GUIDANCE NOTE ON IMPLEMENTATION OF REPORTING REQUIREMENTS UNDER RULES 114F TO 114H OF THE INCOME-TAX RULES, 1962

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF DIRECT TAXES
FOREIGN TAX & TAX RESEARCH DIVISION

Updated as on 31st December 2015

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Purpose of the Guidance Note

This Guidance Note is for providing guidance to the Financial Institutions, Regulators and officers of the Income Tax Department for ensuring compliance with the reporting requirements provided in Rules 114F to 114H and Form 61B of the Income-tax Rules, 1962. The Guidance Note is intended to explain the reporting requirements of FATCA and CRS in a simple manner. Since a large part of the Rules is based on IGA between India-USA and the CRS on AEOI, the Financial Institutions may refer to the IGA and CRS along with its Commentary to get further understanding of the terms used. In this Guidance Note, reference to the CRS and Commentary has been made at appropriate places. All the stakeholders are requested to provide feedback and suggestions so that Guidance Note can be further updated as per evolving issues in the implementation of FATCA and CRS. An attempt has been made to discuss and describe the various provisions contained in the relevant Rules notified by the Government of India. In case of unlikely event of any inconsistency between the Rules and Guidance Note, the statutory position contained in the Rules shall prevail.

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LIST OF ABBREVIATIONS

AEOI	Automatic Exchange of Information
CBDT	Central Board of Direct Taxes
CRS	Common Reporting Standard
DTAA	Double Taxation Avoidance Agreement
EOI	Exchange of Information
FATCA	Foreign Account Tax Compliance Act
FI	Financial Institution
FATF	Financial Action Task Force
FT&TR	Foreign Tax & Tax Research
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
I&CI	Intelligence & Criminal Investigation
Income-tax Act	Income-tax Act, 1961
KYC/AML	Know Your Customer/Anti Money Laundering
MCAA	Multilateral Competent Authority Agreement
NFE	Non-Financial Entity
PMLA	Prevention of Money Laundering Act 2002
RBI	Reserve Bank of India
RFI	Reporting Financial Institution
Rule	Income-tax Rules, 1962
SEBI	Securities and Exchange Board of India
TPL	Tax Policy and Legislation

1. Introduction

1.1 Enactment of FATCA and signing of IGA

In 2010, USA enacted a law known as "Foreign Account Tax Compliance Act" (FATCA) with the objective of tackling tax evasion through obtaining information in respect of offshore financial accounts maintained by USA residents and citizens. The provisions of FATCA essentially provide for 30% withholding tax on US source payments made to Foreign Financial Institutions unless they enter into an agreement with the Internal Revenue Service (US IRS) to provide information about accounts held with them by USA persons or entities (firms/companies/trusts) controlled by USA persons. Since domestic laws of sovereign countries (including India) may not permit sharing of client confidential information by FIs directly with USA, USA has entered into Inter-Governmental Agreement (IGA) with various countries. The IGA between India and USA was signed on 9th July, 2015. It provides that the Indian FIs will provide necessary information to the Indian tax authorities, which will then be transmitted to USA periodically. Under the IGA, USA will also provide substantial information about Indians having financial assets in USA. The text of the IGA signed between India and USA is available at **Appendix A.**

1.2 New Global Standards on Automatic Exchange of Information

To combat the problem of offshore tax evasion and avoidance and stashing of unaccounted money abroad requiring cooperation amongst tax authorities, the G20 and OECD countries working together developed a Common Reporting Standard (CRS) on Automatic Exchange of Information (AEOI). The CRS on AEOI was presented to G20 Leaders in Brisbane on 16th November, 2014. The Hon'ble Prime Minister of India, speaking on the occasion, supported the new global standard as it would be instrumental in getting information about unaccounted money hoarded abroad and in its eventual repatriation. The CRS on AEOI requires the financial institutions of the "source" jurisdiction to collect and report information to their tax authorities about account holders "resident" in other countries, such information having to be transmitted "automatically' on yearly basis. The information to be exchanged relates not only to individuals but also to shell companies and trusts having beneficial ownership or interest in the "resident" countries. Further, the reporting needs to be done for a wide range of financial products, by a wide variety of financial institutions including banks, depository institutions, collective investment vehicles and insurance companies. The Standard is available at **Appendix B**.

1.3 Commitment to Implement CRS on AEOI

In keeping with its leadership role in developing the new global standard, India is one of the early adopters of the CRS and has committed to exchange information automatically by 2017. The Government of India has also, on 3rd June, 2015, joined the Multilateral Competent Authority Agreement (MCAA) for exchanging information as per the above timelines. By December, 2015, 98 jurisdictions have committed to exchange information as per the new global standards, 56 of them from 2017 and the balance 39 from 2018. 75 jurisdictions have also joined the MCAA. Table in Annexure A provides a list of the 98 jurisdictions and the time for exchanging information.

1.4 Steps taken for Implementation of CRS on AEOI and IGA

1.4.1 In view of our commitment to implement the CRS on AEOI and also the IGA with USA, and with a view to provide information to other countries, necessary legislative changes have been made through Finance (No. 2) Act, 2014, by amending section 285BA of the Income-tax Act, 1961. Income-tax Rules, 1962 were amended vide Notification No. 62 of 2015 dated 7th August, 2015 by inserting Rules 114F to 114H and Form 61B to provide a legal basis for the Reporting Financial Institutions (RFIs) for maintaining and reporting information about the Reportable Accounts. These Rules have been developed in consultation with Regulators and Financial Institutions in order to address their concerns wherever possible. A copy of the Rules from 114F to 114H the Income-tax Rules, 1962, is at **Appendix C**.

1.4.2 The important timelines are summarized below:

Cut-off date prior to which accounts are treated as pre-existing account under FATCA	30.06.2014
Date for considering New Account under FATCA	01.07.2014
FATCA came into force in India	31.08.2015
First reporting (for calendar year 2014) under FATCA	10.09.2015
Cut-off date prior to which accounts are treated as Pre-existing account under CRS	31.12.2015
Date for considering New Account under CRS	01.01.2016
First reporting (for calendar year 2016) under CRS	31.05.2017

The detailed relevance of the time-lines has been explained later in the guidance note.

1.5 Overview of the reporting under FATCA and CRS

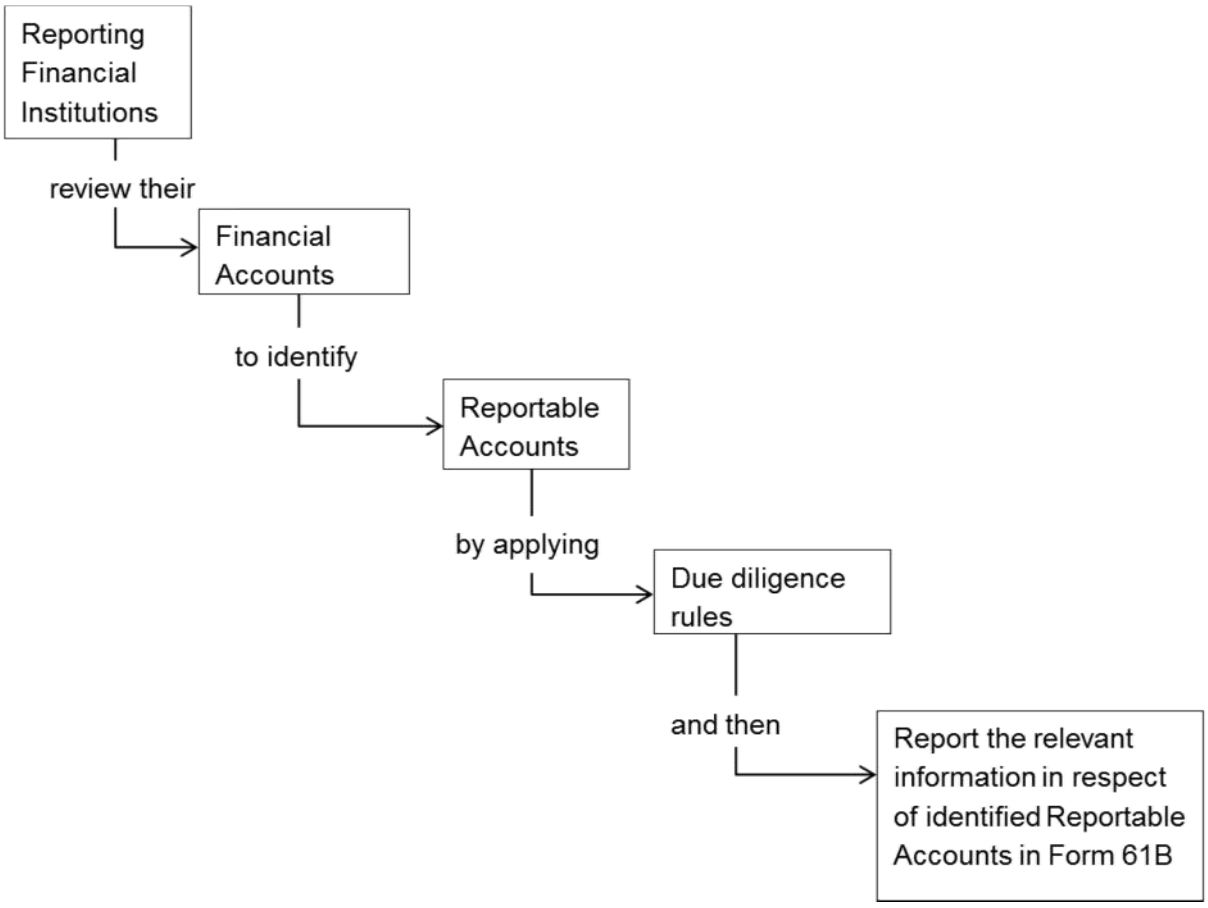
The compliance related to reporting basically involves the following issues:

a. Who is required to report?
b. What is required to be reported?
c. What is the format and timeline for reporting?

First, an entity needs to find out whether it is a Reporting Financial Institution. Then, Reporting Financial Institution needs to review their financial accounts by applying due diligence procedures to identify whether any of the financial account is a Reportable Account. If any account is identified as a reportable account, then the Reporting Financial Institution shall report the relevant information in Form 61B in respect of the identified reportable account.

The whole process of the reporting can be broken down into small steps and depicted as follows:

Figure: Process of Reporting under FATCA and CRS



The building blocks of the reporting process shall be taken up in separate chapters of this Guidance Note .

2. Reporting Financial Institutions

2.1 Introduction

The reporting obligation applies to entities which may be legal persons or legal arrangements, such as a corporation, a trust, or a partnership etc. To determine whether an entity has a potential reporting obligation in India, it must be determined whether the entity is a Reporting Financial Institution (RFI). RFI are required to maintain and report certain information in respect of each "Reportable Account".

RFI is defined in Rule 114F(7) to mean:-

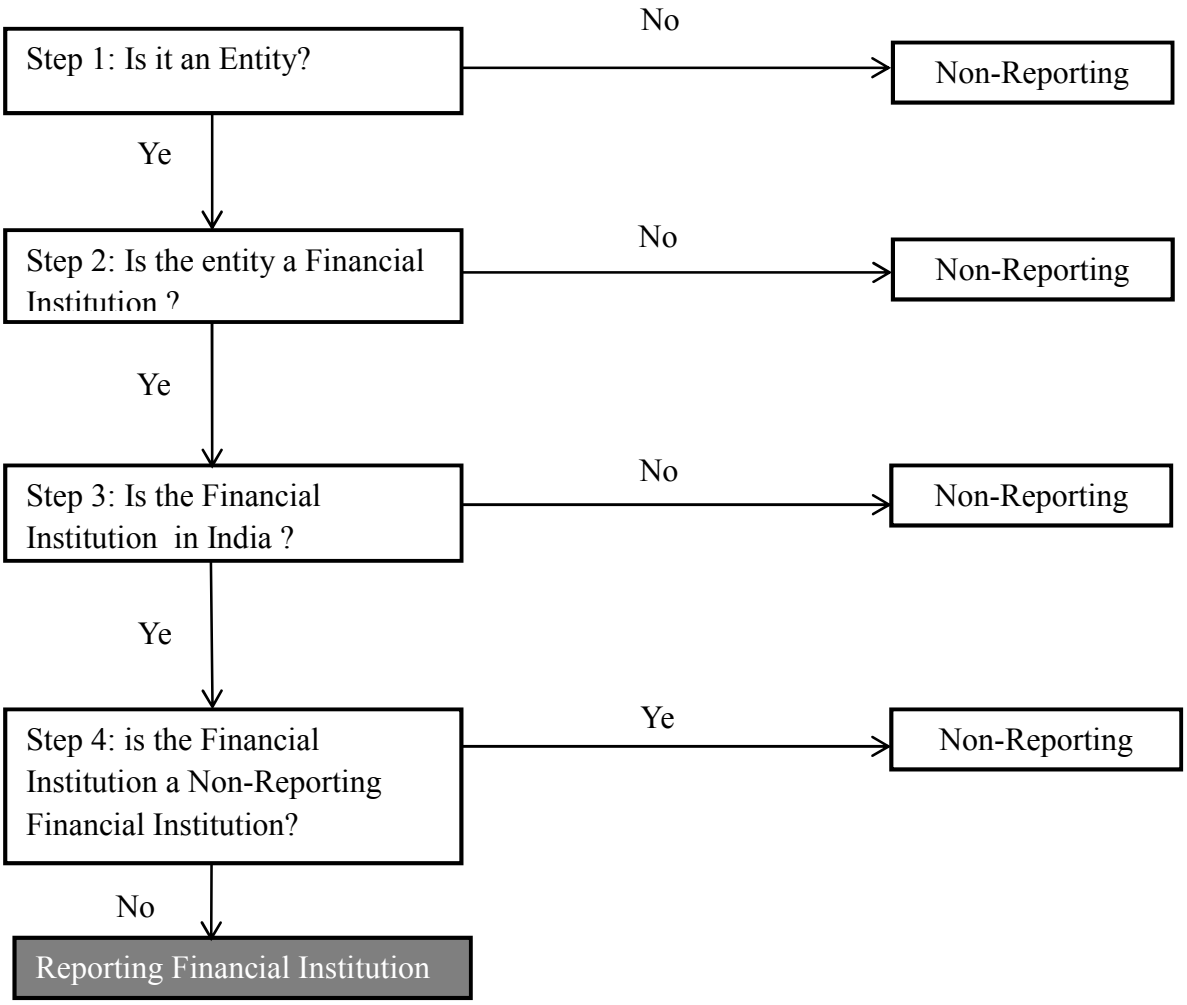
(a) a financial institution which is resident in India, but excludes any branch of such institution that is located outside India; and
(b) any branch of a financial institution (other than a non-reporting financial institution) which is not resident in India, if that branch is located in India.

Financial Institution will not include Non-reporting Financial Institutions (See paragraph 2.5) even though they satisfy the above conditions.

Following Steps may be followed to determine whether a person is a RFI and thus has reporting obligations:

- Step 1: Is it an Entity?
- Step 2: Is the Entity a Financial Institution?
- Step 3: Is the Financial Institution in India?
- Step 4: Is the Financial Institution a Non-Reporting Financial Institution?

Figure : The steps to identify a Reporting Financial Institution



2.2 Step 1: Is it an Entity?

Only Entities can be RFIs. The term "Entity" would include legal persons and legal arrangements, such as corporations, partnerships, trusts, foundations and HUF. Individuals, including sole proprietorships, are therefore not RFIs.

(**Ref: Page 60 of CRS and 201 of Commentary**)

2.3 Step 2: Is the Entity a Financial Institution?

The definition of Financial Institution in the Rule 114F(3) classifies FIs in four different categories, namely,

- Custodial Institutions,
- Depository Institutions,
- Investment Entities and
- Specified Insurance Companies.

2.3.1 Custodial Institution

Custodial Institution is defined in Explanation (a) to Rule 114F(3) to mean any entity that holds, as a substantial portion of its business, financial assets for the account of others and where its income attributable to the holding of financial assets and related financial services equals or exceeds twenty percent of its gross income during:-

- The three financial years that end on 31st March prior to the year in which determination is made or the period during which the entity has been in existence, whichever period is less.

Entities such as central securities depositories (CSDL and NSDL), custodian banks, brokers, and depository participants, would generally be considered Custodial Institutions.

(Ref: Page 44 of CRS and 160 of Commentary)

2.3.2 Depository Institution

Depository Institution is defined in Explanation (b) to Rule 114F(3) to mean any entity that accepts deposits in the ordinary course of a banking or similar business.

An Entity is considered to be engaged in a "banking or similar business" if, in the ordinary course of its business with customers, it regularly engages in activities such as:

(a) accepts deposits or other similar investments of funds;
(b) makes personal, mortgage, industrial, or other loans or provides other extensions of credit;
(c) purchases, sells, discounts, or negotiates accounts receivable, installment obligations, notes, drafts, checks, bills of exchange, acceptances, or other evidences of indebtedness;
(d) issues letters of credit and negotiates drafts drawn thereunder;
(e) provides trust or fiduciary services;
(f) finances foreign exchange transactions; or
(g) enters into, purchases, or disposes of finance leases or leased assets.

Savings banks, commercial banks, savings and loan associations, credit unions, and Non-Banking Financial Companies (NBFCs) would generally be considered Depository Institutions.

(Ref: Page 44 of CRS and 160 of Commentary)

2.3.3 Investment Entity

Explanation (c) to Rule 114F(3) defines two types of investment entities:

A. Entity's primary business consists of one or more of the following activities for or on behalf of a customer, namely:-

- 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; or
- individual and collective portfolio management; or
- otherwise investing, administering, or managing financial assets or money on behalf of other persons; and

the gross income from such business activities has to be equal or more than 50% of the gross income over a three year period.

B. Entity's primary income is from business of investing, reinvesting, or trading in financial assets and such entity managed by another entity that is a depository institution, a custodial institution, an investment entity or a specified insurance company and also the gross income of the entity from such business activities is more than 50% of the entities gross income over a three year period.

(Ref: Page 44 of CRS and 161 of Commentary)

Exception

An investment entity established in India that is a financial institution, will be treated as Non-Reporting Financial Institution (See para 2.5), if it only

(i) renders investment advice to, and acts on behalf of; or
(ii) manages portfolios for, and acts on behalf of; or
(iii) executes trades on behalf of,

a customer for the purposes of investing, managing, or administering funds or securities deposited in the name of the customer with a financial institution other than a non-participating financial institution.

2.3.4 Specified Insurance Company

Specified Insurance Company is defined in Explanation (d) to Rule 114F(3) to mean 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.

A "cash value insurance contract" is defined in Explanation (f) of Rule 114F(1) and it means an insurance contract (other than an indemnity reinsurance contract between two insurance companies) that has a cash value. For US Reportable account, a threshold of USD 50,000 has been provided.

Similarly, annuity contract has been defined in Explanation (e) of Rule 114F(1).

A single premium life insurance contract which does not permit an amount to be paid on surrender or termination of the contract and which does not allow amounts to be borrowed under or with regard to the contract, shall not constitute a cash value insurance contract.

Insurance companies that only provide General Insurance or term Life Insurance should not be Financial Institutions and neither will reinsurance companies that only provide indemnity reinsurance contracts.

(Ref: Page 44 of CRS and 165 of Commentary)

2.3.5 Institutions which are involved in more than one category of activity

If a reporting entity qualifies for more than one category of financial institutions [eg. (i) Depository Institution (ii) Custodial Institution] then the reporting entity should get registered for all different categories and submit different form 61B for different type of financial institutions.

There may be a situation in which one FI maintains more than one type of accounts [for example both Depository as well as Custodial account], however, the FI may qualify as only one type of financial institution. In this case, FI shall register only as one type of financial institution but will report both types of accounts.

For example, there may be one financial institution X which qualifies only as Depository Institution and maintains both depository as well as custodial accounts. . X will get registered only as Depository Institution but will report both types of accounts - depository as well as custodial accounts.

2.4 Step 3: Is the Financial Institution in India?

The Financial Institutions resident in India, their branches located in India and branches of Foreign Financial Institutions that are located in India are the Reporting Financial Institutions (RFIs) while Foreign Financial Institutions, their foreign branches and foreign branches of Indian Financial Institutions are not treated as RFI. In the case of Trusts, the reporting requirement is on the Trustees resident in India, unless the required information is being reported elsewhere because the trust is treated as resident there.

(Ref: Page 44 of CRS and 158 of Commentary)

Example:
ABC Ltd. is located in India. It is having a foreign branch (S) located in a country outside India

Under the terms of the agreement:

- ABC Ltd. which is in India will only be Reporting Financial Institution in India.
- A foreign branch (S) will not be RFI as it is not located in India.

Example:

PQR Bank incorporated in London, has a branch (T) in India.

Under the terms of the agreement, branch T is a RFI in India.

2.5 Step 4: Is the Financial Institution a Non-Reporting Financial Institution?

There are certain FIs which are not required to maintain or report the information. These FIs are called non-reporting financial institutions (NRFIs) and defined in Rule 114F(5).

The NRFI defined in the Rule are as under:

(a) a Governmental entity, International Organisation or Central Bank;
(b) a Treaty Qualified Retirement Fund; a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; or a Pension Fund of a Governmental entity, International Organization or Central Bank;
(c) a non-public fund of the armed forces, Employees' State Insurance Fund, a gratuity fund or a provident fund;

(d) an entity that is an Indian financial institution only because it is an investment entity, provided that each direct holder of an equity interest in the entity is a financial institution referred to in sub-clauses (a) to (c);
(e) a qualified credit card issuer;
(f) an investment entity established in India that is a financial institution only because it (i) renders investment advice to, and acts on behalf of; or (ii) manages portfolios for, and acts on behalf of; or (iii) executes trades on behalf of, a customer for the purposes of investing, managing, or administering funds or securities deposited in the name of the customer with a financial institution other than a non-participating financial institution;
(g) an exempt collective investment vehicle;
(h) a trust established under any law for the time being in force to the extent that the trustee of the trust is a reporting financial institution and reports all information required to be reported under Rule 114G with respect to all reportable accounts of the trust;
(i) a financial institution with a local client base;
(j) a local bank;
(k) a financial institution with only low-value accounts;
(l) sponsored investment entity and controlled foreign corporation, in case of any U.S. reportable account;
(m) sponsored closely held investment vehicle, in case of any U.S. reportable account.

Explanation to Rule 114F(5) provides further explanation of the above categories of NRFI. The definitions of the terms used such as a Governmental entity, International Organisation, Central Bank, Treaty Qualified Retirement Fund, Broad Participation Retirement Fund etc. are defined in the Rule 114F(5).

(Ref: Page 45 of CRS and 166 of Commentary)

2.6 NPS Trust as RFI

National Pension System Trust (NPS Trust) is the nodal point for co-ordination of the operations of all intermediaries and is responsible for monitoring and evaluation of all operational and service level activities of all intermediaries in accordance with the provisions of the PFRDA Act, 2013 or the regulations made or guidelines or circulars issued by the Authority. The Board of Trustees is also responsible with regard to taking of action on reports submitted by the intermediaries in order to ensure compliance with the regulations applicable to them under the National Pension System. Accordingly, the NPS Trust is the RFI and would report the information for the relevant NPS Investors.

3. Financial Accounts

3.1 Introduction

A Financial Account is an account maintained by a Financial Institution and includes specific categories of accounts as discussed in paragraph 3.2. Rule 114F(1) defines Financial Accounts.

RFIs are required to review the Financial Accounts maintained by them and to identify whether any of Financial Accounts is held by a Reportable Person. Wherever account is held by a Reportable Person, such account becomes Reportable Account.

There are certain types of Financial Accounts which carry low risk of being used to evade tax. These accounts are specifically excluded from review and are called Excluded Accounts (See Para 3.8).

3.2 Categories of Financial Accounts

There are broadly five types of financial account:

Table: Who maintains the Financial Accounts

Accounts	Financial Institution generally considered to maintain them
Depository Accounts	The Financial Institution that is obligated to make payments with respect to the account (excluding an agent of a Financial Institution).
Custodial Accounts	The Financial Institution that holds custody over the assets in the account.
Equity and debt interest in certain Investment Entities	The equity or debt interest in a Financial Institution is maintained by that Financial Institution.
Cash Value Insurance Contracts	The Financial Institution that is obligated to make payments with respect to the contract.
Annuity Contracts	The Financial Institution that is obligated to make payments with respect to the contract.

A Financial Institution may maintain more than one type of Financial Account. For example, a Depository Institution may maintain Custodial Accounts as well as Depository Accounts.

3.3 Depository Account

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 includes an amount that an insurance company holds under an agreement to pay or credit interest thereon.

A Depository Account does not have to be an interest bearing account.

3.4 Custodial Account

Custodial Account which means an account (other than an insurance contract or annuity contract) for the benefit of another person that holds one or more financial assets.

Custodial account would also include Mutual Fund holding in De-materialized format which would be required to be reported by depository/depository participant only. If mutual fund units are held in a physical format, the entity issuing the units will be responsible for reporting such custodial accounts.

3.5 Equity and Debt Interest

3.5.1 Equity and debt interests are financial accounts if they are interests in an investment entity.

An equity interest may vary depending on the nature of the investment entity. Equity interest in an investment entity, being-

(a) a partnership firm means either a capital or profits interest in the partnership firm;
(b) a trust means any interest 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 person will be treated as a beneficiary of a trust if he has the right to receive directly or indirectly a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust.

3.5.2 However, Financial account will not include any equity or debt interest in an entity that is an investment entity solely because it

a. renders investment advice to, and acts on behalf of, or

b. manages portfolios for, and acts on behalf of,

a customer for the purpose of investing, managing, or administering financial assets deposited in the name of the customer with a financial institution, that is not a non-participating financial institution other than such entity.

Therefore, equity interests in Investment entity, which is only an investment advisor or investment manager, are not financial accounts.

3.5.3 Examples of Investment entity can be collective investment vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leveraged buyout fund, or any similar investment vehicle established with an investment strategy of investing, reinvesting, or trading in Financial Assets.

3.5.4 There may some situations in which a Financial Institution can circumvent reporting under Rule 114G. Therefore, it has been expressly stated that if class of interests was established for the avoidance of reporting, that class of interest will be Financial Account and will be reported.

3.5.5 Debt or equity interests in a financial institution (other than as described in para 3.5.1 & 3.5.2) would constitute Financial Accounts if:-

- The value of such interests is determined primarily by reference to assets that give rise to US Source Withholdable Payments; and
- The class of interests was established for the avoidance of reporting under the Agreement.

3.6 Cash Value Insurance Contracts

Insurance contract means a 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.

Cash value insurance contract means an insurance contract (other than an indemnity reinsurance contract between two insurance companies) that has a cash value and in case of a U.S. reportable account such value is greater than an amount equivalent to USD 50,000.

Generally, Cash Value Insurance Contract is a type of investment product that has an element of life insurance attached to it. The life insurance element is often small compared to the investment element of the contract. Policyholder is entitled to receive payment on surrender or termination of the contract.

Cash Value Insurance Contracts do not include:

- Indemnity insurance contracts between insurance companies
- Term life insurance contracts
- Property or motor insurance
- Policies indemnifying against economic loss arising from specified circumstances, for example personal injury, theft, etc.
- Micro insurance contracts that do not have a cash value

3.7 Annuity Contract

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.

(Ref: Page 50 of CRS and 175 of Commentary)

3.8 Excluded Accounts

3.8.1 There are few categories of financial accounts which have low risk of being used to evade tax and thus have been excluded from the need to be reviewed or reported. These accounts are called "Excluded Accounts". These accounts have been enumerated in Explanation (h) to Rule 114F(1) as under:-

(i) Retirement or pension accounts satisfying certain conditions Explanation (h)(i) to Rule 114F(1).
(ii) Non-retirement tax-favored accounts subject to regulations and satisfying certain conditions Explanation (h)(ii) to Rule 114F(1).
(iii) Account established under the Senior Citizens Savings Scheme Rules Explanation (h)(iii) to Rule 114F(1).
(iv) Term Life Insurance contracts satisfying certain conditions Explanation (h)(iv) to Rule 114F(1).
(v) Accounts held by Estates Explanation (h)(v) to Rule 114F(1).
(vi) Escrow Accounts established in connection with court judgments etc. Explanation (h)(vi) to Rule 114F(1).
(vii) Depository accounts (other than US reportable accounts) due to non-returned overpayments in case of credit card and other accounts and satisfying certain conditions Explanation (h)(vii) to Rule 114F(1).

(Ref: Page 53 of CRS and 184 of Commentary)

4. Financial Accounts which are Reportable Accounts

4.1 Introduction

4.1.1 Once a RFI has identified the Financial Accounts maintained by them, they are required to review those accounts to identify whether any of them are Reportable Accounts. If any of the financial account is found to be reportable account, information in relation to those accounts must be reported in Form 61B.

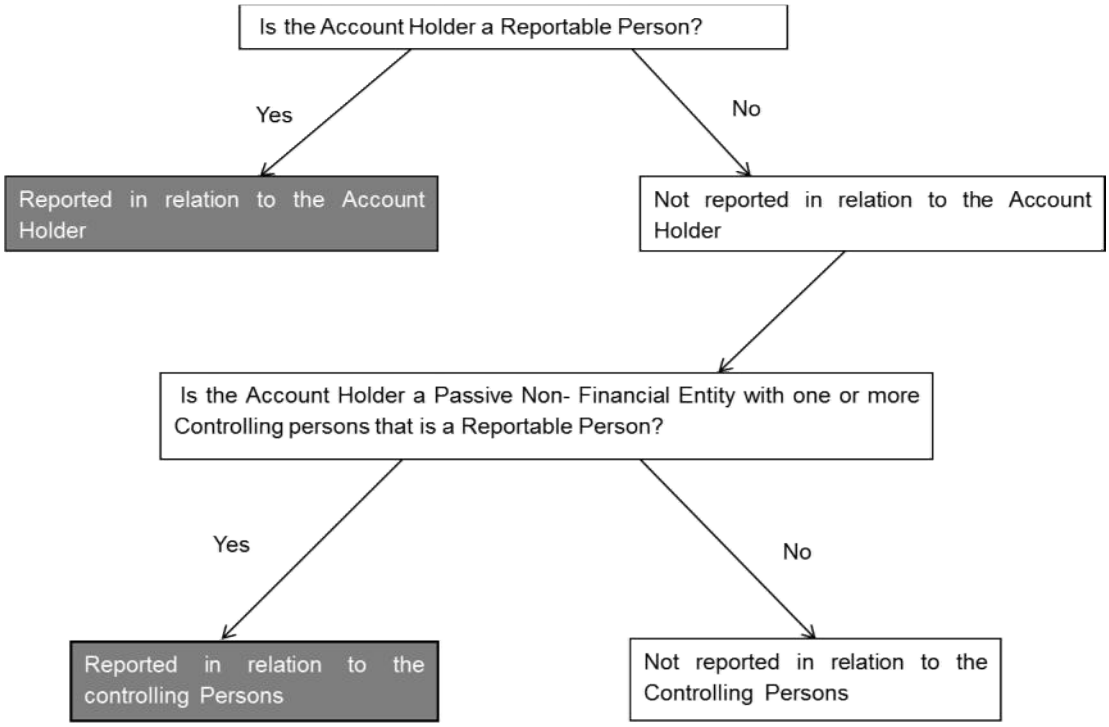
4.1.2 In general terms, a Reportable Account means an account, which has been identified pursuant to the due diligence procedure, as held by

(a) a reportable person; or

(b) an entity, not based in United States of America, with one or more controlling persons that is a specified U.S. person; or

(c) a passive non-financial entity (passive NFE) with one or more controlling persons that is a person described in sub-clause (b) of clause (8) of the rule 114F.

4.1.3 Thus, an account can be a Reportable Account by virtue of the Account Holder or by virtue of the Account Holders' Controlling Persons. This can be depicted as per following diagram:



4.2 Reportable Accounts by virtue of the Account Holder

Rule 114F(6)(a) states that "reportable account" is a financial account, which has been identified, pursuant to the due diligence procedures prescribed in Rule 114H, as held by a reportable person.

Reportable person has been defined in the Rule 114F(8) and means-

(a) one or more specified U.S. persons; or

(b) one or more persons other than:

i. a corporation the stock of which is regularly traded on one or more established securities markets;

ii. any corporation that is a related entity of a corporation described in item (i);

iii. a Governmental entity;

iv. an International organisation;

v. a Central bank; or

vi. a financial institution

that is a resident of any country or territory outside India (except United States of America) under the tax laws of such country or territory or an estate of a decedent that was a resident of any country or territory outside India (except United States of America) under the tax laws of such country or territory.

Thus, generally speaking, there are two types of reportable person. First one has been defined specifically for USA. Second one is for the other countries.

U.S. Person means,

(a) an individual, being a citizen or resident of the United States of America;

(b) a partnership or corporation organized in the United States of America or under the laws of the United States of America or any State thereof;

(c) a trust if,-

(i) a court within the United States of America would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust; and

(ii) one or more U.S. persons have the authority to control all substantial decisions of the trust; or

(c) an estate of a decedent who was a citizen or resident of the United States of America;

Specified U.S. person means a U.S. Person, other than the persons referred to in sub-clauses (i) to (xiii) of clause (ff) of Article 1 of IGA which is at Appendix A.

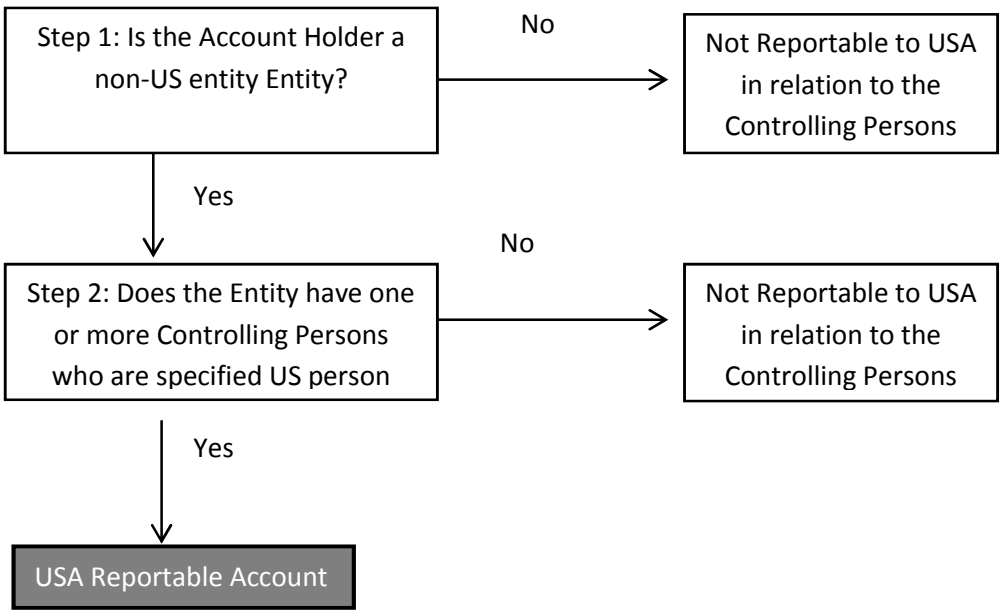
(Ref: Page 57 of CRS and 192 of Commentary)

4.3 Reportable Accounts by virtue of the Account Holder's Controlling Persons

4.3.1 Regardless of whether the Financial Account is a Reportable Account by virtue of the Account Holder, a second test in relation to the Controlling Persons of certain Entity Account Holders needs to be applied to ascertain whether the Controlling Persons of such Entities are residents of countries/territories outside India. If this test is satisfied, the account would be Reportable Account.

4.3.2 In case of USA, first it needs to be identified whether account is held by an entity, which is not based in USA and if yes, whether one or more controlling person of entity is specified U.S. person. If both of conditions are satisfied, the account will be US Reportable Account. This can be depicted as per following diagram:

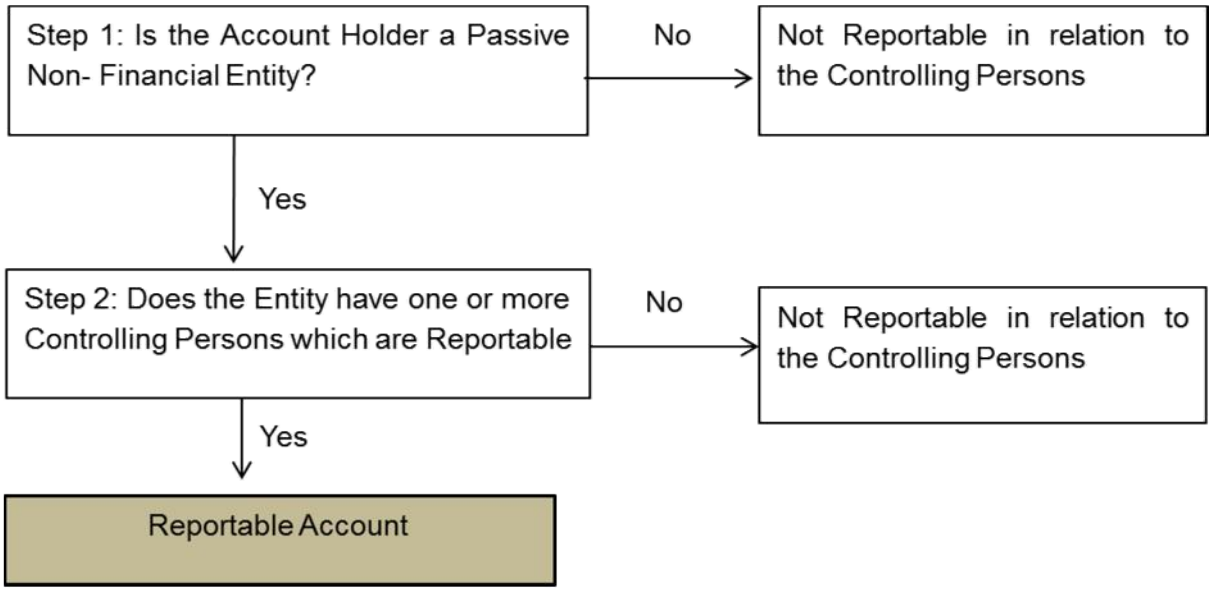
Figure: Steps for USA Reportable Account



4.3.3 In the case of other countries/territories, if the account is held by a Passive Non-Financial Entity (NFE) with one or more controlling persons

resident in a country/territory outside India, then account will be reportable. This can be depicted as per following diagram:

Figure: Steps for Other Reportable Account



4.3.4 **Non-Financial Entity (NFE)** is an entity which is not a financial institution. There are two types of NFE - active and passive. The distinction is important since a financial institution in India is required to apply a higher standard of due diligence to financial accounts held by a passive NFE. The financial institution is required to determine whether the passive NFE is controlled by one or more Reportable persons. **Active NFE** has been defined in Explanation (A) to Rule 114F(6) and includes regularly traded entities etc.

4.3.5 **Passive NFE** is defined in Explanation (D) to Rule 114F(6) as

(i) any non-financial entity which is not an active non-financial entity; or
(ii) an investment entity described in sub-clause (B) of clause (c) of the Explanation to clause (3) of Rule 114F
(iii) not a withholding foreign partnership or withholding foreign trust

4.3.6 The general rule is that a Passive NFE is an NFE that is not an Active NFE. The definition of Active NFE includes entities that are publicly traded (or related to a publicly traded Entity), Governmental Entities, International Organisations, Central Banks, or a holding NFEs of nonfinancial groups and essentially excludes Entities that primarily receive passive income or primarily

hold amounts of assets that produce passive income (such as dividends, interest, rents etc.).

4.3.7 If the Entity Account Holder is a Passive NFE then the Financial Institution must **"look-through"** the Entity **to identify its Controlling Persons**. If the Controlling Persons are Reportable Persons then information in relation to the Financial Account must be reported, including details of the Account Holder and each reportable Controlling Person.

Controlling Person

4.3.8 Controlling Person is defined in Explanation (B) to Rule 114F(6). Controlling person means the natural person who exercises control over an entity and includes a beneficial owner as determined under sub-rule (3) of rule 9 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005. It has been specified that in determining the beneficial owner, the procedure specified in the following circular as amended from time to time shall be applied, namely:-

(i) DBOD.AML.BC. No.71/14.01.001/2012-13, issued on the 18th January, 2013 by the Reserve Bank of India; or
(ii) CIR/MIRSD/2/2013, issued on the 24th January, 2013 by the Securities and Exchange Board of India; or
(iii) IRDA/SDD/GDL/CIR/019/02/2013, issued on the 4th February, 2013 by the Insurance Regulatory and Development Authority.

