees), or that are not current or former employees, if the benefits

provided to such beneficiaries or participants are in consideration of personal services performed for the exempt beneficial owner.

F. Investment Entity Wholly Owned by Exempt Beneficial Owners. An Entity that is a Guernsey Financial Institution solely because it is an Investment Entity, provided that each direct holder of an Equity Interest in the Entity is an exempt beneficial owner, and each direct holder of a debt interest in such Entity is either a Depository Institution (with respect to a loan made to such Entity) or an exempt beneficial owner.

G. Additional Entities. Any additional entities agreed between the UK Government and Guernsey.

II. Small or Limited Scope Financial Institutions that Qualify as Non-Reporting Guernsey Financial Institutions. The following Financial Institutions are Non-Reporting Guernsey Financial Institutions.

A. Local Credit Unions. A Financial Institution satisfying all of the following requirements:

1. The Financial Institution carries on business solely as a Credit Union;
2. It is licensed and regulated under the laws of Guernsey;
3. It has no fixed place of business outside of Guernsey; *and*
4. All accounts maintained by the Financial Institution are held by residents of Guernsey.

B. Financial Institution with Only Low-Value Accounts. A Guernsey Financial Institution satisfying the following requirements:

1. The Financial Institution is not an Investment Entity;
2. No Financial Account maintained by the Financial Institution or any Related Entity has a balance or value in excess of \$50,000, applying the rules set forth in paragraph C of section VI Annex I for account aggregation and currency translation; and
3. The Financial Institution does not have more than \$50 million in assets on its balance sheet, and the Financial Institution and any Related Entities, taken together, do not have more than \$50 million in total assets on their consolidated or combined balance sheets.

C. Qualified Credit Card Issuer. A Guernsey Financial Institution satisfying the following criteria:

1. The Financial Institution is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and
2. Beginning on or before 1 July 2014, the Financial Institution implements policies and procedures to either prevent a customer deposit in excess of \$50,000, or to ensure that any customer deposit in excess of \$50,000, in each case applying the rules set forth in Annex I for account aggregation and currency translation, is refunded to the customer within 60 days. For this purpose, a customer deposit does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.

III. Investment Entities that Qualify as Non-Reporting Guernsey Financial Institutions and Other Special Rules. The Financial Institutions described in paragraphs A through E of this section are Non-Reporting Guernsey Financial Institutions. In addition, paragraph F of this section provides special rules applicable to an Investment Entity.

A. Trustee-Documented Trust. A trust resident in Guernsey to the extent that the trustee of the trust is a Reporting Guernsey Financial Institution and reports all information required to be reported pursuant to the Agreement with respect to all UK Reportable Accounts of the trust.

B. Sponsored Investment Entity. A Financial Institution described in subparagraph B.1. of this section having a sponsoring entity that complies with the requirements of subparagraph B.2. of this section.

1. A Financial Institution is a sponsored investment entity if (a) it is an Investment Entity established in Guernsey; and (b) an Entity has agreed with the Financial Institution to act as a sponsoring entity for the Financial Institution;
2. The sponsoring entity is authorised to act on behalf of the Financial Institution (such as fund manager, trustee, corporate director, or managing partner) and complies with the following requirements:
 - a) The sponsoring entity is a Guernsey Financial Institution;
 - b) The sponsoring entity performs, on behalf of the Financial Institution, all due diligence, reporting and other requirements that the Financial Institution would have been required to perform if it were a Reporting Guernsey Financial Institution;
 - c) The sponsoring entity identifies the Financial Institution in all reporting completed on the Financial Institution's behalf; *and*

- d) The sponsoring entity has notified the Guernsey Competent Authority of its status as a sponsor in respect of the Financial Institution and has not had its status as a sponsor revoked by the Guernsey Competent Authority.

