

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

Whereas, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Jersey (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, Paragraph [...] of [...] between the United Kingdom of Great Britain and Northern Ireland and the Government of Jersey for [...] (the “[...]”)

 authorises exchange of information for tax purposes, including on an automatic basis,

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

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 “**Jersey**” means [...].
- c) The term “[...]” means the [...], between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Jersey for [...] as amended from time to time or such successor arrangement as may henceforth be agreed between the Parties. References to paragraphs of [...] shall be read as references to the paragraphs of [...] 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 Jersey, [...].
- 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 “**Jersey Financial Institution**” means (i) any Financial Institution resident in Jersey, but excluding any branches of such Financial Institution that are located outside Jersey, and (ii) any branch of a Financial Institution not resident in Jersey, if such branch is located in Jersey.
- n) The term “**Reporting Financial Institution**” means a Reporting United Kingdom Financial Institution or a Reporting Jersey 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 Jersey Financial Institution**” means any Jersey Financial Institution that is not a Non-Reporting Financial Institution.

- q) The term “**Non-Reporting Financial Institution**” means any Financial Institution that is identified in Annex II for the United Kingdom or Annex III for Jersey as a Non-Reporting Financial Institution or that otherwise qualifies as a deemed-compliant FFI, an exempt beneficial owner, or an excepted FFI under U.S. Treasury Regulations.
- 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) above, 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 identified as excluded from the definition of Financial Account in Annex II for the United Kingdom or Annex III for Jersey.

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

- 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 greater than \$50,000.
- 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 31 December 2013.
- aa) The term “**Reportable Account**” means a United Kingdom Reportable Account or a Jersey Reportable Account, as the context requires.

- bb) The term “**United Kingdom Reportable Account**” means a Financial Account maintained by a Reporting Jersey 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 “**Jersey Reportable Account**” means a Financial Account maintained by a Reporting United Kingdom Financial Institution and held by one or more Specified Jersey Persons or by a non-Jersey Entity with one or more Controlling Persons that is a Specified Jersey Person. Notwithstanding the foregoing, an account shall not be treated as a Jersey Reportable Account if such account is not identified as a Jersey 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. 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 Holders are 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 Jersey 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 Jersey 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 Jersey Person**” means a person or Entity who is resident in Jersey for tax purposes, and includes a person or Entity who is resident in both Jersey 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 Jersey; 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-Jersey Entity**” means an Entity that is not a person or Entity who is resident in Jersey 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.
- 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.

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 [...] of [...].

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 Number of 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 Number of 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;
- (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 (5) or (6) of this paragraph, 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 Jersey's tax laws, and the amount and characterisation of payments made with respect to a Jersey 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 2013 and all subsequent years, except that:
 - a) the information to be obtained and exchanged with respect to 2013 and 2014 is only the information described in subparagraphs (a)(1) to (a)(4);
 - b) the information to be obtained and exchanged with respect to 2015 is the information described in subparagraphs (a)(1) to (a)(7), except for gross proceeds described in subparagraph (a)(5)(B); and
 - c) the information to be obtained and exchanged with respect to 2016 and subsequent years is the information described in subparagraphs (a)(1) to (a)(7).
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 years 2013 and 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 Jersey, as the context requires, and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA.
6. In good time before the first exchange of information, the Competent Authorities of each Party shall enter into an agreement, which shall:
 - a) establish the detailed 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. The failure to reach a Competent Authority agreement, as referred to in paragraph 6 of this Article, shall not invalidate this Agreement in any way.

8. All information exchanged shall be subject to the confidentiality and other protections provided for in Paragraph [...] of [...], 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 can 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) not introduce or amend any legislation (or administrative practice) that will, is intended to, or has the effect of, circumventing the aims of this Agreement with regard to the effective reporting of information between the Parties;
- 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 1 January 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 Number of 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. Jersey 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 the same obligations as described in Articles 2 and 3 of this Agreement, and subject to the same terms and conditions as described therein and in Articles 4 through 8 of the Agreement.
2. The United Kingdom shall notify Jersey of any more favourable terms and shall apply such more favourable terms 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 Jersey pursuant to which the other jurisdiction commits to undertake the same obligations as described in Articles 2 and 3 of this Agreement, and subject to the same terms and conditions as described therein and in Articles 4 through 8 of the Agreement.
4. Jersey shall notify the United Kingdom of any more favourable terms and shall apply such more favourable terms 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 notifications and shall have effect as follows: [to be agreed].