4.3.9 Controlling person includes beneficial owner. For different type of entities, beneficial owner are described as below:

Entity	**Beneficial Owner is natural person(s) who whether acting alone or together, or through one or more juridical person**
Company	a. has a controlling ownership interest (>25%) or b. who exercises control through right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements
Partnership Firm	has ownership of/entitlement to more than fifteen per cent (15 %) of capital or profits of the partnership
Unincorporated	has ownership of or entitlement to more than fifteen per cent

Association or Body of Individuals	(15 %) of the property or capital or profits of such association or body of individuals

4.3.10 Where no natural person is identified as above, the beneficial owner is the relevant natural person who holds the position of senior managing official.

4.3.11 Where the client or the owner of the controlling interest is a company listed on a stock exchange, or is a subsidiary of such a company, it is not necessary to identify and verify the identity of any shareholder or beneficial owner of such companies.

4.3.12 In the case of a trust, the controlling person 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, the said expression means the person in equivalent or similar position. If the settlor, trustee, protector, or beneficiary is an Entity, the Reporting Financial Institution must identify the Controlling Persons of such Entity as discussed above.

4.3.13 Thus, if the Controlling Persons of a Passive NFE having an account in a Reporting Financial Institution are persons resident of a country/territory outside India, the account becomes a Reportable Account for all such countries/territories outside India , for which the controlling persons are tax resident. The details of the controlling person(s) will also be reportable to the respective country (ies) or territory (ies) outside India.

(Ref: Page 57 of CRS and 195 of Commentary)

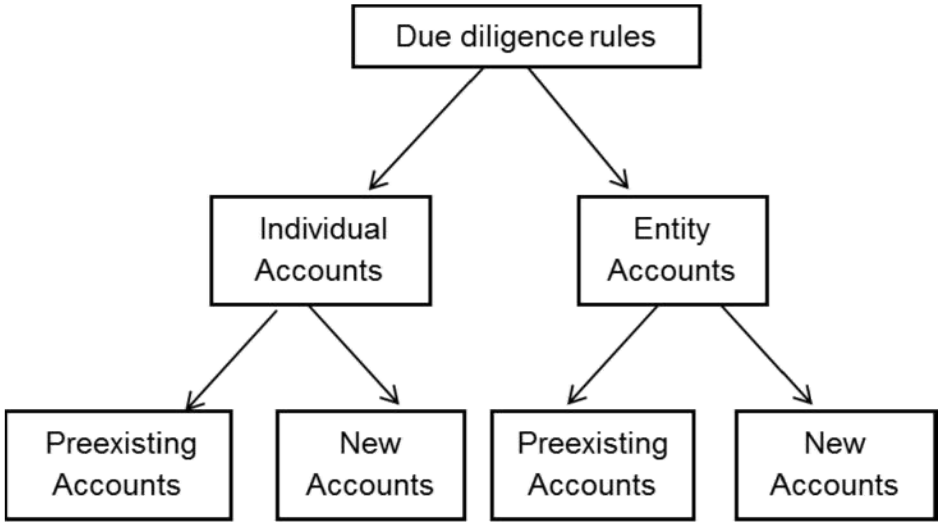
4.4 Centralized facilities for the clearing, settlement and deposit of securities

In India, an entity designated under federal legislation to provide centralized facilities for the clearing, settlement and deposit of securities, commonly referred to as a Clearing Corporation, will not be treated as maintaining financial accounts. In India, such entities are National Securities Clearing Corporation Ltd (NSCCL), Indian Clearing Corporation Ltd (ICCL) and MCX-SX Clearing Corporation Ltd (MCX-SXCCL).

5. Due Diligence Procedure

5.1 Introduction

The RFIs need to identify the Reportable Accounts by carrying out due diligence procedures. There are different due diligence procedures for the accounts held by individuals and accounts held by entities. There is a further classification of accounts as 'Preexisting accounts' and 'New Accounts'. This can be depicted as below:



The standardized approach to be applied for carrying out due diligence procedure ensures quality of information to be reported and exchanged. The rules also utilize the information available under the existing processes such as those for Anti Money Laundering purposes. This is particularly the case for Preexisting Accounts where it is more challenging and costly for Financial Institutions to obtain new information from the Account Holder.

5.2 Split between Preexisting Accounts and New Accounts

5.2.1 There are separate due diligence procedures for Preexisting and New Accounts. These accounts are differentiated on the basis of cut-off date. There are different cut-off dates for FATCA and CRS.

Pre-existing account means a financial account maintained by a RFI-

i. in case of a U.S. reportable account, as on the 30th June, 2014; and
ii. in case of other reportable account, as on the 31st December 2015.

New account means a financial account maintained by a RFI opened on or after,

i. in case of a U.S. reportable account, the 1st July, 2014; and
ii. in case of other reportable account, the 1st January, 2016

5.2.2 The due diligence procedure is also dependent on balance/value of the financial account. On the basis of balance/value, accounts are also classified High value and Lower value accounts. This can be depicted in the following table:

Classification of accounts	**Status**	**Value**	**Due Diligence Threshold**
Preexisting-US (as on 30.06.2014)	Individual	High Value Account	Account balance or value exceeds $1,000,000
		Lower Value Account	Account balance or value exceeds $50,000 but does not exceed $1,000,000
	Entity	NA	Account balance or value exceeds $250,000
New-US (opened after 30.06.2014)	Individual	NA	Account balance or value exceeds $ 50,000
	Entity	NA	No threshold
Preexisting-Other (as on 31.12.2015)	Individual	High Value Account	Account balance or value exceeds $ 1,000,000
		Lower Value Account	Account balance or value does not exceed $1,000,000
	Entity	NA	Account balance or value exceeds $250,000
New-Other (opened after 31.12.2015)	Individual	NA	No threshold
	Entity	NA	No threshold

5.2.3 In the case of USA, the accounts opened from 1st July, 2014 to the date of entry into force of the IGA between India and USA, i.e., 31st August, 2015, there is an alternate procedure for due diligence prescribed in Rule 114H(8). This is further described in paragraph 5.9.

5.3 Due Diligence for Preexisting Individual Accounts

5.3.1 There are separate due diligence procedures for “high value account” and “lower value account”.

What is High Value Account?

The high value account is defined in Rule 114H(2)(b) as

- In case of U.S. Reportable accounts, balance or value exceeding an amount equal to USD 1,000,000 as on 30th June, 2014 or 31st December of any subsequent year
- In case of other reportable accounts, balance or value exceeding an amount equal to USD 1,000,000 as on 31st December, 2015 or 31st December of any subsequent year.

What is Lower Value account?

The Lower Value account is defined in Rule 114H(2)(c) as

- In case of U.S. Reportable accounts, balance or value exceeds an amount equal to USD 50,000 but does not exceed an amount equal to one million dollars as on 30th June, 2014 or 31st December of any subsequent year
- In case of other reportable accounts, does not exceed an amount equal to one million dollars as on 31st December, 2015 or 31st December of any subsequent year.

Table: High Value and Low Value Accounts

Classification	**Category**	**Balance or value**
US Reportable	High Value	Balance exceeding USD 1,000,000 as on 30th June, 2014 or 31st December of any subsequent year
	Lower Value	balance exceeding USD 50,000 but less than USD 1,000,000 as on 30th June, 2014 or 31st December of any subsequent year
Other Reportable	High Value	USD 1,000,000 as on 31st December, 2015 or 31st December of any subsequent year.
	Lower Value	Balance less than USD 1,000,000 as on 31st December, 2015 or 31st December of any subsequent year.

Accounts not required to be reviewed or reported

5.3.2 There are certain preexisting individual accounts which are not required to be reviewed or reported. Rule 114H(3)(a) describes the criterion which is as follows:

- In case of US reportable accounts
    - If the account balance or value as on 30th June, 2014 does not exceed USD 50,000;
    - If the account is a cash value insurance contract or an annuity contract, and account balance or value as on 30th June, 2014 does not exceed USD 250,000;
    - If the account is a cash value insurance contract or an annuity contract and the RFI, under any other law for the time being in force in India or of the USA, is prevented from selling such contract to a person who is a resident of the USA.
- In case of other reportable accounts
    - If it is a cash value insurance contract or an annuity contract and RFI, under any other law for the time being in force in India, is prevented from selling such contract to a person who is not a tax resident of India.
- All other accounts are required to be reviewed unless they are excluded accounts.

Thus it can be seen that while there is threshold account balance below which preexisting individual accounts are not required to be reviewed and reported under FATCA, there is no such threshold for CRS.

5.4 Due Diligence for Preexisting, Lower Value, Individual Accounts

5.4.1 The due diligence procedure for lower value pre-existing individual accounts is prescribed in Rule 114H(3)(b).

5.4.2 RFIs must review its electronically searchable data to find out any of the following indicia:

i. identification of the account holder as a resident of any country or territory outside India for tax purposes or unambiguous indication of a place of birth in USA;
ii. current mailing or residence address (including a post office box) in any country or territory outside India;
iii. one or more telephone numbers in a country or territory outside India and no telephone number in India;

iv. standing instructions (other than a Depository Account in the case of CRS) to transfer funds to an account maintained in a country or territory outside India;

v. currently effective power of attorney or signatory authority granted to a person with an address in a country or territory outside India;

vi. a "hold mail" instruction or "in-care-of" address in a country or territory outside India if the reporting financial institution does not have any other address on file for the account holder.

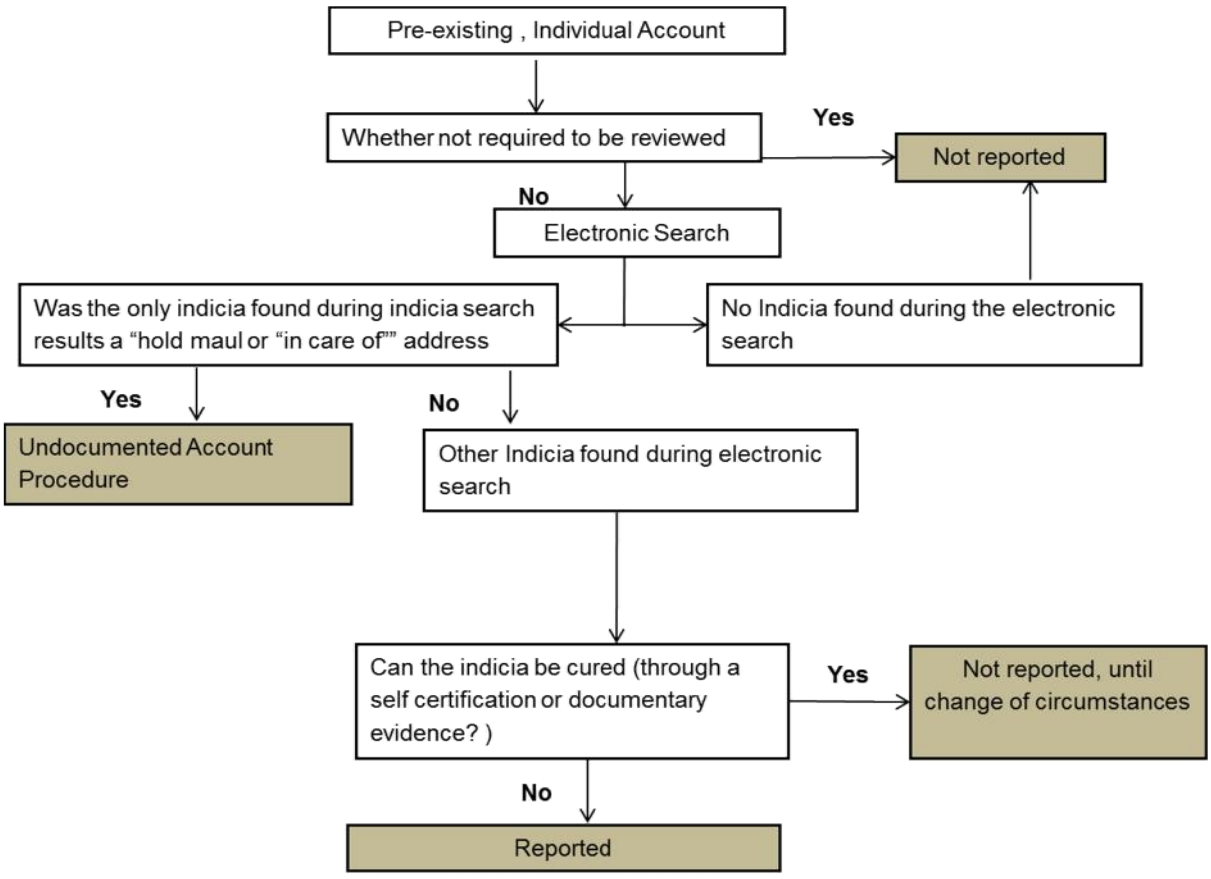


Figure: Due Diligence for Preexisting, Lower Value, Individual Accounts

5.4.3 If none of the indicia are discovered in the electronic search, no further action is required unless

- there is a change in circumstances which results in one or more indicia being associated with the account, or
- the account becomes a high value account.

5.4.4 If any indicia listed above are discovered in the electronic search or if there is any change of circumstances which results in one or more indicia being

associated with the account, then the RFI shall treat the accountholder as resident of each such country or territory for which an indicia is identified.

5.4.5 In cases where RFI does not maintain electronic database enabling a search, RFI would be required to perform a paper search to identify the indicia.

Undocumented Account Procedure

5.4.6 However, if after the electronic search, the **only** indicia found is a "hold mail" or "in-care" address, special procedures are applied and the RFIs need to

- Apply paper record search, or
- Obtain from the account holder a self-certification or documentary evidence to establish the residence.

If neither of these procedures successfully establishes the account holder's residence for tax purposes, then RFI must report the account as undocumented account.

Curing of Indicia

5.4.7 There may be occasions when the electronic record search gives indications of residence in any country or territory outside India that the RFI considers may be incorrect. In such circumstances the RFI may take steps to 'cure' the information before treating the Account Holder as a Reportable Person.

Where the financial institution holds information about the Account Holder that includes any of

i. a current mailing address in any country or territory outside India,

ii. one or more telephone numbers in any country or territory outside India (no telephone number in India),

iii. standing instructions, to transfer funds to an account maintained in any country or territory outside India (other than a Depository Account in the case of CRS), or

iv. a currently effective power of attorney or signatory authority granted to a person with an address in any country or territory outside India, then

the RFI must obtain a self-certification from the Account Holder to establish the jurisdiction of residence. The RFI can rely on self-certifications it has previously reviewed and maintained a record of, but in either case the self-

certification must be supported by Documentary Evidence. If the self-certification supported by Documentary Evidence establishes that the Account Holder is not a Reportable Person then the RFI is not required to treat the Account Holder as Reportable Person.

Curing of Indicia (for US reportable account)

5.4.8 In case of US Reportable Account, indicia can be cured in one more way. Where the indicia found is an unambiguous US place of birth, then RFI may not report the account if the RFI obtains or currently maintains a record of **all** of the following:

i. a self-certification that the account holder is neither a citizen of the United States of America nor its resident for tax purposes;
ii. a passport or other Government-issued identification evidencing the account holder's citizenship or nationality in a country other than the United States of America; and
iii. a copy of the account holder's certificate of loss of nationality of the United States of America or a reasonable explanation of-

(1) the reason, the account holder does not have such a certificate despite relinquishing citizenship of the United States of America; or

(2) the reason, the account holder did not obtain citizenship of the United States of America at birth

5.5 Due Diligence procedure for Preexisting, High Value, Individual Accounts

5.5.1 The due diligence procedure for high value pre-existing individual accounts is prescribed in Rule 114H(3)(c).

5.5.2 For high value accounts, there is a three-stage due diligence procedure-electronic stage, paper search and relationship manager enquiry. First, RFI needs to search its electronic searchable database in case of a customer. If this includes following information, no further paper record search by RFI is required:

- the account holder's residence status for tax purposes;
- the account holder's residence address and mailing address currently on file with the reporting financial institution;
- the account holder's telephone number or numbers currently on file, if any, with the reporting financial institution;

- in the case of financial accounts other than depository accounts, whether there are standing instructions (other than a Depository Account in the case of CRS) to transfer funds in the account to another account (including an account at another branch of the reporting financial institution or another financial institution);
- whether there is a current "in-care-of" address or "hold mail" instruction for the account holder; and
- whether there is any power of attorney or signatory authority for the account.

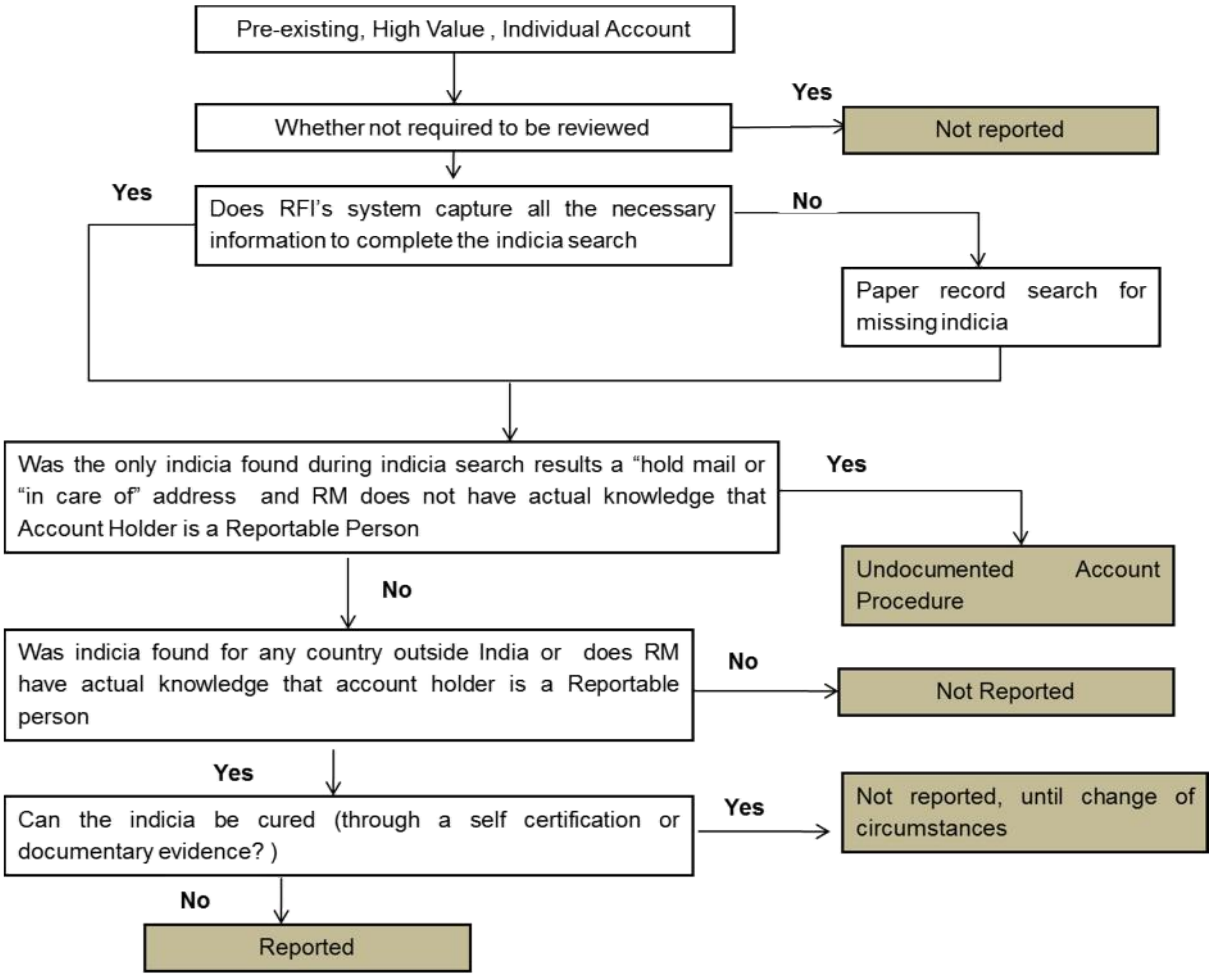


Figure: Due Diligence for Preexisting, High Value, Individual Accounts

5.5.3 If the electronic searchable database includes fields for and capture all of the above information, then Reporting Financial Institution is not required to do a paper record search.

5.5.4 But if it does not, then RFI needs to review the current customer master file for paper search and the documents obtained during the last five years for identification of any of the following US indicia:

- The most recent documentary evidence;
- The most recent account opening contract or documentation;
- The most recent documentation obtained by the Reporting FI pursuant to rules framed under the Prevention of Money Laundering Act, 2002 (15 of 2003) or any other law for the time being in force;
- Any power of attorney or signature authority forms currently in effect; and
- Any standing instructions (other than a Depository Account in the case of CRS) to transfer fund currently in effect.

Relationship Manager (RM) Test

5.5.5 In addition to above electronic and paper search, RFI has to apply Relationship Manager (RM) test on the high value accounts.

A relationship manager is an employee or officer of the financial institution who has been assigned responsibility for specific Account Holders on an ongoing basis. A relationship manager will provide advice to Account Holders regarding their accounts as well as recommending and arranging for the provision of financial products, services and other related assistance.

Relationship management must be more than ancillary or incidental to a person's job role. Thus a person with some contact with Account Holders, but whose functions are administrative or clerical nature, is not considered to be a relationship manager.

RFI must consider whether any relationship manager associated with an account, which includes any accounts aggregated with such an account, has actual knowledge that would identify the Account Holder as a Reportable Person.

The relationship manager also has an important role in identifying any change of circumstance in relation to a high value individual account. A financial institution must ensure that it has procedures in place to capture changes that are made known to the relationship manager in respect of the Account Holder's reportable status.

The following examples illustrate how to determine whether an employee of a Reporting Financial Institution is a relationship manager:

Example 1: An individual, P, holds a custodial account with R, a bank that is a Reporting Financial Institution. The value in P's account at the end of year is USD 1,200,000. An employee of R's private banking department, O, oversees

the account of P on an on-going basis. Because O satisfies the definition of "relationship manager" and the value in P's account is more than USD 1,000,000, O is a relationship manager with respect to P's account.

Example 2: Same facts as Example 1, except that the value in P's custodial account at the end of year is USD 800,000. In addition, P also holds a depository account with R, the balance of which at the end of year is USD 400,000. Both accounts are associated with P and with one another by reference to R's internal identification number. Because O satisfies the definition of "relationship manager" and, once the account aggregation rules have been applied, the aggregated balance or value in P's accounts is more than USD 1,000,000, O is a relationship manager with respect to P's accounts.

Example 3: Same facts as Example 2, except that O's functions do not involve direct contact with P. Because O does not satisfy the definition of "relationship manager", O is not a relationship manager with respect to P's accounts.

A reporting financial institution shall implement procedures to ensure that a relationship manager identifies any change in circumstances of an account and where the relationship manager is informed that the account holder has a new mailing address in any country or territory outside India, the reporting financial institution is required to treat the new address as a change in circumstances.

Effect of finding indicia

5.5.6 If after application of above due diligence procedures:

- none of the indicia are discovered and the account is not identified as held by reportable persons, then no further action is required until there is change of circumstances,
- If any of the indicia are discovered or there is change of circumstances, then the RFI shall treat the account as a reportable account with respect to each country or territory outside India for which the indicia is identified unless the indicia is cured.

Curing of Indicia

The process of curing of indicia is same as that of lower value accounts and can be referred in paragraph 5.4.7 & 5.4.8

Undocumented Account Procedure

5.5.7 If a "hold mail" instruction or "in-care-of" address is discovered in the electronic search and no other address and none of the other indicia is

discovered, special procedures are applied and the RFIs need to obtain from the account holder a self-certification or documentary evidence to establish the residence.

If neither of these procedures successfully establishes the account holder's residence for tax purposes, then RFI must report the account as undocumented account.

5.5.8 In respect of pre-existing individual account, if self-certification or documentary evidence is not obtained from the account holder (till the deadline of completing the due diligence procedures as laid down in the rules) in remediation of any of the indicia found in electronic search, paper record search or RM's search, the account will be an undocumented reportable account.

Other Procedures

5.5.9 If a US reportable pre-existing individual account is not a high value account as on the 30th June, 2014, but becomes a high value account as on 31st December 2015, the RFI shall complete the enhanced review procedures discussed above with respect to such account within the calendar year following the year in which the account becomes a high value account and if based on such review the account is identified as a reportable account, the reporting financial institution shall 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 reportable person.

Example:
A US Reportable Account with a balance or value of USD 48,000 as on June 30, 2014 becomes high value account i.e. the account balance as on December 31, 2015 is USD 1,150,000. In such a case, the RFI should carry out the enhanced due diligence process to identify whether it is a US Reportable account or not. If due diligence is completed in March 2016, the account becomes reportable for calendar year 2016 and subsequent years.

5.5.10 If an Other reportable pre-existing individual account is not a high value account as on the 31st December 2015, but becomes a high value account as on the last day of any subsequent year, the reporting financial institution shall complete the enhanced review procedures discussed above with respect to such account within the calendar year following the year in which the account becomes a high value account and if based on such review the account is identified as a reportable account, the reporting financial institution shall 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 reportable person.

5.5.11 If there is a change of circumstances with respect to a Pre-existing Individual High Value Account that results in one or more indicia, then the Reporting FI must treat the account as a Reportable Account, unless it elects to apply one of the exceptions to reporting described in paragraph 5.4.7 & 5.4.8 with respect to that account.

5.5.12 Any Pre-existing Individual Account that has been identified as a Reportable Account shall be treated as a Reportable Account in all subsequent years, unless the Account Holder ceases to be a Reportable Person.

Time Lines

5.5.13 The time line for reviewing of the pre-existing individual accounts have been provided in Rule 114H(3)(d) as under:

Classification	**Category**	**Time limit for due diligence**
U.S. reportable account	High value account as on the 30.6.2014	31.12.2015
U.S. reportable account	Lower value account as on the 30.6.2014	30.06.2016
Other reportable account	High value account as on the 31.12.2015	30.06.2016
Other reportable account	Lower value account as on the 31.12.2015	30.06.2017

In case of a U.S. reportable account which is high value account as on the 30.6.2014, due diligence shall be completed by the 31.12.2015 and if based on this review such account is identified as a U.S. reportable account after 31.12.2014 but before 31.12.2015, the reporting financial institution is not required to report information about such account with respect to calendar year 2014, but shall report information about the account on an annual basis thereafter. Such accounts will be reported in statement filed by 31.05.2016 for calendar year 2015.

(Ref: Page 31 of CRS and 110 of Commentary)

5.6 Due Diligence for Pre-existing Entity Accounts

Accounts not required to be reported or reviewed

5.6.1 There are certain categories of pre-existing entity accounts which are not required to be reviewed, identified or reported. These have been defined in Rule 114H(5)(a). These are-

- In case of US reportable accounts if the aggregate account balance or value as on 30.6.2014 does not exceed an amount equivalent to USD 250,000 or the end of any subsequent calendar year;
- In case of other reportable accounts if the balance or value as on 31.12.2015 does not exceed an amount equivalent to USD 250,000 or the end of any subsequent calendar year.

Identification of reportable accounts

5.6.2 There is two-step process to identify Pre-existing entity reportable accounts-

- First, RFI identifies whether account holder entity is a Reportable Person. If so, the account is then a Reportable Account.
- Second, if account holder entity is Passive NFEs, RFI must identify controlling persons and determine whether controlling person are Reportable Person(s). If yes, account becomes reportable in respect of controlling person.

For calendar years 2015 and 2016, aggregate payments made accounts held by non-participating financial institutions (NPFI) for purposes of FATCA, has to be reported and therefore, for 2015 & 2016, these accounts will also be treated as reportable accounts and need to be reported as US Reportable accounts.

Review of entity

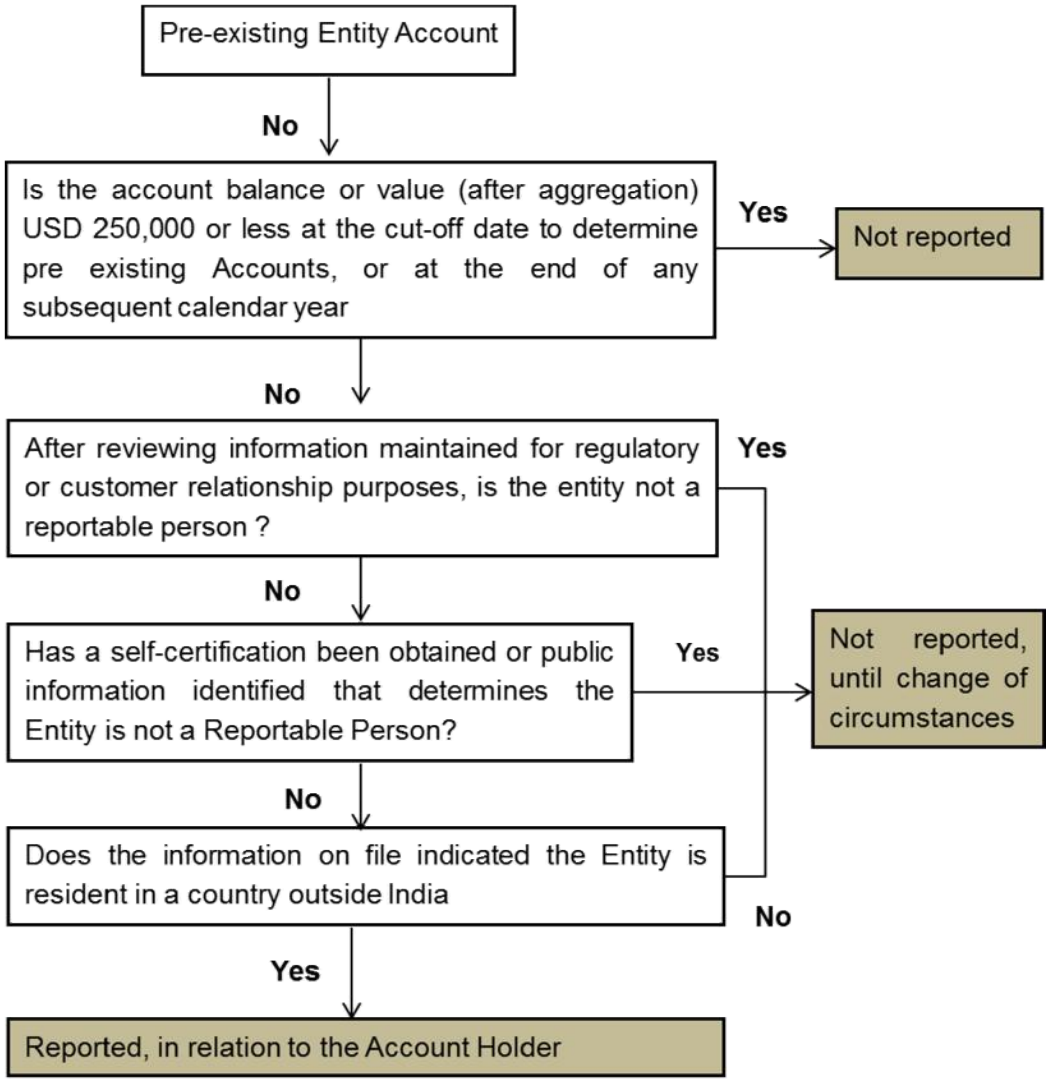
5.6.3 To determine whether the entity is a reportable person, the Reporting Financial Institution need to review information maintained for regulatory or customer relationship purposes (including information collected in accordance with the rules made under the Prevention of Money-laundering Act, 2002) to determine whether the information indicates that the account holder is a reportable person.

However, the account may not be treated as a “reportable account”, if

- A self-certification is obtained from the account holder that the account holder is not a reportable person, or
- The financial institution reasonably determines based on information in its possession or that is publicly available, that the account holder is not a reportable person.

5.6.4 If the information indicates that the Account Holder is a Financial Institution which is non-USA entity, the RFI must verify the Account Holder's Global Intermediary Identification Number (GIIN) on the published IRS FFI list (http://apps.irs.gov/app/fatcaFfiList/flu.jsf). If the GIIN is available then the account is not a US reportable account.

5.6.5 The detailed process of due diligence to establish whether entity is a Reportable Person, can be depicted as per following diagram:



Review for Controlling Person

5.6.6 Irrespective of the fact that account is identified as a reportable account during the first part of review procedure, RFI must carry out the second part of the review process to find out

- Whether the Account Holder is a Passive NFE;
- Whether any of the Controlling Persons of the Passive NFE is a reportable person.

5.6.7 For determining whether the account holder is a Passive NFE, the RFI shall obtain a self-certification from the account holder to establish its status, unless it has information in its possession or which is publicly available, based on which it can reasonably determine that the account holder is an active NFE or a financial institution other than an investment entity referred in sub-clause (B) of clause (c) of Explanation to clause (3) of rule 114F.

5.6.8 If the account holder is Passive NFE, RFI must identify its controlling person. For this, RFI may rely on information collected and maintained in accordance with PMLA.

5.6.9 To determine whether controlling person are reportable or not, RFI may rely on information collected and maintained in accordance with PMLA, where the aggregate account balance does not exceed USD 1,000,000.

If aggregate account balance exceeds USD 1,000,000, self-certification from the account holder or such controlling person(s) will be required to determine whether controlling person are reportable or not.

5.6.10 If any controlling person of a passive NFE is a resident of any country or territory outside India for tax purposes, the account of the passive NFE shall be treated as a reportable account to all such country or territory outside India which a controlling person is a tax resident of. The details of the controlling person(s) will also be reportable to the respective country (ies) or territory (ies) outside India.

Payments to Non-participating Financial Institution

5.6.11 For the year 2015 & 2016, aggregate payments made to Non-participating Financial Institution (NPFI) are required to be reported under FATCA. Therefore, if the account holder is a NPFI, the account is a US Reportable Account.

For determining whether account holder is a NPFI, following steps should be taken:

a. If account holder is an Indian FI or other partner jurisdiction FI, RFI may verify their GIIN on the published US IRS FFI list. If GIIN is verified, no further review or reporting is required.

b. There may be cases where Indian FI or other partner jurisdiction FI is treated by the US IRS as Non-participating Financial Institution. In these cases, the account of Indian FI or other partner jurisdiction FI is a reportable account.

c. If the account is held by an FI which is not an Indian FI or other partner jurisdiction FI, then the account holder must be treated as NPFI and it is a US Reportable Account. However, in the following two situations, account is not reportable-

   I. If RFI obtains a self-certification from the account holder that account holder is a non-reporting financial institution (NRFI) as defined in Rule 114F(5).

   II. In case of PFFI (defined in Annex II of IGA) or registered deemed compliant FFI, RFI verifies the Account holder's GIIN on published US IRS FFI list.

   FFI list of PFFI can be found in the link below:
   http://apps.irs.gov/app/fatcaFfiList/flu.jsf

   The list of partner jurisdiction can be found in the link below:
   http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA-Archive.aspx

5.6.12 The timeline for due diligence for pre-existing entity accounts are as below:

Category	**Type**	**Time limit for due diligence**
U.S. reportable accounts	aggregate balance exceeding USD 250,000 as on 30.6.2014	30.06.2016
Other reportable accounts	aggregate balance exceeding USD 250,000 as on 31.12.2015	30.06.2016

(Ref: Page 38 of CRS and 135 of Commentary)

5.7 Due Diligence for New Individual Accounts

Accounts not required to be reviewed or reported

5.7.1 The following new U.S. reportable accounts are not required to reviewed or reported as per Rule 114H(4)(a)-

(a) a depository account unless the account balance exceeds an amount equal to USD 50,000 at the end of any calendar year;

(b) a cash value insurance contract unless the cash value exceeds an amount equal to USD 50,000 at the end of any calendar year.

The above exemption is not available for U.S. custodial or investment accounts and thus the same need to be reviewed even if the account balance is less than USD50,000. Further, there is no threshold in case of other reportable accounts and thus any individual account opened from 01.01.2016 has to be reviewed to ascertain whether it is a reportable account.

Self-certification

5.7.2 In the case of new US reportable accounts, which do not fall under (a) & (b) of paragraph 5.7.1 above, self-certification shall be obtained on account opening or within 90 days form the end of calendar year in which account ceases to be covered under clause (a) & (b) of paragraph 5.7.1, to determine the account holder's residence or residences for tax purposes.

In case of new other reportable accounts, on account opening, the Reporting Financial Institution must obtain a self-certification from customer, as part of the account opening documentation, to determine the account holder's residence or residences for tax purposes.

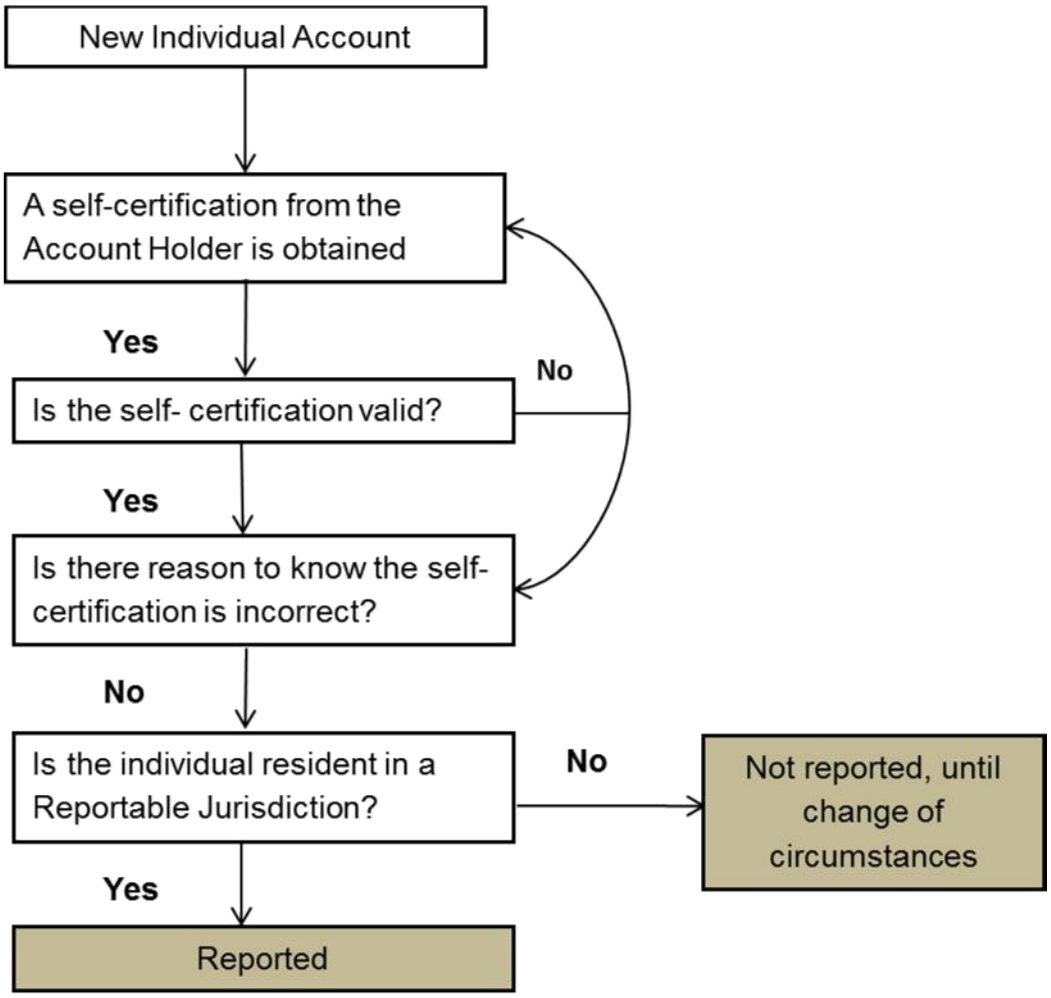
5.7.3 The self-certification will specify where the individual is resident for tax purposes. If the self-certification establishes that the Account Holder is resident for tax purposes in a country/territory outside India, then, the Reporting Financial Institution must treat the account as a Reportable Account and the self-certification shall also include the account holder's taxpayer identification number with respect to such country or territory outside India and date of birth.

5.7.4 The self-certification can be provided in any form but in order for it to be valid, it must be signed (or otherwise positively affirmed) by the Account Holder, be dated, and must include the Account Holder's: name; residence address; jurisdiction(s) of residence for tax purposes; TIN(s) and date of birth. A draft of the self-certification is at Appendix ??.

5.7.5 The Reporting Financial Institution must also confirm the reasonableness of such self-certification based on the information obtained by it in connection with the opening of the account, including any documentation collected in accordance with Prevention of Money Laundering (Maintenance of Records) Rules, 2005.