C. Sponsored, Closely Held Investment Vehicle. A Guernsey Financial Institution satisfying the following requirements:

1. The Financial Institution is a Financial Institution solely because it is an Investment Entity;
2. The sponsoring entity is a Reporting Guernsey Financial Institution, is authorised to act on behalf of the Financial Institution (such as a professional manager, trustee, or managing partner), and agrees to perform, on behalf of the Financial Institution, all due diligence, reporting and other requirements that the Financial Institution would have been required to perform if it were a Reporting Guernsey Financial Institution;
3. The Financial Institution does not hold itself out as an investment vehicle for unrelated parties;
4. Twenty or fewer individuals own all of the debt interests and Equity Interests in the Financial Institution (disregarding debt interests owned by Financial Institutions and Equity Interests owned by an Entity if that Entity owns 100 per cent of the Equity Interests in the Financial Institution and is itself a sponsored Financial Institution described in this paragraph C); and
5. The sponsoring entity complies with the following requirements:
 - a) The sponsoring entity is a Guernsey Financial Institution;
 - b) The sponsoring entity agrees to perform, on behalf of the Financial Institution, all due diligence, reporting and other requirements that the Financial Institution would have been required to perform if it were a Reporting Guernsey Financial Institution and retains documentation collected with respect to the Financial Institution for a period of six years;
 - c) The sponsoring entity identifies the Financial Institution in accordance with the applicable registration requirements of the Guernsey Competent Authority in all reporting completed on the Financial Institution's behalf; *and*

- d) The sponsoring entity has notified the Guernsey Competent Authority of its status as a sponsor in respect of the Financial Institution and has not had its status as a sponsor revoked by the Guernsey Competent Authority.

D. Investment Advisors and Investment Managers. An Investment Entity established in Guernsey the sole activity of which is (1) to render investment advice to, and act on behalf of, or (2) to manage portfolios for, and act on behalf of, a customer for the purposes of investing, managing, or administering funds deposited in the name of the customer with a Financial Institution.

E. Collective Investment Vehicle. An Investment Entity established in Guernsey that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle (including debt interests in excess of \$50,000) are held by or through one or more exempt beneficial owners or Active NFFEs described in subparagraph B.6. of section VI of Annex I.

F. Special Rules for reporting interests of Investment entities in Collective Investment Vehicles. The following rules apply to an Investment Entity:

1. Where an Investment Entity (other than a Financial Institution through which interests in the collective investment vehicle are held) has an interest in a collective investment vehicle as described in paragraph E of this section, the reporting obligations of that Investment Entity in respect of its interest in that collective investment vehicle shall be deemed to have been met.
2. Consistent with paragraph 3 of Article 4 of the Agreement (third-party service providers), for interests held in an Investment Entity established in Guernsey that is not as described in paragraph E of this section, the reporting obligations of all Investment Entities with respect to their interests in that Guernsey Investment Entity shall be deemed to be satisfied if the information required to be reported under the Agreement with respect to all such interests is reported by the Guernsey Investment Entity itself or another person.

IV. Exempt Products. The following accounts are excluded from the definition of Financial Accounts and therefore are not treated as United Kingdom Reportable Accounts.

A. Qualifying Credit Cards. Unless the Reporting Financial Institution elects otherwise, either with respect to all accounts or, separately, with respect to any clearly identified group of such accounts, where the implementing rules in both jurisdictions provide for such election, a credit card account is not required to be reviewed, identified, or reported, provided that the Reporting

Financial Institution maintaining such account, in each case applying the rules set forth in paragraph C of section VI of this Annex I, for account aggregation and currency translation:

1. implements policies and procedures to prevent an account balance owed to the Account Holder that exceeds \$50,000; *or*,
2. has policies and procedures in place to ensure that any customer deposit in excess of \$50,000 is refunded to the customer within 60 days. For this purpose, a customer deposit does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.

B. Certain Savings Accounts.

1. Retirement and Pension Account. A retirement or pension account maintained in Guernsey that satisfies the following requirements under the laws of Guernsey.
 - a) Annual contributions into the scheme are not more than £50,000;
 - b) The scheme is tax-favoured (i.e. contributions to the scheme that would otherwise be subject to tax laws of Guernsey are deductible or excluded from the gross income of the scheme or taxed at a reduced rate, or taxation on investment income from the scheme is deferred or taxed at a reduced rate);
 - c) Funds contributed cannot be accessed before the age of 55 except in circumstances of serious ill health.
2. Non-Retirement Savings Accounts. An account maintained in Guernsey (other than an insurance or Annuity Contract) that satisfies the following requirements under the laws of Guernsey.
 - a) The account is subject to regulation as a savings vehicle for purposes other than for retirement;
 - b) The account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax under the laws of Guernsey are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
 - c) Annual contributions are limited to £15,000 or less, applying the rules set forth in paragraph C of section VI of Annex I for account aggregation and currency translation;

- d) Contributions into the account can only be made by a resident of Guernsey.