ARTICLE 10

Termination

This Agreement shall remain in force until terminated by one of the Parties. Either Party may terminate this Agreement by giving written notice of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of this Agreement. In such event, this Agreement shall cease to have effect as follows: [to be agreed].

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 Jersey 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 Jersey Reportable Account, Specified Person shall be read to mean Jersey Specified Person, Resident Entity shall be read to be an Entity who is resident in Jersey and Non-Resident Entity shall be read to be an Entity who is not resident in Jersey.
- D. For purposes of the Agreement,
 - 1. All dollar amounts shall be read to include the equivalent in other currencies.
 - 2. 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 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 paragraph II.E (1), 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 U.S. Treasury Regulations to establish whether an account is a Reportable Account or an account held by a Nonparticipating Financial Institution.

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, 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 31 December 2013.
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 31 December 2013.
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 31 December 2013, 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 a Specified Person;
 - b) Current mailing or residence address (including a post office box or “in-care-of” address) in the other Party;
 - c) Standing instructions to transfer funds to an account maintained in the other Party;
 - d) Currently effective power of attorney or signatory authority granted to a person with an address in the other Party; or
 - e) An “in-care-of” or “hold mail” address in the other Party that is the *sole* address the Reporting Financial Institution has on file for the account holder.
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 subsection 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 or “in-care-of” 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) a certificate of residence issued by an appropriate tax official of the country in which the account holder claims to be resident.
 - b) Where account holder information contains standing instructions to transfer funds to an account maintained in the other Party, a currently effective power of attorney or signatory authority granted to a person with an address in the other Party, or an “in-care-of” or “hold mail” address in the other Party that is the *sole* address the Reporting Financial Institution has on file for the account holder; 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 paragraph 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 31 December 2015.
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 31 December 2013, or 31 December of 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 identified 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 identified 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 identified 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) 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 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);

- c) whether there is a current “in-care-of” address or “hold mail” address for the account holder; *and*
- d) whether there is any power of attorney or signatory authority for the account.

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 subparagraph B (4) of this section applies.
- c) Except for Depository Accounts described in paragraph 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 31 December 2013, the Reporting Financial Institution must complete the enhanced review procedures described in paragraph D of this section with respect to such account by 31 December 2014. 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 2013 and 2014 in the first report on the Account. For all subsequent years, information about the account should be reported on an annual basis.
- 2. If a Preexisting Individual Account is not a High Value Account as of 31 December 2013, but becomes a High Value Account as of the last day of a

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.

3. Once a Reporting Financial Institution applies the enhanced review procedures set forth above 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 subparagraph B (4) of this section applies.
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, 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 January 2014 (“New Individual Accounts”).

- A. **Accounts Not Required to Be Reviewed, Identified, or Reported.** Unless the Reporting Financial Institution elects otherwise 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, 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, 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 31 December 2013, 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 31 December 2013, and Preexisting Entity Accounts that initially do not exceed \$250,000 but the account balance of which later exceeds \$1,000,000 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 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 Specified Person. In making these determinations the Reporting Financial Institution should follow the guidance in sub-paragraphs (a) through (d) of this paragraph 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 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 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 either 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 31 December 2013, must be completed by 31 December 2015.
2. Review of Preexisting Entity Accounts with a balance or value that does not exceed \$250,000 as of 31 December 2013, but exceeds \$1,000,000 as of 31 December of a 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 January 2014 (“New Entity Accounts”).

- A. 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 deemed-compliant FFI as defined in U.S. Treasury Regulations; (iv) an exempt beneficial owner as defined in U.S. Treasury Regulations; (v) an excepted FFI as defined in U.S. Treasury Regulations; (vi) an Active NFFE or Passive NFFE.
- B. 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.

- C. In all other cases, a Reporting Financial Institution must obtain a self-certification from the account holder to establish the account holder's status.
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) an exempt beneficial owner; (iv) an Active NFFE; or, (v) 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 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 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 Party for the purposes of this Agreement.
 4. **NFFE.** A "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) Substantially all of the activities of the NFFE consist of holding (in whole or in part) the outstanding stock of, and 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;
 - d) 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;
 - e) 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*
 - f) 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 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 by an appropriate tax official of the country 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.