5.7.6 Where a self-certification has been obtained for a new individual account and if there is a change of circumstances with respect to such account which causes the reporting financial institution to know, or have reason to know, that the said self-certification is incorrect or unreliable, the reporting financial institution shall not rely on the said self-certification and shall obtain a valid self-certification that establishes the residence or residences for tax purposes of the account holder. If the Reporting Financial Institution is unable to obtain a valid self-certification, the Reporting Financial Institution shall treat the account as a reportable account with respect to each such country or territory outside India for which indicia is identified.

5.7.8 The due diligence process is depicted as below:



Jan-Dhan Accounts

5.7.9 As per Rule 115H(4)(b)(i), self-certification in case of US reportable account is to be obtained within 90 days after the end of calendar year in which account balance exceeds USD 50,000. Thus, for US reportable account, the self-certification requirement will arise only in the year following the calendar year in which balance exceeds USD 50,000. It can be said with reasonable certainty that balance in Jan-Dhan account may never exceed USD 50,000. However, in a very rare case, where it happens, RFI must carry out due diligence as described above. Therefore, a Jan-dhan account would normally not be required to be reviewed or reported for purposes of FATCA.

5.8 Due Diligence for New Entity Accounts

5.8.1 There is no threshold or exemption for new entity accounts and all these accounts need to be reviewed and reported.

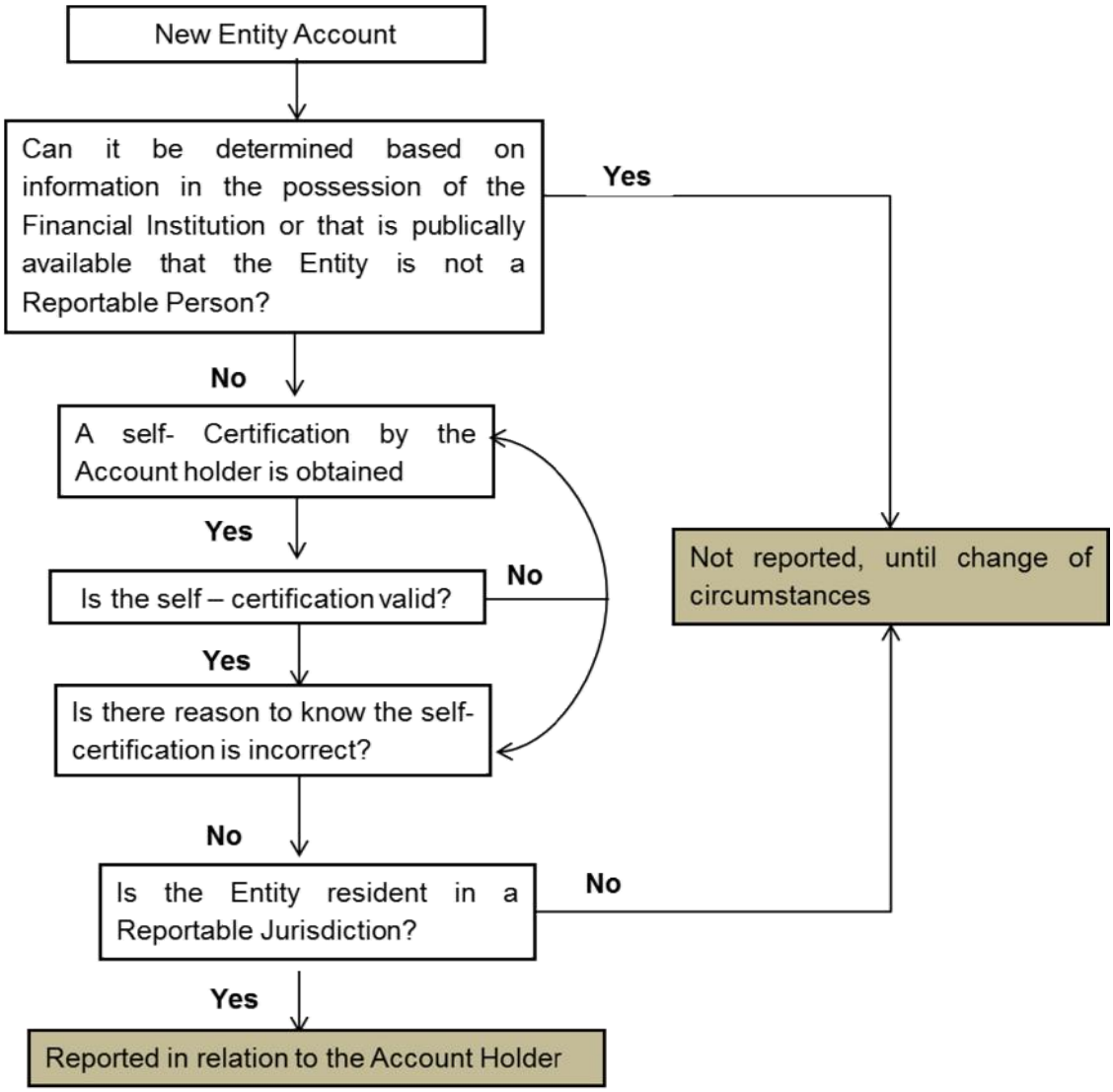
5.8.2 As in the case of pre-existing entity accounts, there is two-step process to identify New entity reportable accounts

- First, RFI identifies whether account holder entity is a Reportable Person. If so, the account is then a Reportable Account.
- Second, if account holder entity is Passive NFEs, RFI must identify controlling persons and determine whether controlling person are Reportable Person(s). If yes, account becomes reportable in respect of controlling person.

For calendar years 2015 and 2016, aggregate payments made accounts held by non-participating financial institutions (NPFI) for purposes of FATCA, has to be reported and therefore, for 2015 & 2016, these accounts will also be treated as reportable accounts and need to be reported as US Reportable accounts.

Review of entity

5.8.3 The detailed process of due diligence to establish whether entity is a Reportable Person, can be depicted as per the following flow chart:



5.8.4 The RFI need to determine whether the Entity itself is a reportable person, i.e. resident of a country/territory outside India. For this, RFI will obtain a self-certification from account holder, as part of the account opening documentation, to determine the account holder's residence or residences for tax purposes. The RFI must also confirm the reasonableness of such self-certification based on the information obtained by it in connection with the opening of the account, including any documentation collected in accordance with PMLA.

Review of controlling person

5.8.5 Irrespective of the fact that account is identified as a reportable account during the first part of review procedure, RFI must carry out the second part of the review process to find out-

- Whether the Account Holder is a Passive NFFE;
- Whether any of the Controlling Persons of the Passive NFFE is a reportable person.

5.8.6 For determining whether the account holder is a passive NFE, the RFI shall obtain a self-certification from the account holder to establish its status, unless it has information in its possession or which is publicly available, based on which it can reasonably determine that the account holder is not a passive NFE.

5.8.7 If the account holder is Passive NFE, RFI must identify its controlling person. For this, RFI may rely on information collected and maintained in accordance with PMLA.

5.8.8 For purposes of determining whether controlling person is reportable person, the RFI may rely on a self-certification from the account holder or controlling person.

5.8.9 The RFI is also required to determine whether the account holder is a non-participating financial institution and those accounts should be treated as US reportable accounts to be reported to USA for calendar years 2015 and 2016.

(Ref: Page 40 of CRS and 143 of Commentary)

5.9 Alternate Procedure in case of US Reportable Accounts

5.9.1 In the case of US Reportable Accounts, the due diligence procedure for new accounts, including obtaining a self-certification from the account holder, would apply from 1st July, 2014. However, the legal basis for having this due diligence procedure for new accounts was introduced only on 7th August, 2015, on Notification of Rules 114F to 114H, the IGA between India and USA provides for an alternative procedures for applying the due diligence procedure which has been included in Rule 114H(8) of the Rules.

5.9.2 As provided in Proviso to Rule 114H(8), all the new entity accounts which are U.S. reportable accounts opened from 1st July, 2014 to 31st December, 2014, may be treated by the RFI as pre-existing entity account and apply the due diligence procedure related to pre-existing accounts without regard to account balance or value threshold.

5.9.3 Further, as provided in Rule 114H(8), for all the individual and entity accounts opened from 1st July, 2014 to the date of entry in to force of the IGA between India and USA, i.e., 31st August, 2015, the RFI will need to obtain the self-certification and carry out due diligence procedure to determine the reasonableness of the self-certification. The RFIs will need to obtain the self-certification and documentation within one year of the entry into force of the IGA, i.e., by 31st August, 2016, or otherwise close the accounts and report their information as "reportable accounts".

5.9.4 The RFIs will need to report on any new account so identified, including accounts held by non-participating financial institution, by the later of 31st of May following the year on which the account is identified or within 45 days of identification of account. Thus, all accounts identified during the calendar year 2015 should be reported by 31st May, 2016.

5.9.5 The information required to be reported with respect to such a new account shall be information which would have been reportable had the new account been identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable, as of the date the account was opened. Thus for accounts opened during calendar year 2014, the information about calendar year 2014 must be reported even if the reporting is done in 2017 as the alternate procedure was completed during the calendar year 2016.

5.9.6 Rule 114H(4)(a) states that the depository accounts having a balance not exceeding USD 50,000 or cash value insurance contracts having cash value not exceeding USD 50,000 at the end of any calendar year are not required to be reviewed or reported in case of U.S. reportable accounts. Accordingly, in these cases, for the accounts opened from 1.7.2014 to 31.12.2014, a value search should be carried out as on 31.12.2014 and for accounts opened between 1.1.2015 to 31.8.2015, a value search should be carried out as on 31.12.2015. The due diligence for new accounts including obtaining of self-certification needs to be carried out only in those cases where the value exceeds USD 50,000. In case of accounts other than depository or cash value accounts, the financial institutions should make reasonable efforts to obtain the self-certification, particularly in those cases where after indicia search a positive match is found with any of the U.S. indicia. If a self-certification is not provided by an account holder or the reasonableness of a self-certification cannot be confirmed, the account is reportable.

5.9.7 For new individual accounts (depository or cash value contract) accounts opened after 1.9.2015, the alternate procedure will not be applicable and the due diligence procedure as applicable to "new accounts" including obtaining and

verification of self-certification will be applicable. In case of accounts which are not required to reviewed or reported as per Rule 114H(4)(a), a value search should be carried out as on 31.12.2015, the due diligence for new accounts including obtaining of self-certification needs to be carried out only in those cases where the value exceeds USD50,000. Such due diligence needs to be completed within a period of 90 days from the end of calendar year 2015, i.e, by 31.03.2016. In case of other than depository or cash value contract accounts, the financial institutions should make reasonable efforts to obtain the self-certification by 31.12.2015, particularly in those cases where after indicia search a positive match is found with any of the U.S. indicia. If a self-certification is not provided by an account holder or the reasonableness of a self-certification cannot be confirmed, the account is reportable.

5.9.8 For a depository entity account opened between 01.01.2015 to 31.08.2015, a value search should be carried out as on 31.12.2015 and due diligence as applicable to new accounts including obtaining of self-certification needs to be carried out only in those cases where the value exceeds USD 250,000. Similarly, for a depository entity account opened after 01.09.2015, a value search should be carried out as on 31.12.2015 and due diligence as applicable to new accounts including obtaining of self-certification needs to be carried out only in those cases where the value exceeds USD 250,000.

5.10 Aggregation

For purposes of determining the aggregate balance or value of financial accounts held by an individual or entity, a reporting financial institution shall be required to take into account all financial accounts which are maintained by it, or by a related entity, but only to the extent that the computerised systems of that reporting financial institution links the financial accounts by reference to a data element such as client number or taxpayer identification number, and allows account balances or values to be aggregated. [Rule 114H(7)(c)]

For the purpose of determining the aggregate balance or value of financial accounts held by a person to determine whether a financial account is a high value account, a Reporting FI shall also be required, in the case of any financial 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.

Exempt products

If a financial account is exempt from being treated as a financial account, it should not be included for the purposes of aggregation. Consequently, if an individual holds a personal retirement account as well as several depository accounts with the same financial institution and its information technology systems allow all these holdings to be linked, the depository accounts are aggregated, but the personal retirement account is not.

5.11 Joint Account

Where a Financial Account is jointly held, the balance or value to be reported in respect of the Reportable Person is the entire balance or value of the account. The entire balance or value should be attributed to each holder of the account. The same principle is also applicable to following situations also:

i. an account held by a Passive NFE with more than one Controlling Person that is a Reportable Person;

ii. an account held by an Account Holder that is a Reportable Person (on an NFE with a Reportable Controlling Person) and is identified as having more than one jurisdiction of residence; and

iii. an account held by a Passive NFE that is a Reportable Person with a Controlling Person that is a Reportable Person.

For example where a jointly held account has a balance or value of $75,000 and account is other Reportable account, then the amount to be attributed to each of the account holder would be $70,000.

However, it may be noted that accounts may be aggregated to determine the threshold but for reporting purpose, all accounts should be reported separately in Form 61B.

5.12 Related Entity

Related entity is defined in Explanation (E) to 114F(6). An entity is a "related entity" of another entity if either entity controls the other entity, or the two entities are under common control.

Following are the examples of Aggregation for US Reportable Account. Unless specified otherwise, balance is on 30.06.2014.

Example 1 – Application of the USD 50,000 threshold

Individual X is having following two financial accounts with Bank A in India, with balance as on 30.06.2014:

- a fixed deposit account with a balance of USD 48,000
- a savings account with a balance of USD 8,000

Bank A can link and aggregate the following accounts by a Unique Identification Number of account holder.

The aggregation rules will apply for the purposes of determining whether the balance of each pre-existing individual account exceeds USD 50,000. Since the aggregated balance of the two accounts is USD 56,000, both the account would be reportable.

Example 2 – Application of the USD 50,000 threshold

The same facts as Example 1, except the accounts of the account holder are:

- a depository account with a balance of USD 23,000
- a custodial account with a balance of USD 15,000

The aggregated total is below USD 50,000. Both accounts can benefit from the exemption provided by the threshold.

Example 3 – Application of the USD 50,000 threshold

The same facts as Example 1, except the accounts of the account holder are:

- a depository account with a balance of USD 35,000
- a custodial account with a balance of USD 18,000

The aggregation rules will apply for the purposes of determining whether a balance or value of a pre-existing individual account exceeds USD 50,000. Since the aggregated balance of the two accounts is USD 53,000, the accounts are potentially reportable. However, a depository account with a balance of USD 50,000 or less is exempt from reporting. No similar exemption is available to other types of financial accounts. Therefore, the depository account is not reportable, but the custodial account must be reviewed using the relevant due diligence procedures.

Example 4 – Application of the USD 250,000 cash value insurance contract threshold

Company B is an Indian financial institution. It can link and aggregate the following accounts of an account holder by a Customer ID number,

- a cash value insurance contract with a value of USD 245,000 as on 30.06.2014;
- a custodial account with a balance of USD 35,000 as on 30.06.2014.

The aggregated balance or value indicates the financial accounts are potentially reportable. However, for the purposes of determining whether the cash value insurance contract is reportable, it needs only to be aggregated with other cash value insurance contracts or annuity contracts. Therefore, it remains below the USD 250,000 threshold and does not have to be reviewed. The custodial account must be reviewed to determine if the account holder is a specified US person because there is no exemption for the custodial account.

Example 5 – Aggregation involving joint accounts

Two account holders have three depository accounts between them. Each has a deposit account and they share a joint deposit account. The accounts are maintained by the same financial institution and have the following balances:

- Client A - USD 37,000
- Client B - USD 25,000
- Joint account - USD 20,000

A data element in the financial institution's computer system allows the joint account to be associated with both Client A and Client B. The system shows the individual balances of the accounts and permits the balances to be electronically aggregated.

The balance of the joint account is attributable in full to each of the account holders. The aggregate balance for Client A is USD 57,000 and for Client B is USD 45,000.

Since the amounts after aggregation exceed the thresholds of USD 50,000 with respect to Client A, Client A's account must be reviewed to determine if he or she is a US person. And, since the aggregated amount is below those thresholds with respect to Client B, there is no requirement to review Client B.

Example 6 – Aggregation of negative balances

Two account holders have three depository accounts between them. Each has a deposit account and they share a joint deposit account. The accounts are maintained by the same financial institution and have the following balances:

- Client A USD 59,000

- Client B USD 39,000
- Joint account (USD 8,000)

The accounts can be linked and therefore must be aggregated. But, for the purposes of aggregation, the negative balance of the joint account is treated as nil. In this example, after applying the threshold of USD 50,000, Client A's account has to be reviewed but Client B's need not be reviewed.

Example 7 – Separate account reporting

Person Y holds three depository accounts with Bank Z. The balances are as follows:

- Account 1 - USD 35,000
- Account 2 - USD 2,000
- Account 3 - USD 26,000

The aggregated balance totals USD 63,000, causing all three accounts to be reviewed. The review determines that Person Y is a specified US person. Therefore, all three accounts are reportable. Bank Z must report each account individually and not consolidate the information into a single information return for reporting purposes.

Aggregation of pre-existing entity accounts

For purposes of determining the aggregate balance or value of accounts held by an entity, all accounts held by the entity will need to be aggregated when the financial institution applies the thresholds and the financial institution's computerized system can link the accounts by reference to a common data element and allow the account balances to be aggregated.

Example 8 – Aggregation of pre-existing entity accounts

Entity Y has two depository accounts with Bank X. The balances are as follows:

- Current account USD 165,000
- Term Deposit account USD 110,000

Bank X applies the relevant thresholds and its computer system allows the account balances to be aggregated. The accounts must be reviewed since the aggregated balance exceeds the applicable threshold of USD 250,000 for an entity. The review determines that Entity Y is a specified U.S. person. The accounts are reportable.

Example 9 – Aggregation of pre-existing entity accounts

Individual P has a depository account with Bank X. Individual A also controls 100% of Entity Y and 50% of Entity Z, both of which also have a depository

account with Bank X. None of the accounts are managed by a relationship manager. The balances are as follows:

- Individual P depository account USD 35,000
- Entity Y depository account USD 120,000
- Entity Z depository account USD 115,000

Entity Z's account has never exceeded USD 1,000,000. Bank X applies the relevant thresholds and its computer system allows the account balances to be aggregated.

Where there is no relationship manager, an account held by a person can only be aggregated with other accounts held by that person. In this example, no account is reportable since the aggregation rules do not apply to cause any account to exceed the relevant thresholds that trigger review.

Example 10 – Aggregation of preexisting entity accounts

Individual A has a custodial account with Bank X. Individual A also controls 100% of Entity Y and 50% of Entity Z. Entity Y holds a custodial account and Entity Z holds a depository account, (both accounts are with Bank X). A relationship manager is assigned to Individual A. The balances are as follows:

- Individual A custodial account USD 35,000
- Entity Y custodial account USD 1,180,000
- Entity Z depository account USD 110,000

Entity Z's depository account has never exceeded USD1,000,000. Bank X must make enquiry of the relationship manager assigned to Individual A to establish whether the manager knows of any accounts that are directly or indirectly owned, controlled or established (other than in a fiduciary capacity) by Individual A. The relationship manager knows Individual A is the controlling person of Entity Y and Entity Z and, therefore, is required to aggregate the three accounts.

Since the aggregated balance of Individual A's account exceeds USD 1,000,000, Individual A's account is a high value account subject to the enhanced review procedures. The value of Entity Y's account exceeds the USD 250,000 threshold and must be reviewed whereas Entity Z's account is not required to be reviewed as its balance does not exceed that threshold.

6. Reporting Requirements

6.1 Information to be maintained and reported

After the RFI has identified the reportable accounts, RFI needs to report specific information in respect of each reportable account. As per Rule 114G(1), RFI needs to maintain and report the following information in case of each Reportable Account:-

(a) the name, address, taxpayer identification number (assigned to the account holder by the country or territory of his residence for tax purposes) and date and place of birth (in the case of an individual) of each reportable person, that is an account holder of the account;

(b) in the case of any entity which is an account holder and which, after application of due diligence procedures prescribed in rule 114H, is identified as having one or more controlling persons that is a reportable person,-

(i) the name and address of the entity, taxpayer identification number assigned to the entity by the country or territory of its residence; and

(ii) the name, address, date and place of birth of each such controlling person and taxpayer identification number assigned to such controlling person by the country or territory of his residence;

(c) the account number (or functional equivalent in the absence of an account number);

(d) the account balance or value (including, in the case of a cash value insurance contract or annuity contract, the cash value or surrender value) at the end of relevant calendar year or, if the account was closed during such year, immediately before closure;

(e) in the case of any custodial account,-

i. 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; and

ii. the total gross proceeds from the sale or redemption of financial assets paid or credited to the account during the calendar year with respect to which the reporting financial institution acted as a custodian, broker, nominee, or otherwise as an agent for the account holder;

(f) in the case of any depository account, the total gross amount of interest paid or credited to the account during the relevant calendar year;

(g) in the case of any account other than custodial or depository accounts, including accounts held by investment entities and cash value insurance contract and annuity, the total gross amount paid or credited to the account holder with respect to the account during the relevant calendar year 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 relevant calendar year; and

(h) in the case of any account held by a non-participating financial institution, for the calendar year 2015 and 2016, the name of each non-participating financial institution to which payments have been made and the aggregate amount of payments.

(Ref: Page 29 of CRS and 94 of Commentary)

6.2 Account Holder

Account holder means the person listed or identified as the holder of a financial account by the financial institution that maintains the account. However, if a person, other than a financial institution, holds a financial account for the benefit or on account of some other person as agent, custodian, nominee, signatory, investment advisor, or intermediary, such other person will be 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 receive a payment upon the maturity of the contract or any person entitled to access the cash value or change the beneficiary of the contract and 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;

6.3 Tax Identification Number (TIN)

Definition

6.3.1 A Taxpayer Identification Number is a unique combination of letters or numbers, however described, assigned by a country to an individual or an Entity and used to identify the individual or Entity for purposes of administering the tax laws of such country.

Where the person is a resident of more than one country or territory outside India under the tax laws of such country or territory, the reporting financial institution shall maintain the TIN in respect of each such country or territory.

For example, if an individual X is tax resident of Belgium and account of such person is to be reported by an FI in India, the TIN of Belgium is required to be collected and reported by FI in respect of such person. TIN of Belgium is called **Numéro National (NN)**.

In the above example, if X is tax resident of Belgium as well as France, TIN of both Belgium and France are required to be collected and reported by FI in respect of such person.

In the same example, it may be the case the X is having PAN. Then also, TIN for the purpose of reporting by FI will be **Numéro National (NN)**.

Functional Equivalent of TIN

6.3.2 Many countries do not issue TIN to their taxpayers. However, such countries issue some other high integrity number with an equivalent level of identification (a functional equivalent). Examples of such numbers are-

- Social Security Number
- National Insurance Number
- Citizen Or Personal Identification Code Or Number
- Resident Registration Number

For Entities, a business/ or company registration code/number may be used in case where no TIN has been issued to the entity. These numbers are functional equivalent of TIN.

TIN for Preexisting Accounts

6.3.3 TIN is very essential to correctly identify taxpayers. With respect to each reportable account which is a pre-existing account, TIN is not required to be reported if it is not in the records of the Reporting Financial Institution. However, the RFI shall obtain the TIN with respect to pre-existing accounts by the December 31, 2016 and shall report it with respect to calendar year 2017 and subsequent years.

"Reasonable efforts" means genuine attempts to acquire the TIN and date of birth of the Account Holder of a Reportable Account. Such efforts must be made, at least once a year. Examples of reasonable efforts include contacting the Account Holder (e.g. by mail, in-person or by phone), including a request made as part of other documentation or electronically (e.g. by facsimile or by e-

mail); and reviewing electronically searchable information maintained by a Related Entity of the Reporting Financial Institution, in accordance with the aggregation principles.

Exceptions

6.3.4 There are few exceptions to TIN reporting. For example, TIN is not required to be reported if,

- TIN number (including its functional equivalent) is not issued by the relevant country or territory outside India in which the person is resident for tax purposes or;
- The domestic law of the relevant country or territory outside India does not require the collection of the taxpayer identification number by any FI.

There are some jurisdictions, such as Australia, which issue TINs, but their domestic law does not require the collection of the TIN for domestic reporting purpose. If a reportable account is maintained by a person resident in such jurisdictions, RFI is not required to collect the TIN for those jurisdictions.

AEOI Portal

6.3.6 To facilitate the implementation of AEOI, OECD has launched AEOI portal which contains useful information on AEOI. There is a section on TIN where information regarding issuance, collection and, to the extent possible and practical, the structure and other specifications of TIN of various countries have been complied. It also contains information on which documents, TIN of various countries can be found. RFI may go through this section to understand the TIN of various countries. The link is
http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/#d.en.347759

6.4 Date of Birth

With respect to each reportable pre-existing account, date of birth is not required to be reported if the date of birth is not in the records of the RFI. However, the RFI shall obtain the date of birth with respect to pre-existing accounts by the December 31, 2016 and shall report it with respect to calendar year 2017 and subsequent years.

The date of birth is reportable for all new accounts.

6.5 Place of Birth

Place of birth is not required to be reported unless it is available in the electronically searchable data maintained by the RFI.

6.6 Address

In the case of an account held by an individual that is a reportable person, or controlling person, the address to be reported is the current residence address of the individual. If RFI does not have such address in its records, then RFI should report the mailing address available on file.

In general, an 'in-care-of' address or a post office box is not a residence address. A post office box that forms part of an address that also includes details such as a street, apartment or suite number or a rural route such that a place of residence can be clearly identified can be accepted as a residence address. In special circumstances such as that of military personnel an 'in-care-of' address may constitute a residence address.

In the case of an account held by an Entity that is identified as having one or more Controlling Persons that is a reportable person, the address to be reported is the address of the Entity and the address of each Controlling Person of such Entity that is the reportable person.

6.7 Jurisdiction of residence

After carrying out the due diligence, if an account is identified as reportable account, RFI must report the jurisdiction of residence of account holder or controlling person, as the case may be.

If there are more than one jurisdiction of residences, all such residences must be reported.

The jurisdiction of residence identified as a result of due diligence are without prejudice to any residence determination made by the RFI for any other tax purposes.

6.8 Account Number

The account number to be reported with respect to an account is the identifying number assigned by the Reporting Financial Institution to the account.

If no such number is assigned to the account, RFI must report a functional equivalent (i.e. a unique serial number or other number assigned to the Financial Account that distinguishes the account from other accounts maintained by such financial institution).

For example, it will be bank account number in case of bank accounts, contract or policy number for insurance contracts.

6.9 Account balance or value

The RFI must report the balance or value of the account as of the end of the calendar year.

An account with a balance or value that is negative must be reported as having zero account balance or value.

In the case of Cash Value Insurance or Annuity Contract, the RFI must report the Cash Value or surrender value of the account.

In the case of equity in a Financial Institution, the balance or value of an Equity Interest is the value calculated by the Financial Institution for the purpose that requires the most frequent determination of value.

In case of debt interest, the balance or value of a debt interest is its principal amount.

The balance or value of the account is not to be reduced by any liabilities or obligations incurred by an account holder with respect to the account or any of the assets held in the account.

Each holder of a jointly held account is attributed the entire balance or value of the joint account, as well as the entire amounts paid or credited to the joint account.

For example, there is a joint account held by two individuals (X & Y), having balance of USD 75,000. One of the Account Holders X is resident in France. The other person Y is resident in India. The amount reportable in respect of person X will be USD 75,000. Y is not reportable.

If both Account Holders in the above example are resident in France, then each would be attributed USD 75,000 in the report.

Closure of accounts

If the financial account was closed during the reporting period, then account balance or value immediately before closure shall be reported.

In determining when an account is "closed", reference must be made to guidelines/procedures made by the sectoral regulator in this regard.

For example, an equity or debt interest in a Financial Institution would generally be considered to be closed upon termination, transfer, surrender, redemption, cancellation, or liquidation.

An account with a balance or value equal to zero or that is negative will not be a closed account solely by reason of such balance or value.

6.10 Reporting Period

The information to be reported must be that as of 31st December of every year.

6.11 Custodial Account

In case of custodial account, apart from general reporting requirements, the following information is to be reported for each reporting period is:

- The total gross amount of interest paid or credited to the account
- The total amount of dividends paid or credited to the account,
- The total gross amount of other income generated with respect to the assets held in the account paid or credited to the account,
- The total gross proceeds from the sale or redemption of Financial Assets paid or credited to the account.

The total gross proceeds from the sale or redemption of a Financial Asset is the total amount credited to the account of the person entitled to the payment without regard to any sums netted off against the payment to satisfy outstanding liabilities. For example, a loan used to fund acquisition of the asset may be repaid from the proceeds of sale. This must not be deducted from the amount reportable.

Commissions and fees paid with respect to the sale or redemption of the asset may be taken account of in arriving at the gross proceeds of sale.

Where the Financial Asset that is sold or redeemed is an interest bearing debt obligation the gross proceeds should include any interest that has accrued between interest payment dates.

6.12 Interest Paid or credited

For depository and custodial account, total gross amount of interest paid or credited to the account has to be reported. This interest is the actual interest paid or credited to the account and will not include accrued interest.

6.13 Currency

The value of the account should be reported in the currency in which account is denominated.

Any account maintained in rupees or in any permissible currency (other than the United States Dollar) as designated by the Reserve Bank of India shall be converted to United States Dollar at the end of the reporting period as per the reference rates of the Reserve Bank of India and such converted amount in the United States Dollar shall be used for determining the balance or value of a financial account.

In determining whether a preexisting account meets a threshold, the relevant date is the spot rate on June 30, 2014 (for US Reportable Account) and as on 31 December 2105 (for other reportable account). In the case of an insurance contract or an annuity contract, spot rate may be taken as on the most recent contract anniversary date.

In determining whether a preexisting account continues to meet a threshold in subsequent years or a new account meets or continues to meet a threshold, the relevant date is the spot rate on 31st December of relevant calendar year. In the case of a closed account, the relevant date is the spot rate on the date the account is closed.

6.15 Due date for furnishing the Report

6.15.1 The information related to calendar year 2014 needs to be reported for only US reportable accounts and the statement should be furnished by 31st August, 2015, which has been extended to 10th September, 2015, by an order issued by CBDT on 25th August, 2015. In this statement, only the information referred to in clause (a) to (d) of Para 6.1 needs to be reported.

6.15.2 The information related to calendar year 2015 also needs to be reported for only US reportable accounts and the statement should be furnished by 31st May, 2016. In this statement, only the information referred to in clause (a) to (d), e(i) and (f) to (h) of Para 6.1 needs to be reported.

6.15.3 For calendar years 2015 and 2016, in the case of any account held by a non-participating financial institution, the name of each non-participating financial institutions to whom payments have been made and the aggregate amount of such payments need to be reported.

6.15.4 For calendar years 2016 onwards, all the above information (a) to to (h) of Para 6.1 in case of both US and other reportable accounts need to be reported.

6.15.5 The statement of reportable accounts need to be furnished in respect of each account identified by carrying out due diligence procedure and in case when no account is identified as reportable account, a Nil statement needs to be furnished. A NIL statement can also be furnished if the RFI has not completed the due diligence procedures.

7. Issues Related to Trust etc

7.1 In the case of trust, two situations may arise

a. when a trust is itself a Reporting Financial Institution, or
b. when a trust is a NFE that maintains a Financial Account with a Reporting Financial Institution.

The most likely scenario in which a trust will be a Financial Institution is if it falls within the definition of Investment Entity as described in para B of 2.3.3. This is the case when a trust has gross income primarily attributable to investing, reinvesting, or trading in Financial Assets and is managed by another Entity that is a Financial Institution. This would also include trusts that are collective investment vehicles or other similar investment vehicle established with an investment strategy of investing, reinvesting, or trading in Financial Assets.

If a trust is not a Financial Institution, it will be a non-financial Entity. NFEs are either Active NFEs or Passive NFEs depending on their activities.

7.2 The treatment of a trust that is a RFI

7.2.1The five steps set out in para 1.5 apply to a trust:(i) Reporting Financial Institutions (ii) review their Financial Accounts (iii) to identify their Reportable Accounts (iv) by applying the due diligence rules and (v) then report the relevant information.

7.2.2 Determining if the trust is a RFI

If a trust is financial institution resident in India and it is not a Non-Reporting Financial Institution (NRFI), then trust will be Reporting Financial Institution.

A trust could also be a Non-Reporting Financial Institution where the trustee itself is a Reporting Financial Institution (RFI), and that trustee undertakes all information reporting in respect of all Reportable Accounts of the trust (and all such reports are exchanged with the relevant jurisdictions concerned).

A trust will be considered to be resident where the trustee(s) is resident. If there is more than one trustee, the trust will be a Reporting Financial Institution in all such countries in which a trustee is resident.

7.2.3 Identifying the Financial Accounts of a trust

Where a trust is a RFI, it must identify its Financial Accounts. If the trust is an Investment Entity, its Financial Accounts will be debt and Equity Interests in the Entity also.

The Equity Interests are 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.

The reference to any other natural person exercising ultimate effective control over the trust, at a minimum, will include the trustee as an Equity Interest Holder.

If a settlor, beneficiary or other person exercising ultimate effective control over the trust is itself an Entity, that Entity must be looked through, and the ultimate natural controlling person(s) behind that Entity must be treated as the Equity interest holder. The term "Controlling Persons" has already been defined earlier in the guidance note.

7.2.4 Identifying the Reportable Accounts of a trust

The debt and Equity Interests of the trust are Reportable Accounts if they are held by a Reportable Person.

For example, if a settlor or beneficiary is resident in a country outside India, their Equity Interest is a Reportable Account.

7.2.5 Applying the due diligence rules

The trust will apply the due diligence rules in order to determine the identity and residence of its Account Holders. The due diligence procedure would be same as of a preexisting entity account or new entity account, as the case be..

7.2.6 Reporting the relevant information

A trust that is a RFI will report the account information and the financial activity for the calendar year in respect of each Reportable Account.

The account information includes the identifying information for each Reportable Person (such as name, address, residence, Taxpayer Identification Number, date of birth and Account Number), and the identifying information of the trust (name and identifying number of the trust).

It is possible that a trust as FI may not have an account number for each of the Equity Interest holders. The trust should in that case use a unique identifying number that will enable the trust to identify the subject of the report in the future.

The financial activity includes the account balance or value, as well as gross payments paid or credited during the year.

The account balance is the value calculated by the Reporting Financial Institution (the trust) for the purpose that requires the most frequent determination of value.

For settlors and beneficiaries, for example, this may be the value that is used for reporting to the Account Holder on the investment results for a given period. If the Financial Institution has not otherwise recalculated the balance or value for other reasons, the account balance for settlors and beneficiaries may be the value of the interest upon acquisition or the total value of all trust property.

The financial information to be reported will depend on the nature of the interest held by each Account Holder. Where the trust does not otherwise calculate the account value held by each Account Holder, or does not report the acquisition value, the account balance or value to be reported is as shown in the following Table . Note that where a settlor or beneficiary is an Entity, the Account Holder will be the Controlling Persons of that Entity.

The financial activity to be reported where a trust is a Financial Institution that does not otherwise calculate the account value

Account Holder	Account Balance or Value	Gross payments
Settlor	Total value of all trust property	Value of payments made to the settlor in reporting period (if any)
Beneficiary	Total value of all trust property	Value of distributions made to the beneficiary in reporting period
Any other person exercising ultimate effective control	Total value of all trust property	Value of distributions made to such person in reporting period (if any)
Debt interest holder	Principal amount of the debt	Value of payments made in reporting period
Any of the above, if account was closed	The fact of closure and account balance immediately before closure	

7.3 The treatment of a trust that is a NFE

7.3.1 In the second situation, the trust is a NFE and holds a financial account with a RFI.

The same five steps will apply: (i) Reporting Financial Institutions (ii) review their Financial Accounts (iii) to identify their Reportable Accounts (iv) by applying the due diligence rules and (v) then report the relevant information.

Assuming here that the first two steps are met (a trust has a Financial Account with a Reporting Financial Institution). Now remaining three steps would be applied.

7.3.2 Identifying whether the account held by the trust is a Reportable Account

The account held by a trust that is a Passive NFE is a Reportable Account if:

a) the trust is a Reportable Person; or

b) the trust has one or more Controlling Persons that are Reportable Persons.

The trust will be a Reportable Person only if it is resident for tax purposes in a country outside India.

The account held by a trust will also be reportable if it the trusts has one or more Controlling Persons that are Reportable Persons.

As such, the Controlling Persons of a trust are the settlor(s), trustee(s), beneficiary/ies, protector(s) and any other natural person exercising ultimate effective control over the trust. This definition of Controlling Person excludes the need to inquire as to whether any of these persons can exercise practical control over the trust.

If the settlor or beneficiaries are themselves Entities, the Reporting Financial Institution must identify the natural person(s) exercising control of that Entity. Although the natural person may be exercising ultimate control through a chain of ownership, only the ultimate natural controlling person(s) would be treated as a Controlling Person, and not the intermediary Entities in the chain of ownership.

7.3.3 Applying the due diligence rules

The Reporting Financial Institution must apply the due diligence rules as described for preexisting entity account or new entity account.

7.3.4 Reporting the relevant information

Where a trust is a Reportable Person, the Reporting Financial Institution will report the account information and the financial activity for the year with respect to the account of the trust. The account information includes the

identifying information for each Reportable Person (such as name, address, residence, Taxpayer Identification Number, date of birth and account number), and the identifying information of the Reporting Financial Institution (name and identifying number).

In respect of a trust that is a Passive NFE, the Reporting Financial Institution must report the Controlling Persons of the trust, if they are reportable persons.

The financial information to be reported will be the account balance or value of the account held by the trust and payments made or credited to such account. Each Controlling Person is attributed the entire value of the account, as well as the entire amounts paid or credited to the account, as shown below in the following Table .

The financial activity to be reported where a trust is a Passive NFE

Account Holder	Account Balance or Value	Gross payments
Settlor:	Total account balance or value	Gross payments made or credited
Trustee	Total account balance or value	Gross payments made or credited
Beneficiary: mandatory	Total account balance or value	Gross payments made or credited
Protector (if any)	Total account balance or value	Gross payments made or credited
Any of the above, if account was closed	The fact of closure and account balance immediately before closure	

7.4 Treatment of partnership

Like in the case of trust, two situations may arise in case of Partnership

a. when a Partnership is itself a Reporting Financial Institution, or
b. when a Partnership is a NFE that maintains a Financial Account with a Reporting Financial Institution.

The same procedure may be followed as in the case of trust. The controlling person will be different for partnership and has already been defined in the guidance note.

8. Procedure for Furnishing the Report

8.1 As per Rule 114G(9), the statement in respect of each reportable account needs to be filed by the RFIs to the Director of Income-tax (Intelligence and Criminal Investigation) or Joint Director of Income-tax (Intelligence and Criminal Investigation) through online transmission of electronic data to a server designated for this purpose under digital signature in accordance with the data structure specified by the Principal Director General of Income Tax (Systems).

8.2 The Principal Director General of Income Tax (Systems) through Notification No. 4/2015 dated 04th September, 2015 has specified the procedures and data structure and standards for ensuring secure capture and transmission of data, which are summarized below:

(a) The RFIs are required to get registered with the Income Tax Department by logging in to the e-filing website with the log in ID used for the purpose of filing the Income Tax Return. A link to register reporting financial institution has been provided under "My Account". The RFI is required to submit registration details on the screen. A RFI may submit different registration information under different reporting financial institution categories.

(b) After registration, the RFIs are required to submit the Form 61B or Nil statement under "e-File" menu. The prescribed schema for the report under form 61B can be downloaded from the e-filing website. The RFI will be required to submit the calendar year for which report is to be submitted and the reporting entity category for which the report is to be submitted. The reporting financial institution will then be provided the options to upload the Form 61B. The form is required to be submitted using a Digital Signature Certificate.

(c) In case nil statement has to be submitted by the RFI, the option to submit Nil statement is required to be selected. The reporting financial institution will then be required to submit a declaration with respect to pre-existing accounts and new accounts. The declaration is required to be submitted using a Digital Signature Certificate.

(d) In case if the designated director (as reported in registration details submitted by the RFI) is same as the person authorized to verify the return of income of the reporting financial institution as per the provisions of section 140 of the Income-tax Act, 1961, the Form 61B or Nil statement is required to be submitted with the digital signature certificate of the person authorized to sign the return of income of the RFI. In other cases, the necessary facilities are being developed to enable filing of statement by designated directors who are not authorized to sign the return of income.