C. **Account Held by an Estate.** An account maintained in Guernsey that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate.

D. **Escrow Accounts.** An account maintained in Guernsey established in connection with any of the following:

1. A court order or judgment.
2. A sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:
 - a) The account is funded solely with a deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a financial asset that is deposited in the account in connection with the sale, exchange, or lease of the property;
 - b) The account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease;
 - c) The assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates;
 - d) The account is not a margin or similar account established in connection with a sale or exchange of a financial asset; and
 - e) The account is not associated with a credit card account.
3. An obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time.
4. An obligation of a Financial Institution solely to facilitate the payment of taxes at a later time.

E. **Partner Jurisdiction Accounts.** An account or product that would be excluded from the definition of Financial Account under an Agreement to

Improve International Tax Compliance (or similar Arrangement) between the UK and another Jurisdiction (Jurisdiction X) where:

1. the account or product is established in Jurisdiction X but is maintained in Guernsey; *and*
2. the account or product maintained in Guernsey is subject to the same requirements and oversight under the laws of Jurisdiction X, as it would be if that account or product was maintained by a Financial Institution in Jurisdiction X.

F. **Agreed Products.** Any additional products agreed between the UK Government and Guernsey.

ANNEX IV

ALTERNATIVE REPORTING REGIME FOR CERTAIN UNITED KINGDOM REPORTABLE ACCOUNTS

The Alternative Reporting Regime.

A. Relationship between this Annex and the Articles of this Agreement:

1. In relation to a United Kingdom Reportable Account and for a Relevant Reporting Period, subject to subparagraph B.3.:
 - a) if the criteria at subparagraph B.1.a) to c) are all met with respect to the United Kingdom Reportable Account for a Relevant Reporting Period, then paragraph 4 of Article 3 of the Agreement shall not apply to those United Kingdom Reportable Accounts; and
 - b) if the certification procedure at subparagraphs C.1. and C.2 is complied with, then:
 - (1) subparagraph F.2 of this Annex IV shall apply instead of paragraph 4 of Article 3 of this Agreement; and
 - (2) paragraph D of this Annex IV shall apply instead of paragraph 2 of Article 2 of this Agreement;.. but
 - c) if the certification procedure at subparagraph C.1. is not complied with, then subparagraph F.3. of Annex IV shall apply instead of paragraph 4 of Article 3 of this Agreement.

B. United Kingdom Reportable Accounts Eligible for the Alternative Reporting Regime.

1. In order for the Alternative Reporting Regime to apply to a United Kingdom Reportable Account for any Relevant Reporting Period all of the following criteria must be met:
 - a) the Reporting Guernsey Financial Institution must have made an election to the Guernsey Competent Authority in order to offer the Alternative Reporting Regime in relation to the United Kingdom Reportable Accounts of those Specified United Kingdom Persons that have elected for it to apply, and provided the required certification;
 - b) the Specified United Kingdom Person must have made an

election for reporting under the Alternative Reporting Regime, to the Reporting Guernsey Financial Institution, for the Relevant Reporting Period; *and*

- c) where an election is made by any Specified United Kingdom Person for reporting under the Alternative Reporting Regime for a Relevant Reporting Period, it must be applied to all United Kingdom Reportable Accounts held with the Reporting Guernsey Financial Institution by that Specified United Kingdom Person, including the accounts of an Entity of which the Specified United Kingdom Person is a Controlling Person.
2. For the Alternative Information to be provided under paragraph D, the Specified United Kingdom Person who has made an election under subparagraph B.1.b) must also provide certification to the Reporting Guernsey Financial Institution by following the procedures set out in paragraph C of this Annex.
 3. In cases where not all Account Holders of a United Kingdom Reportable Account that are Specified United Kingdom Persons have made a certified election under subparagraph B.2. for the Relevant Reporting Period, or, in the case of an Entity, not all of those Controlling Persons that are United Kingdom Specified Persons have made a certified election under subparagraph B.2. for the Relevant Reporting Period, the Reporting Guernsey Financial Institution must obtain and provide the following information:
 - a) With respect to those Specified United Kingdom Persons that have made a certified election under subparagraph B.2. for the Relevant Reporting Period, the Alternative Information under paragraph D, with respect to the United Kingdom Reportable Account subject to the Time and Manner of Exchange of Information as provided for in paragraph F of this Annex;
 - b) With respect to those Specified United Kingdom Persons that have elected for the Alternative Reporting Regime to apply under subparagraph B.1.b) but have not provided the required certification under subparagraph B.2, the information in relation to the United Kingdom Reportable Account in accordance with the provisions of Article 2 of this Agreement in full, subject to the Time and Manner of Exchange of Information as provided for in paragraph F of this Annex;
 - c) With respect to those Specified United Kingdom Persons that have not elected for the Alternative Reporting Regime to