9. Monitoring and Compliance

9.1 By Income Tax Department

As provided in Rule 114G(9), the statement needs to be furnished to the Directorate of Inelegance and Criminal Investigation and the said Directorate has been given the responsibility of ensuring the compliance. The penalty provisions provided in the Income-tax Act, 1961, are as under:

(a) Section 271FA of the Income-tax Act, 1961
   (i) For failure to furnish the statement of reportable account within the prescribed time limit – Rs. 100 for each day of failure
   (ii) For failure to furnish the statement of reportable account after a notice is served on him requiring to file the statement – Rs. 500 for each day of failure

(b) Section 271FAA of the Income-tax Act, 1961 provides for levy of a penalty of Rs. 50,000 on RFI for furnishing inaccurate information in the statement of reportable account and where
   (i) Inaccuracy is due to failure to comply with due diligence requirements or is deliberate on the part of the RFI
   (ii) The RFI knows of the inaccuracy at the time of furnishing the statement of reportable account, but does not inform the Directorate of Intelligence and Criminal Investigation
   (iii) The RFI discovers the inaccuracy after the statement of reportable account is furnished and fails to inform and furnish the correct information to the Directorate of Intelligence and Criminal Investigation within 10 days.

9.2 By Regulators

Most of the RFIs are regulated by a regulator which has been vested with the power to license, authorize, register, regulate or supervise their activities. Rule 114G(11) requires the regulators to issue necessary instructions and guidelines from time to time for

(a) Incorporating the requirements of reporting and due diligence
(b) Providing the procedure and manner of maintaining the information by the reporting financial institution
(c) Ensuring the availability of the information with the RFIs for meeting their reporting obligation, if such information is not maintained by it under any rule or regulation issued by the regulator

9.3 Requirement of obtaining GIIN

The RFIs having U.S. Reportable Accounts need to register with the US IRS and obtain Global Intermediary Identification Number by registering at http://www.irs.gov/Businesses/Corporations/FATCA-Foreign-Financial-Institution-Registration-Tool. GIIN also needs to be obtained by the Financial Institutions claiming exemption as Non-reporting Financial Institution on the grounds of being a "financial account with a local client base" since they need to report the financial accounts held by a specified U.S. person.

10. Contact details for further clarification

For further clarifications and suggestions/feedback for the updated version of the Guidance Note, the following officers may be contacted

(a) For General Queries

Mr. Akhilesh Ranjan, Joint Secretary(FT&TR-I), ranjan.akhilesh@nic.in
Mr. Navneet Manohar, Director (FT&TR-III), navneet.manohar@nic.in
Mr. Gaurav Sharma, Under Secretray[FT&TR-III(1)], s.gaurav@nic.in

(b) For Systems related Queries

Mr. Sanjeev Singh, ADG (Systems-II), sanjeev.singh@gov.in
Mr. Vipul Agarwal, JDIT (Systems), vipul.agarwal@nic.in

(c) For Compliance related queries

Mr. Raman Chopra, DIT(I&CI), raman.chopra@nic.in

Annexure A: Jurisdictions committed to implement AEOI in accordance with CRS and signatories of MCAA

Sl. No.	Name of the Jurisdiction	Whether joined MCAA
First Exchange by 2017		
1.	Anguilla	Yes
2.	Argentina	Yes
3.	Barbados	No
4.	Belgium	Yes
5.	Bermuda	Yes
6.	British Virgin Islands	Yes
7.	Bulgaria	No
8.	Cayman Islands	Yes
9.	Chile	Yes
10.	Colombia	Yes
11.	Croatia	Yes
12.	Curacao	Yes
13.	Cyprus	Yes
14.	Czech Republic	Yes
15.	Denmark	Yes
16.	Dominica	No
17.	Estonia	Yes
18.	Faroe Islands	Yes
19.	Finland	Yes
20.	France	Yes
21.	Germany	Yes
22.	Gibraltar	Yes
23.	Greece	Yes
24.	Greenland	No
25.	Guernsey	Yes
26.	Hungary	Yes
27.	Iceland	Yes
28.	India	Yes
29.	Ireland	Yes
30.	Isle of Man	Yes
31.	Italy	Yes
32.	Jersey	Yes
33.	Korea	Yes
34.	Latvia	Yes
35.	Liechtenstein	Yes
36.	Lithuania	Yes

37.	Luxembourg	Yes
38.	Malta	Yes
39.	Mauritius	Yes
40.	Mexico	Yes
41.	Montserrat	Yes
42.	Netherlands	Yes
43.	Niue	No
44.	Norway	Yes
45.	Poland	Yes
46.	Portugal	Yes
47.	Romania	Yes
48.	San Marino	Yes
49.	Seychelles	Yes
50.	Slovak Republic	Yes
51.	Slovenia	Yes
52.	South Africa	Yes
53.	Spain	Yes
54.	Sweden	Yes
55.	Trinidad and Tobago	No
56.	Turks and Caicos Islands	Yes
57.	United Kingdom	Yes
First Exchange by 2018		
58.	Albania	Yes
59.	Andorra	No
60.	Antigua and Barbados	No
61.	Aruba	Yes
62.	Australia	Yes
63.	Austria	Yes
64.	Bahamas	No
65.	Belize	No
66.	Brazil	No
67.	Brunei Darussalam	No
68.	Canada	Yes
69.	China	No
70.	Cook Island	No
71.	Costa Rica	Yes
72.	Grenada	No
73.	Hong Kong (China)	No
74.	Indonesia	Yes
75.	Israel	No
76.	Japan	No
77.	Marshall Islands	No

78.	Macau (China)	No
79.	Malaysia	No
80.	Monaco	No
81.	New Zealand	Yes
82.	Panama	No
83.	Qatar	No
84.	Russia	No
85.	Saint Kitts and Nevis	No
86.	Saint Lucia	No
87.	Saint Vincent and The Grenadines	No
88.	Samoa	No
89.	Saudi Arabia	No
90.	Singapore	No
91.	Sint Maarten	No
92.	Switzerland	Yes
93.	Turkey	No
94.	United Arab Emirates	No
95.	Uruguay	
96.	Bahrain	Timeline not indicated
97.	Nauru	Timeline not indicated
98.	Vanuatu	Timeline not indicated

GLOSSARY OF TERMS

Automatic Exchange of Information

Automatic Exchange of Information is the systematic and periodic collection and transmission of "bulk" taxpayer information by the source country to the country of residence of the taxpayer, without the latter country having to make a request for the same. The exchange of information on an automatic basis is permitted under the provisions of DTAAs (unless specifically prohibited) and under the Multilateral Convention.

Many countries, including India, have been exchanging information automatically under the DTAAs and Multilateral Convention with their treaty partners for long. However, the exchange of information was not obligatory; there was no uniformity in the nature and type of information exchanged and further, there were no standards on the periodicity of exchange or on the technical solutions to be utilised for collection and transmission of information. Thus, the information exchanged automatically often was of limited use to the receiving country.

To address these issues, a single uniform and global standard for automatic exchange of information has been developed which is known as the Common Reporting Standard on Automatic Exchange of Information.

The Global Forum has established a AEOI Group in consequence of the G20 Leaders' Declaration in September, 2013 with a view to establish a mechanism to monitor and review the implementation of the new global standard on automatic exchange of information. India is a vice-chair of this Group.

Beneficial Owner

Beneficial owner refers to the natural person(s) who ultimately owns or controls the legal entity or the legal arrangement and include the natural person on whose behalf a transaction is being conducted, including those persons who exercise ultimate effective control over the legal entity or arrangement.

Competent Authority

The term "Competent Authority" is defined in the tax treaties as the Minister of Finance/Ministry of Finance or a person authorized by it. In India, JS (FT&TR-I) performs the role of Competent Authority for countries in North America (including Caribbean) and Europe, while JS (FT&TR-II) performs the role of Competent Authority for the rest of the world.

Common Reporting Standards on Automatic Exchange of Information

The Common Reporting Standards on Automatic Exchange of Information is a uniform global standard for the collection of financial account information by financial institutions in participating jurisdictions in respect of account holders who are residents in another jurisdiction and reporting of that information to the jurisdictions' tax authority for exchanging the information with the respective tax authorities of the non-residents on an automatic basis. It has been designed with a broad scope across the following three dimensions to ensure that meaningful information is exchanged automatically:

(a) The financial information to be reported with respect to reportable accounts includes all types of investment income (including interest, dividends, income from certain insurance contracts and other similar types of income) and also includes account balances and sales proceeds from financial assets.

(b) The financial institutions that are required to report under the Common Reporting Standards do not only include banks and custodians but also other financial institutions such as brokers, certain collective investment vehicles and certain insurance companies.

(c) Reportable accounts include accounts held by individuals and entities (which includes trusts and foundations), and the standard includes a requirement to look through passive entities to report on the individuals that ultimately control these entities.

Financial Asset

The term **"Financial Asset"** includes a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), Insurance Contract or Annuity Contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, Insurance Contract, or Annuity Contract. The term "Financial Asset" does not include a non-debt, direct interest in real property.

Foreign Accounts Tax Compliance Act

Consequent to serious concerns raised in the USA on offshore tax evasion, the United States Senate Permanent Sub-Committee on Investigations chaired by Mr. Carl Levin submitted a report on 17th July,2008, which resulted in introduction of Foreign Accounts Tax Compliance Act in 2010, which essentially has two components

(a) 30% withholding tax on US source payments made to Foreign Financial Institutions unless they enter into an agreement with the US IRS to provide information about accounts held with them by USA persons or entities controlled by USA person through the new Chapter 4 of subtitle "A" comprising of sections 1471 to 1474 in their Internal Revenue Code of 1986

(b) Requiring U.S. persons, owning foreign accounts or other specified financial assets, to report these on a new IRS Form 8938, Statement of Specified Foreign Financial Assets, and filing of the same with tax returns

Global Forum on Transparency and Exchange of Information For Tax Purposes

The Global Forum on Transparency and Exchange of Information For Tax Purposes is the continuation of a forum which was created in the early 2000s in the context of the OECD's work to address the risks to tax compliance posed by tax havens. The original members of the Global Forum consisted of OECD countries and jurisdictions that had agreed to implement transparency and exchange of information for tax purposes.

The Global Forum was restructured in September 2009 in response to the G20 call to strengthen implementation of these standards. The Global Forum now has 126 members on equal footing and is the premier international body for ensuring the implementation of the internationally agreed standards of transparency and exchange of information in the tax area. Through an in-depth peer review process, there structured Global Forum monitors that its members fully implement the standard of transparency and exchange of information they have committed to implement. It also works to establish a level playing field, even among countries that have not joined the Global Forum.

Multilateral Convention on Mutual Administrative Assistance in Tax Matters

Multilateral Convention on Mutual Administrative Assistance in Tax Matters is a multilateral instrument for wide range of administrative co-operation between states 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 exchanges, to the recovery of foreign tax claims. The original Convention was developed jointly by the Council of Europe and the OECD and opened for signature by the member states of both organizations on 25 January 1988. It was amended in 2010 to align it to the international standard and to open it to all countries, responding to the call of the G20 to make it easier for all countries to secure the benefits of the new co-operative tax environment. The Multilateral Convention is in force in India since 1st June, 2012. As on 1st May, 2015, the Multilateral Convention has been signed by 85 countries/jurisdictions out of which 64 countries/jurisdictions have deposited the instrument of ratification.

Non-Reporting Financial Institution

Non-Reporting Financial Institution(NRFI) are defined in Rule114F(5) and includes financial institutions which are not required to report.

Excluded Accounts

Non-Participating Financial Institution

Non-participating Financial Institution (NPFI) are defined Rule 114F(4). It means a financial institution defined in clause (r) of Article 1 of the IGA but does not include,-

(a) an Indian financial institution; or
(b) other jurisdiction, being a jurisdiction that has in effect an agreement with the United States of America to facilitate the implementation of FATCA, financial institution,

other than a financial institution treated as a non-participating financial institution pursuant to sub-paragraph (b) of paragraph 2 of Article 5 of the FATCA agreement or the corresponding provision in an agreement between the United States of America and other partner jurisdiction;

Partner Jurisdiction

The term "Partner Jurisdiction" means a jurisdiction that has in effect an agreement with the United States to facilitate the implementation of FATCA. The USA IRS shall publish a list identifying all Partner Jurisdictions.

Appendix A: IGA between India and USA

Agreement between the Government of the Republic of India and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA

Whereas, the Government of the Republic of India and the Government of the United States of America (each, a "Party," and together, the "Parties") desire to conclude an agreement to improve international tax compliance through mutual assistance in tax matters based on an effective infrastructure for the automatic exchange of information;

Whereas, Article 28 of the Convention between the Government of the Republic of India and the Government of the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, together with a related protocol (the "Convention"), done at New Delhi on September 12, 1989 authorizes the exchange of information for tax purposes, including on an automatic basis;

Whereas, the United States of America enacted provisions commonly known as the Foreign Account Tax Compliance Act ("FATCA"), which introduce a reporting regime for financial institutions with respect to certain accounts;

Whereas, the Government of India is supportive of the underlying policy goal of FATCA to improve tax compliance;

Whereas, FATCA has raised a number of issues, including that Indian financial institutions may not be able to comply with certain aspects of FATCA due to domestic legal impediments;

Whereas, the Government of the United States of America collects information regarding certain accounts maintained by U.S. financial institutions held by residents of India and is committed to exchanging such information with the Government of India and pursuing equivalent levels of exchange;

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 Government of the United States of America acknowledges the need to coordinate the reporting obligations under FATCA with other U.S. tax reporting obligations of Indian financial institutions to avoid duplicative reporting;

Whereas, an intergovernmental approach to FATCA implementation would address legal impediments and reduce burdens for Indian financial institutions;

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

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 States"** means the United States of America, including the States thereof, and, when used in a geographical sense, means the territory of the United States of America, including inland waters, the air space, the territorial sea thereof and any maritime area beyond the territorial sea within which the United States may exercise sovereign rights or jurisdiction

in accordance with international law; the term, however, does not include the U.S. Territories. Any reference to a "**State**" of the United States includes the District of Columbia.

b) The term **"U.S. Territory"** means American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Commonwealth of Puerto Rico, or the U.S. Virgin Islands.

c) The term **"IRS"** means the U.S. Internal Revenue Service.

d) The term **"India"** means the Republic of India, and when used in a geographical sense, means the territory of India and includes the territorial sea and airspace above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdiction, according to the Indian law and in accordance with international law, including the U.N. Convention on the Law of the Sea.

e) The term **"Partner Jurisdiction"** means a jurisdiction that has in effect an agreement with the United States to facilitate the implementation of FATCA. The IRS shall publish a list identifying all Partner Jurisdictions.

f) The term **"Competent Authority"** means:
   (1) in the case of the United States, the Secretary of the Treasury or his delegate; and
   (2) in the case of India, the Central Government in the Ministry of Finance (Department of Revenue) or their authorized representative.

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 December 31 (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 **"Indian Financial Institution"** means (i) any Financial Institution resident in India, but excluding any branch of such Financial Institution that is located outside India, and (ii) any branch of a Financial Institution not resident in India, if such branch is located in India.

m) The term **"Partner Jurisdiction Financial Institution"** means (i) any Financial Institution established in a Partner Jurisdiction, but excluding any branch of such Financial Institution that is located outside the Partner Jurisdiction, and (ii) any branch of a Financial Institution not established in the Partner Jurisdiction, if such branch is located in the Partner Jurisdiction.

n) The term **"Reporting Financial Institution"** means a Reporting Indian Financial Institution or a Reporting U.S. Financial Institution, as the context requires.

o) The term **"Reporting Indian Financial Institution"** means any Indian Financial Institution that is not a Non-Reporting Indian Financial Institution.

p) The term **"Reporting U.S. Financial Institution"** means (i) any Financial Institution that is resident in the United States, but excluding any branch of such Financial Institution that is located outside the United States, and (ii) any branch of a Financial Institution not resident in the United States, if such branch is located in the United States, provided that the Financial

Institution or branch has control, receipt, or custody of income with respect to which information is required to be exchanged under subparagraph (2)(b) of Article 2 of this Agreement.

q) The term **"Non-Reporting Indian Financial Institution"** means any Indian Financial Institution, or other Entity resident in India, that is described in Annex II as a Non-Reporting Indian Financial Institution or that otherwise qualifies as a deemed-compliant FFI or an exempt beneficial owner under relevant U.S. Treasury Regulations in effect on the date of signature of this Agreement.

r) The term **"Nonparticipating Financial Institution"** means a nonparticipating FFI, as that term is defined in relevant U.S. Treasury Regulations, but does not include an Indian Financial Institution or other Partner Jurisdiction Financial Institution other than a Financial Institution treated as a Nonparticipating Financial Institution pursuant to subparagraph 2(b) of Article 5 of this Agreement or the corresponding provision in an agreement between the United States and a Partner Jurisdiction.

s) 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(s)(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 (i) the value of the debt or equity interest is determined, directly or indirectly, primarily by reference to assets that give rise to U.S. Source Withholdable Payments, and (ii) 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 monetizes a pension or disability benefit provided under an account that is excluded from the definition of Financial Account in Annex II.

Notwithstanding the foregoing, the term "Financial Account" does not include any account that is excluded from the definition of Financial Account in Annex II. For purposes of this Agreement, interests are "regularly traded" if there is a meaningful volume of trading with respect to the interests on an ongoing basis, and an "established securities market" means an exchange that is officially recognized and supervised by a governmental authority in which the market is located and that has a meaningful annual value of shares traded on the exchange. For purposes of this subparagraph 1(s), an interest in a Financial Institution is not "regularly traded" and shall be treated as a Financial Account if the holder of the interest (other than a Financial Institution acting as an intermediary) is registered on the books of such Financial Institution. The preceding sentence will not apply to interests first registered on the books of such Financial Institution prior to July 1, 2014, and with respect to interests first registered on the books of such Financial Institution on or after July 1, 2014, a Financial Institution is not required to apply the preceding sentence prior to January 1, 2016.

t) 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 includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon.

u) 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).

v) 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 U.S. Person shall be treated as being a beneficiary of a foreign trust if such Specified U.S. 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.

w) 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.

x) 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.

y) 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.

z) 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.

aa) The term **"Reportable Account"** means a U.S. Reportable Account or an Indian Reportable Account, as the context requires.

bb) The term **"Indian Reportable Account"** means a Financial Account maintained by a Reporting U.S. Financial Institution if: (i) in the case of a Depository Account, the account is held by an individual resident in India and more than $10 of interest is paid to such account in any given calendar year; or (ii) in the case of a Financial Account other than a Depository Account, the Account Holder is a resident of India, including an Entity that certifies that it is resident in India for tax purposes, with respect to which U.S. source income that is subject to reporting under chapter 3 of subtitle A or chapter 61 of subtitle F of the U.S. Internal Revenue Code is paid or credited.

cc) The term **"U.S. Reportable Account"** means a Financial Account maintained by a Reporting Indian Financial Institution and held by one or more Specified U.S. Persons or by a Non-U.S. Entity with one or more Controlling Persons that is a Specified U.S. Person. Notwithstanding the foregoing, an account shall not be treated as a U.S. Reportable Account if such account is not identified as a U.S. 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 advisor, or intermediary, is not treated as holding the account for purposes of this Agreement, and such other person is treated as holding the account. For purposes of the immediately preceding sentence, the term "Financial Institution" does not include a Financial Institution organized or incorporated in a U.S. Territory. 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 **"U.S. Person"** means a U.S. citizen or resident individual, a partnership or corporation organized in the United States or under the laws of the United States or any State thereof, a trust if (i) a court within the United States would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust, and (ii) one or more U.S. persons have the authority to control all substantial decisions of the trust, or an estate of a decedent that is a citizen or resident of the United States. This subparagraph 1(ee) shall be interpreted in accordance with the U.S. Internal Revenue Code.

ff) The term **"Specified U.S. Person"** means a U.S. Person, other than: (i) a corporation the stock of which is regularly traded on one or more established securities markets; (ii) any corporation that is a member of the same expanded affiliated group, as defined in section 1471(e)(2) of the U.S. Internal Revenue Code, as a corporation described in clause (i); (iii) the United States or any wholly owned agency or instrumentality thereof; (iv) any State of the United States, any U.S. Territory, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing; (v) any organization exempt from taxation under section 501(a) of the U.S. Internal Revenue Code or an individual retirement plan as defined in section 7701(a)(37) of the U.S. Internal Revenue Code; (vi) any bank as defined in section 581 of the U.S. Internal Revenue Code; (vii) any real estate investment trust as defined in section 856 of the U.S. Internal Revenue Code; (viii) any regulated investment company as defined in section 851 of the U.S. Internal Revenue Code or any entity registered with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-64); (ix) any common trust fund as defined in section 584(a) of the U.S. Internal Revenue Code; (x) any trust that is exempt from tax under section 664(c) of the U.S. Internal Revenue Code or that is described in section 4947(a)(1) of the U.S. Internal Revenue Code; (xi) a dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any State; (xii) a broker as defined in section 6045(c) of the U.S. Internal Revenue Code; or (xiii) any tax-exempt trust under a plan that is described in section 403(b) or section 457(g) of the U.S. Internal Revenue Code.

gg) The term **"Entity"** means a legal person or a legal arrangement such as a trust.

hh) The term **"Non-U.S. Entity"** means an Entity that is not a U.S. Person.

ii) The term **"U.S. Source Withholdable Payment"** means any payment of interest (including any original issue discount), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income, if such payment is from sources within the United States. Notwithstanding the foregoing, a U.S. Source Withholdable Payment does not include any payment that is not treated as a withholdable payment in relevant U.S. Treasury Regulations.

jj) 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, India may treat an Entity as not a Related Entity of another Entity if the two Entities are not members of the same expanded affiliated group as defined in section 1471(e)(2) of the U.S. Internal Revenue Code.

kk) The term **"U.S. TIN"** means a U.S. federal taxpayer identifying number.

ll) The term **"Indian TIN"** means an Indian taxpayer identifying number.

mm) 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 Financial Action Task Force Recommendations.

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 this 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.

Article 2

Obligations to Obtain and Exchange Information with Respect to Reportable Accounts

1. Subject to the provisions of Article 3 of this Agreement, 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 Article 28 of the Convention.

2. The information to be obtained and exchanged is:

a) In the case of India with respect to each U.S. Reportable Account of each Reporting Indian Financial Institution:
   (1) the name, address, and U.S. TIN of each Specified U.S. Person that is an Account Holder of such account and, in the case of a Non-U.S. 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 U.S. Person, the name, address, and U.S. TIN (if any) of such entity and each such Specified U.S. Person;
   (2) the account number (or functional equivalent in the absence of an account number);
   (3) the name and identifying number of the Reporting Indian Financial Institution;
   (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 Indian 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 Indian 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.

b) In the case of the United States, with respect to each Indian Reportable Account of each Reporting U.S. Financial Institution:
   (1) the name, address, and Indian TIN of any person that is a resident of India and is an Account Holder of the account;
   (2) the account number (or the functional equivalent in the absence of an account number);
   (3) the name and identifying number of the Reporting U.S. Financial Institution;
   (4) the gross amount of interest paid on a Depository Account;
   (5) the gross amount of U.S. source dividends paid or credited to the account; and
   (6) the gross amount of other U.S. source income paid or credited to the account, to the extent subject to reporting under chapter 3 of subtitle A or chapter 61 of subtitle F of the U.S. Internal Revenue Code.

Article 3

Time and Manner of Exchange of Information

1. For purposes of the exchange obligation in Article 2 of this Agreement, the amount and characterization of payments made with respect to a U.S. Reportable Account may be determined in accordance with the

principles of the tax laws of India, and the amount and characterization of payments made with respect to an Indian Reportable Account may be determined in accordance with principles of U.S. federal income tax law.

2. For purposes of the exchange obligation in Article 2 of this Agreement, the information exchanged shall identify the currency in which each relevant amount is denominated.

3. With respect to paragraph 2 of Article 2 of this Agreement, information is to be obtained and exchanged with respect to 2014 and all subsequent years, except that:

a) In the case of India:
   (1) the information to be obtained and exchanged with respect to 2014 is only the information described in subparagraphs 2(a)(1) through 2(a)(4) of Article 2 of this Agreement;
   (2) the information to be obtained and exchanged with respect to 2015 is the information described in subparagraphs 2(a)(1) through 2(a)(7) of Article 2 of this Agreement, except for gross proceeds described in subparagraph 2(a)(5)(B) of Article 2 of this Agreement; and
   (3) the information to be obtained and exchanged with respect to 2016 and subsequent years is the information described in subparagraphs 2(a)(1) through 2(a)(7) of Article 2 of this Agreement;

b) In the case of the United States, the information to be obtained and exchanged with respect to 2014 and subsequent years is all of the information identified in subparagraph 2(b) of Article 2 of this Agreement.

4. Notwithstanding paragraph 3 of this Article, with respect to each Reportable Account that is maintained by a Reporting Financial Institution as of June 30, 2014, and subject to paragraph 4 of Article 6 of this Agreement, the Parties are not required to obtain and include in the exchanged information the Indian TIN or the U.S. TIN, as applicable, of any relevant person if such taxpayer identifying number is not in the records of the Reporting Financial Institution. In such a case, the Parties shall obtain and include in the exchanged information the date of birth of the relevant person, if the Reporting Financial Institution has such date of birth in its records.

5. Subject to paragraphs 3 and 4 of this Article, the information described in Article 2 of this Agreement shall be exchanged within nine months after the end of the calendar year to which the information relates.

6. The Competent Authorities of India and the United States shall enter into an agreement or arrangement under the mutual agreement procedure provided for in Article 27 of the Convention, which shall:

a) establish the procedures for the automatic exchange obligations described in Article 2 of this Agreement;

b) prescribe rules and procedures as may be necessary to implement Article 5 of this Agreement; and

c) establish as necessary procedures for the exchange of the information reported under subparagraph 1(b) of Article 4 of this Agreement.

7. All information exchanged shall be subject to the confidentiality and other protections provided for in the Convention, including the provisions limiting the use of the information exchanged.

8. Following entry into force of this Agreement, each Competent Authority shall provide written notification to the other Competent Authority when it is satisfied that the jurisdiction of the other Competent Authority has in place (i) appropriate safeguards to ensure that the information received pursuant to this Agreement shall remain confidential and be used solely for tax purposes, and (ii) the infrastructure for an effective exchange relationship (including established processes for ensuring timely, accurate, and confidential information exchanges, effective and reliable communications, and demonstrated capabilities to promptly resolve questions and concerns about exchanges or requests for exchanges and to administer the provisions of Article 5 of this Agreement). The Competent Authorities shall endeavor in good faith to meet, prior to September 2015, to establish that each jurisdiction has such safeguards and infrastructure in place.

9. The obligations of the Parties to obtain and exchange information under Article 2 of this Agreement shall take effect on the date of the later of the written notifications described in paragraph 8 of this Article.

10. This Agreement shall terminate on September 30, 2015, if Article 2 of this Agreement is not in effect pursuant to paragraph 9 of this Article by that date.

Article 4

Application of FATCA to Indian Financial Institutions

1. **Treatment of Reporting Indian Financial Institutions.** Each Reporting Indian Financial Institution shall be treated as complying with, and not subject to withholding under, section 1471 of the U.S. Internal Revenue Code if India complies with its obligations under Articles 2 and 3 of this Agreement with respect to such Reporting Indian Financial Institution, and the Reporting Indian Financial Institution:

a) identifies U.S. Reportable Accounts and reports annually to the Indian Competent Authority the information required to be reported in subparagraph 2(a) of Article 2 of this Agreement in the time and manner described in Article 3 of this Agreement;

b) for each of 2015 and 2016, reports annually to the Indian Competent Authority the name of each Nonparticipating Financial Institution to which it has made payments and the aggregate amount of such payments;

c) complies with the applicable registration requirements on the IRS FATCA registration website;

d) to the extent that a Reporting Indian Financial Institution is (i) acting as a qualified intermediary (for purposes of section 1441 of the U.S. Internal Revenue Code) that has elected to assume primary withholding responsibility under chapter 3 of subtitle A of the U.S. Internal Revenue Code, (ii) a foreign partnership that has elected to act as a withholding foreign partnership (for purposes of both sections 1441 and 1471 of the U.S. Internal Revenue Code), or (iii) a foreign trust that has elected to act as a withholding foreign trust (for purposes of both sections 1441 and 1471 of the U.S. Internal Revenue Code), withholds 30 percent of any U.S. Source Withholdable Payment to any Nonparticipating Financial Institution; and

e) in the case of a Reporting Indian Financial Institution that is not described in subparagraph 1(d) of this Article and that makes a payment of, or acts as an intermediary with respect to, a U.S. Source Withholdable Payment to any Nonparticipating Financial Institution, the Reporting Indian Financial Institution provides to any immediate payor of such U.S. Source Withholdable Payment the information required for withholding and reporting to occur with respect to such payment.

Notwithstanding the foregoing, a Reporting Indian Financial Institution with respect to which the conditions of this paragraph 1 are not satisfied shall not be subject to withholding under section 1471 of the U.S. Internal Revenue Code unless such Reporting Indian Financial Institution is treated by the IRS as a Nonparticipating Financial Institution pursuant to subparagraph 2(b) of Article 5 of this Agreement.

2. **Suspension of Rules Relating to Recalcitrant Accounts.** The United States shall not require a Reporting Indian Financial Institution to withhold tax under section 1471 or 1472 of the U.S. Internal Revenue Code with respect to an account held by a recalcitrant account holder (as defined in section 1471(d)(6) of the U.S. Internal Revenue Code), or to close such account, if the U.S. Competent Authority receives the information set forth in subparagraph 2(a) of Article 2 of this Agreement, subject to the provisions of Article 3 of this Agreement, with respect to such account.

3. **Specific Treatment of Indian Retirement Plans.** The United States shall treat as deemed-compliant FFIs or exempt beneficial owners, as appropriate, for purposes of sections 1471 and 1472 of the U.S. Internal Revenue Code, Indian retirement plans described in Annex II. For this purpose, an Indian retirement plan includes an Entity established or located in, and regulated by, India, or a predetermined contractual or legal arrangement, operated to provide pension or retirement benefits or earn income for providing such benefits under the laws of India and regulated with respect to contributions, distributions, reporting, sponsorship, and taxation.

4. **Identification and Treatment of Other Deemed-Compliant FFIs and Exempt Beneficial Owners.** The United States shall treat each Non-Reporting Indian Financial Institution as a deemed-compliant FFI or as an exempt beneficial owner, as appropriate, for purposes of section 1471 of the U.S. Internal Revenue Code.

5. **Special Rules Regarding Related Entities and Branches That Are Nonparticipating Financial Institutions.** If an Indian Financial Institution, that otherwise meets the requirements described in paragraph 1

of this Article or is described in paragraph 3 or 4 of this Article, has a Related Entity or branch that operates in a jurisdiction that prevents such Related Entity or branch from fulfilling the requirements of a participating FFI or deemed-compliant FFI for purposes of section 1471 of the U.S. Internal Revenue Code or has a Related Entity or branch that is treated as a Nonparticipating Financial Institution solely due to the expiration of the transitional rule for limited FFIs and limited branches under relevant U.S. Treasury Regulations, such Indian Financial Institution shall continue to be in compliance with the terms of this Agreement and shall continue to be treated as a deemed-compliant FFI or exempt beneficial owner, as appropriate, for purposes of section 1471 of the U.S. Internal Revenue Code, provided that:

a) the Indian Financial Institution treats each such Related Entity or branch as a separate Nonparticipating Financial Institution for purposes of all the reporting and withholding requirements of this Agreement and each such Related Entity or branch identifies itself to withholding agents as a Nonparticipating Financial Institution;

b) each such Related Entity or branch identifies its U.S. accounts and reports the information with respect to those accounts as required under section 1471 of the U.S. Internal Revenue Code to the extent permitted under the relevant laws pertaining to the Related Entity or branch; and

c) such Related Entity or branch does not specifically solicit U.S. accounts held by persons that are not resident in the jurisdiction where such Related Entity or branch is located or accounts held by Nonparticipating Financial Institutions that are not established in the jurisdiction where such Related Entity or branch is located, and such Related Entity or branch is not used by the Indian Financial Institution or any other Related Entity to circumvent the obligations under this Agreement or under section 1471 of the U.S. Internal Revenue Code, as appropriate.

6. **Coordination of Timing.** Notwithstanding paragraphs 3 and 5 of Article 3 of this Agreement:

a) India shall not be obligated to obtain and exchange information with respect to a calendar year that is prior to the calendar year with respect to which similar information is required to be reported to the IRS by participating FFIs pursuant to relevant U.S. Treasury Regulations;

b) India shall not be obligated to begin exchanging information prior to the date by which participating FFIs are required to report similar information to the IRS under relevant U.S. Treasury Regulations;

c) the United States shall not be obligated to obtain and exchange information with respect to a calendar year that is prior to the first calendar year with respect to which India is required to obtain and exchange information; and

d) the United States shall not be obligated to begin exchanging information prior to the date by which India is required to begin exchanging information.

7. **Coordination of Definitions with U.S. Treasury Regulations.** Notwithstanding Article 1 of this Agreement and the definitions provided in the Annexes to this Agreement, in implementing this Agreement, India may use, and may permit Indian Financial Institutions to use, a definition in relevant U.S. Treasury Regulations in lieu of a corresponding definition in this Agreement, provided that such application would not frustrate the purposes of this Agreement.

Article 5

Collaboration on Compliance and Enforcement

1. **Minor and Administrative Errors.** A Competent Authority shall notify the Competent Authority of the other Party when the first-mentioned Competent Authority 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 of such other Party shall apply its domestic law (including applicable penalties) to obtain corrected and/or complete information or to resolve other infringements of this Agreement.

2. **Significant Non-Compliance.**

a) 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.

b) If, in the case of a Reporting Indian Financial Institution, such enforcement actions do not resolve the non-compliance within a period of 18 months after notification of significant non-compliance is first provided, the United States shall treat the Reporting Indian Financial Institution as a Nonparticipating Financial Institution pursuant to this subparagraph 2(b).

3. **Reliance on Third Party Service Providers.** Each Party may allow Reporting Financial Institutions to use third party service providers to fulfill the obligations imposed on such Reporting Financial Institutions 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 implement as necessary requirements to prevent Financial Institutions from adopting practices intended to circumvent the reporting required under this Agreement.

Article 6

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

1. **Reciprocity.** The Government of the United States acknowledges the need to achieve equivalent levels of reciprocal automatic information exchange with India. The Government of the United States is committed to further improve transparency and enhance the exchange relationship with India by pursuing the adoption of regulations and advocating and supporting relevant legislation to achieve such equivalent levels of reciprocal automatic information exchange.

2. **Treatment of Passthru Payments and Gross Proceeds.** The Parties are committed to work together, along with Partner Jurisdictions, to develop a practical and effective alternative approach to achieve the policy objectives of foreign passthru payment and gross proceeds withholding that minimizes burden.

3. **Development of Common Reporting and Exchange Model.** The Parties are committed to working with Partner Jurisdictions and the Organisation for Economic Co-operation and Development on adapting the terms of this Agreement and other agreements between the United States and Partner Jurisdictions to a common model for automatic exchange of information, including the development of reporting and due diligence standards for financial institutions.

4. **Documentation of Accounts Maintained as of June 30, 2014.** With respect to Reportable Accounts maintained by a Reporting Financial Institution as of June 30, 2014:

a) The United States commits to establish, by January 1, 2017, for reporting with respect to 2017 and subsequent years, rules requiring Reporting U.S. Financial Institutions to obtain and report the Indian TIN of each Account Holder of an Indian Reportable Account as required pursuant to subparagraph 2(b)(1) of Article 2 of this Agreement; and

b) India commits to establish, by January 1, 2017, for reporting with respect to 2017 and subsequent years, rules requiring Reporting Indian Financial Institutions to obtain the U.S. TIN of each Specified U.S. Person as required pursuant to subparagraph 2(a)(1) of Article 2 of this Agreement.

Article 7

Consistency in the Application of FATCA to Partner Jurisdictions

1. India shall be granted the benefit of any more favorable terms under Article 4 or Annex I of this Agreement relating to the application of FATCA to Indian Financial Institutions afforded to another Partner Jurisdiction under a signed bilateral agreement pursuant to which the other Partner Jurisdiction commits to undertake the same obligations as India described in Articles 2 and 3 of this Agreement, and subject to the same terms and conditions as described therein and in Articles 5 through 9 of this Agreement.

2. The United States shall notify India of any such more favorable terms, and such more favorable terms shall apply automatically under this Agreement as if such terms were specified in this Agreement and effective as of the date of signing of the agreement incorporating the more favorable terms, unless India declines in writing the application thereof.

Article 8

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 fulfillment of this Agreement.

2. This Agreement may be amended by written mutual agreement of the Parties. Unless otherwise agreed upon, such an amendment shall enter into force through the same procedures as set forth in paragraph 1 of Article 10 of this Agreement.

Article 9

Annexes

The Annexes form an integral part of this Agreement.

Article 10

Term of Agreement

1. This Agreement shall enter into force on the date of India's written notification to the United States that India has completed its necessary internal procedures for entry into force of this Agreement.
2. Either Party may terminate this Agreement by giving notice of termination in writing to the other Party. Such termination shall become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination.
3. The Parties shall, prior to December 31, 2016, consult in good faith to amend this Agreement as necessary to reflect progress on the commitments set forth in Article 6 of this Agreement.

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

Done at the Government of the Republic of India Ministry of Finance, North Block, New Delhi, India, in duplicate, this 9th day of July, 2015, in the Hindi and English languages, both texts being equally authentic. In case of divergence between the two texts, the English text shall be the operative one.

ANNEX I

DUE DILIGENCE OBLIGATIONS FOR IDENTIFYING AND REPORTING ON U.S. REPORTABLE ACCOUNTS AND ON PAYMENTS TO CERTAIN NONPARTICIPATING FINANCIAL INSTITUTIONS

I. **General.**

A. India shall require that Reporting Indian Financial Institutions apply the due diligence procedures contained in this Annex I to identify U.S. Reportable Accounts and accounts held by Nonparticipating Financial Institutions.

B. For purposes of the Agreement,

1. All dollar amounts are in U.S. 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 June 30, 2014 under this Annex I, the relevant balance or value shall be determined as of that day or the last day of the reporting period ending immediately before June 30, 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 calendar year or other appropriate reporting period.
4. Subject to subparagraph E(1) of section II of this Annex I, an account shall be treated as a U.S. 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 U.S. Reportable Account shall be reported annually in the calendar year following the year to which the information relates.

II. **Preexisting Individual Accounts.** The following rules and procedures apply for purposes of identifying U.S. Reportable Accounts among Preexisting Accounts held by individuals ("Preexisting Individual Accounts").

A. **Accounts Not Required to Be Reviewed, Identified, or Reported.** Unless the Reporting Indian 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 India provide for such an election, the following Preexisting Individual Accounts are not required to be reviewed, identified, or reported as U.S. Reportable Accounts:

1. Subject to subparagraph E(2) of this section, a Preexisting Individual Account with a balance or value that does not exceed $50,000 as of June 30, 2014.
2. Subject to subparagraph E(2) of this section, a Preexisting Individual Account that is a Cash Value Insurance Contract or an Annuity Contract with a balance or value of $250,000 or less as of June 30, 2014.
3. A Preexisting Individual Account that is a Cash Value Insurance Contract or an Annuity Contract, provided the law or regulations of India or the United States effectively prevent the sale of such a Cash Value Insurance Contract or an Annuity Contract to U.S. residents (*e.g.*, if the relevant Financial Institution does not have the required registration under U.S. law, and the law of India requires reporting or withholding with respect to insurance products held by residents of India).
4. A Depository Account with a balance of $50,000 or less.

B. **Review Procedures for Preexisting Individual Accounts With a Balance or Value as of June 30, 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 Indian Financial Institution must review electronically searchable data maintained by the Reporting Indian Financial Institution for any of the following U.S. indicia:
    a) Identification of the Account Holder as a U.S. citizen or resident;
    b) Unambiguous indication of a U.S. place of birth;
    c) Current U.S. mailing or residence address (including a U.S. post office box);
    d) Current U.S. telephone number;
    e) Standing instructions to transfer funds to an account maintained in the United States;

f) Currently effective power of attorney or signatory authority granted to a person with a U.S. address; or
g) An "in-care-of" or "hold mail" address that is the ***sole*** address the Reporting Indian Financial Institution has on file for the Account Holder. In the case of a Preexisting Individual Account that is a Lower Value Account, an "in-care-of" address outside the United States or "hold mail" address shall not be treated as U.S. indicia.

2. If none of the U.S. 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 that results in one or more U.S. indicia being associated with the account, or the account becomes a High Value Account described in paragraph D of this section.
3. If any of the U.S. indicia listed in subparagraph B(1) of this section are discovered in the electronic search, or if there is a change in circumstances that results in one or more U.S. indicia being associated with the account, then the Reporting Indian Financial Institution must treat the account as a U.S. Reportable Account unless it elects to apply subparagraph B(4) of this section and one of the exceptions in such subparagraph applies with respect to that account.
4. Notwithstanding a finding of U.S. indicia under subparagraph B(1) of this section, a Reporting Indian Financial Institution is not required to treat an account as a U.S. Reportable Account if:
    a) Where the Account Holder information unambiguously indicates a ***U.S. place of birth***, the Reporting Indian Financial Institution obtains, or has previously reviewed and maintains a record of:
        (1) A self-certification that the Account Holder is neither a U.S. citizen nor a U.S. resident for tax purposes (which may be on an IRS Form W-8 or other similar agreed form);
        (2) A non-U.S. passport or other government-issued identification evidencing the Account Holder's citizenship or nationality in a country other than the United States; ***and***
        (3) A copy of the Account Holder's Certificate of Loss of Nationality of the United States or a reasonable explanation of:
            (a) The reason the Account Holder does not have such a certificate despite relinquishing U.S. citizenship; ***or***
            (b) The reason the Account Holder did not obtain U.S. citizenship at birth.
    b) Where the Account Holder information contains a ***current U.S. mailing or residence address, or one or more U.S. telephone numbers that are the only telephone numbers associated with the account***, the Reporting Indian Financial Institution obtains, or has previously reviewed and maintains a record of:
        (1) A self-certification that the Account Holder is neither a U.S. citizen nor a U.S. resident for tax purposes (which may be on an IRS Form W-8 or other similar agreed form); ***and***
        (2) Documentary evidence, as defined in paragraph D of section VI of this Annex I, establishing the Account Holder's non-U.S. status.
    c) Where the Account Holder information contains ***standing instructions to transfer funds to an account maintained in the United States***, the Reporting Indian Financial Institution obtains, or has previously reviewed and maintains a record of:
        (1) A self-certification that the Account Holder is neither a U.S. citizen nor a U.S. resident for tax purposes (which may be on an IRS Form W-8 or other similar agreed form); ***and***
        (2) Documentary evidence, as defined in paragraph D of section VI of this Annex I, establishing the Account Holder's non-U.S. status.
    d) Where the Account Holder information contains ***a currently effective power of attorney or signatory authority granted to a person with a U.S. address, has an "in-care-of" address or "hold mail" address that is the sole address identified for the Account Holder, or has one or more U.S. telephone numbers (if a non-U.S. telephone number is also associated with the account)***, the Reporting Indian Financial Institution obtains, or has previously reviewed and maintains a record of:
        (1) A self-certification that the Account Holder is neither a U.S. citizen nor a U.S. resident for tax purposes (which may be on an IRS Form W-8 or other similar agreed form); ***or***

(2) Documentary evidence, as defined in paragraph D of section VI of this Annex I, establishing the Account Holder's non-U.S. 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 U.S. indicia must be completed by June 30, 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 U.S. indicia described in subparagraph B(1) of this section being associated with the account, then the Reporting Indian Financial Institution must treat the account as a U.S. Reportable Account unless subparagraph B(4) of this section applies.
3. Except for Depository Accounts described in subparagraph A(4) of this section, any Preexisting Individual Account that has been identified as a U.S. Reportable Account under this section shall be treated as a U.S. Reportable Account in all subsequent years, unless the Account Holder ceases to be a Specified U.S. Person.

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

1. **Electronic Record Search.** The Reporting Indian Financial Institution must review electronically searchable data maintained by the Reporting Indian Financial Institution for any of the U.S. indicia described in subparagraph B(1) of this section.
2. **Paper Record Search.** If the Reporting Indian 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 a High Value Account, the Reporting Indian 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 Indian Financial Institution within the last five years for any of the U.S. 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 Indian 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 Indian Financial Institution is not required to perform the paper record search described in subparagraph D(2) of this section if the Reporting Indian Financial Institution's electronically searchable information includes the following:
    a) The Account Holder's nationality or residence status;
    b) The Account Holder's residence address and mailing address currently on file with the Reporting Indian Financial Institution;
    c) The Account Holder's telephone number(s) currently on file, if any, with the Reporting Indian Financial Institution;
    d) Whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the Reporting Indian Financial Institution or another Financial Institution);
    e) Whether there is a current "in-care-of" address or "hold mail" address for the Account Holder; ***and***
    f) 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 Indian Financial Institution must treat as a U.S. Reportable Account any High Value Account assigned to a relationship manager (including any Financial Accounts aggregated with such High Value Account) if the relationship manager has actual knowledge that the Account Holder is a Specified U.S. Person.
5. **Effect of Finding U.S. Indicia.**
    a) If none of the U.S. 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 U.S. Person in subparagraph D(4) of this section, then no further action is required until there is a change in circumstances that results in one or more U.S. indicia being associated with the account.

b) If any of the U.S. 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 U.S. indicia being associated with the account, then the Reporting Indian Financial Institution must treat the account as a U.S. Reportable Account unless it elects to apply subparagraph B(4) of this section and one of the exceptions in such subparagraph applies with respect to that account.

c) Except for Depository Accounts described in subparagraph A(4) of this section, any Preexisting Individual Account that has been identified as a U.S. Reportable Account under this section shall be treated as a U.S. Reportable Account in all subsequent years, unless the Account Holder ceases to be a Specified U.S. Person.

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

1. If a Preexisting Individual Account is a High Value Account as of June 30, 2014, the Reporting Indian Financial Institution must complete the enhanced review procedures described in paragraph D of this section with respect to such account by June 30, 2015. If based on this review such account is identified as a U.S. Reportable Account on or before December 31, 2014, the Reporting Indian 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 U.S. Reportable Account after December 31, 2014 and on or before June 30, 2015, the Reporting Indian 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 June 30, 2014, but becomes a High Value Account as of the last day of 2015 or any subsequent calendar year, the Reporting Indian 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 U.S. Reportable Account, the Reporting Indian Financial Institution must report the required information about such account with respect to the year in which it is identified as a U.S. Reportable Account and subsequent years on an annual basis, unless the Account Holder ceases to be a Specified U.S. Person.
3. Once a Reporting Indian Financial Institution applies the enhanced review procedures described in paragraph D of this section to a High Value Account, the Reporting Indian Financial Institution is not required to re-apply such procedures, other than the relationship manager inquiry described 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 U.S. indicia described in subparagraph B(1) of this section being associated with the account, then the Reporting Indian Financial Institution must treat the account as a U.S. Reportable Account unless it elects to apply subparagraph B(4) of this section and one of the exceptions in such subparagraph applies with respect to that account.
5. A Reporting Indian 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 United States, the Reporting Indian Financial Institution is required to treat the new address as a change in circumstances and, if it elects to apply subparagraph B(4) of this section, is required to obtain the appropriate documentation from the Account Holder.

F. **Preexisting Individual Accounts That Have Been Documented for Certain Other Purposes.** A Reporting Indian Financial Institution that has previously obtained documentation from an Account Holder to establish the Account Holder's status as neither a U.S. citizen nor a U.S. resident in order to meet its obligations under a qualified intermediary, withholding foreign partnership, or withholding foreign trust agreement with the IRS, or to fulfill its obligations under chapter 61 of Title 26 of the United States Code, is not required to perform the procedures described in subparagraph B(1) of this section with respect to Lower Value Accounts or subparagraphs D(1) through D(3) of this section with respect to High Value Accounts.

III. **New Individual Accounts.** The following rules and procedures apply for purposes of identifying U.S. Reportable Accounts among Financial Accounts held by individuals and opened on or after July 1, 2014

("New Individual Accounts").

A. **Accounts Not Required to Be Reviewed, Identified, or Reported.** Unless the Reporting Indian 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 India provide for such an election, the following New Individual Accounts are not required to be reviewed, identified, or reported as U.S. Reportable Accounts:
    1. A Depository Account unless the account balance exceeds $50,000 at the end of any calendar year or other appropriate reporting period.
    2. A Cash Value Insurance Contract 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 described in paragraph A of this section), the Reporting Indian Financial Institution must obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Indian Financial Institution to determine whether the Account Holder is resident in the United States for tax purposes (for this purpose, a U.S. citizen is considered to be resident in the United States for tax purposes, even if the Account Holder is also a tax resident of another jurisdiction) and confirm the reasonableness of such self-certification based on the information obtained by the Reporting Indian Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures.
    1. If the self-certification establishes that the Account Holder is resident in the United States for tax purposes, the Reporting Indian Financial Institution must treat the account as a U.S. Reportable Account and obtain a self-certification that includes the Account Holder's U.S. TIN (which may be an IRS Form W-9 or other similar agreed form).
    2. If there is a change of circumstances with respect to a New Individual Account that causes the Reporting Indian Financial Institution to know, or have reason to know, that the original self-certification is incorrect or unreliable, the Reporting Indian Financial Institution cannot rely on the original self-certification and must obtain a valid self-certification that establishes whether the Account Holder is a U.S. citizen or resident for U.S. tax purposes. If the Reporting Indian Financial Institution is unable to obtain a valid self-certification, the Reporting Indian Financial Institution must treat the account as a U.S. Reportable Account.

IV. **Preexisting Entity Accounts.** The following rules and procedures apply for purposes of identifying U.S. Reportable Accounts and accounts held by Nonparticipating Financial Institutions among Preexisting Accounts held by Entities ("Preexisting Entity Accounts").

A. **Entity Accounts Not Required to Be Reviewed, Identified or Reported.** Unless the Reporting Indian 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 India provide for such an election, a Preexisting Entity Account with an account balance or value that does not exceed $250,000 as of June 30, 2014, is not required to be reviewed, identified, or reported as a U.S. Reportable Account until the account balance or value exceeds $1,000,000.

B. **Entity Accounts Subject to Review.** A Preexisting Entity Account that has an account balance or value that exceeds $250,000 as of June 30, 2014, and a Preexisting Entity Account that does not exceed $250,000 as of June 30, 2014 but the account balance or value of which exceeds $1,000,000 as of the last day of 2015 or any subsequent calendar year, must be reviewed in accordance with the procedures set forth in paragraph D 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 U.S. Persons, or by Passive NFFEs with one or more Controlling Persons who are U.S. citizens or residents, shall be treated as U.S. Reportable Accounts. In addition, accounts held by Nonparticipating Financial Institutions shall be treated as accounts for which aggregate payments as described in subparagraph 1(b) of Article 4 of the Agreement are reported to the Indian Competent Authority.

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 Indian Financial Institution must apply the following review procedures to determine whether the account is held by one or more Specified U.S. Persons, by Passive NFFEs with one or more Controlling Persons who are U.S. citizens or residents, or by Nonparticipating Financial Institutions:
    1. **Determine Whether the Entity Is a Specified U.S. 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 Account Holder is a U.S. Person. For this purpose, information indicating that the Account Holder is a U.S. Person includes a U.S. place of incorporation or organization, or a U.S. address.

b) If the information indicates that the Account Holder is a U.S. Person, the Reporting Indian Financial Institution must treat the account as a U.S. Reportable Account unless it obtains a self-certification from the Account Holder (which may be on an IRS Form W-8 or W-9, or a similar agreed form), or reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Specified U.S. Person.

2. **Determine Whether a Non-U.S. 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 Account Holder is a Financial Institution.
   b) If the information indicates that the Account Holder is a Financial Institution, or the Reporting Indian Financial Institution verifies the Account Holder's Global Intermediary Identification Number on the published IRS FFI list, then the account is not a U.S. Reportable Account.
3. **Determine Whether a Financial Institution Is a Nonparticipating Financial Institution Payments to Which Are Subject to Aggregate Reporting Under Subparagraph 1(b) of Article 4 of the Agreement.**
   a) Subject to subparagraph D(3)(b) of this section, a Reporting Indian Financial Institution may determine that the Account Holder is an Indian Financial Institution or other Partner Jurisdiction Financial Institution if the Reporting Indian Financial Institution reasonably determines that the Account Holder has such status on the basis of the Account Holder's Global Intermediary Identification Number on the published IRS FFI list or other information that is publicly available or in the possession of the Reporting Indian Financial Institution, as applicable. In such case, no further review, identification, or reporting is required with respect to the account.
   b) If the Account Holder is an Indian Financial Institution or other Partner Jurisdiction Financial Institution treated by the IRS as a Nonparticipating Financial Institution, then the account is not a U.S. Reportable Account, but payments to the Account Holder must be reported as contemplated in subparagraph 1(b) of Article 4 of the Agreement.
   c) If the Account Holder is not an Indian Financial Institution or other Partner Jurisdiction Financial Institution, then the Reporting Indian Financial Institution must treat the Account Holder as a Nonparticipating Financial Institution payments to which are reportable under subparagraph 1(b) of Article 4 of the Agreement, unless the Reporting Indian Financial Institution:
      (1) Obtains a self-certification (which may be on an IRS Form W-8 or similar agreed form) from the Account Holder that it is a certified deemed-compliant FFI, or an exempt beneficial owner, as those terms are defined in relevant U.S. Treasury Regulations; ***or***
      (2) In the case of a participating FFI or registered deemed-compliant FFI, verifies the Account Holder's Global Intermediary Identification Number on the published IRS FFI list.
4. **Determine Whether an Account Held by an NFFE Is a U.S. Reportable Account.** With respect to an Account Holder of a Preexisting Entity Account that is not identified as either a U.S. Person or a Financial Institution, the Reporting Indian Financial Institution must identify (i) whether the Account Holder has Controlling Persons, (ii) whether the Account Holder is a Passive NFFE, and (iii) whether any of the Controlling Persons of the Account Holder is a U.S. citizen or resident. In making these determinations the Reporting Indian Financial Institution must follow the guidance in subparagraphs D(4)(a) through D(4)(d) of this section in the order most appropriate under the circumstances.
   a) For purposes of determining the Controlling Persons of an Account Holder, a Reporting Indian Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.
   b) For purposes of determining whether the Account Holder is a Passive NFFE, the Reporting Indian Financial Institution must obtain a self-certification (which may be on an IRS Form W-8 or W-9, or on a similar agreed form) 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 Account Holder is an Active NFFE.

c) For purposes of determining whether a Controlling Person of a Passive NFFE is a U.S. citizen or resident for tax purposes, a Reporting Indian 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 or value that does not exceed $1,000,000; ***or***

(2) A self-certification (which may be on an IRS Form W-8 or W-9, or on a similar agreed form) 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 or value that exceeds $1,000,000.

d) If any Controlling Person of a Passive NFFE is a U.S. citizen or resident, the account shall be treated as a U.S. 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 June 30, 2014 must be completed by June 30, 2016.
2. Review of Preexisting Entity Accounts with an account balance or value that does not exceed $250,000 as of June 30, 2014, but exceeds $1,000,000 as of December 31 of 2015 or any subsequent year, must be completed within six months after the last day of the calendar year in which the account balance or value exceeds $1,000,000.
3. If there is a change of circumstances with respect to a Preexisting Entity Account that causes the Reporting Indian 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 Indian Financial Institution must redetermine 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 for purposes of identifying U.S. Reportable Accounts and accounts held by Nonparticipating Financial Institutions among Financial Accounts held by Entities and opened on or after July 1, 2014 ("New Entity Accounts").

A. **Entity Accounts Not Required to Be Reviewed, Identified or Reported.** Unless the Reporting Indian 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 India provide for such election, a credit card account or a revolving credit facility treated as a New Entity Account is not required to be reviewed, identified, or reported, provided that the Reporting Indian Financial Institution maintaining such account 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 Indian Financial Institution must determine whether the Account Holder is: (i) a Specified U.S. Person; (ii) an Indian Financial Institution or other Partner Jurisdiction Financial Institution; (iii) a participating FFI, a deemed-compliant FFI, or an exempt beneficial owner, as those terms are defined in relevant U.S. Treasury Regulations; or (iv) an Active NFFE or Passive NFFE.

1. Subject to subparagraph B(2) of this section, a Reporting Indian Financial Institution may determine that the Account Holder is an Active NFFE, an Indian Financial Institution, or other Partner Jurisdiction Financial Institution if the Reporting Indian Financial Institution reasonably determines that the Account Holder has such status on the basis of the Account Holder's Global Intermediary Identification Number or other information that is publicly available or in the possession of the Reporting Indian Financial Institution, as applicable.

2. If the Account Holder is an Indian Financial Institution or other Partner Jurisdiction Financial Institution treated by the IRS as a Nonparticipating Financial Institution, then the account is not a U.S. Reportable Account, but payments to the Account Holder must be reported as contemplated in subparagraph 1(b) of Article 4 of the Agreement.

3. In all other cases, a Reporting Indian Financial Institution must obtain a self-certification from the Account Holder to establish the Account Holder's status. Based on the self-certification, the following rules apply:

a) If the Account Holder is ***a Specified U.S. Person***, the Reporting Indian Financial Institution must treat the account as a U.S. Reportable Account.

b) If the Account Holder is ***a Passive NFFE***, the Reporting Indian Financial Institution must identify the Controlling Persons as determined under AML/KYC

Procedures, and must determine whether any such person is a U.S. citizen or resident on the basis of a self-certification from the Account Holder or such person. If any such person is a U.S. citizen or resident, the Reporting Indian Financial Institution must treat the account as a U.S. Reportable Account.

c) If the Account Holder is: (i) a U.S. Person that is not a Specified U.S. Person; (ii) subject to subparagraph B(3)(d) of this section, an Indian Financial Institution or other Partner Jurisdiction Financial Institution; (iii) a participating FFI, a deemed-compliant FFI, or an exempt beneficial owner, as those terms are defined in relevant U.S. Treasury Regulations; (iv) an Active NFFE; or (v) a Passive NFFE none of the Controlling Persons of which is a U.S. citizen or resident, then the account is not a U.S. Reportable Account, and no reporting is required with respect to the account.

d) If the Account Holder is a Nonparticipating Financial Institution (including an Indian Financial Institution or other Partner Jurisdiction Financial Institution treated by the IRS as a Nonparticipating Financial Institution), then the account is not a U.S. Reportable Account, but payments to the Account Holder must be reported as contemplated in subparagraph 1(b) of Article 4 of the Agreement.

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 Indian Financial Institution may not rely on a self-certification or documentary evidence if the Reporting Indian 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 Indian Financial Institution pursuant to the anti-money laundering or similar requirements of India to which such Reporting Indian Financial Institution is subject.
2. **NFFE.** An "NFFE" means any Non-U.S. Entity that is not an FFI as defined in relevant U.S. Treasury Regulations or is an Entity described in subparagraph B(4)(j) of this section, and also includes any Non-U.S. Entity that is established in India or another Partner Jurisdiction and that is not a Financial Institution.
3. **Passive NFFE.** A "Passive NFFE" means any NFFE that is not (i) an Active NFFE, or (ii) a withholding foreign partnership or withholding foreign trust pursuant to relevant U.S. Treasury Regulations.
4. **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 regularly traded on an established securities market;
    c) The NFFE is organized in a U.S. Territory and all of the owners of the payee are bona fide residents of that U.S. Territory;
    d) The NFFE is a government (other than the U.S. government), a political subdivision of such government (which, for the avoidance of doubt, includes a state, province, county, or municipality), or a public body performing a function of such government or a political subdivision thereof, a government of a U.S. Territory, an international organization, a non-U.S. central bank of issue, or an Entity wholly owned by one or more of the foregoing
    e) 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 entity shall not qualify for NFFE status if the entity 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;

f) 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 organization of the NFFE;

g) The NFFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganizing with the intent to continue or recommence operations in a business other than that of a Financial Institution;

h) 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;

i) The NFFE is an "excepted NFFE" as described in relevant U.S. Treasury Regulations; ***or***

j) The NFFE meets all of the following requirements:

   i. It is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organization, business league, chamber of commerce, labor organization, agricultural or horticultural organization, civic league or an organization operated exclusively for the promotion of social welfare;

   ii. It is exempt from income tax in its jurisdiction of residence;

   iii. It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;

   iv. The applicable laws of the NFFE's jurisdiction of residence or the NFFE's formation documents do not permit any income or assets of the NFFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFFE has purchased; ***and***

   v. The applicable laws of the NFFE's jurisdiction of residence or the NFFE's formation documents require that, upon the NFFE's liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organization, or escheat to the government of the NFFE's jurisdiction of residence or any political subdivision thereof.

5. **Preexisting Account**. A "Preexisting Account" means a Financial Account maintained by a Reporting Financial Institution as of June 30, 2014.

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

1. **Aggregation of Individual Accounts.** For purposes of determining the aggregate balance or value of Financial Accounts held by an individual, a Reporting Indian Financial Institution is required to aggregate all Financial Accounts maintained by the Reporting Indian Financial Institution, or by a Related Entity, but only to the extent that the Reporting Indian Financial Institution's computerized systems link the Financial Accounts by reference to a data element such as client number or taxpayer identification number, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this paragraph 1.

2. **Aggregation of Entity Accounts.** For purposes of determining the aggregate balance or value of Financial Accounts held by an Entity, a Reporting Indian Financial Institution is required to take into account all Financial Accounts that are maintained by the Reporting Indian Financial Institution, or by a Related Entity, but only to the extent that the Reporting Indian Financial Institution's computerized systems link the Financial 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 Financial Accounts held by a person to determine whether a Financial Account is a High Value Account, a Reporting Indian Financial Institution is also required, in the case of any Financial 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 Financial Accounts denominated in a currency other than the U.S. dollar, a Reporting Indian Financial Institution must convert the U.S. 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 Indian 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 issued by an authorized government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the payee claims to be a resident.

2. With respect to an individual, any valid identification issued by an authorized 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 authorized 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 jurisdiction (or U.S. Territory) in which it claims to be a resident or the jurisdiction (or U.S. Territory) in which the Entity was incorporated or organized.

4. With respect to a Financial Account maintained in a jurisdiction with anti-money laundering rules that have been approved by the IRS in connection with a QI 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 QI agreement for identifying individuals or Entities.

5. Any financial statement, third-party credit report, bankruptcy filing, or U.S. Securities and Exchange Commission report.

E. **Alternative Procedures for Financial Accounts Held by Individual Beneficiaries of a Cash Value Insurance Contract.** A Reporting Indian 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 U.S. Person and may treat such Financial Account as other than a U.S. Reportable Account unless the Reporting Indian Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Specified U.S. Person. A Reporting Indian Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract is a Specified U.S. Person if the information collected by the Reporting Indian Financial Institution and associated with the beneficiary contains U.S. indicia as described in subparagraph B(1) of section II of this Annex I. If a Reporting Indian Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Specified U.S. Person, the Reporting Indian Financial Institution must follow the procedures in subparagraph B(3) of section II of this Annex I.

F. **Reliance on Third Parties.** Regardless of whether an election is made under paragraph C of section I of this Annex I, India may permit Reporting Indian Financial Institutions to rely on due diligence procedures performed by third parties, to the extent provided in relevant U.S. Treasury Regulations.

G. **Alternative Procedures for New Accounts Opened Prior to Entry Into Force of this Agreement.**

1. **Applicability.** If India has provided a written notice to the United States prior to entry into force of this Agreement that, as of July 1, 2014, India lacked the legal authority to require Reporting Indian Financial Institutions either: (i) to require Account Holders of New Individual Accounts to provide the self-certification specified in section III of this Annex I, or (ii) to perform all the due diligence procedures related to New Entity Accounts specified in section V of this Annex I, then Reporting Indian Financial Institutions may apply the alternative procedures described in subparagraph G(2) of this section, as applicable, to such

New Accounts, in lieu of the procedures otherwise required under this Annex I. The alternative procedures described in subparagraph G(2) of this section shall be available only for those New Individual Accounts or New Entity Accounts, as applicable, opened prior to the earlier of: (i) the date India has the ability to compel Reporting Indian Financial Institutions to comply with the due diligence procedures described in section III or section V of this Annex I, as applicable, which date India shall inform the United States of in writing by the date of entry into force of this Agreement, or (ii) the date of entry into force of this Agreement. If the alternative procedures for New Entity Accounts opened on or after July 1, 2014, and before January 1, 2015, described in paragraph H of this section are applied with respect to all New Entity Accounts or a clearly identified group of such accounts, the alternative procedures described in this paragraph G may not be applied with respect to such New Entity Accounts. For all other New Accounts, Reporting Indian Financial Institutions must apply the due diligence procedures described in section III or section V of this Annex I, as applicable, to determine if the account is a U.S. Reportable Account or an account held by a Nonparticipating Financial Institution.

2. **Alternative Procedures.**

a) Within one year after the date of entry into force of this Agreement, Reporting Indian Financial Institutions must: (i) with respect to a New Individual Account described in subparagraph G(1) of this section, request the self-certification specified in section III of this Annex I and confirm the reasonableness of such self-certification consistent with the procedures described in section III of this Annex I, and (ii) with respect to a New Entity Account described in subparagraph G(1) of this section, perform the due diligence procedures specified in section V of this Annex I and request information as necessary to document the account, including any self-certification, required by section V of this Annex I.

b) India must report on any New Account that is identified pursuant to subparagraph G(2)(a) of this section as a U.S. Reportable Account or as an account held by a Nonparticipating Financial Institution, as applicable, by the date that is the later of: (i) September 30 next following the date that the account is identified as a U.S. Reportable Account or as an account held by a Nonparticipating Financial Institution, as applicable, or (ii) 90 days after the account is identified as a U.S. Reportable Account or as an account held by a Nonparticipating Financial Institution, as applicable. The information required to be reported with respect to such a New Account is any information that would have been reportable under this Agreement if the New Account had been identified as a U.S. Reportable Account or as an account held by a Nonparticipating Financial Institution, as applicable, as of the date the account was opened.

c) By the date that is one year after the date of entry into force of this Agreement, Reporting Indian Financial Institutions must close any New Account described in subparagraph G(1) of this section for which it was unable to collect the required self-certification or other documentation pursuant to the procedures described in subparagraph G(2)(a) of this section. In addition, by the date that is one year after the date of entry into force of this Agreement, Reporting Indian Financial Institutions must: (i) with respect to such closed accounts that prior to such closure were New Individual Accounts (without regard to whether such accounts were High Value Accounts), perform the due diligence procedures specified in paragraph D of section II of this Annex I, or (ii) with respect to such closed accounts that prior to such closure were New Entity Accounts, perform the due diligence procedures specified in section IV of this Annex I.

d) India must report on any closed account that is identified pursuant to subparagraph G(2)(c) of this section as a U.S. Reportable Account or as an account held by a Nonparticipating Financial Institution, as applicable, by the date that is the later of: (i) September 30 next following the date that the account is identified as a U.S. Reportable Account or as an account held by a Nonparticipating Financial Institution, as applicable, or (ii) 90 days after the account is identified as a U.S. Reportable Account or as an account held by a Nonparticipating Financial Institution, as applicable. The information required to be reported for such a closed account is any information that would have been reportable under this Agreement if the account had been identified as a U.S. Reportable Account or as an account held by a Nonparticipating Financial Institution, as applicable, as of the date the account was opened.

H. **Alternative Procedures for New Entity Accounts Opened on or after July 1, 2014, and before January 1, 2015.** For New Entity Accounts opened on or after July 1, 2014, and before January 1, 2015, either with respect to all New Entity Accounts or, separately, with respect to any

clearly identified group of such accounts, India may permit Reporting Indian Financial Institutions to treat such accounts as Preexisting Entity Accounts and apply the due diligence procedures related to Preexisting Entity Accounts specified in section IV of this Annex I in lieu of the due diligence procedures specified in section V of this Annex I. In this case, the due diligence procedures of section IV of this Annex I must be applied without regard to the account balance or value threshold specified in paragraph A of section IV of this Annex I.

Annex II

The following Entities shall be treated as exempt beneficial owners or deemed-compliant FFIs, as the case may be, and the following accounts are excluded from the definition of Financial Accounts.

This Annex II may be modified by a mutual written decision entered into between the Competent Authorities of India and the United States: (1) to include additional Entities and accounts that present a low risk of being used by U.S. Persons to evade U.S. tax and that have similar characteristics to the Entities and accounts described in this Annex II 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 U.S. Persons to evade U.S. tax. Any such addition or removal shall be effective on the date of signature of the mutual decision, unless otherwise provided therein. Procedures for reaching such a mutual decision may be included in the mutual agreement or arrangement described in paragraph 6 of Article 3 of the Agreement.

I. **Exempt Beneficial Owners other than Funds.** The following Entities shall be treated as Non-Reporting Indian Financial Institutions and as exempt beneficial owners for purposes of sections 1471 and 1472 of the U.S. Internal Revenue Code, ***other than*** with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution.

A. **Governmental Entity.** The government of India, any political subdivision of India (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of India, board, corporation, authority or any other body established or constituted under an act of the Government of India or of its political subdivisions or any one or more of the foregoing (each, an "Indian Governmental Entity"). This category is comprised of the integral parts, controlled entities, and political subdivisions of India.

1. An integral part of India means any person, organization, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of India. The net earnings of the governing authority must be credited to its own account or to other accounts of India, 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 India or that otherwise constitutes a separate juridical entity, provided that:
    a) The Entity is wholly owned and controlled by one or more Indian 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 Indian 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 Indian 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 Organization.** Any international organization or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organization (including a supranational organization) (1) that is comprised primarily of non-U.S. governments; (2) that has in effect a headquarters agreement with India; and (3) the income of which does not inure to the benefit of private persons.

C. **Central Bank.** An institution that is by law or government sanction the principal authority, other than the government of India itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of India, whether or not owned in whole or in part by India.

II. **Funds that Qualify as Exempt Beneficial Owners.** The following Entities shall be treated as Non-Reporting Indian Financial Institutions and as exempt beneficial owners for purposes of sections 1471 and 1472 of the U.S. Internal Revenue Code.

A. **Treaty-Qualified Retirement Fund.** A fund established in India, provided that the fund is entitled to benefits under an income tax treaty between India and the United States on income that it derives from sources within the United States (or would be entitled to such benefits if it derived any such income) as a resident of India that satisfies any applicable limitation on benefits requirement, and is operated principally to administer or provide pension or retirement benefits.

B. **Broad Participation Retirement Fund.** A fund established in India 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 India; and
3. Satisfies at least one of the following requirements:
    a) The fund is generally exempt from tax in India on investment income under the laws of India 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 A through D of this section or from retirement and pension accounts described in subparagraph A(1) of section V of this Annex II) 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 A through D of this section or retirement and pension accounts described in subparagraph A(1) of section V of this Annex II), 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 Annex I for account aggregation and currency translation.

C. **Narrow Participation Retirement Fund.** A fund established in India 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 treaty-qualified retirement funds described in paragraph A of this section or retirement and pension accounts described in subparagraph A(1) of section V of this Annex II) are limited by reference to earned income and compensation of the employee, respectively;
4. Participants that are not residents of India 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 India.

D. **Pension Fund of an Exempt Beneficial Owner.** A fund established in India 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.

E. **Investment Entity Wholly Owned by Exempt Beneficial Owners.** An Entity that is an Indian 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.

F. **Regimental Fund or Non-public Fund of the Armed Forces.** A fund established in India as a regimental fund or non-public fund by the armed forces of the Union of India for the welfare of the current and former members of the armed forces and whose income is exempt from tax under section 10(23AA) of the Indian Income-tax Act of 1961.

G. **Employees' State Insurance Fund.** A fund established in India as an Employees' State Insurance Fund under the provisions of the Employees' State Insurance Act of 1948, to provide medical expenses of low-income factory workers in India.

H. **Gratuity Funds.** A fund established in India under the Payment of Gratuity Act of 1972, to provide for the payment of a gratuity to certain types of employees (e.g., factory and mining workers) of an Indian employer specified in the Payment of Gratuity Act of 1972.

I. **Provident Fund.** A fund established in India under the Provident Fund Act of 1952 or the Employees' Provident Funds and Miscellaneous Act of 1952 to provide current and former employees of Indian employers retirement benefits in consideration for services rendered, provided that 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 India;
3. The fund is generally exempt from tax in India on investment income under the laws of India due to its status as a Provident Fund; and
4. 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 Annex I for account aggregation and currency translation.

III. **Small or Limited Scope Financial Institutions that Qualify as Deemed-Compliant FFIs.** The following Financial Institutions are Non-Reporting Indian Financial Institutions that shall be treated as deemed-compliant FFIs for purposes of section 1471 of the U.S. Internal Revenue Code.

A. **Financial Institution with a Local Client Base.** A Financial Institution satisfying the following requirements:
1. The Financial Institution must be licensed and regulated as a financial institution under the laws of India;
2. The Financial Institution must have no fixed place of business outside of India. For this purpose, a fixed place of business does not include a location that is not advertised to the public and from which the Financial Institution performs solely administrative support functions;
3. The Financial Institution must not solicit customers or Account Holders outside India. For this purpose, a Financial Institution shall not be considered to have solicited customers or Account Holders outside India merely because the Financial Institution (a) operates a website, provided that the website does not specifically indicate that the Financial Institution provides Financial Accounts or services to nonresidents, and does not otherwise target or solicit U.S. customers or Account Holders, or (b) advertises in print media or on a radio or television station that is distributed or aired primarily within India but is also incidentally distributed or aired in other countries, provided that the advertisement does not specifically indicate that the Financial Institution provides

Financial Accounts or services to nonresidents, and does not otherwise target or solicit U.S. customers or Account Holders;

4. The Financial Institution must be required under the laws of India to identify resident Account Holders for purposes of either information reporting or withholding of tax with respect to Financial Accounts held by residents or for purposes of satisfying India's AML due diligence requirements;
5. At least 98 percent of the Financial Accounts by value maintained by the Financial Institution must be held by residents (including residents that are Entities) of India;
6. Beginning on or before July 1, 2014, the Financial Institution must have policies and procedures, consistent with those set forth in Annex I, to prevent the Financial Institution from providing a Financial Account to any Nonparticipating Financial Institution and to monitor whether the Financial Institution opens or maintains a Financial Account for any Specified U.S. Person who is not a resident of India (including a U.S. Person that was a resident of India when the Financial Account was opened but subsequently ceases to be a resident of India) or any Passive NFFE with Controlling Persons who are U.S. residents or U.S. citizens who are not residents of India;
7. Such policies and procedures must provide that if any Financial Account held by a Specified U.S. Person who is not a resident of India or by a Passive NFFE with Controlling Persons who are U.S. residents or U.S. citizens who are not residents of India is identified, the Financial Institution must report such Financial Account as would be required if the Financial Institution were a Reporting Indian Financial Institution (including by following the applicable registration requirements on the IRS FATCA registration website) or close such Financial Account;
8. With respect to a Preexisting Account held by an individual who is not a resident of India or by an Entity, the Financial Institution must review those Preexisting Accounts in accordance with the procedures set forth in Annex I applicable to Preexisting Accounts to identify any U.S. Reportable Account or Financial Account held by a Nonparticipating Financial Institution, and must report such Financial Account as would be required if the Financial Institution were a Reporting Indian Financial Institution (including by following the applicable registration requirements on the IRS FATCA registration website) or close such Financial Account;
9. Each Related Entity of the Financial Institution that is a Financial Institution must be incorporated or organized in India and, with the exception of any Related Entity that is a retirement fund described in paragraphs A through D of section II of this Annex II, satisfy the requirements set forth in this paragraph A; and
10. The Financial Institution must not have policies or practices that discriminate against opening or maintaining Financial Accounts for individuals who are Specified U.S. Persons and residents of India.

B. **Local Bank.** A Financial Institution satisfying the following requirements:
   1. The Financial Institution operates solely as (and is licensed and regulated under the laws of India as) (a) a bank or (b) a credit union or similar cooperative credit organization that is operated without profit;
   2. The Financial Institution's business consists primarily of receiving deposits from and making loans to, with respect to a bank, unrelated retail customers and, with respect to a credit union or similar cooperative credit organization, members, provided that no member has a greater than five percent interest in such credit union or cooperative credit organization;
   3. The Financial Institution satisfies the requirements set forth in subparagraphs A(2) and A(3) of this section, provided that, in addition to the limitations on the website described in subparagraph A(3) of this section, the website does not permit the opening of a Financial Account;
   4. The Financial Institution does not have more than $175 million in assets on its balance sheet, and the Financial Institution and any Related Entities, taken together, do not have more than $500 million in total assets on their consolidated or combined balance sheets; and
   5. Any Related Entity must be incorporated or organized in India, and any Related Entity that is a Financial Institution, with the exception of any Related Entity that is a retirement fund described in paragraphs A through D of section II of this Annex II or a Financial Institution with only low-value accounts described in paragraph C of this section, must satisfy the requirements set forth in this paragraph B.

C. **Financial Institution with Only Low-Value Accounts.** An Indian 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 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.

D. **Qualified Credit Card Issuer.** An Indian Financial Institution satisfying the following requirements:
   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 July 1, 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.

IV. **Investment Entities that Qualify as Deemed-Compliant FFIs and Other Special Rules.** The Financial Institutions described in paragraphs A through E of this section are Non-Reporting Indian Financial Institutions that shall be treated as deemed-compliant FFIs for purposes of section 1471 of the U.S. Internal Revenue Code. In addition, paragraph F of this section provides special rules applicable to an Investment Entity.

A. **Trustee-Documented Trust.** A trust established under the laws of India to the extent that the trustee of the trust is a Reporting U.S. Financial Institution, Reporting Model 1 FFI, or Participating FFI and reports all information required to be reported pursuant to the Agreement with respect to all U.S. Reportable Accounts of the trust.

B. **Sponsored Investment Entity and Controlled Foreign Corporation.** A Financial Institution described in subparagraph B(1) or B(2) of this section having a sponsoring entity that complies with the requirements of subparagraph B(3) of this section.
   1. A Financial Institution is a sponsored investment entity if (a) it is an Investment Entity established in India that is not a qualified intermediary, withholding foreign partnership, or withholding foreign trust pursuant to relevant U.S. Treasury Regulations; and (b) an Entity has agreed with the Financial Institution to act as a sponsoring entity for the Financial Institution.
   2. A Financial Institution is a sponsored controlled foreign corporation if (a) the Financial Institution is a controlled foreign corporation[1] organized under the laws of India that is not a qualified intermediary, withholding foreign partnership, or withholding foreign trust pursuant to relevant U.S. Treasury Regulations; (b) the Financial Institution is wholly owned, directly or indirectly, by a Reporting U.S. Financial Institution that agrees to act, or requires an affiliate of the Financial Institution to act, as a sponsoring entity for the Financial Institution; and (c) the Financial Institution shares a common electronic account system with the sponsoring entity that enables the sponsoring entity to identify all Account Holders and payees of the Financial Institution and to access all account and customer information maintained by the Financial Institution including, but not limited to, customer identification information, customer documentation, account balance, and all payments made to the Account Holder or payee.
   3. The sponsoring entity complies with the following requirements:

      a) The sponsoring entity is authorized to act on behalf of the Financial Institution (such as a fund manager, trustee, corporate director, or managing partner) to fulfill applicable registration requirements on the IRS FATCA registration website;
      b) The sponsoring entity has registered as a sponsoring entity with the IRS on the IRS FATCA registration website;
      c) If the sponsoring entity identifies any U.S. Reportable Accounts with respect to the Financial Institution, the sponsoring entity registers the Financial Institution pursuant to applicable registration requirements on the IRS FATCA registration website on or before the later of December 31, 2015 and the date that is 90 days after such a U.S. Reportable Account is first identified;

[1] A "controlled foreign corporation" means any foreign corporation if more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, or the total value of the stock of such corporation, is owned, or is considered as owned, by "United States shareholders" on any day during the taxable year of such foreign corporation. The term a "United States shareholder" means, with respect to any foreign corporation, a United States person who owns, or is considered as owning, 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation.

d) The sponsoring entity agrees to perform, on behalf of the Financial Institution, all due diligence, withholding, reporting, and other requirements that the Financial Institution would have been required to perform if it were a Reporting Indian Financial Institution;
e) The sponsoring entity identifies the Financial Institution and includes the identifying number of the Financial Institution (obtained by following applicable registration requirements on the IRS FATCA registration website) in all reporting completed on the Financial Institution's behalf; and
f) The sponsoring entity has not had its status as a sponsor revoked.

C. **Sponsored, Closely Held Investment Vehicle.** An Indian Financial Institution satisfying the following requirements:
1. The Financial Institution is a Financial Institution solely because it is an Investment Entity and is not a qualified intermediary, withholding foreign partnership, or withholding foreign trust pursuant to relevant U.S. Treasury Regulations;
2. The sponsoring entity is a Reporting U.S. Financial Institution, Reporting Model 1 FFI, or Participating FFI, is authorized 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, withholding, reporting, and other requirements that the Financial Institution would have been required to perform if it were a Reporting Indian 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 Participating FFIs and deemed-compliant FFIs and Equity Interests owned by an Entity if that Entity owns 100 percent 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 has registered as a sponsoring entity with the IRS on the IRS FATCA registration website;
b) The sponsoring entity agrees to perform, on behalf of the Financial Institution, all due diligence, withholding, reporting, and other requirements that the Financial Institution would have been required to perform if it were a Reporting Indian 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 all reporting completed on the Financial Institution's behalf; and

d) The sponsoring entity has not had its status as a sponsor revoked.