apply, the information in relation to the United Kingdom Reportable Account in accordance with the provisions of Article 2 of this Agreement in full, subject to the Time and Manner of Exchange of Information as provided for in Article 3 of this Agreement.

C. Alternative Reporting Regime Certification Procedure. For each Relevant Reporting Period, in order for paragraph D to apply to the United Kingdom Reportable Account, the Specified United Kingdom Person who has made an election under subparagraph B.1.b) must also provide certification to the Reporting Guernsey Financial Institution in accordance with subparagraph C.1.

1. No later than 28 February following the end of the Relevant Tax Year, the Specified United Kingdom Person must provide to the Reporting Guernsey Financial Institution written verification, confirming the following information:
 - a) the Specified United Kingdom Person's United Kingdom tax return for the Relevant Tax Year
 - (1) contains a claim or statement that the Specified United Kingdom Person is not domiciled anywhere within the United Kingdom; *and*
 - (2) includes a claim to be taxed under the remittance basis under Part 14 Chapter A1 Income Tax Act 2007 and, if appropriate, the tax chargeable under section 809H Income Tax Act 2007 has been paid, or any such equivalent sections in any successor legislation;
 - b) to the best of their knowledge, the domicile status and claim to be taxed on the remittance basis is not being formally disputed by the United Kingdom's Competent Authority.
2. The Reporting Guernsey Financial Institution must retain in their records both the election made by the Specified United Kingdom Person and the written verification for each Relevant Reporting Period for a period of 6 years following the end of the Relevant Tax Year.
3. Where the written verification is not provided, or for any reason the certification process cannot be completed, the information to be reported by the Reporting Guernsey Financial Institution and the timescale for exchange shall be as set out in subparagraph F.3. below.

D. Alternative Information to be Provided.

1. Where for a Relevant Reporting Period the criteria in paragraph B of this Annex are met in relation to a United Kingdom Reportable Account, and certification within paragraph C is obtained, the information to be provided to the United Kingdom Competent Authority in relation to that United Kingdom Reportable Account for the Relevant Reporting Period shall be:
 - a) the Gross Payments and Movements of Assets from an originating United Kingdom source into the United Kingdom Reportable Account during the Relevant Tax Year;
 - b) the Gross Payments and Movements of Assets from an originating source territory or jurisdiction which cannot be determined, into the United Kingdom Reportable Account during the Relevant Tax Year;
 - c) the Gross Payments from the United Kingdom Reportable Account to an ultimate United Kingdom destination, during the Relevant Tax Year; *and*
 - d) the Gross Payments from the United Kingdom Reportable Account to an ultimate territory or jurisdiction destination which cannot be determined, during the Relevant Tax Year.
2. Where any Gross Payments and Movements of Assets within the scope of any of subparagraphs D.1.a) to d) of this Annex IV have been made during the Relevant Tax Year, then the additional information set out in subparagraphs D.2.a) to c) is also required to be exchanged relating to the United Kingdom Reportable Account.
 - a) the name, address, date of birth and, where available, the National Insurance Number of each Specified United Kingdom Person that is an Account Holder of such an account and, in the case of an Entity that, after application of the due diligence procedures set forth in Annex I, is identified as having one or more Controlling Persons that is a Specified United Kingdom Person, the name and address of such Entity and the name, address, date of birth and, where available, the National Insurance Number of each such Specified United Kingdom Person;
 - b) the account number (or functional equivalent in the absence of an account number); *and*
 - c) the name of the Reporting Guernsey Financial Institution and,

where provided when registering with the U.S. Internal Revenue Service for FATCA purposes, the Global Intermediary Identification Number.