D. **Investment Advisors and Investment Managers and Stock Brokers/Trading Members of Recognized Stock Exchanges.** An Investment Entity established in India that is a Financial Institution solely because it (1) renders investment advice to, and acts on behalf of, or (2) manages portfolios for, and acts on behalf of, or (3) executes trades on behalf of a customer for the purposes of investing, managing, or administering funds or securities deposited in the name of the customer with a Financial Institution other than a Nonparticipating Financial Institution.

E. **Collective Investment Vehicle.** An Investment Entity established in India 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, Active NFFEs described in subparagraph B(4) of section VI of Annex I, U.S. Persons that are not Specified U.S. Persons, or Financial Institutions that are not Nonparticipating Financial Institutions.

F. **Special Rules.** The following rules apply to an Investment Entity:
1. With respect to interests in an Investment Entity that is a collective investment vehicle described in paragraph E of this section, the reporting obligations of any Investment Entity (other than a Financial Institution through which interests in the collective investment vehicle are held) shall be deemed fulfilled.
2. With respect to interests in:
a) An Investment Entity established in a Partner Jurisdiction that is regulated as a collective investment vehicle, all of the interests in which (including debt interests in excess of $50,000) are held by or through one or more exempt beneficial owners, Active NFFEs described in subparagraph B(4) of section VI of Annex I, U.S. Persons that are not Specified U.S. Persons, or Financial Institutions that are not Nonparticipating Financial Institutions; or
b) An Investment Entity that is a qualified collective investment vehicle under relevant U.S. Treasury Regulations;

the reporting obligations of any Investment Entity that is an Indian Financial Institution (other than a Financial Institution through which interests in the collective investment vehicle are held) shall be deemed fulfilled.

3. With respect to interests in an Investment Entity established in India that is not described in paragraph E or subparagraph F(2) of this section, consistent with paragraph 3 of Article 5 of the Agreement, the reporting obligations of all other Investment Entities with respect to such interests shall be deemed fulfilled if the information required to be reported by the first-mentioned Investment Entity pursuant to the Agreement with respect to such interests is reported by such Investment Entity or another person.

V. **Accounts Excluded from Financial Accounts.** The following accounts are excluded from the definition of Financial Accounts and therefore shall not be treated as U.S. Reportable Accounts.

A. **Certain Savings Accounts.**

1. Retirement and Pension Account. A retirement or pension account maintained in India that satisfies the following requirements under the laws of India.
   a) The account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits (including disability or death benefits);
   b) The account is tax-favored (*i.e.*, contributions to the account that would otherwise be subject to tax under the laws of India 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 information reporting is required to the tax authorities in India with respect to the account;
   d) Withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and
   e) Either (i) annual contributions are limited to $50,000 or less, or (ii) there is a maximum lifetime contribution limit to the account of $1,000,000 or less, in each case applying the rules set forth in Annex I for account aggregation and currency translation.
2. Non-Retirement Savings Accounts.
   a) An account maintained in India (other than an insurance or Annuity Contract) that satisfies the following requirements under the laws of India.
      i. The account is subject to regulation as a savings vehicle for purposes other than for retirement;
      ii. The account is tax-favored (*i.e.*, contributions to the account that would otherwise be subject to tax under the laws of India 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);
      iii. Withdrawals are conditioned on meeting specific criteria related to the purpose of the savings account (for example, the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met; and
      iv. Annual contributions are limited to $50,000 or less, applying the rules set forth in Annex I for account aggregation and currency translation.
   b) An account established in India under the Senior Citizens Saving Scheme of 2004 to provide Indian senior citizens saving schemes and savings and deposits account.

B. **Certain Term Life Insurance Contracts.** A life insurance contract maintained in India with a coverage period that will end before the insured individual attains age 90, provided that the contract satisfies the following requirements:

1. Periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age 90, whichever is shorter;
2. The contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;
3. The amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and
4. The contract is not held by a transferee for value.

C. **Account Held By an Estate.** An account maintained in India 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 India 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 down payment, earnest money, 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 maintained in India and excluded from the definition of Financial Account under an agreement between the United States and another Partner Jurisdiction to facilitate the implementation of FATCA, provided that such account is subject to the same requirements and oversight under the laws of such other Partner Jurisdiction as if such account were established in that Partner Jurisdiction and maintained by a Partner Jurisdiction Financial Institution in that Partner Jurisdiction.

VI. **Definitions.** The following additional definitions shall apply to the descriptions above:

A. **Reporting Model 1 FFI.** The term Reporting Model 1 FFI means a Financial Institution with respect to which a non-U.S. government or agency thereof agrees to obtain and exchange information pursuant to a Model 1 IGA, other than a Financial Institution treated as a Nonparticipating Financial Institution under the Model 1 IGA. For purposes of this definition, the term Model 1 IGA means an arrangement between the United States or the Treasury Department and a non-U.S. government or one or more agencies thereof to implement FATCA through reporting by Financial Institutions to such non-U.S. government or agency thereof, followed by automatic exchange of such reported information with the IRS.

B. **Participating FFI.** The term Participating FFI means a Financial Institution that has agreed to comply with the requirements of an FFI Agreement, including a Financial Institution described in a Model 2 IGA that has agreed to comply with the requirements of an FFI Agreement. The term Participating FFI also includes a qualified intermediary branch of a Reporting U.S. Financial Institution, unless such branch is a Reporting Model 1 FFI. For purposes of this definition, the term FFI Agreement means an agreement that sets forth the requirements for a Financial Institution to be treated as complying with the requirements of section 1471(b) of the U.S. Internal Revenue Code. In addition, for purposes of this definition, the term Model 2 IGA means an arrangement between the United States or the Treasury Department and a non-U.S. government or one or more agencies thereof to facilitate the implementation of FATCA through reporting by Financial Institutions directly to the IRS in accordance with the requirements of an FFI Agreement, supplemented by the exchange of information between such non-U.S. government or agency thereof and the IRS.

Appendix B : Common Reporting Standard

Section I: General Reporting Requirements

A. Subject to paragraphs C through F, each Reporting Financial Institution must report the following information with respect to each

Reportable Account of such Reporting Financial Institution:

1. the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder of the account and, in the case of any Entity that is an Account Holder and that, after application of the due diligence procedures consistent with Sections V, VI and VII, is identified as having one or more Controlling Persons that is a Reportable Person, the name, address, jurisdiction(s) of residence and TIN(s) of the Entity and the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth of each Reportable Person;
2. the account number (or functional equivalent in the absence of an account number);
3. the name and identifying number (if any) of the Reporting Financial Institution;
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 or period, the closure of the account;
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 Financial Assets 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 A(5) or (6), 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.

B. The information reported must identify the currency in which each amount is denominated.
C. Notwithstanding subparagraph A(1), with respect to each Reportable Account that is a Preexisting Account, the TIN(s) or date of birth is not required to be reported if such TIN(s) or date of birth is not in the records of the Reporting Financial Institution and is not otherwise required to be collected by such Reporting Financial Institution under domestic law. However, a Reporting Financial Institution is required to use reasonable efforts to obtain the TIN(s) and date of birth with respect to Preexisting Accounts by the end of the second calendar year following the year in which such Accounts were identified as Reportable Accounts.
D. Notwithstanding subparagraph A(1), the TIN is not required to be reported if *(i)* a TIN is not issued by the relevant Reportable Jurisdiction or *(ii)* the domestic law of the relevant Reportable Jurisdiction does not require the collection of the TIN issued by such Reportable Jurisdiction.
E. Notwithstanding subparagraph A(1), the place of birth is not required to be reported unless the Reporting Financial Institution is otherwise required to obtain and report it under domestic law and it is available in the electronically searchable data maintained by the Reporting Financial Institution.
F. Notwithstanding paragraph A, the information to be reported with respect to [xxxx] is the information described in such paragraph, except for gross proceeds described in subparagraph A(5)(b).

Section II: General Due Diligence Requirements

A. An account is treated as a Reportable Account beginning as of the date it is identified as such pursuant to the due diligence procedures in Sections II through VII and, unless otherwise provided, information with respect to a Reportable Account must be reported annually in the calendar year following the year to which the information relates.
B. The balance or value of an account is determined as of the last day of the calendar year or other appropriate reporting period.
C. Where a balance or value threshold is to be determined as of the last day of a calendar year, the relevant balance or value must be determined as of the last day of the reporting period that ends with or within that calendar year.
D. Each Jurisdiction may allow Reporting Financial Institutions to use service providers to fulfil the reporting and due diligence obligations imposed on such Reporting Financial Institutions, as contemplated in domestic law, but these obligations shall remain the responsibility of the Reporting Financial Institutions.
E. Each Jurisdiction may allow Reporting Financial Institutions to apply the due diligence procedures for New Accounts to Preexisting Accounts, and the due diligence procedures for High Value Accounts to Lower Value Accounts. Where a Jurisdiction allows New Account due diligence procedures to be used for Preexisting Accounts, the rules otherwise applicable to Preexisting Accounts continue to apply.

Section III: Due Diligence for Preexisting Individual Accounts

The following procedures apply for purposes of identifying Reportable Accounts among Preexisting Individual Accounts.

A. **Accounts Not Required to be Reviewed, Identified, or Reported.** A Preexisting Individual Account that is a Cash Value Insurance Contract or an Annuity Contract is not required to be reviewed, identified or reported, provided the Reporting Financial Institution is effectively prevented by law from selling such Contract to residents of a Reportable Jurisdiction.

B. **Lower Value Accounts.** The following procedures apply with respect to Lower Value Accounts.

1. **Residence Address.** If the Reporting Financial Institution has in its records a current residence address for the individual Account Holder based on Documentary Evidence, the Reporting Financial Institution may treat the individual Account Holder as being a resident for tax purposes of the jurisdiction in which the address is located for purposes of determining whether such individual Account Holder is a Reportable Person.

2. **Electronic Record Search.** If the Reporting Financial Institution does not rely on a current residence address for the individual Account Holder based on Documentary Evidence as set forth in subparagraph B(1), the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the following indicia and apply subparagraphs B(3) through (6):

a) identification of the Account Holder as a resident of a Reportable Jurisdiction;
b) current mailing or residence address (including a post office box) in a Reportable Jurisdiction;
c) one or more telephone numbers in a Reportable Jurisdiction and no telephone number in the jurisdiction of the Reporting Financial Institution;
d) standing instructions (other than with respect to a Depository Account) to transfer funds to an account maintained in a Reportable Jurisdiction;
e) currently effective power of attorney or signatory authority granted to a person with an address in a Reportable Jurisdiction; or
f) a "hold mail" instruction or "in-care-of" address in a Reportable Jurisdiction if the Reporting Financial Institution does not have any other address on file for the Account Holder.

3. If none of the indicia listed in subparagraph B(2) are discovered in the electronic search, then no further action is required until there is a change in circumstances that results in one or more indicia being associated with the account, or the account becomes a High Value Account.

4. If any of the indicia listed in subparagraph B(2)(a) through (e) are discovered in the electronic search, or if there is a change in circumstances that results in one or more indicia being associated with the account, then the Reporting Financial Institution must treat the Account Holder as a resident for tax purposes of each Reportable Jurisdiction for which an indicium is identified, unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.

5. If a "hold mail" instruction or "in-care-of" address is discovered in the electronic search and no other address and none of the other indicia listed in subparagraph B(2)(a) through (e) are identified for the Account Holder, the Reporting Financial Institution must, in the order most appropriate to the circumstances, apply the paper record search described in subparagraph C(2), or seek to obtain from the

Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of such Account Holder. If the paper search fails to establish an indicium and the attempt to obtain the self-certification or Documentary Evidence is not successful, the Reporting Financial Institution must report the account as an undocumented account.

6. Notwithstanding a finding of indicia under subparagraph B(2), a Reporting Financial Institution is not required to treat an Account Holder as a resident of a Reportable Jurisdiction if:

a) the Account Holder information contains a current mailing or residence address in the Reportable Jurisdiction, one or more telephone numbers in the Reportable Jurisdiction (and no telephone number in the jurisdiction of the Reporting Financial Institution) or standing instructions (with respect to Financial Accounts other than Depository Accounts) to transfer funds to an account maintained in a Reportable Jurisdiction, the Reporting Financial Institution obtains, or has previously reviewed and maintains a record of:

i) a self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction; and
ii) Documentary Evidence establishing the Account Holder's non-reportable status.

b) the Account Holder information contains a currently effective power of attorney or signatory authority granted to a person with an address in the Reportable Jurisdiction, the Reporting Financial Institution obtains, or has previously reviewed and maintains a record of:

i) a self-certification from the Account Holder of the jurisdiction(s) of residence of such Account Holder that does not include such Reportable Jurisdiction; or
ii) Documentary Evidence establishing the Account Holder's non-reportable status.

C. **Enhanced Review Procedures for High Value Accounts.** The following enhanced review procedures apply with respect to High Value Accounts.

1. **Electronic Record Search.** With respect to High Value Accounts, the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the indicia described in subparagraph B(2).
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 C(3), then a further paper record search is not required. If the electronic databases do not capture all of this information, then with respect to a High Value Account, 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(2):
   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 (other than with respect to a Depository Account) to transfer funds currently in effect.

3. **Exception To The Extent Databases Contain Sufficient Information.** A Reporting Financial Institution is not required to perform the paper record search described in subparagraph C(2) to the extent the Reporting Financial Institution's electronically searchable information includes the following:

   a) the Account Holder's residence status;
   b) the Account Holder's residence address and mailing address currently on file with the Reporting Financial Institution;
   c) the Account Holder's telephone number(s) currently on file, if any, with the Reporting Financial Institution;
   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);
   e) whether there is a current "in-care-of" address or "hold mail" instruction for the Account Holder; and
   f) 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 a Reportable Account any High Value Account assigned to a relationship manager (including any Financial Accounts aggregated with that

High Value Account) if the relationship manager has actual knowledge that the Account Holder is a Reportable Person.

5. **Effect of Finding Indicia.**

a) If none of the indicia listed in subparagraph B(2) are discovered in the enhanced review of High Value Accounts described above, and the account is not identified as held by a Reportable Person in subparagraph C(4), then further action is not required until there is a change in circumstances that results in one or more indicia being associated with the account.

b) If any of the indicia listed in subparagraph B(2)(a) through (e) 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 indiciabeing associated with the account, then the Reporting Financial Institution must treat the account as a Reportable Account with respect to each Reportable Jurisdiction for which an indicium is identified unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.

c) If a "hold mail" instruction or "in-care-of" address is discovered in the enhanced review of High Value Accounts described above, and no other address and none of the other indicia listed in subparagraph B(2)(a) through (e) are identified for the Account Holder, the Reporting Financial Institution must obtain from such Account Holder a self-certification or Documentary Evidence to establish the residence(s) for tax purposes of the Account Holder. If the Reporting Financial Institution cannot obtain such self-certification or Documentary Evidence, it must report the account as an undocumented account.

6. If a Preexisting Individual Account is not a High Value Account as of 31 December [xxxx], 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 C with respect to such account within the calendar year following the 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 Reportable Person.
7. Once a Reporting Financial Institution applies the enhanced review procedures described in paragraph C to a High Value Account, the Reporting Financial Institution is not required to re-apply such procedures, other than the relationship manager inquiry described in subparagraph C(4), to the same High Value Account in any subsequent year unless the account is undocumented where the Reporting Financial Institution should re-apply them annually until such account ceases to be undocumented.
8. 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(2) being associated with the account, then the Reporting Financial Institution must treat the account as a Reportable Account with respect to each Reportable Jurisdiction for which an indicium is identified unless it elects to apply subparagraph B(6) and one of the exceptions in such subparagraph applies with respect to that account.
9. 9. 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 a Reportable Jurisdiction, the Reporting Financial Institution is required to treat the new address as a change in circumstances and, if it elects to apply subparagraph B(6), is required to obtain the appropriate documentation from the Account Holder.

D. Review of Preexisting Individual Accounts must be completed by [xx/xx/xxxx].

E. Any Preexisting Individual Account that has been identified as a Reportable Account under this Section must be treated as a Reportable Account in all subsequent years, unless the Account Holder ceases to be a Reportable Person.

F. **Section IV: Due Diligence for New Individual Accounts**

The following procedures apply for purposes of identifying Reportable Accounts among New Individual Accounts.

A. With respect to New Individual Accounts, 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 the Account Holder's residence(s) 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.

B. If the self-certification establishes that the Account Holder is resident for tax purposes in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account and the self-certification must also include the Account Holder's TIN with respect to such Reportable Jurisdiction (subject to paragraph D of Section I) and date of birth.

C. 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 the residence(s) for tax purposes of the Account Holder.

Section V: Due Diligence for Preexisting Entity Accounts

The following procedures apply for purposes of identifying Reportable Accounts among 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, a Preexisting Entity Account with an aggregate account balance or value that does not exceed USD 250 000 as of 31 December [xxxx], is not required to be reviewed, identified, or reported as a Reportable Account until the aggregate account balance or value exceeds USD 250 000 as of the last day of any subsequent calendar year.

B. Entity Accounts Subject to Review. A Preexisting Entity Account that has an aggregate account balance or value that exceeds USD 250 000 as of 31 December [xxxx], and a Preexisting Entity Account that does not exceed USD 250 000 as of 31 December [xxxx] but the aggregate account balance or value of which exceeds USD 250 000 as of the last day of any subsequent calendar year, must be reviewed in accordance with the procedures set forth in paragraph D.

C. Entity Accounts With Respect to Which Reporting Is Required. With respect to Preexisting Entity Accounts described in paragraph B, only accounts that are held by one or more Entities that are Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable 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, a Reporting Financial Institution must apply the following review procedures to determine whether the account is held by one or more Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons:

1. **Determine Whether the Entity Is a Reportable 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 Account Holder is resident in a Reportable Jurisdiction. For this purpose, information indicating that the Account Holder is resident in a Reportable Jurisdiction includes a place of incorporation or organisation, or an address in a Reportable Jurisdiction.

b) If the information indicates that the Account Holder is resident in a Reportable Jurisdiction, 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 Reportable Person.

2. **Determine Whether the Entity is a Passive NFE with One or More Controlling Persons Who Are Reportable Persons.** With respect to an Account Holder of a Preexisting Entity Account (including an Entity that is a Reportable Person), the Reporting Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons who are Reportable Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. In making these determinations the Reporting Financial Institution must follow the guidance in subparagraphs D(2)(a) through (c) in the order most appropriate under the circumstances.

a) Determining whether the Account Holder is a Passive NFE. For purposes of determining whether the Account Holder is a Passive NFE, 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 Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.

b) Determining the Controlling Persons of an Account Holder. For the purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KyC Procedures.

c) Determining whether a Controlling Person of a Passive NFE is a Reportable Person. For the purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Financial Institution may rely on:

i) information collected and maintained pursuant to AML/KyC Procedures in the case of a

Preexisting Entity Account held by one or more NFEs with an aggregate account balance or value that does not exceed USD 1 000 000; or

ii) a self-certification from the Account Holder or such Controlling Person of the jurisdiction(s) in which the Controlling Person is resident for tax purposes.

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

1. Review of Preexisting Entity Accounts with an aggregate account balance or value that exceeds USD 250 000 as of 31 December [xxxx] must be completed by 31 December [xxxx].
2. Review of Preexisting Entity Accounts with an aggregate account balance or value that does not exceed USD 250 000 as of 31 December [xxxx], but exceeds USD 250 000 as of 31 December of a subsequent year, must be completed within the calendar year following the year in which the aggregate account balance or value exceeds USD 250 000.
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.

Section VI: Due Diligence for New Entity Accounts

The following procedures apply for purposes of identifying Reportable Accounts among New Entity Accounts.

A. **Review Procedures for Identifying Entity Accounts With Respect to Which Reporting Is Required.** For New Entity Accounts, a Reporting Financial Institution must apply the following review procedures to determine whether the account is held by one or more Reportable Persons, or by Passive NFEs with one or more Controlling Persons who are Reportable Persons:

1. **Determine Whether the Entity Is a Reportable Person.**

a) Obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting Financial Institution to determine the Account Holder's residence(s) 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. If the Entity certifies that it has no residence for tax purposes, the Reporting Financial Institution may rely on the address of the principal office of the Entity to determine the residence of the Account Holder.

b) If the self-certification indicates that the Account Holder is resident in a Reportable Jurisdiction, the Reporting Financial Institution must treat the account as a Reportable Account unless it reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Reportable Person with respect to such Reportable Jurisdiction.

2. **Determine Whether the Entity is a Passive NFE with One or More Controlling Persons Who Are Reportable Persons.** With respect to an Account Holder of a New Entity Account (including an Entity that is a Reportable Person), the Reporting Financial Institution must determine whether the Account Holder is a Passive NFE with one or more Controlling Persons who are Reportable Persons. If any of the Controlling Persons of a Passive NFE is a Reportable Person, then the account must be treated as a Reportable Account. In making these determinations the Reporting Financial Institution must follow the guidance in subparagraphs A(2)(a) through (c) in the order most appropriate under the circumstances.

a) **Determining whether the Account Holder is a Passive NFE.** For purposes of determining whether the Account Holder is a Passive NFE, the Reporting Financial Institution must rely on 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 Account Holder is an Active NFE or a Financial Institution other than an Investment Entity described in subparagraph A(6)(b) of Section VIII that is not a Participating Jurisdiction Financial Institution.

b) Determining the Controlling Persons of an Account Holder. For purposes of determining the Controlling Persons of an Account Holder, a Reporting Financial Institution may rely on information collected and maintained pursuant to AML/KyC Procedures.

c) Determining whether a Controlling Person of a Passive NFE is a Reportable Person. For purposes of determining whether a Controlling Person of a Passive NFE is a Reportable Person, a Reporting Financial Institution may rely on a self-certification from the Account Holder or such Controlling Person.

Section VII: Special Due Diligence Rules

The following additional rules 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. Alternative Procedures for Financial Accounts Held by Individual Beneficiaries of a Cash Value Insurance Contract or an Annuity Contract. A Reporting Financial Institution may presume that an individual beneficiary (other than the owner) of a Cash Value Insurance Contract or an Annuity Contract receiving a death benefit is not a Reportable 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 Reportable Person. A Reporting Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract or an Annuity Contract is a Reportable Person if the information collected by the Reporting Financial Institution and associated with the beneficiary contains indicia as described in paragraph B of Section III. If a Reporting Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Reportable Person, the Reporting Financial Institution must follow the procedures in paragraph B of Section III.

C. Account Balance Aggregation and Currency Rules.

1. **Aggregation of Individual Accounts.** For purposes of determining the aggregate balance or value of Financial Accounts held by an individual, a Reporting Financial Institution is required to aggregate all Financial Accounts maintained by the Reporting Financial Institution, or by a Related Entity, but only to the extent that the Reporting Financial Institution's computerised systems link the Financial Accounts by reference to a data element such as client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this subparagraph.

2. **Aggregation of Entity Accounts.** For purposes of determining the aggregate balance or value of Financial Accounts held by an Entity, a Reporting Financial Institution is required to take into account all Financial Accounts that are maintained by the Reporting Financial Institution, or by a Related Entity, but only to the extent that the Reporting Financial Institution's computerised systems link the Financial Accounts by reference to a data element such as client number or TIN, and allow account balances or values to be aggregated. Each holder of a jointly held Financial Account shall be attributed the entire balance or value of the jointly held Financial Account for purposes of applying the aggregation requirements described in this subparagraph.
3. **Special Aggregation Rule Applicable to Relationship Managers.** For purposes of determining the aggregate balance or value of Financial Accounts held by a person to determine whether a Financial Account is a High Value Account, a Reporting Financial Institution is also required, in the case of any Financial 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. **Amounts Read to Include Equivalent in Other Currencies.** All dollar amounts are in US dollars and shall be read to include equivalent amounts in other currencies, as determined by domestic law.

Section VIII: Defined Terms

The following terms have the meanings set forth below: A. **Reporting Financial Institution**

1. The term **"Reporting Financial Institution"** means any Participating Jurisdiction Financial Institution that is not a Non-Reporting Financial Institution.

2. The term **"Participating Jurisdiction Financial Institution"** means *(i)* any Financial Institution that is resident in a Participating Jurisdiction, but excludes any branch of that Financial Institution that is located outside such Participating Jurisdiction, and *(ii)* any branch of a Financial Institution that is not resident in a Participating Jurisdiction, if that branch is located in such Participating Jurisdiction.
3. The term **"Financial Institution"** means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.

4. 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% 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.
5. The term **"Depository Institution"** means any Entity that accepts deposits in the ordinary course of a

banking or similar business.

6. The term **"Investment Entity"** means any Entity:
   a) that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:

      i) 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;
      ii) individual and collective portfolio management; or
      iii) otherwise investing, administering, or managing Financial Assets or money on behalf of other persons; or

   b) the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in subparagraph A(6)(a). An Entity is treated as primarily conducting as a business one or more of the activities described in subparagraph A(6)(a), or an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of subparagraph A(6)(b), if the Entity's gross income attributable to the relevant activities equals or exceeds 50% of the Entity's gross income during the shorter of: *(i)* the three-year period ending on 31 December of the year preceding the year in which the determination is made; or *(ii)* the period during which the Entity has been in existence. The term "Investment Entity" does not include an Entity that is an Active NFE because it meets any of the criteria in subparagraphs D(9)(d) through (g). This paragraph 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.

7. The term **"Financial Asset"** includes a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), Insurance Contract or Annuity Contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, Insurance Contract, or Annuity Contract. The term "Financial Asset" does not include a non-debt, direct interest in real property.
8. 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.

B. **Non-Reporting Financial Institution**

1. The term **"Non-Reporting Financial Institution"** means any Financial Institution that is:

   a) a Governmental Entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution;

   b) a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Governmental Entity, International Organisation or Central Bank; or a Qualified Credit Card Issuer;
   c) any other Entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the Entities described in subparagraphs B(1)(a) and (b), and is defined in domestic law as a Non-Reporting Financial Institution, provided that the status of such Entity as a Non-Reporting Financial Institution does not frustrate the purposes of the Common Reporting Standard;
   d) an Exempt Collective Investment Vehicle; or
   e) a trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported pursuant to Section I with respect to all Reportable Accounts of the trust.

2. The term **"Governmental Entity"** means the government of a jurisdiction, any political subdivision of a jurisdiction (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of a jurisdiction or of any one or more of the foregoing (each, a "Governmental Entity"). This category is comprised of the integral parts, controlled entities, and political subdivisions of a jurisdiction.

   a) An "integral part" of a jurisdiction means any person, organisation, agency, bureau, fund,

instrumentality, or other body, however designated, that constitutes a governing authority of a jurisdiction. The net earnings of the governing authority must be credited to its own account or to other accounts of the jurisdiction, 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.

b) A controlled entity means an Entity that is separate in form from the jurisdiction or that otherwise constitutes a separate juridical entity, provided that:
   i) the Entity is wholly owned and controlled by one or more Governmental Entities directly or through one or more controlled entities;

   ii) the Entity's net earnings are credited to its own account or to the accounts of one or more Governmental Entities, with no portion of its income inuring to the benefit of any private person; and
   iii) the Entity's assets vest in one or more Governmental Entities upon dissolution.

c) Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental programme, and the programme 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.

3. The term **"International Organisation"** means any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation (including a supranational organisation) *(1)* that is comprised primarily of governments; *(2)* that has in effect a headquarters or substantially similar agreement with the jurisdiction; and *(3)* the income of which does not inure to the benefit of private persons.
4. The term **"Central Bank"** means an institution that is by law or government sanction the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the jurisdiction, whether or not owned in whole or in part by the jurisdiction.
5. The term **"Broad Participation Retirement Fund"** means a fund established 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:

   a) does not have a single beneficiary with a right to more than five per cent of the fund's assets;
   b) is subject to government regulation and provides information reporting to the tax authorities; and
   c) satisfies at least one of the following requirements:

      i) the fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;

      ii) the fund receives at least 50% of its total contributions (other than transfers of assets from other plans described in subparagraphs B(5) through (7) or from retirement and pension accounts described in subparagraph C(17)(a)) from the sponsoring employers;

      iii) 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 subparagraphs B(5) through (7) or retirement and pension accounts described in subparagraph C(17)(a)), or penalties apply to distributions or withdrawals made before such specified events; or
      iv) 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 USD 50 000 annually, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.

6. The term **"Narrow Participation Retirement Fund"** means a fund established 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:

   a) the fund has fewer than 50 participants;
   b) the fund is sponsored by one or more employers that are not Investment Entities or Passive NFEs;
   c) the employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described in subparagraph C(17)(a)) are limited by reference to earned income and compensation of the employee, respectively;

d) participants that are not residents of the jurisdiction in which the fund is established are not entitled to more than 20% of the fund's assets; and
e) the fund is subject to government regulation and provides information reporting to the tax authorities.

7. The term **"Pension Fund of a Governmental Entity, International Organisation or Central Bank"** means a fund established by a Governmental Entity, International Organisation or Central Bank to provide retirement, disability, or death benefits to beneficiaries or participants that are current or former employees (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 Governmental Entity, International Organisation or Central Bank.

8. The term **"Qualified Credit Card Issuer"** means a Financial Institution satisfying the following requirements:

a) 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
b) beginning on or before [xx/xx/xxxx], the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of USD 50 000, or to ensure that any customer overpayment in excess of USD 50 000 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.

9. The term **"Exempt Collective Investment Vehicle"** means an Investment Entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through individuals or Entities that are not Reportable Persons, except a Passive NFE with Controlling Persons who are Reportable Persons.

An Investment Entity that is regulated as a collective investment vehicle does not fail to qualify under subparagraph B(9) as an Exempt Collective Investment Vehicle, solely because the collective investment vehicle has issued physical shares in bearer form, provided that:

a) the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after [xx/xx/xxxx];
b) the collective investment vehicle retires all such shares upon surrender;
c) the collective investment vehicle performs the due diligence procedures set forth in Sections II through VII and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and
d) the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilised as soon as possible, and in any event prior to [xx/xx/xxxx].

C. **Financial Account**

1. The term **"Financial Account"** means an account maintained by a Financial Institution, and includes a Depository Account, a Custodial Account and:

a) in the case of an Investment Entity, any equity or debt interest in the Financial Institution. Notwithstanding the foregoing, the term "Financial Account" does not include any equity or debt interest in an Entity that is an Investment Entity solely because it *(i)* renders investment advice to, and acts on behalf of, or *(ii)* manages portfolios for, and acts on behalf of, a customer for the purpose of investing, managing, or administering Financial Assets deposited in the name of the customer with a Financial Institution other than such Entity;
b) in the case of a Financial Institution not described in subparagraph C(1)(a), any equity or debt interest in the Financial Institution, if the class of interests was established with a purpose of avoiding reporting in accordance with Section I; and
c) any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a noninvestment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an Excluded Account.

The term "Financial Account" does not include any account that is an Excluded Account.

2. 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 includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon.

3. The term **"Custodial Account"** means an account (other than an Insurance Contract or Annuity Contract) that holds one or more Financial Assets for the benefit of another person.
4. 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 Reportable Person will be treated as being a beneficiary of a trust if such Reportable 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.
5. 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.
6. 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.
7. 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.
8. 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:

   a) solely by reason of the death of an individual insured under a life insurance contract;
   b) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;
   c) as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an Insurance Contract (other than an investment-linked life insurance or annuity contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the contract, or arising from the correction of a posting or similar error with regard to the premium for the contract;
   d) as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an Insurance Contract under which the only benefits payable are described in subparagraph C(8)(b); or
   e) as a return of an advance premium or premium deposit for an Insurance Contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium that will be payable under the contract.

9. The term **"Preexisting Account"** means a Financial Account maintained by a Reporting Financial Institution as of [xx/xx/ xxxx].

10. The term **"New Account"** means a Financial Account maintained by a Reporting Financial Institution opened on or after [xx/xx/ xxxx].

11. The term **"Preexisting Individual Account"** means a Preexisting Account held by one or more individuals.

12. The term **"New Individual Account"** means a New Account held by one or more individuals.

13. The term **"Preexisting Entity Account"** means a Preexisting Account held by one or more Entities.
14. The term **"Lower Value Account"** means a Preexisting Individual Account with an aggregate balance or value as of 31 December [xxxx] that does not exceed USD 1 000 000.

15. The term **"High Value Account"** means a Preexisting Individual Account with an aggregate balance or value that exceeds USD 1 000 000 as of 31 December [xxxx] or 31 December of any subsequent year.
16. The term **"New Entity Account"** means a New Account held by one or more Entities.
17. The term **"Excluded Account"** means any of the following accounts:

a) a retirement or pension account that satisfies the following requirements:

i) the account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits (including disability or death benefits);
ii) the account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax 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);
iii) information reporting is required to the tax authorities with respect to the account;
iv) withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and
v) either *(i)* annual contributions are limited to USD 50 000 or less, or *(ii)* there is a maximum lifetime contribution limit to the account of USD 1 000 000 or less, in each case applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.
A Financial Account that otherwise satisfies the requirement of subparagraph C(17)(a)(v) will not fail to satisfy such requirement solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of subparagraph C(17)(a) or (b) or from one or more retirement or pension funds that meet the requirements of any of subparagraphs B(5) through (7).

b) an account that satisfies the following requirements:

i) the account is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market, or the account is subject to regulation as a savings vehicle for purposes other than for retirement;
ii) the account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax 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);
iii) withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (for example, the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met; and
iv) annual contributions are limited to USD 50 000 or less, applying the rules set forth in paragraph C of Section VII for account aggregation and currency translation.
A Financial Account that otherwise satisfies the requirement of subparagraph C(17)(b)(iv) will not fail to satisfy such requirement solely because such Financial Account may receive assets or funds transferred from one or more Financial Accounts that meet the requirements of subparagraph C(17)(a) or (b) or from one or more retirement or pension funds that meet the requirements of any of subparagraphs B(5) through (7).

c) a life insurance contract with a coverage period that will end before the insured individual attains age 90, provided that the contract satisfies the following requirements:

i) periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age 90, whichever is shorter;

ii) the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;
iii) the amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and

iv) the contract is not held by a transferee for value.

d) an account that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate.

e) an account established in connection with any of the following:

i) a court order or judgment.
ii) a sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:

i) the account is funded solely with a down payment, earnest money, 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;

ii) 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;

iii) 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;

iv) the account is not a margin or similar account established in connection with a sale or exchange of a Financial Asset; and

v) the account is not associated with an account described in subparagraph C(17)(f).

iii) 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.

iv) an obligation of a Financial Institution solely to facilitate the payment of taxes at a later time.

f) a Depository Account that satisfies the following requirements:

i) the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and

ii) beginning on or before [xx/xx/xxxx], the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of USD 50 000, or to ensure that any customer overpayment in excess of USD 50 000 is refunded to the customer within 60 days, in each case applying the rules set forth in paragraph C of Section VII for currency translation. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.

g) any other account that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the accounts described in subparagraphs C(17)(a) through (f), and is defined in domestic law as an Excluded Account, provided that the status of such account as an Excluded Account does not frustrate the purposes of the Common Reporting Standard.

D. **Reportable Account**

1. The term **"Reportable Account"** means an account held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person, provided it has been identified as such pursuant to the due diligence procedures described in Sections II through VII.
2. The term **"Reportable Person"** means a Reportable Jurisdiction Person other than: *(i)* a corporation the stock of which is regularly traded on one or more established securities markets; *(ii)* any corporation that is a Related Entity of a corporation described in clause (i); *(iii)* a Governmental Entity; *(iv)* an International Organisation; *(v)* a Central Bank; or *(vi)* a Financial Institution.
3. The term **"Reportable Jurisdiction Person"** means an individual or Entity that is resident in a Reportable Jurisdiction under the tax laws of such jurisdiction, or an estate of a decedent that was a resident of a Reportable Jurisdiction. For this purpose, an Entity such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated.
4. The term **"Reportable Jurisdiction"** means a jurisdiction *(i)* with which an agreement is in place pursuant to which there is an obligation in place to provide the information specified in Section I, and *(ii)* which is identified in a published list.
5. The term **"Participating Jurisdiction"** means a jurisdiction *(i)* with which an agreement is in place pursuant to which it will provide the information specified in Section I, and *(ii)* which is identified in a published list.
6. 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(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) 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" must be interpreted in a manner consistent with the Financial Action Task Force Recommendations.
7. The term **"NFE"** means any Entity that is not a Financial Institution.
8. The term **"Passive NFE"** means any: *(i)* NFE that is not an Active NFE; or *(ii)* an Investment Entity described in subparagraph A(6)(b) that is not a Participating Jurisdiction Financial Institution.
9. The term **"Active NFE"** means any NFE that meets any of the following criteria:
   a) less than 50% of the NFE's gross income for the preceding calendar year or other appropriate

reporting period is passive income and less than 50% of the assets held by the NFE 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 NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
c) the NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
d) substantially all of the activities of the NFE 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 Entity does not qualify for this status if the Entity 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 NFE 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 NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE;
f) the NFE 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;

g) the NFE 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; or
h) the NFE meets all of the following requirements:
i) it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
ii) it is exempt from income tax in its jurisdiction of residence;
iii) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
iv) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and
v) the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision thereof.

E. **Miscellaneous**

1. 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 advisor, or intermediary, is not treated as holding the account for purposes of the Common Reporting Standard, 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.
2. The term **"AML/KYC Procedures"** means the customer due diligence procedures of a Reporting Financial Institution pursuant to the anti-money laundering or similar requirements to which such Reporting Financial Institution is subject.
3. The term **"Entity"** means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation.
4. 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% of the vote and value in an Entity.

5. The term **"TIN"** means Taxpayer Identification Number (or functional equivalent in the absence of a Taxpayer Identification Number).
6. The term **"Documentary Evidence"** includes any of the following:
   a) a certificate of residence issued by an authorised government body (for example, a government or agency thereof, or a municipality) of the jurisdiction in which the payee claims to be a resident.
   b) 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.
   c) 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 jurisdiction in which it claims to be a resident or the jurisdiction in which the Entity was incorporated or organised.
   d) any audited financial statement, third-party credit report, bankruptcy filing, or securities regulator's report.

Section IX: Effective Implementation

A. A jurisdiction must have rules and administrative procedures in place to ensure effective implementation of, and compliance with, the reporting and due diligence procedures set out above including:

1. rules to prevent any Financial Institutions, persons or intermediaries from adopting practices intended to circumvent the reporting and due diligence procedures;
2. rules requiring Reporting Financial Institutions to keep records of the steps undertaken and any evidence relied upon for the performance of the above procedures and adequate measures to obtain those records;
3. administrative procedures to verify Reporting Financial Institutions' compliance with the reporting and due diligence procedures; administrative procedures to follow up with a Reporting Financial Institution when undocumented accounts are reported;
4. administrative procedures to ensure that the Entities and accounts defined in domestic law as Non-Reporting Financial Institutions and Excluded Accounts continue to have a low risk of being used to evade tax; and
5. effective enforcement provisions to address non-compliance.

Appendix C : Rules 114F to 114H of Income-tax Rules, 1962 and Form 61B

114F Definitions.- For the purpose of this rule and rules 114G and 114H,-

(1) "financial account" means an account (other than an excluded account) maintained by a financial institution, and includes-

(i) a depository account;

(ii) a custodial account;

(iii) in the case of an investment entity, any equity or debt interest in the financial institution.

Explanation.- For the purposes of this sub-clause "financial account" shall not include any equity interest or debt interest in an entity that is an investment entity solely because it,-

(a) renders investment advice to, and acts on behalf of; or

(b) manages portfolios for, and acts on behalf of,

a customer for the purpose of investing, managing, or administering financial assets deposited in the name of the customer with a financial institution that is not a non-participating financial institution other than such entity;

(iv) in the case of a financial institution not described in sub-clause (iii), any equity or debt interest in the financial institution, if the class of interests was established with a purpose of avoiding reporting in accordance with rule 114G and, in case of a U.S. reportable account, if the value of the debt or equity interest is determined, directly or indirectly, primarily by reference to assets that give rise to U.S. source withholdable payments; and

(v) any cash value insurance contract and any annuity contract issued or maintained by a financial institution, other than a non-investment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is an excluded account.

Explanation.- For the purposes of this clause,-

(a) "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 and also an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon;

(b) "custodial account" means an account (other than an insurance contract or annuity contract) for the benefit of another person that holds one or more financial assets;

(c) "equity interest" in a financial institution, being-

(i) a partnership firm, means either a capital or profits interest in the partnership firm;

(ii) a trust, means any interest 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;

Explanation.- A person will be treated as a beneficiary of a trust if he has the right to receive directly or indirectly a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust.

(d) "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;

(e) "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;

(f) "cash value insurance contract" means an insurance contract (other than an indemnity reinsurance contract between two insurance companies) that has a cash value and in case of a U.S. reportable account such value is greater than an amount equivalent to fifty thousand U.S. dollars.

Explanation.- For the purposes of this clause, a single premium life insurance contract which does not permit an amount to be paid on surrender or termination of the contract and which does not allow amounts to be borrowed under or with regard to the contract, shall not constitute a cash value insurance contract;

(g) "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,

but does not include an amount payable under an insurance contract,-

(A) solely by reason of the death of an individual insured under a life insurance contract including a refund of a previously paid premium provided such refund is a limited risk refund; or

(B) as a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against; or

(C) as a refund of a previously paid premium (less cost of insurance charges whether or not actually imposed) under an insurance contract (other than a life insurance contract or an annuity contract) due to cancellation or termination of the contract, decrease in risk exposure during the effective period of the

contract, or arising from the correction of a posting or similar error with regard to the premium for the contract; or

(D) as a policyholder dividend (other than a termination dividend) provided that the dividend relates to an insurance contract under which the only benefits payable are described in sub-clause (ii); or

(E) as a return of an advance premium or premium deposit for an insurance contract for which the premium is payable at least annually if the amount of the advance premium or premium deposit does not exceed the next annual premium which will be payable under the contract:

Provided that the provisions contained in sub-clause (A) and sub-clause (E) shall not apply in case of a U.S. reportable account;

(h) "excluded account" means,-

(i) a retirement account or pension account that satisfies the following requirements, namely:-

(A) the account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits (including disability or death benefits);

(B) the account is tax-favoured where contributions to the account that would otherwise be subject to tax are deductible or excluded from the gross total 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) information reporting is required to the income-tax authorities with respect to the account;

(D) withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and

(E) either annual contributions are limited to an amount equivalent to fifty thousand U.S. dollars or less, or there is maximum lifetime contribution limit to the account of an amount equivalent to one million U.S. dollars or less, in each case applying the rules specified in clause (c) of sub-rule (7) of rule 114H for account aggregation and currency translation.

Explanation.- A financial account that otherwise satisfies the requirements of item (E) will not fail to satisfy such requirements solely because such financial account may receive assets or funds transferred from one or more financial accounts that meet the requirements of item (A) or (B) or from one or more retirement or pension funds that meets with the requirements of clauses (e), (f) or (g) of *Explanation* to clause (1);

(ii) an account that satisfies the following requirements, namely:-

(A) the account is subject to regulation as a savings vehicle for purposes other than for retirement, or the account (other than U.S. reportable account) is subject to regulation as an investment vehicle for purposes other than for retirement and is regularly traded on an established securities market;

(B) the account is tax-favoured where contributions to the account that will otherwise be subject to tax are deductible or excluded from the total 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) withdrawals are conditioned on meeting specific criteria related to the purpose of the investment or savings account (for example, the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met; and

(D) annual contributions are limited to an amount equivalent to fifty thousand U.S. dollars or less, applying the rules specified in clause (c) of sub-rule (7) of rule 114H for account aggregation and currency translation.

Explanation.- A financial account that otherwise satisfies the requirements of item (D) will not fail to satisfy such requirements solely because such financial account may receive assets or funds transferred from one or more financial accounts that meet the requirements of item (A) or (B) or from one or more retirement or pension funds that meets the requirements of clauses (e), (f) or (g) of *Explanation* to clause (1) of this rule;

(iii) an account established under the Senior Citizens Savings Scheme Rules, 2004 made under the Government Savings Banks Act, 1873 (5 of 1873).

(iv) a life insurance contract with a coverage period that will end before the insured individual attains age of ninety years, provided that the contract satisfies the following requirements, namely:-

(A) periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age of ninety years, whichever is shorter;

(B) the contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;

(C) the amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and

(D) the contract is not held by a transferee for value;

(v) an account that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate;

(vi) an account established in connection with any of the following:

(A) a court order or judgment;
(B) a sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements, namely:-
(a) the account is funded solely with a down payment, earnest money, 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 depository account referred to in sub-clause (vii);
(C) 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;
(D) an obligation of a financial institution solely to facilitate the payment of taxes at a later time;
(vii) in the case of an account other than a U.S. reportable account, a depository account that satisfies the following requirements, namely:-
(A) the account exists solely because a customer makes a payment in excess of a balance due with respect to a credit card or other revolving credit facility and the overpayment is not immediately returned to the customer; and
(B) beginning on or before the 31st December, 2015, the financial institution implements its policies and procedures either to prevent a customer from making an overpayment in excess of an amount equivalent to fifty thousand U.S. dollars, or to ensure that any customer overpayment in excess of an amount equivalent to fifty thousand U.S. dollars is refunded to the customer within sixty days, in each case applying the rules specified in clause (c) of sub-rule (7) of rule 114H for account aggregation and currency translation and for this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but includes credit balances resulting from merchandise returns;

(2) "financial asset" includes a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; note, bond, debenture, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), insurance contract or annuity contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, insurance contract, or annuity contract:

Provided that "financial asset" shall not include a non-debt and direct interest in an immovable property;

(3) "financial institution" means a custodial institution, a depository institution, an investment entity, or a specified insurance company.

Explanation.- For the purposes of this clause,-

(a) "custodial institution" means any entity that holds, as a substantial portion of its business, financial assets for the account of others and where its income attributable to the holding of financial assets and related financial services equals or exceeds twenty per cent. of its gross income during the three financial years preceding the year in which determination is made or the period during which the entity has been in existence, whichever is less;
(b) "depository institution" means any entity that accepts deposits in the ordinary course of a banking or similar business;
(c) "investment entity" means any entity,-
(A) that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer, namely:-
(i) 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; or
(ii) individual and collective portfolio management; or
(iii) otherwise investing, administering, or managing financial assets or money on behalf of other persons; or
(B) the gross income of which is primarily attributable to investing, reinvesting, or trading in financial assets, if the entity is managed by another entity that is a depository institution, a custodial institution, a specified insurance company, or an investment entity mentioned in sub-clause (A) of this clause.

Explanation 1.- An entity is treated as primarily conducting as a business one or more of the activities described in sub-clause (A) of this clause, or an entity's gross income is primarily attributable to investing, reinvesting, or trading in financial assets for purposes of sub-clause (B) of this clause, if the entity's gross income attributable to the relevant activities equals or exceeds fifty per cent. of the gross income of the entity during the shorter of the three-year period ending on 31st March of the year preceding the year in which the determination is made or the period during which the entity has been in existence.

Explanation 2.- The term "investment entity" shall not include an entity that is an active non-financial entity merely because it meets any of the criteria provided in sub-clauses (iv), (v), (vi) or (vii) of clause (A) of *Explanation* to clause (6) of this rule;

(d) "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;

(4) "non-participating financial institution" means a financial institution defined in clause (r) of Article 1 of the agreement between the Government of the Republic of India and the Government of the United States of America to improve international tax compliance and to implement Foreign Account Tax Compliance Act of the United States of America (herein after referred to as the FATCA agreement), but does not include,-

(c) an Indian financial institution; or

(d) other jurisdiction, being a jurisdiction that has in effect an agreement with the United States of America to facilitate the implementation of Foreign Account Tax Compliance Act (herein after referred to as other partner jurisdiction), financial institution,

other than a financial institution treated as a non-participating financial institution pursuant to sub-paragraph (b) of paragraph 2 of Article 5 of the FATCA agreement or the corresponding provision in an agreement between the United States of America and other partner jurisdiction;

(5) "non-reporting financial institution" means any financial institution that is,-

(a) a Governmental entity, International Organisation or Central Bank, other than with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a specified insurance company, custodial institution, or depository institution;

(b) a Treaty Qualified Retirement Fund; a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; or a Pension Fund of a Governmental entity, International Organization or Central Bank;

(c) a non-public fund of the armed forces, Employees' State Insurance Fund, a gratuity fund or a provident fund;

(d) an entity that is an Indian financial institution only because it is an investment entity, provided that each direct holder of an equity interest in the entity is a financial institution referred to in sub-clauses (a) to (c), 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 a financial institution referred to in sub-clauses (a) to (c);

(e) a qualified credit card issuer;

(f) an investment entity established in India that is a financial institution only because it,-

(I) renders investment advice to, and acts on behalf of; or

(II) manages portfolios for, and acts on behalf of; or

(III) executes trades on behalf of,

a customer for the purposes of investing, managing, or administering funds or securities deposited in the name of the customer with a financial institution other than a non-participating financial institution;

(g) an exempt collective investment vehicle;

(h) a trust established under any law for the time being in force to the extent that the trustee of the trust is a reporting financial institution and reports all information required to be reported under rule 114G with respect to all reportable accounts of the trust;

(i) a financial institution with a local client base;

(j) a local bank;

(k) a financial institution with only low-value accounts;

(l) sponsored investment entity and controlled foreign corporation, in case of any U.S. reportable account; or

(m) sponsored closely held investment vehicle, in case of any U.S. reportable account.

Explanation.- For the purpose of this clause,-

(A) "Governmental entity" means the Government of a country or territory, any political subdivision of a country or territory (including a state, province, county, or municipality), or any wholly owned agency or instrumentality or controlled entity of a country or territory or of any one or more of the foregoing (where each is also a "Governmental entity") and includes the integral parts, controlled entities, and political subdivisions of such country or territory.

Explanation.- For the purpose of clause (A),-

(i) an "integral part" of a country or territory means any person, organisation, agency, bureau, fund, instrumentality, or other body, by whatever name called, that constitutes a governing authority of a country or territory and the net earnings of the governing authority must be credited to its own account or to other accounts of the country or territory, with no portion inuring to the benefit of any private person:

Provided that an integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity:

Provided further that the income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a Governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of a Department of Government:

Provided also that income is considered to inure to the benefit of private persons if the income is derived from the Governmental entity engaged in a commercial business, such as a commercial banking business, which provides financial services to private persons;

(ii) a controlled entity means an entity that is separate in form from the country or territory or that otherwise constitutes a separate juridical entity:

Provided that-

(a) the entity is wholly owned and controlled by one or more 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 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 Governmental entities upon dissolution:

Provided further that the income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a Governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of a Department of Government:

Provided also that income is considered to inure to the benefit of private persons if the income is derived from Governmental entity engaged in a commercial business, such as a commercial banking business, which provides financial services to private persons;

(B) "International Organisation" means any international organization or wholly owned agency or instrumentality thereof including any inter-Governmental organisation,-

(a) that is comprised primarily of Governments;

(b) that has in effect a headquarters or substantially similar agreement with India; and

(c) the income of which does not inure to the benefit of private persons;

(C) "Central Bank" means a bank that is by law or Government sanction the principal authority, other than the Government of the country or territory itself, issuing instruments intended to circulate as currency including an instrumentality that is separate from the Government of the country or territory, whether or not owned in whole or in part by that country or territory;

(D) "Treaty Qualified Retirement Fund" means a fund established in India, provided that the fund is entitled to benefits under an agreement between India and the Government of any country or territory outside India on income that it derives from sources within such country or territory outside India (or would be entitled to such benefits if it derived any such income) as a resident of India that satisfies any applicable limitation on benefits requirement, and is operated principally to administer or provide pension or retirement benefits;

(E) "Broad Participation Retirement Fund" means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries who are current or former employees (or persons nominated by such employees) of one or more employers in consideration for services rendered:

Provided that the fund,-

(i) does not have any beneficiary with a right to more than five per cent. of the fund's assets;

(ii) is subject to Government regulation and provides information reporting to the income-tax authorities; and

(iii) satisfies at least one of the following requirements, namely:-

(a) the fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;

(b) the fund receives at least fifty per cent of its total contributions [other than transfer of assets from other plans referred to in clauses (D) to (G) or from retirement and pension accounts referred to in sub-clause (i) of clause (h) of *Explanation* to clause (1)] from the sponsoring employers;

(c) distributions or withdrawals from the fund are allowed only in the event of retirement, disability or death [except rollover distributions to other retirement funds referred to in clauses (E) to (G), or retirement and pension accounts referred to in sub-clause (i) of clause (h) of *Explanation* to clause (1)], or penalties which apply to distributions or withdrawals made before such events; or

(d) contributions (other than permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed an amount equivalent to fifty thousand U.S. dollars annually, applying the procedures set forth in clause (c) of sub-rule (7) of rule 114H for account aggregation and currency translation;

(F) "Narrow Participation Retirement Fund" means a fund established to provide retirement, disability, or death benefits to beneficiaries who are current or former employees (or persons nominated by such employees) of one or more employers in consideration for services rendered:

Provided that,-

(i) the fund has less than fifty participants;

(ii) the fund is sponsored by one or more employers who are not investment entities or passive non-financial entities;

(iii) the employee and employer contributions to the fund [other than transfer of assets from retirement and pension accounts referred to in sub-clause (i) of clause (h) of *Explanation* to clause (1)] are limited by reference to earned income and compensation of the employee, respectively;

(iv) participants who are not residents in India are not entitled to more than twenty per cent of the fund's assets; and

(v) the fund is subject to Government regulation and provides information reporting to the income-tax authorities;

(G) "Pension Fund of a Governmental entity, International Organisation or Central Bank" means a fund established by a Governmental entity, International Organisation or Central Bank to provide retirement, disability or death benefits to beneficiaries or participants who are current or former employees (or persons nominated by such employees), or who are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services rendered to the Governmental entity, International Organisation or Central Bank;

(H) "non-public fund of the armed forces" means a fund established in India as a regimental fund or non-public fund by the armed forces of the Union of India for the welfare of the current and former members of the armed forces and whose income is exempt from tax under clause (23AA) of section 10 of the Act;

(I) "Employees' State Insurance Fund" means the fund established as Employees' State Insurance Fund under the provisions of the Employees' State Insurance Act, 1948 (34 of 1948), to provide medical expenses of low-income factory workers in India;

(J) "gratuity fund" means a fund established under the Payment of Gratuity Act, 1972 (39 of 1972), to provide for the payment of a gratuity to certain types of employees of an Indian employer specified in the Payment of Gratuity Act, 1972;

(K) "provident fund" means a fund established under the Provident Funds Act, 1925 (19 of 1925) or the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) to provide current and former employees of Indian employers retirement benefits in consideration for services rendered:

Provided that fund,-

5. does not have any beneficiary with a right to more than five per cent. of the fund's assets;
6. is subject to Government regulation and provides annual information reporting about its beneficiaries to the income- tax authorities;
7. is generally exempt from tax on investment income due to its status as a provident fund; and
8. contributions (other than permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed an amount equivalent to fifty thousand U.S. dollars annually, applying the procedures set forth in clause (c) of sub-rule (7) of rule 114H for account aggregation and currency translation;

(L) "qualified credit card issuer" means a financial institution satisfying the following requirements, namely:-

(i) it is a financial institution only because it is an issuer of credit cards and 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

(ii) beginning on or before the 1st July, 2014, the financial institution implements policies and procedures either to prevent a customer from making an overpayment in excess of an amount equivalent to fifty thousand U.S. dollars or to ensure that any customer overpayment in excess of an amount equivalent to fifty thousand U.S. dollars is refunded to the customer within sixty days, in each case applying the rules set forth in clause (c) of sub-rule (7) of rule 114H for account aggregation and currency translation.

Explanation.- For the purpose of this sub-clause, a customer overpayment does not refer to credit balances to the extent of disputed charges but includes credit balances resulting from merchandise returns;

(M) "exempt collective investment vehicle" means an investment entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through persons other than,-

(i) those referred to in sub-clauses (a) to (c) of clause (6); and

(ii) a non-participating financial institution.

Explanation.- An investment entity which is regulated as a collective investment vehicle does not fail to qualify under this clause as an exempt collective investment vehicle, only because it has issued physical shares in bearer form:

Provided that-

(i) the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after the 31st December, 2012;

(ii) the collective investment vehicle retires all such shares upon surrender;

(iii) the collective investment vehicle performs the due diligence procedures set forth in rule 114H and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and

(iv) the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilised as soon as possible, and in any event prior to the 1st January, 2017;

(N) "financial institution with a local client base" means a financial institution satisfying the following requirements, namely:-

(i) it has been granted a license and is regulated as a financial institution under any law for the time being in force;

(ii) the financial institution does not have a fixed place of business outside India.
Explanation.- For the purposes of this sub-clause, a fixed place of business does not include a location that is not advertised to the public and from which the financial institution performs only administrative support functions; and

(iii) the financial institution does not solicit customers or account holders outside India.
Explanation.- For the purpose of this sub-clause, a financial institution shall not be considered to have solicited customers or account holders outside India merely because the financial institution,-
(a) operates a website, provided that the website does not specifically indicate that the financial institution provides financial accounts or services to non-residents, and does not otherwise target or solicit customers or account holders who are resident of any country or territory outside India for tax purposes; or
(b) advertises in print media or on a radio or television station which is distributed or aired primarily within India but is also incidentally distributed or aired in other countries, provided that the advertisement does not specifically indicate that the financial institution provides financial accounts or services to non-residents, and does not otherwise target or solicit customers or account holders who are resident of any country or territory outside India for tax purposes;

(iv) the financial institution is required under any law for the time being in force to identify resident account holders for purposes of either information reporting or withholding of tax with respect to financial accounts held by residents or for purposes of satisfying the due diligence requirements under the Prevention of Money-laundering Act, 2002 (15 of 2003);

(v) at least ninety eight per cent. of the financial accounts by value maintained by the financial institution are held by residents;

(vi) beginning on or before the 30th June, 2014, the policies and procedures of the financial institution are consistent with those set forth in rule 114H, to prevent the financial institution from providing a financial account to any non-participating financial institution and to monitor whether the financial institution opens or maintains a financial account for any reportable person who is not a resident of India (including a non-resident who was a resident of India when the financial account was opened but subsequently ceases to be a resident of India) or any passive non-financial entity with controlling persons who are reportable persons;

(vii) such policies and procedures explicitly provide that if any financial account held by a reportable person who is not a resident of India or by a passive non-financial entity with controlling persons who are reportable persons who are not resident of India is identified, the financial institution shall report such financial account as would be required if the financial institution was a reporting financial institution or close such financial account;

(viii) with respect to a pre-existing account held by an individual who is not a resident of India or by an entity, the financial institution shall review those pre-existing accounts in accordance with the procedures set forth in rule 114H applicable to pre-existing accounts to identify any reportable account or financial account held by a non-participating financial institution, and shall report such financial account as would be required if the financial institution were a reporting financial institution or close such financial account;

(ix) each related entity of the financial institution that is a financial institution must be incorporated or organised in India and, with the exception of any related entity that is a retirement fund referred to in clauses (D) to (G) of this *Explanation*, satisfies the requirements set forth in this clause; and

(x) the financial institution must not have policies or practices which discriminate against opening or maintaining financial accounts for individuals who are specified U.S. persons and residents of India;

(O) "local bank" means a financial institution satisfying the following requirements, namely:-

(i) the financial institution operates only as (and is licensed and regulated under any law for the time being in force) a bank, or a credit union or similar cooperative credit organisation which is operated without profit;

(ii) the business of the financial institution consists primarily of receiving deposits from and making loans to, with respect to a bank, unrelated retail customers and, with respect to a credit union or similar cooperative credit organisation, members, provided that no member has a greater than five per cent. interest in such credit union or cooperative credit organisation;

(iii) the financial institution satisfies the requirements set forth in sub-clauses (ii) and (iii) of clause (N), provided that, in addition to the limitations on the website referred to in sub-clause (iii) of clause (N), the website does not permit the opening of a financial account;

(iv) the financial institution does not have more than an amount equivalent to one hundred seventy-five million U.S. dollars in assets on its balance sheet, and the financial institution and any related entity,

taken together, does not have more than an amount equivalent to five hundred million U.S. dollars in total assets on its consolidated or combined balance sheets; and

(v) any related entity must be incorporated or organised in India, and any related entity that is a financial institution, with the exception of any related entity that is a retirement fund referred to in clauses (D) to (G) or a financial institution with only low-value accounts referred to in clause (P), must satisfy the requirements set forth in this clause.

Explanation.- Regional Rural Banks constituted under the Regional Rural Bank Act 1976 (21 of 1976), Urban Cooperative Banks constituted under respective State Cooperative Societies Acts or Multi State Cooperative Societies Act, State Cooperative Banks or District Central Cooperative Banks constituted under respective State Cooperative Societies Act and Local Area Banks licensed under the Banking Regulations Act, 1949 (10 of 1949) and regulated and registered as public limited companies under the Companies Act, 1956 (1 of 1956) or Companies Act, 2013 (18 of 2013), that satisfy the requirement under sub-clause (iv) shall be treated as local bank for the purpose of this clause;

(P) "financial institution with only low-value accounts" means a financial institution satisfying the following requirements, namely:-

(i) the financial institution is not an investment entity;

(ii) no financial account maintained by the financial institution or any related entity has a balance or value in excess of an amount equivalent to fifty thousand U.S. dollars, applying the procedures prescribed in clause (c) of sub-rule (7) of rule 114H for account aggregation and currency translation; and

(iii) the financial institution does not have more than fifty million U.S. dollars in assets on its balance sheet, and the financial institution and any related entities, taken together, do not have more than fifty million U.S. dollars in total assets on their consolidated or combined balance sheets.

(Q) "sponsored investment entity and controlled foreign corporation" means a financial institution described in the following sub-clauses, namely:-

(i) a financial institution is a sponsored investment entity if-

(a) it is an investment entity established in India that is not a qualified intermediary (being an intermediary that is a party to a withholding agreement with the United States of America), withholding foreign partnership, or withholding foreign trust; and

(b) an entity has agreed with the financial institution to act as a sponsoring entity for the financial institution;

(ii) a financial institution is a sponsored controlled foreign corporation if-

(a) the financial institution is a controlled foreign corporation established under any law for the time being in force in India that is not a qualified intermediary (being an intermediary which is a party to a withholding agreement with the United States of America), withholding foreign partnership, or withholding foreign trust;

(b) the financial institution is wholly owned, directly or indirectly, by a reporting U.S. financial institution referred to in Article 1 of the FATCA agreement that agrees to act, or requires an affiliate of the financial institution to act, as a sponsoring entity for the financial institution; and

(c) the financial institution shares a common electronic account system with the sponsoring entity that enables the sponsoring entity to identify all account holders and payees of the financial institution and to access all account and customer information maintained by the financial institution including, but not limited to, customer identification information, customer documentation, account balance, and all payments made to the account holder or payee,

and that complies with the following requirements namely:-

(I) the sponsoring entity is authorised to act on behalf of the financial institution (such as a fund manager, trustee, corporate director, or managing partner) to fulfil applicable registration requirements of the United States of America;

(II) the sponsoring entity has registered as a sponsoring entity with the United States of America;

(III) if the sponsoring entity identifies any U.S. reportable account with respect to the financial institution, the sponsoring entity registers the financial institution pursuant to applicable registration requirements of the United States of America on or before the 31st December, 2015 or the date that is ninety days after such U.S. reportable account is first identified, whichever is later;

(IV) the sponsoring entity agrees to perform, on behalf of the financial institution, all due diligence, withholding, reporting, and other requirements that the financial institution would have been required to perform if it were a reporting financial institution;

(V) the sponsoring entity identifies the financial institution and includes the identifying number of the financial institution (obtained by following applicable registration requirements of the United States of America) in all its reporting completed on the financial institution's behalf; and

(VI) the sponsoring entity has not had its status as a sponsor revoked;

(R) "sponsored, closely held investment vehicle" means a financial institution satisfying the following requirements, namely:-

(i) it is a financial institution only because it is an investment entity and is not a qualified intermediary (being an intermediary that is a party to a withholding agreement with the United States of America), withholding foreign partnership, or withholding foreign trust;

(ii) the sponsoring entity is a reporting U.S. financial institution referred to in Article 1 of the FATCA agreement, reporting financial institution, or participating foreign financial institution defined in Annex II of the FATCA agreement, 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, withholding, reporting, and other requirements which the financial institution would have been required to perform if it were a reporting financial institution;

(iii) the financial institution does not act as an investment vehicle for unrelated parties;

(iv) twenty or less than twenty individuals own all the debt interests and equity interests in the financial institution (other than debt interests owned by participating foreign financial institution defined in Annex II of the FATCA agreement and non-reporting financial institutions and equity interests owned by an entity if that entity owns hundred per cent. of the equity interests in the financial institution and is itself a sponsored financial institution described in this clause); and

(v) the sponsoring entity complies with the following requirements, namely:-

(a) it has been registered as a sponsoring entity in terms of the Foreign Account Tax Compliance Act of the United States of America;

(b) the sponsoring entity agrees to perform, on behalf of the financial institution, all due diligence, withholding, reporting, and other requirements that the financial institution would have been required to perform if it were a reporting 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 all its reporting completed on the financial institution's behalf; and

(d) the sponsoring entity has not had its status as a sponsor revoked;

(6) "reportable account" means a financial account which has been identified, pursuant to the due diligence procedures provided in rule 114H, as held by,-

(a) a reportable person; or

(b) an entity, not based in United Sates of America, with one or more controlling persons that is a specified U.S. person; or

(c) a passive non-financial entity with one or more controlling persons that is a person described in sub-clause (b) of clause (8) of this rule.

Explanation.- For the purpose of this clause,-

(A) "active non-financial entity" means any non-financial entity which fulfils any of the following criteria, namely:-

(i) less than fifty per cent of the entity's gross income for the preceding financial year is passive income and less than fifty per cent of the assets held by the entity during the preceding financial year are assets that produce or are held for the production of passive income; or

(ii) the stock of the entity is regularly traded on an established securities market or the non-financial entity is a related entity of an entity, the stock of which is regularly traded on an established securities market.
Explanation.- For the purpose of this sub-clause, an established securities market means an exchange that is recognised and supervised by a Governmental authority in which the securities market is located and that has a meaningful annual value of shares traded on the exchange;

(iii) the entity is a Governmental entity, an International Organization, a Central Bank, or an entity wholly owned by one or more of these entities; or

(iv) substantially all of the activities of the entity 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:
Provided that an entity shall not qualify for this status if it functions 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; or

(v) the entity 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 entity shall not qualify for this exception after the date that is twenty four months after the date of the initial organisation of the entity; or

(vi) the entity was not a financial institution in the past five years, and is in the process of liquidating its assets or is reorganising with intent to continue or recommence operations in a business other than that of a financial institution; or

(vii) the entity primarily engages in financing and hedging transactions with, or for, related entities which are not financial institutions, and does not provide financing or hedging services to any entity which 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; or

(viii) the entity fulfils all of the following requirements, namely:-

(a) it is established and operated in India exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in India and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural

or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;

(b) it is exempt from income-tax in India;

(c) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;

(d) the applicable laws of the entity's country or territory of residence or the entity's formation documents do not permit any income or assets of the entity to be distributed to, or applied for the benefit of, a private person or non-charitable entity other than pursuant to the conduct of the entity's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the entity has purchased; and

(e) the applicable laws of the entity's country or territory of residence or the entity's formation documents require that, upon the entity's liquidation or dissolution, all of its assets must be distributed to a Governmental entity or other non-profit organization, or escheat to the Government of the entity's country or territory of residence or any political sub-division thereof.

Explanation.- For the purpose of this sub-clause, the following shall be treated as fulfilling the criteria provided in the said sub-clause, namely:-

(I) an Investor Protection Fund referred to in clause (23EA);

(II) a Credit Guarantee Fund Trust for Small Industries referred to in clause 23EB; and

(III) an Investor Protection Fund referred to in clause (23EC),

of section 10 of the Act;

(B) "controlling person" means the natural person who exercises control over an entity and includes a beneficial owner as determined under sub-rule (3) of rule 9 of the Prevention of Money-laundering (Maintenance of Records) Rules, 2005.

Explanation 1.- In determining the beneficial owner, the procedure specified in the following circular as amended from time to time shall be applied, namely:-

(i) DBOD.AML.BC. No.71/14.01.001/2012-13, issued on the 18th January, 2013 by the Reserve Bank of India; or

(ii) CIR/MIRSD/2/2013, issued on the 24th January, 2013 by the Securities and Exchange Board of India; or

(iii) IRDA/SDD/GDL/CIR/019/02/2013, issued on the 4th February, 2013 by the Insurance Regulatory and Development Authority.

Explanation 2.- In the case of a trust, the controlling person 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, the said expression means the person in equivalent or similar position;

(C) "non-financial entity" means any entity that is not a financial institution;

(D) "passive non-financial entity" means,-

(iv) any non-financial entity which is not an active non-financial entity; or

(v) an investment entity described in sub-clause (B) of clause (c) of the *Explanation* to clause (3); or

(vi) a withholding foreign partnership or withholding foreign trust;

(E) an entity is a "related entity" of another entity if either entity controls the other entity, or the two entities are under common control.

Explanation.- For the purpose of this clause control includes direct or indirect ownership of more than fifty per cent. of the votes and value in an entity;

(F) "passive income" includes income by way of,-

(i) dividends;

(ii) interest;

(iii) income equivalent to interest;

(iv) rents and royalties (other than rents and royalties derived in the active conduct of a business conducted, at least in part, by employees of the non-financial entity);

(v) annuities;

(vi) the excess of gains over losses from the sale or exchange of financial assets which gives rise to the passive income;

(vii) the excess of gains over losses from transactions (including futures, forwards, options, and similar transactions) in any financial assets;

(viii) the excess of foreign currency gains over foreign currency losses;

(ix) net income from swaps; or

(x) amounts received under cash value insurance contracts:

Provided that passive income will not include, in the case of a non-financial entity that regularly acts as a dealer in financial assets, any income from any transaction entered into in the ordinary course of such dealer's business as such a dealer.

(7) "reporting financial institution" means,-

(a) a financial institution (other than a non-reporting financial institution) which is resident in India, but excludes any branch of such institution, that is located outside India; and

(b) any branch, of a financial institution (other than a non-reporting financial institution) which is not resident in India, if that branch is located in India;

(8) "reportable person" means,-

(a) one or more specified U.S. persons; or

(b) one or more persons other than,-

(i) a corporation, the stock of which is regularly traded on one or more established securities markets;

(ii) any corporation that is a related entity of a corporation mentioned in item (i);

(iii) a Governmental entity;

(iv) an International organisation;

(v) a Central bank; or

(vi) a financial institution,

that is a resident of any country or territory outside India (except the United States of America) under the tax laws of such country or territory or an estate of a decedent who was a resident of any country or territory outside India (except the United States of America) under the tax laws of such country or territory;

(9) "specified U.S. person" means a U.S. Person, other than the persons referred to in sub-clauses (i) to (xiii) of clause (ff) of Article 1 of the FATCA agreement;

(10) "U.S. person" means,-

(a) an individual, being a citizen or resident of the United States of America ;

(b) a partnership or corporation organized in the United States of America or under the laws of the United States of America or any State thereof;

(c) a trust if,-

(i) a court within the United States of America would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust; and

(ii) one or more U.S. persons have the authority to control all substantial decisions of the trust; or

(d) an estate of a decedent who was a citizen or resident of the United States of America;

(11) "U.S. reportable account" means a financial account maintained by a reporting financial institution and, pursuant to the due diligence procedures provided in rule 114H, is identified to be held by one or more specified U.S. persons or by an entity not based in the United States of America with one or more controlling persons which is a specified U.S. Person;

(12) "U.S. source withholdable payment" means any payment of interest (including any original issue discount), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income, if such payment is from sources within the United States of America:

Provided that a U.S. source withholdable payment shall not include any payment that is not treated as a withholdable payment in relevant Treasury Regulations of the United States of America;

(13) "withholding foreign partnership" means a foreign partnership that has entered into a withholding agreement with the United States of America in which it agrees to assume primary withholding responsibility for all payments which are made to it for its partners, beneficiaries or owners;

(14) "withholding foreign trust" means a foreign trust that has entered into a withholding agreement with the United States of America in which it agrees to assume primary withholding responsibility for all payments which are made to it for its partners, beneficiaries or owners.

114G. Information to be maintained and reported.- (1) The following information shall be maintained and reported by a reporting financial institution in respect of each reportable account, namely:-

(a) the name, address, taxpayer identification number (assigned to the account holder by the country or territory of his residence for tax purposes) and date and place of birth (in the case of an individual) of each reportable person, that is an account holder of the account;

(b) in the case of any entity which is an account holder and which, after application of due diligence procedures prescribed in rule 114H, is identified as having one or more controlling persons that is a reportable person,-

(i) the name and address of the entity, taxpayer identification number assigned to the entity by the country or territory of its residence; and

(ii) the name, address, date and place of birth of each such controlling person and taxpayer identification number assigned to such controlling person by the country or territory of his residence;

(c) the account number (or functional equivalent in the absence of an account number);

(d) the account balance or value (including, in the case of a cash value insurance contract or annuity contract, the cash value or surrender value) at the end of relevant calendar year or, if the account was closed during such year, immediately before closure;

(e) in the case of any custodial account,-

(i) 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; and

(ii) the total gross proceeds from the sale or redemption of financial assets paid or credited to the account during the calendar year with respect to which the reporting financial institution acted as a custodian, broker, nominee, or otherwise as an agent for the account holder;

(f) in the case of any depository account, the total gross amount of interest paid or credited to the account during the relevant calendar year;

(g) in the case of any account other than that referred to in clauses (e) or (f), the total gross amount paid or credited to the account holder with respect to the account during the relevant calendar year 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 relevant calendar year; and

(h) in the case of any account held by a non-participating financial institution, for calendar year 2015 and 2016, the name of each non-participating financial institution to which payments have been made and the aggregate amount of such payments:

Provided that the information to be reported,-

(i) with respect to calendar year 2014, is the information referred to in clauses (a), (b), (c) and (d), with regard to U.S. reportable accounts;

(ii) with respect to calendar year 2015, is the information referred to in clauses (a), (b), (c), (d), (f), (g), (h) and sub-clause (i) of clause (e), with regard to U.S. reportable accounts;

(iii) with respect to calendar year 2016, is the information referred to in clauses (a) to (h), with regard to all reportable accounts;

(iv) with respect to calendar year 2017 and subsequent years, is the information referred to in clauses (a) to (g), with regard to all reportable accounts:

Provided further that with respect to each U.S. reportable account which is maintained by a reporting financial institution as on the 30th June, 2014, the taxpayer identification number of any relevant person is not required to be reported if such taxpayer identification number is not in the records of the reporting financial institution.

(2) For the purpose of sub-rule (1),-

(a) "account holder" means the person listed or identified as the holder of a financial account by the financial institution that maintains the account:

Provided that a person, other than a financial institution, holding a financial account for the benefit or on account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account, and such other person is treated as holding the account:

Provided further that in the case of a cash value insurance contract or an annuity contract, the account holder is any person entitled to receive a payment upon the maturity of the contract or any person entitled to access the cash value or change the beneficiary of the contract and 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;

(b) "taxpayer identification number" means a number assigned to a person in the country or territory in which he is resident for tax purposes and includes a functional equivalent in case no such number is assigned.

(3) Where the person is a resident of more than one country or territory outside India under the tax laws of such country or territory, the reporting financial institution shall maintain the taxpayer identification number in respect of each such country or territory.

(4) Notwithstanding anything contained in sub-rule (1), with respect to each reportable account which is a pre-existing account, the taxpayer identification number or date of birth is not required to be reported if such taxpayer identification number or date of birth is not in the records of the reporting financial institution:

Provided that the reporting financial institution shall obtain the taxpayer identification number and date of birth with respect to pre-existing accounts by the 31st December, 2016 and shall report it with respect to calendar year 2017 and subsequent years.

(5) Notwithstanding anything contained in sub-rule (1) and sub-rule (4), the taxpayer identification number is not required to be reported if,-

(i) a taxpayer identification number (including its functional equivalent) is not issued by the relevant country or territory outside India in which the person is resident for tax purposes or;

(ii) the domestic law of the relevant country or territory outside India does not require the collection of the taxpayer identification number issued by such country or territory.

(6) Notwithstanding anything contained in sub-rule (1), the place of birth is not required to be reported unless it is available in the electronically searchable data maintained by the reporting financial institution.

(7) The statement of reportable account required to be furnished under clause (k) of sub-section (1) of section 285BA shall be furnished by a reporting financial institution in respect of each account which has been identified, pursuant to due diligence procedure specified in rule 114H, as a reportable account:

Provided that where pursuant to such due diligence procedures no account is identified as a reportable account, a nil statement shall be furnished by the reporting financial institution.

(8) The statement referred to in sub-rule (7) shall be furnished in Form No. 61B for every calendar year by the 31st day of May following that year:

Provided that the statement pertaining to calendar year 2014 shall be furnished by the 31st day of August, 2015.

(9) (*a*) The statement referred to in sub-rule (7) shall be furnished to the Director of Income-tax (Intelligence and Criminal Investigation) or the Joint Director of Income-tax (Intelligence and Criminal Investigation) through online transmission of electronic data to a server designated for this purpose under the digital signature in accordance with the data structure specified in this regard by the Principal Director General of Income-tax (Systems).

Explanation.—For the purposes of this sub-rule, "digital signature" means a digital signature issued by any Certifying Authority authorised to issue such certificates by the Controller of Certifying Authorities.

(*b*) Principal Director General of Income Tax (Systems) shall specify the procedures, data structures and standards for ensuring secure capture and transmission of data, evolving and implementing appropriate security, archival and retrieval policies.

(10) *(a)* Every reporting financial institution shall communicate to the Principal Director General of Income-tax (Systems) the name, designation and communication details of the Designated Director and the Principal Officer and obtain a registration number;

(*b*) The statement referred to in sub-rule (7) shall be signed, verified and furnished by the Designated Director of the reporting financial institution on the basis of information available with the institution:

Provided that where the reporting financial institution is a non-resident, the statement may be signed, verified and furnished by a person who holds a valid power of attorney from such Designated Director;

(c) It shall be the duty of every reporting financial institution, its Designated Director, Principal Officer and employees to observe the procedure and the manner of maintaining information as specified by its regulator.

Explanation.- For the purposes of this sub-rule,-

(a) "Designated Director" means a person designated by the reporting financial institution to ensure overall compliance with the obligations imposed under section 285BA and the rules made thereunder and includes—

(i) the Managing Director or a whole-time Director, as defined in the Companies Act, 2013 (18 of 2013), duly authorised by the Board of Directors if the reporting financial institution is a company;

(ii) the managing partner if the reporting financial institution is a partnership firm;

(iii) the proprietor if the reporting financial institution is a proprietorship concern;

(iv) the managing trustee if the reporting financial institution is a trust;

(v) a person or individual, as the case may be, who controls and manages the affairs of the reporting financial institution if the reporting financial institution is an association of persons or a body of individuals, or any other person;

(b) "Principal Officer" means an officer designated by the reporting financial institution;

(c) "regulator" means a person or an authority or a Government which is vested with the power to license, authorise, register, regulate or supervise the activities of the reporting financial institution.

(11)*(a)* The regulator referred to in clause (*c*) of sub-rule (10) shall issue instructions or guidelines to,-

(i) incorporate the requirements of reporting and due diligence procedure specified under rules 114F to 114H;

(ii) provide the procedure and manner of maintaining the information by the reporting financial institution; and

(iii) ensure the availability of the information referred to in sub-rule (1) with the reporting financial institution for meeting its reporting obligation, if such information is not maintained by it under any rule or regulation issued by the regulator.

(b) Every reporting financial institution shall maintain information in respect of financial accounts in accordance with the procedure and manner as may be specified by its regulator from time to time so as to enable reporting of information prescribed under this rule and perform due diligence procedure specified under rule 114H.

114H. Due diligence requirement.- (1) An account shall be treated as a reportable account beginning as on the date it is identified as such pursuant to the due diligence procedure specified in sub-rule (3) to sub-rule (8) and, unless otherwise provided, information with respect to a reportable account shall be reported annually in the calendar year following the calendar year to which the information relates.