3. In any case where Alternative Information has been provided for a United Kingdom Reportable Account and Guernsey enters a bi-lateral agreement with any other jurisdiction that is equivalent in effect to this Agreement and Guernsey exchanges information on the same United Kingdom Reportable Account under any other Agreement which is equivalent to the information set out in Article 2 of this Agreement in respect of a United Kingdom Reportable Account then Guernsey shall also exchange the same information with the United Kingdom, regardless of any elections for the Alternative Reporting Regime to apply that have been made by Specified United Kingdom Persons in respect of that United Kingdom Reportable Account.

E. Guernsey Retention and Exchange of Alternative Reporting Regime User Information.

1. For each year, the Guernsey shall exchange with the United Kingdom the name, address, date of birth and, where available, the National Insurance Number for all Specified United Kingdom Persons who have made an election under subparagraph B.1.b) of this Annex. This information shall be exchanged to the timescale as set out in subparagraph F.1 below.
2. For each United Kingdom Reportable Account to which the Alternative Reporting Regime is applied, where Guernsey has not exchanged all of the following information under paragraph D, Guernsey shall retain or have access to the following information for a period of 6 years following the end of each Relevant Tax Year:
 - a) the name, address, date of birth and, where available, the National Insurance Number for each Specified United Kingdom Person that holds the United Kingdom Reportable Account and, in the case of an Entity having one or more Controlling Persons that is a Specified United Kingdom Person, the name and address of that Entity and the name, address, date of birth and, where available, the National Insurance Number of each such Specified United Kingdom Person;
 - b) the account number (or functional equivalent in the absence of account number); *and*
 - c) the name of the Reporting Guernsey Financial Institution and,

where provided when registering with the U.S. Internal Revenue Service for FATCA purposes, the Global Intermediary Identification Number.

F. Time and Manner of Exchange of Information.

1. Guernsey shall exchange information on United Kingdom Reportable Accounts on the same basis as the requirements set out in Article 3 of the Agreement unless otherwise stated below.
2. Any information required to be reported under subparagraphs D.1. and D.2. of this Annex IV shall be exchanged no later than one year and nine months after the end of the Relevant Reporting Period to which the information relates.
3. Where an election has been made under subparagraph B.1.b) of this Annex IV, but the certification procedure in subparagraphs C.1. and C.2. has not been successfully completed, then the information referred to in Article 2 of this agreement shall be exchanged no later than one year and nine months after the end of the Relevant Reporting Period to which the information relates, subject to Article 3, Paragraph 3 of this Agreement.

G. Definitions.

The following definitions apply for purposes of this Annex IV:

1. the term “Alternative Reporting Regime” means the reporting regime set out in this Annex IV.
2. the term “Relevant Reporting Period” means the calendar year to which all the information required to be reported under the Agreement would relate in the absence of the Alternative Reporting Regime.
3. the term “Relevant Tax Year” means the period from 30 June 2014 to the 5 April 2015 for Relevant Reporting Period 2014, and for all other years means the period from 6 April following the start of the Relevant Reporting Period to the following 5 April.
4. the term “Gross Payments” means the sum total of monies that are transferred.
5. the term “Gross Payments and Movements of Assets” means the sum total of monies and property (both tangible and intangible), that are transferred.

A. Letter from the United Kingdom

Sir

I have the honour to propose to you –

- The Agreement between the United Kingdom of Great Britain and Northern Ireland and the States of Guernsey to improve international tax compliance;
- That the Agreement, subject to the decision of the States of Guernsey, shall have effect in accordance with Article 9 thereof which provides that the Parties shall notify each other in writing when their necessary internal procedures for entry into force have been completed.

I want to express my thanks for all the hard work put in by you and your officials in getting us to this point. I see this agreement as a momentous step forward in tax transparency, showing that when we work together we can push the international agenda forward. Both Guernsey and the UK should be credited for this.

While this is an important step, I'm sure we both recognise that the work does not end here. In particular, we should keep in mind our shared objective of the promotion of a single global standard for the automatic exchange of information, which the international community considers to be the most effective way to tackle evasion while minimising costs for governments and business. I look forward to working with you on the development and promotion of this new model, including amending our agreement to come into line with the new model as soon as possible. We will keep in mind that both US FATCA and the single global standard will likely develop further and we will be ready to incorporate developments into our agreement, to ensure consistency and a level playing field and to contribute to improving tax compliance in our territories as well as help minimise costs.

Furthermore, we agree that the practical application of the Agreement should be monitored so that action can be taken to minimise the burden on financial institutions where this can be achieved without risk to its effectiveness. We will also monitor how financial institutions and individuals looking to evade tax respond to it. We can then use this experience to strengthen our agreement to help to ensure its effectiveness as well as contribute to the improvement of the new OECD standard over time.

Please accept, Sir, the assurance of my highest consideration,

For the Government of the United Kingdom

Minister

Appendix

**AGREEMENT BETWEEN THE UNITED KINGDOM AND GUERNSEY
AMENDING THE 2009 AGREEMENT BETWEEN THE UNITED KINGDOM
AND GUERNSEY FOR THE EXCHANGE OF INFORMATION RELATING TO
TAX MATTERS**

The United Kingdom and Guernsey (“the Parties”), desiring to amend the Agreement between the Parties for the exchange of information relating to tax matters (“the 2009 Agreement”), have agreed as follows:

1. The following shall be added after Article 5 (Exchange of Information Upon Request):

“Article 5a
Automatic Exchange of Information

1. The competent authorities of the Parties may automatically transmit information to each other for the purposes referred to in Article 1 (Object and Scope of the Agreement). The Parties shall determine the items of information to be exchanged pursuant to this Article and the procedures to be used to exchange such items of information.
2. The competent authorities of the Parties may mutually agree on additional procedures to be used for the purposes of this Article.

Article 5b
Spontaneous Exchange of Information

1. The competent authority of a Party may spontaneously transmit to the competent authority of the other Party information that has come to the attention of the first-mentioned competent authority and that the first-mentioned competent authority supposes to be foreseeably relevant to the accomplishment of the purposes referred to in Article 1 (Object and Scope of the Agreement). The competent authorities of the Parties shall determine the procedures to be used to exchange such information.”
2. Each of the Parties shall notify to the other the completion of the procedures required by its law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications and shall have effect for information exchanged on or after that date without regard to the taxable period to which the information relates.

(NB The Treasury and Resources Department supports this States Report and the commitment it demonstrates to Guernsey's position on tax transparency. The Department agrees that this is an important step in safeguarding the island's future as an offshore finance centre and thus enhancing its economic position and international reputation.)

The States are asked to decide:-

II.- Whether, after consideration of the Report dated 11th November, 2013, of the Policy Council, they are of the opinion:-

1. To request the United Kingdom to extend to Guernsey the Organisation for Economic Co-operation and Development Multilateral Convention on Mutual Administrative Assistance in Tax Matters.
2. To agree to enter into an Intergovernmental Agreement with the United States to facilitate the automatic exchange of information, to facilitate Guernsey firms' compliance with the United States Foreign Account Tax Compliance Act.
3. To agree and ratify the United Kingdom Intergovernmental Agreement to facilitate information exchange on similar principles as the United States Foreign Account Tax Compliance Act, together with the relevant revision to the existing Tax Information Exchange Agreement that will be required to provide the legal platform for the automatic exchange of information under the United Kingdom Intergovernmental Agreement.
4. To resolve to continue to engage in the development of the Organisation for Economic Co-operation and Development Model and to endorse, promote and adopt, when finalised and introduced as a new standard, the new Organisation for Economic Co-operation and Development Model for the automatic exchange of information.
5. To delegate to the Policy Council powers to negotiate and conclude any future agreements arising from the adoption of the Organisation for Economic Co-operation and Development Model for the automatic exchange of information or from participation in the Organisation for Economic Co-operation and Development Multilateral Convention on Mutual Administrative Assistance in Tax Matters or otherwise in respect of the automatic exchange of information (but not derogating from the principle that the international agreements intended to be implemented would continue to be approved by the States by Ordinance).
6. To agree that the Income Tax (Guernsey) Law, 1975, as amended, be further amended by Ordinance to empower the Treasury and Resources Department to implement the United States and United Kingdom Intergovernmental Agreements (and future Intergovernmental Agreements and other agreements with other jurisdictions from time to time approved by Ordinance of the States) by regulation.

7. To agree that the Organisation for Economic Co-operation and Development Multilateral Convention on Mutual Administrative Assistance in Tax Matters and the United States and United Kingdom Intergovernmental Agreements be specified by Ordinance as approved international agreements for the purposes of the Income Tax (Guernsey) Law, 1975, as amended.
8. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.