(2) For the purpose of this rule,-

(a) "documentary evidence" includes any of the following, namely:-

(i) a certificate of residence issued by an authorised Government body, including a Government agency or a municipality, of the country or territory in which the payee claims to be a resident;

(ii) with respect to an individual, any valid identification issued by an authorized Government body, including a Government agency or a municipality, that includes the individual's name and is particularly used for identification purposes;

(iii) with respect to an entity, any official documentation issued by an authorized Government body, including a Government agency or a municipality, which includes the name of the entity and either the address of its principal office in the country or territory in which it claims to be a resident or the country or territory in which the entity was incorporated or organized;

(iv) any financial statement, third-party credit report, bankruptcy filing, or a report of the Government agency regulating the securities market;

(b) "high value account" means a pre-existing individual account with a balance or value that,-

(i) in case of a U.S. reportable account, exceeds an amount equivalent to one million U.S. dollars as on the 30th June, 2014 or 31st December of any subsequent year; and

(ii) in case of other reportable account, exceeds an amount equivalent to one million U.S. dollars as on the 31st December, 2015 or 31st December of any subsequent year;

(c) "lower value account" means a pre-existing individual account with a balance or value that,-

(i) in case of a U.S. reportable account, exceeds an amount equivalent to fifty thousand U.S. dollars but does not exceed an amount equivalent to one million U.S. dollars as on the 30th June, 2014; and

(ii) in case of other reportable account, does not exceed an amount equivalent to one million U.S. dollars as on the 31st December, 2015;

(d) "new account" means a financial account maintained by a reporting financial institution opened on or after,

(i) in case of a U.S. reportable account, the 1st July, 2014; and

(ii) in case of other reportable account, the 1st January, 2016;

(e) "new entity account" means a new account held by one or more entities;

(f) "new individual account" means a new account held by one or more individuals;

(g) "other reportable account" means a reportable account which is not a U.S. reportable account;

(h) "pre-existing account" means a financial account maintained by a reporting financial institution as on,-

(I) in case of a U.S. reportable account, the 30th June, 2014; and

(II) in case of other reportable account, the 31st December 2015;

(i) "pre-existing entity account" means a pre-existing account held by one or more entities;

(j) "pre-existing individual account" means a pre-existing account held by one or more individuals;

(k) where a balance or value threshold is to be determined at the end of a calendar year, the relevant balance or value shall be determined as on the last day of the reporting period which ends with or within that calendar year.

(3) The due diligence procedure for the purposes of identifying reportable accounts among pre-existing individual accounts shall be the following, namely:-

(a) a pre-existing individual account is not required to be reviewed, identified or reported, if,-

(i) in case of a U.S. reportable account,-

(A) the balance or value as on the 30th June, 2014, does not exceed an amount equivalent to fifty thousand U.S. dollars, subject to sub-clause (vi) of clause (c) of this sub-rule; or

(B) which is a cash value insurance contract or an annuity contract, the balance or value does not exceed an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014, subject to sub-clause (vi) of clause (c) of this sub-rule; or

(C) which is a cash value insurance contract or an annuity contract, the reporting financial institution, under any other law for the time being in force in India or of the United States of America, is prevented from selling such contract to a person who is a resident of the United States of America;

(ii) in case of other reportable account, which is a cash value insurance contract or an annuity contract, the reporting financial institution, under any other law for the time being in force in India, is prevented from selling such contract to a person who is not a resident of India for tax purposes;

(b) with respect to lower value accounts among pre-existing individual accounts the following procedures shall apply, namely:-

(i) the reporting financial institution must review electronically searchable data maintained by the reporting financial institution for any of the following indicia, and apply provisions contained in sub-clauses (ii) to (v), namely:-

(A) identification of the account holder as a resident of any country or territory outside India for tax purposes or unambiguous indication of a place of birth in the United States of America; or

(B) current mailing or residence address (including a post office box) in any country or territory outside India; or

(C) one or more telephone numbers in a country or territory outside India and no telephone number in India; or

(D) standing instructions (other than with respect to a depository account) to transfer funds to an account maintained in a country or territory outside India; or

(E) currently effective power of attorney or signatory authority granted to a person with an address in a country or territory outside India; or

(F) a "hold mail" instruction or "in-care-of" address in a country or territory outside India if the reporting financial institution does not have any other address on file for the account holder;

(ii) if none of the indicia listed in sub-clause (i) are discovered in the electronic search, then no further action is required until there is a change in circumstances which results in one or more indicia being associated with the account, or the account becomes a high value account;

(iii) if any of the indicia listed in items (A) to (E) of sub-clause (i) are discovered in the electronic search, or if there is a change in circumstances which results in one or more indicia being associated with the account, then the reporting financial institution shall treat the account holder as resident for tax purposes of each such country or territory for which an indicium is identified, unless it elects to apply sub-clause (v) and one of the exceptions in the said sub-clause applies with respect to that account;

(iv) if a "hold mail" instruction or "in-care-of" address is discovered in the electronic search and no other address and none of the other indicia listed in items (A) to (E) of sub-clause (i) are identified for the account holder, the reporting financial institution shall apply the paper record search referred to in sub-clause (ii) of clause (c), or seek to obtain from the account holder a self-certification or documentary evidence to establish the residence or residences for tax purposes of such account holder:

Provided that if the paper search fails to establish an indicium and the attempt to obtain the self-certification or documentary evidence is not successful, the reporting financial institution shall report the account as an undocumented account;

(v) notwithstanding a finding of indicia under sub-clause (i), a reporting financial institution is not required to treat an account holder as a resident, for tax purposes,-

(A) of United States of America if, the account holder's information unambiguously indicates a place of birth in the United States of America and the reporting financial institution obtains, or has previously reviewed and maintains a record of,-

(I) a self-certification that the account holder is neither a citizen of the United States of America nor its resident for tax purposes;

(II) a passport or other Government-issued identification evidencing the account holder's citizenship or nationality in a country other than the United States of America; and

(III) a copy of the account holder's certificate of loss of nationality of the United States of America or a reasonable explanation of-

(1) the reason, the account holder does not have such a certificate despite relinquishing citizenship of the United States of America; or

(2) the reason, the account holder did not obtain citizenship of the United States of America at birth;

(B) of any country or territory outside India if, the account holder's information contains a current mailing or residence address in any country or territory outside India, one or more telephone numbers in any country or territory outside India (and no telephone number in India) or standing instructions (with respect to financial accounts other than depository accounts) to transfer funds to an account maintained in any country or territory outside India, the reporting financial institution obtains, or has previously reviewed and maintains a record of,-

(I) a self-certification from the account holder of the country or territory or countries or territories of residence for tax purposes of such account holder that does not include any country or territory outside India; and

(II) documentary evidence establishing the account holder's non-reportable status;

(C) of any country or territory outside India if, the account holder's information contains a currently effective power of attorney or signatory authority granted to a person with an address in a country or territory outside India, or one or more telephone numbers in any country or territory outside India (if an Indian telephone number in also associated with the account), the reporting financial institution obtains, or has previously reviewed and maintains a record of-

(I) a self-certification from the account holder of the country or territory or countries or territories of residence of such account holder that does not include any country or territory outside India; or

(II) documentary evidence establishing the account holder's non-reportable status;

(c) with respect to high value accounts among pre-existing individual accounts the following enhanced review procedures shall apply, namely:-

(i) the reporting financial institution must review electronically searchable data maintained by the reporting financial institution for any of the indicia described in sub-clause (i) of clause (b);

(ii) if the reporting financial institution's electronically searchable databases do not capture all of the information referred to in sub-clause (iii) of this clause, then the reporting financial institution shall 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 during the last five years for any of the indicia provided in sub-clause (i) of clause (b),-

(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 rules framed under the Prevention of Money-laundering Act, 2002 (15 of 2003) or any other law for the time being in force;

(D) any power of attorney or signature authority forms currently in effect; and

(E) any standing instructions (other than with respect to a depository account) to transfer funds currently in effect:

Provided that where the electronically searchable databases include fields for, and capture all the information referred to in sub-clause (iii) of this clause, then review of the customer master file and documents referred to above shall not be required;

(iii) a reporting financial institution is not required to perform the paper record search referred in sub-clause (ii) of this clause to the extent the reporting financial institution's electronically searchable information includes the following, namely:-

(A) the account holder's residence status for tax purposes;

(B) the account holder's residence address and mailing address currently on file with the reporting financial institution;

(C) the account holder's telephone number or numbers currently on file, if any, with the reporting financial institution;

(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);

(E) whether there is a current "in-care-of" address or "hold mail" instruction for the account holder; and

(F) whether there is any power of attorney or signatory authority for the account;

(iv) in addition to the electronic and paper record searches provided in sub-clauses (i) to (iii) of this clause, the reporting financial institution shall treat as a reportable account any high value account assigned to a relationship manager (including any financial accounts aggregated with that high value account) if the relationship manager has actual knowledge that the account holder is a reportable person;

(v) after application of review procedures specified in sub-clauses (i) to (iv) if,-

(A) none of the indicia referred to in sub-clause (i) of clause (b) are discovered, and the account is not identified as held by a reportable person as per sub-clause (iv), then further action is not required until there is a change in circumstances which results in one or more indicia being associated with the account;

(B) any of the indicia referred to in items (A) to (E) of sub-clause (i) of clause (b) are discovered, or if there is a subsequent change in circumstances which results in one or more indicia being associated with the account, then the reporting financial institution shall treat the account as a reportable account with respect to each country or territory outside India for which an indicium is identified unless it elects to apply sub-clause (v) of clause (b) and one of the exceptions in the said sub-clause applies with respect to that account;

(C) a "hold mail" instruction or "in-care-of" address is discovered in the electronic search and no other address and none of the other indicia referred to in items (A) to (E) of sub-clause (i) of clause (b) are identified for the account holder, the reporting financial institution shall obtain from such account holder a self-certification or documentary evidence to establish the residence or residences for tax purposes of the account holder:

Provided that if the reporting financial institution cannot obtain such self-certification or documentary evidence, it shall report the account as an undocumented account;

(vi) if a pre-existing individual account is not a high value account as on the 30th June, 2014 (for U.S. reportable account), or as the case may be, 31st December, 2015 (for other reportable account), but becomes a high value account as on the last day of year 2015 (for U.S. reportable account) or last day of any subsequent calendar year (for all reportable accounts), the reporting financial institution shall complete the enhanced review procedures specified in this clause with respect to such account within the calendar year following the year in which the account becomes a high value account and if based on such review the account is identified as a reportable account, the reporting financial institution shall 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 reportable person;

(vii) once a reporting financial institution applies the enhanced review procedures specified in this clause to a high value account, the reporting financial institution is not required to re-apply such procedures, other than an inquiry by the relationship manager provided in sub-clause (iv), to the same high value account in any subsequent year unless the account is undocumented where the reporting financial institution shall re-apply them annually until such account ceases to be undocumented;

(viii) if there is a change of circumstances with respect to a high value account which results in one or more indicia referred to in sub-clause (i) of clause (b) being associated with the account, then the reporting

financial institution must treat the account as a reportable account with respect to each such country or territory outside India for which an indicium is identified unless it elects to apply sub-clause (v) of clause (b) and one of the exceptions in the said sub-clause applies with respect to that account;

(ix) a reporting financial institution shall implement procedures to ensure that a relationship manager identifies any change in circumstances of an account and where the relationship manager is informed that the account holder has a new mailing address in any country or territory outside India, the reporting financial institution is required to treat the new address as a change in circumstances and, if it elects to apply sub-clause (v) of clause (b), then it is required to obtain the appropriate documentation from the account holder;

(d) review of pre-existing individual account,-

(i) in case of a U.S. reportable account which is high value account as on the 30th June, 2014, shall be completed by the 31st December, 2015 and if based on this review such account is identified as a U.S. reportable account after the 31st December, 2014 and on or before the 31st December, 2015, the reporting financial institution is not required to report information about such account with respect to calendar year 2014, but shall report information about the account on an annual basis thereafter;

(ii) in case of a U.S. reportable account which is low value account as on the 30th June, 2014, or in case of other reportable account which is high value account as on the 31st December, 2015, shall be completed by the 30th June, 2016;

(iii) in case of other reportable account that is low value account as on the 31st December, 2015, must be completed by the 30th June, 2017;

(e) any pre-existing individual account which has been identified as a reportable account under this sub-rule shall be treated as a reportable account in all subsequent years, unless the account holder ceases to be a resident of any country or territory outside India as per tax laws of such jurisdiction.

(4) The following procedures shall apply for purposes of identifying reportable accounts among new individual accounts, namely:-

(a) unless the reporting financial institution elects otherwise, the following new individual accounts are not required to be reviewed, or reported as U.S. reportable accounts, namely:-

(i) a depository account unless the account balance exceeds an amount equivalent to fifty thousand U.S. dollars at the end of any calendar year;

(ii) a cash value insurance contract unless the cash value exceeds an amount equivalent to fifty thousand U.S. dollars at the end of any calendar year;

(b) in case of a new individual account,-

(i) in respect of a U.S. reportable account, which does not fall under sub-clauses (i) and (ii) of clause (a), upon account opening (or within ninety days after the end of the calendar year in which the account ceases to be covered under sub-clauses (i) and (ii) of clause (a)); and

(ii) in respect of other reportable account, upon account opening,

the reporting financial institution shall obtain a self-certification, which may be part of the account opening documentation, that allows the reporting financial institution to determine the account holder's residence or residences for tax purposes and confirms 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 in accordance with Prevention of Money-laundering (Maintenance of Records) Rules, 2005;

(c) where the self-certification obtained under clause (b) of this sub-rule establishes that the account holder is resident for tax purposes in a country or territory outside India, the reporting financial institution shall treat the account as a reportable account and the self-certification shall also include the account holder's taxpayer identification number with respect to such country or territory outside India, subject to sub-rule (5) of rule 114G, and date of birth;

(d) where a self-certification has been obtained under clause (b) of this sub-rule for a new individual account and if there is a change of circumstances with respect to such account which causes the reporting financial institution to know, or have reason to know, that the said self-certification is incorrect or unreliable, the reporting financial institution shall not rely on the said self-certification and shall obtain a valid self-certification that establishes the residence or residences for tax purposes of the account holder:

Provided that if the reporting financial institution is unable to obtain a valid self-certification, the reporting financial institution shall treat the account as a reportable account with respect to each such country or territory outside India for which an indicium is identified.

(5) The following procedures shall apply for purposes of identifying reportable accounts among pre-existing entity accounts, namely:-

(a) unless the reporting financial institution elects otherwise, either with respect to all pre-existing entity accounts or, separately, with respect to any clearly identified group of such accounts, a pre-existing entity account with an aggregate account balance or value which does not exceed an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account), or as the case may be, 31st December, 2015 (in case of other reportable account), is not required to be reviewed, identified, or reported as a reportable account until the aggregate account balance or value exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as of the last day of any subsequent calendar year;

(b) a pre-existing entity account that has an aggregate account balance or value that exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account), or as the case may be, 31st December, 2015 (in case of other reportable account), and a pre-existing entity account that does not exceed an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account), or as the case may be, 31st December, 2015 (in case of other reportable account) but the aggregate account balance or value exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as of the last day of any subsequent calendar year, shall be reviewed in accordance with the procedure provided in clause (d) of this sub-rule;

(c) with respect to pre-existing entity accounts referred to in clause (b), only accounts which are held by,-

(i) one or more entities which are reportable persons; or

(ii) passive non-financial entity with one or more controlling persons who are reportable persons,

shall be treated as reportable accounts:

Provided that the accounts held by non-participating financial institutions for which aggregate payments as provided in clause (h) of sub-rule (1) of rule 114G are reported shall be treated as reportable accounts;

(d) for pre-existing entity accounts referred to in clause (b) with respect to which reporting is required, a reporting financial institution, to determine whether the account is held by one or more reportable persons, or by a passive non-financial entity with one or more controlling persons who are reportable persons, or by non-participating financial institutions, shall apply the following review procedures namely:-

(i) to determine whether the entity is a reportable person, the reporting financial institution shall,-

(A) review information maintained for regulatory or customer relationship purposes (including information collected in accordance with the rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003)) to determine whether the information indicates that the account holder is a reportable person.

Explanation.- For the purpose of this sub-clause, information indicating that the account holder is a resident of any country or territory outside India as per tax laws of such country or territory includes a place of incorporation or organisation, or an address in a country or territory outside India;

(B) treat the account as a reportable account, if the information as per item (A) indicates that the account holder is a reportable person, 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 reportable person:

Provided that if the information as per item (A) indicates that the account holder is an entity not based in the United States of America which is a financial institution, or the reporting financial institution verifies the account holder's Global Intermediary Identification Number, then the account shall not be treated as a U.S. reportable account;

(ii) treat the account holder as a non-participating financial institution if,-

(A) the account holder is an Indian financial institution or other partner jurisdiction financial institution and treated by the United States of America as a non-participating financial institution;

(B) the account holder, being a financial institution, is not an Indian financial institution or other partner jurisdiction financial institution, unless the reporting financial institution,-

(I) obtains a self-certification from the account holder that it is a financial institution referred to in sub-clauses (a) to (m) of clause (5) of rule 114F; or

(II) in the case of participating foreign financial institution defined in Annex II of the FATCA agreement or a financial institution referred to in sub-clauses (e) to (m) of clause (5) of rule 114F, verifies the account holder's Global Intermediary Identification Number;

(iii) the reporting financial institution shall determine whether the account holder is a passive non-financial entity with one or more controlling persons who are resident of any country or territory outside India as per tax laws of such country or territory and in making these determinations the reporting financial institution shall follow the following procedures, namely:-

(A) for purposes of determining whether the account holder is a passive non-financial entity, the reporting financial institution shall obtain a self-certification from the account holder to establish its status, unless it has information in its possession or which is publicly available, based on which it can reasonably determine that the account holder is an active non-financial entity or a financial institution other than an investment entity referred to in sub-clause (B) of clause (c) of *Explanation* to clause (3) of rule 114F;

(B) for purposes of determining the controlling persons of an account holder, a reporting financial institution may rely on information collected and maintained in accordance with the rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003);

(C) for purposes of determining whether a controlling person of a pre-existing account of passive non-financial entity is a reportable person, a reporting financial institution may rely on,-

(I) information collected and maintained in accordance with rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003) in the case of pre-existing entity account held by one or more non-financial entity with an aggregate balance or value which does not exceed an amount equivalent to one million U.S. dollars; or

(II) a self-certification from the account holder or such controlling person of the passive non-financial entity with an account balance or value which exceeds an amount equivalent to one million U.S. dollars;

(D) if any controlling person of a passive non-financial entity is a resident of any country or territory outside India for tax purposes, the account shall be treated as a reportable account;

(e) the following additional procedures shall be applicable to pre-existing entity accounts, namely:-

(i) review of pre-existing entity accounts with an aggregate account balance or value that exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account), or as the case may be, 31st December, 2015 (in case of other reportable account) shall be completed by the 30th June, 2016;

(ii) review of pre-existing entity accounts with an aggregate account balance or value which does not exceed an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 30th June, 2014 (in case of a U.S. reportable account), or as the case may be, 31st December, 2015 (in case of other reportable account), but exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars as on the 31st December of a subsequent year, shall be completed within the calendar year following the year in which the aggregate account balance or value exceeds an amount equivalent to two hundred and fifty thousand U.S. dollars;

(iii) if there is a change of circumstances with respect to a pre-existing entity account that causes the reporting financial institution to know, or have reason to know, that the self-certification or other documentation associated with the account is incorrect or unreliable, the reporting financial institution shall re-determine the status of the account in accordance with the procedures set forth in clause (d) of this sub-rule.

(6) The following procedures shall apply for purposes of identifying reportable accounts and accounts held by non-participating financial institutions among new entity accounts, namely:-

(a) a reporting financial institution, to determine whether the new entity account is a reportable account, shall apply the following review procedures namely:-

(i) determine whether the entity is a reportable person and for that the reporting financial institution shall,-

(A) obtain a self-certification, which may be part of the account opening documentation, that allows the reporting financial institution to determine the account holder's residence or residences 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 in accordance with the rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003):

Provided that if the entity certifies that it has no residence for tax purposes, the reporting financial institution may rely on the address of the principal office of the entity to determine the residence of the account holder;

(B) treat the account as a reportable account, if the information as per item (A) indicates that the account holder is a reportable person, unless it reasonably determines based on information in its possession or which is publicly available, that the account holder is not a reportable person:

Provided that if the information as per item (A) indicates that the account holder is an Indian financial institution, or partner jurisdiction financial institution, which is not a non-participating financial institution or a participating foreign financial institution or a non-reporting financial institution then the account shall not be treated as a U.S. reportable account;

(ii) determine whether the account holder is a passive non-financial entity with one or more controlling persons who are reportable persons and in making these determinations the reporting financial institution shall follow the following procedures, namely:-

(A) for purposes of determining whether the account holder is a passive non-financial entity, the reporting financial institution shall rely on 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 account holder is not a passive non-financial entity;

(B) for purposes of determining the controlling persons of an account holder, a reporting financial institution may rely on information collected and maintained in accordance with the rules made under the Prevention of Money-laundering Act, 2002 (15 of 2003);

(C) for purposes of determining whether a controlling person of a passive non-financial entity is a reportable person, a reporting financial institution may rely on a self-certification from the account holder or such controlling person;

(b) the reporting financial institution shall determine whether the account holder is a non-participating financial institution and in such case any payment to the account holder shall be reported as per clause (h) of sub-rule (1) of rule 114G.

(7) The following additional procedures shall apply in implementing the due diligence requirement specified in sub-rules (1) to (6), namely:-

(a) 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) a reporting financial institution may presume that an individual beneficiary (other than the owner) of a cash value insurance contract or an annuity contract receiving a death benefit is not a reportable 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 reportable person:

Provided that if a reporting financial institution has actual knowledge, or reason to know, that the beneficiary is a reportable person, it shall follow the procedures specified in clause (b) of sub-rule (3);

Explanation.- For the purposes of this clause, a reporting financial institution shall be deemed to have reason to know that a beneficiary of a cash value insurance contract or an annuity contract is a reportable person if the information collected by the reporting financial institution and associated with the beneficiary contains indicia specified in clause (b) of sub-rule (3).

(c) the following procedures relating to aggregation of account balance and currency shall apply, namely:-

(i) for purposes of determining the aggregate balance or value of financial accounts held by an individual, a reporting financial institution shall be required to aggregate all financial accounts maintained by it, or by a related entity, but only to the extent that the computerised systems of that reporting financial institution links the financial accounts by reference to a data element such as client number or taxpayer identification number, and allows account balances or values to be aggregated;

(ii) for purposes of determining the aggregate balance or value of financial accounts held by an entity, a reporting financial institution shall be required to take into account all financial accounts which are maintained by it, or by a related entity, but only to the extent that the computerised systems of that reporting financial institution links the financial accounts by reference to a data element such as client number or taxpayer identification number, and allows account balances or values to be aggregated;

(iii) for purposes of determining the aggregate balance or value of financial accounts held by a person to determine whether a financial account is a high value account, a reporting financial institution shall also be required, in the case of any financial 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;

(iv) for the purposes of rules 114F, 114G and this rule, any account maintained in rupees or in any permissible currency (other than the United States Dollar) as designated by the Reserve Bank of India shall be converted to United States Dollar at the end of the reporting period as per the reference rates of the Reserve Bank of India and such converted amount in the United States Dollar shall be used for determining the balance or value of a financial account provided in such rules.

Explanation 1.- For the purposes of this clause each holder of a jointly held financial account shall be attributed the entire balance or value of the jointly held financial account for purposes of applying the aggregation requirements.

(8) In case of a U.S. reportable account opened on or after the 1st July, 2014 but before the date of entry into force of FATCA agreement, notwithstanding the due diligence procedures specified in sub-rule (4) or sub-rule (6) of this rule for new accounts, the reporting financial institution may, in lieu of the procedures specified in the said sub-rules, apply the following alternative procedures, namely:-

(a) within one year after the date of entry into force of the FATCA agreement, reporting financial institutions shall,-

(i) with respect to a new individual account opened on or after the 1st July, 2014 but before the date of entry into force of FATCA agreement, request the self-certification specified in sub-rule (4) and confirm the reasonableness of such self-certification consistent with the procedures specified in sub-rule (4); and

(ii) with respect to a new entity account opened on or after the 1st July, 2014 but before the date of entry into force of FATCA agreement, perform the due diligence procedures specified in sub-rule (6) and request for information as necessary to document the account, including any self-certification, required under sub-rule (6);

(b) the reporting financial institution shall report on any new account which is identified pursuant to clause (a) of this sub-rule as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable, by the date which is the later of,-

(i) the 31st of May next following the date on which the account is identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable; and

(ii) forty-five days after the account is identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable:

Provided that the information required to be reported with respect to such a new account shall be information which would have been reportable had the new account been identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable, as of the date the account was opened;

(c) by the date that is one year after the date of entry into force of the FATCA agreement, reporting financial institutions shall close any new account described in clause (a) for which it was unable to collect the required self-certification or other documentation in accordance with the procedure specified in clause (b):

Provided that in addition, by such date, the reporting financial institutions shall,-

(i) with respect to such closed accounts which prior to such closure were new individual accounts (without regard to whether such accounts were high value accounts), perform the due diligence procedure specified in clause (c) of sub-rule (3), or

(ii) with respect to such closed accounts which prior to such closure were new entity accounts, perform the due diligence procedures specified in sub-rule (5); and

(d) the reporting financial institution shall report the information specified in rule 114G in respect of any closed account which is identified under clause (c) as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable, by the date that is the later of,-

(i) the 31st of May next following the date on which the account is identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable; and

(ii) forty-five days after the account is identified as a U.S. reportable account or as an account held by a non-participating financial institution, as applicable:

Provided that in respect of all new entity accounts or a clearly identified group of such accounts which are U.S. reportable accounts opened on or after the 1st July, 2014, and before the 1st January, 2015 the reporting financial institution may, in lieu of the procedure specified in clauses (a) to (d), treat such accounts as pre-existing entity accounts and apply the due diligence procedure related to pre-existing entity accounts specified in sub-rule (5) without regard to the account balance or value threshold specified in clause (a) of sub-rule (5).'

3. In the said rules, in Appendix-II, after Form 61A the following form shall be inserted, namely:-

"**FORM NO. 61B**

[See sub-rule (8) of rule 114G]

Statement of Reportable Account under sub-section (1) section 285BA of the Income-tax Act, 1961

(see instructions for guidance)

PART A: STATEMENT DETAILS

(This information should be provided for each Statement of Reports submitted together)

A.1	**REPORTING ENTITY DETAILS**	
A.1.1	Reporting Entity Name	
A.1.2	ITDREIN	.
A.1.3	Global Intermediary Identification Number (GIIN)	
A.1.4	Registration Number	
A.1.5	Reporting Entity Category	Insert 2 character code
A.2	**STATEMENT DETAILS**	
A.2.1	Statement Type	Insert 2 character code
A.2.2	Statement Number	
A.2.3	Original Statement Id	
A.2.4	Reason for Correction	Insert 1 character code
A.2.5	Statement Date	
A.2.6	Reporting Period	
A.2.7	Report Type	Insert 1 character code
A.2.8	Number of Reports	
A.3	**PRINCIPAL OFFICER DETAILS**	
A.3.1	Principal Officer Name	
A.3.2	Principal Officer Designation	
A.3.3	Principal Officer Address	
A.3.4	City / Town	
A.3.5	Postal Code	
A.3.6	State Code	Insert 2 character code
A.3.7	Country Code	Insert 2 character code
A.3.8	Telephone	
A.3.9	Mobile	
A.3.10	Fax	

A.3.11	Email	

PART B: REPORT DETAILS

(This information should be provided for each Account being reported)

B.1	ACCOUNT DETAILS (To be provided for each account being reported)	
B.1.1	Report Serial Number	
B.1.2	Original Report Serial Number	
B.1.3	Account Type	☐☐ Insert 2 character code
B.1.4	Account Number	
B.1.5	Account Number Type	☐ Insert 1 character code
B.1.6	Account Holder Name	
B.1.7	Account Status	☐ Insert 1 character code
B.1.8	Account Treatment	☐ Insert 1 character code
B.1.9	Self- certification	☐ Insert 1 character code
B.1.10	Documentation Status	☐ Insert 1 character code
B.1.11	Date of closure of account, if closed during the year	
B.2	**BRANCH DETAILS**	
B.2.1	Branch Number Type	☐ Insert 1 character code
B.2.2	Branch Reference Number	
B.2.3	Branch Name	
B.2.4	Branch Address	
B.2.5	City Town	
B.2.6	Postal Code	
B.2.7	State Code	☐☐ Insert 2 character code
B.2.8	Country Code	☐☐ Insert 2 character code
B.2.9	Telephone	
B.2.10	Mobile	
B.2.11	Fax	
B.2.12	Email	
B.3	**ACCOUNT SUMMARY**	
B.3.1	Account balance or value at the end of reporting period	
B.3.2	Aggregate gross interest paid or credited	
B.3.3	Aggregate gross dividend paid or credited	
B.3.4	Gross proceeds from sale of property	
B.3.5	Aggregate gross amount of all other income paid or credited	

B.3.6	Aggregate gross amount credited	
B.3.7	Aggregate gross amount debited	

B.4	**INDIVIDUAL DETAILS (To be provided for individual account holder)**	
B.4.1	Name	
B.4.2	Customer ID	
B.4.3	Father's Name	
B.4.4	Spouse's Name	
B.4.5	Gender	Insert 1 character code (Refer Instructions)
B.4.6	PAN	
B.4.7	Aadhaar Number	
B.4.8	Identification Type	Insert 1 character code
B.4.9	Identification Number	
B.4.10	Occupation Type	Insert 1 character code
B.4.11	Occupation	
B.4.12	Birth Date	
B.4.13	Nationality	Insert 2 character code
B.4.14	Country of Residence as per tax laws	Insert 2 character code
B.4.15	Place of Birth	
B.4.16	Country of Birth	Insert 2 character code
B.4.17	Tax Identification Number (TIN) allotted by tax resident country	
B.4.18	TIN Issuing Country	Insert 2 character code
B.4.19	Address Type	Insert 2 character code
B.4.20	Address	
B.4.21	City / Town	
B.4.22	Postal Code	
B.4.23	State Code	Insert 2 character code
B.4.24	Country Code	Insert 2 character code
B.4.25	Mobile/Telephone Number	
B.4.26	Other Contact Number	
B.4.27	Remarks	

B.5	**LEGAL ENTITY DETAILS** (To be provided for entity account holder)

B.5.1	Name of the Entity	
B.5.2	Customer ID	
B.5.3	Account Holder Type for US Reportable Person	Insert 2 character code
B.5.4	Account Holder Type for Other Reportable Person	Insert 2 character code
B.5.5	Entity Constitution Type	Insert 1 character code
B.5.6	Date of Incorporation	
B.5.7	Nature of Business	
B.5.8	PAN	
B.5.9	Identification Type	Insert 1 character code
B.5.10	Identification No.	
B.5.11	Identification issuing Country	Insert 2 character code
B.5.12	Place of Incorporation	
B.5.13	Country of Incorporation	Insert 2 character code
B.5.14	Country of Residence as per tax laws	Insert 2 character code
B.5.15	Tax Identification Number (TIN) allotted by tax resident country	
B.5.16	TIN Issuing Country	Insert 2 character code
B.5.17	Address Type	Insert 1 character code
B.5.18	Address	
B.5.19	City / Town	
B.5.20	Postal Code	
B.5.21	State Code	Insert 2 character code
B.5.22	Country Code	Insert 2 character code
B.5.23	Mobile/Telephone Number	
B.5.24	Other Contact Number	
B.5.25	Remarks	

B.6 CONTROLLING PERSON DETAILS (To be provided for each controlling person of the entity)

B.6.1	Controlling Person Type	Insert 3 character code
B.6.2	Name	
B.6.3	Customer ID	
B.6.4	Father's Name	
B.6.5	Spouse's Name	
B.6.6	Gender	Insert 1 character code
B.6.7	PAN	
B.6.8	Aadhaar Number	
B.6.9	Identification Type	Insert 1 character code
B.6.10	Identification Number	
B.6.11	Occupation Type	Insert 1 character code
B.6.12	Occupation	
B.6.13	Birth Date	
B.6.14	Nationality	Insert 2 character code
B.6.15	Country of Residence as per tax laws	Insert 2 character code
B.6.16	Place of Birth	
B.6.17	Country of Birth	Insert 2 character code
B.6.18	Tax Identification Number (TIN) allotted by tax resident country	
B.6.19	TIN Issuing Country	Insert 2 character code
B.6.20	Address Type	Insert 2 character code
B.6.21	Address	
B.6.22	City / Town	
B.6.23	Postal Code	
B.6.24	State Code	Insert 2 character code
B.6.25	Country Code	Insert 2 character code
B.6.26	Mobile/Telephone Number	
B.6.27	Other Contact Number	
B.6.28	Remarks".	

[Notification no. 62/2015] [F. No. 142/21/2015 TPL]

[Gaurav Kanaujia]

Director to Government of India

Note:- The principal rules were published vide notification S.O. number 969 (E), dated 26th March, 1962 and last amended by Income-tax (10th Amendment) Rules, 2014 vide notification S.O. number 2070(E), dated the 29th July, 2015.

Instructions to Form 61B

General Instructions

The requirement field for each data element indicates whether the element is validation or optional in the schema.

Validation	"Validation" elements MUST be present for ALL data records in a file and an automated validation check will be undertaken. The Sender should do a technical check of the data file content using XML tools to make sure all "Validation" elements are present and if they are not, the sender should correct the file. The Income-tax Department will also do so and if incorrect, will reject the file.
(Optional) Mandatory	An optional element that is required for reporting depending on availability of information or legal factors. These elements may be present in most (but not all) circumstances. The Income-tax Department will publish separate validation rules to check these.
Optional	An optional element specified in form
Optional*	An optional element specified only in instructions. May be reported if available

Specific Instructions

S. No.	Element	Description	Requirement
A.1.1	Reporting Entity Name	Complete name of the reporting entity.	Validation
A.1.2	ITDREIN (Income-tax Department Reporting Entity Identification Number)	ITDREIN is the Unique ID issued by ITD which will be communicated by ITD after the registration of the reporting entity with ITD. The ITDREIN is a 16-character identification number in the format XXXXXXXXXX.YYYYY where XXXXXXXXXX is the PAN or TAN of the reporting entity and YYYYY is a sequentially generated number. The reporting Entity may use a dummy number (PAN+99999 or TAN+99999) till the ITDREIN is communicated.	Validation
A.1.3	GIIN	GIIN means the Global Intermediary Identification Number which is a 19-character identification number in the format XXXXXX.XXXXX.XX.XXX assigned to the reporting entity by USA.	Validation
A.1.4	Registration Number	This number is the registration number or any number used in correspondence with the regulator of the financial institution.	Optional

S. No.	Element	Description	Requirement
A.1.5	Reporting Entity Category	Category of reporting entity are: • DI - Depository Institution • CI- Custodial Institution • IE- Investment Entity • IC - Specified Insurance Company • OT- Other In case if a Reporting Entity is engaged in more than one category of activities, it needs to submit different statements for different category of activities. For example if a reporting entity is maintaining certain accounts as depository institution and certain other accounts as custodial institution, it needs to submit two different statements.	Validation
A.2.1	Statement Type	Type of Statement submitted. Permissible values are: • NB – New Statement containing new information • CB – Correction Statement containing corrections for previously submitted information • TD - Test Data • ND - No Data to report One Statement can contain only one type of Statement. Even if missing information has to be supplied, the complete report has to be submitted instead of an incremental report.	Validation
A.2.2	Statement Number	Statement Number is a free text field capturing the sender's unique identifying number (created by the sender) that identifies the particular Statement being sent. The identifier allows both the sender and receiver to identify the specific Statement later if questions or corrections arise. After successful submission of the Statement to ITD, a new unique Statement ID will be allotted for future reference. The reporting entities should maintain the linkage between the Statement Number and Statement ID. Example of the statement number is 2015/01.	Validation
A.2.3	Original Statement Id	In case if the original statement is being replaced by this statement, statement ID of the original Statement which is being replaced deleted or referred by reports in the current Statement. In case the Statement is new and unrelated to any previous Statement, mention '0' here.	Validation

S. No.	Element	Description	Requirement
A.2.4	Reason of Correction	Reason for revision to be stated when the original Statement is corrected. Permissible values are: • A - Acknowledgement of original Statement had errors which are being resolved • B - Errors in original Statement are being corrected *suo-motu* • C - The correction report is on account of additional information being submitted • N - Not applicable as this is a new statement/test data/ there is no data to report • Z - Other reason	Validation
A.2.5	Statement Date	This identifies the date and time when the Statement was compiled. This element will be automatically populated by the host system. The format for use is YYYY-MM-DD'T'hh:mm:ss. Fractions of seconds are not used. Example: 2015-03-15T09:45:30.	Validation
A.2.6	Reporting Period	This identifies the last day of the reporting period in YYYY-MM-DD format. For example, if reporting information for the accounts or payments made in calendar year 2014, the field would read, "2014-12-31"	Validation
A.2.7	Report Type	Type of report in the Statement. One Statement can contain only one type of report. Permissible values are: • 01 - Report of US reportable accounts under Rule 114G • 02 - Report of other reportable accounts under Rule 114G	Validation
A.2.8	Number of Reports	Number of Reports in Part B.	Validation
A.3.1	Principal Officer Name	Name of the Principal Officer. Refer to the registration requirement under Income-tax Act and Rules	Validation
A.3.2	Principal Officer Designation	Designation of the Principal Officer.	Validation
A.3.3	Principal Officer Address	Complete address consisting of house number, building name, street, locality, city, state etc.	Validation
A.3.4	City Town	Name of City, Town or Village	Validation
A.3.5	State Code	The two digit state code has to be mentioned as per Indian Motor Vehicle Act 1988. If state code is not available, use XX.	Validation
A.3.6	Postal Code	In case of India, the 6 digit Pin code as per India Posts has to be mentioned. In case of countries outside India, respective code may be used. If Pin code is not available, use XXXXXX.	Validation

S. No.	Element	Description	Requirement
A.3.7	Country Code	The Country Code as per ISO 3166 has to be mentioned. Use IN for India. If Country Code is not available, use XX	Validation
A.3.8	Telephone	Telephone number in format STD Code-Telephone number. (Example 0120-2894016)	Validation
A.3.9	Mobile	Contact Mobile number. Please do not add "0" before the number	Validation
A.3.10	Fax	Fax number in format STD Code-Telephone number. (Example 0120-2894016)	Validation
A.3.11	Email	E-mail of the Principal Officer	Validation
B.1.1	Report Serial Number	The number uniquely represents a report within a Statement. The Report Serial Number should be unique within the Statement. This number along with Statement ID will uniquely identify any report received by ITD.	Validation
B.1.2	Original Report Serial Number	The Report Serial Number of the original report that has to be replaced or deleted. This number along with Original Statement ID will uniquely identify the report which is being corrected. In case there is no correction of any report, mention '0' here.	Validation
B.1.3	Account Type	Type of account. Permissible values are: • BS - Savings Account • BC - Current Account • BR - Cash Credit/Overdraft Account • BD - Credit Card Account • BP - Prepaid Card Account • BL - Loan Account • BT - Term Deposit Account • IL - Term Insurance Policy • IE - Endowment Policy • IA - Annuity Policy (Excluding ULIP) • IU - ULIP Policy • IB – Money Back Policy • IW – Whole Life Policy • ST - Trading Account • MF – Mutual Fund Folio • DB - Beneficiary Client Account • DH - Beneficiary House Account • DC - Clearing Member Pool Account • ZZ - Others • XX - Not Categorised	Validation

S. No.	Element	Description	Requirement
B.1.4	Account Number	Provide the account number used by the financial institution to identify the account. If the financial institution does not have an account number then provide the functional equivalent unique identifier used by the financial institution to identify the account.	Validation
B.1.5	Account Number Type	Account number type. Permissible values are: • 01 - International Bank Account Number • 02 - Other Bank Account Number • 03 - International Securities Information Number • 04 - Other Securities Information Number • 05 - Any other type of account information Indian banks may use option 02 above.	Validation
B.1.6	Account Holder Name	Name of first/sole account holder.	Validation
B.1.7	Account Status	Status of the account. Permissible values are: • A – Active: Account is in regular use/policy in force • I – Inactive: Account is not in regular use/ policy lapsed • D – Dormant: As defined by regulator (e.g. There is no transaction in the account for two years, paid up policy lapsed after paying premiums for 3 or more years) • S – Suspended: Account/policy is temporarily suspended • F – Frozen: Account/policy is frozen (including case of debit freeze) • C- Closed: Account is closed/policy foreclosed, surrendered, death or maturity claim paid • Z – Others: Not listed above • X - Not categorized: The information is not available.	Validation
B.1.8	Account Treatment	Permissible values are: • N: New account as per Rule 114H • P: Pre-existing as per Rule 114H • X: Not applicable	Mandatory
B.1.9	Self-certification	Permissible values are: • Y: Yes • N: No • X: Not applicable	Mandatory

S. No.	Element	Description	Requirement
B.1.10	Documentation Status	Undocumented as per Rule 114H(3) for pre-existing individual account. If the due diligence fails to establish an indicium and the attempt to obtain the self-certification or documentary evidence is not successful, the reporting financial institution must report the account as an undocumented account. Permissible values are: • D - Documented • U - Undocumented	Validation
B.1.11	Date of closure of account, if closed during the reporting period	Date of closure of account. This information is mandatory if the account was closed during the reporting period	(Optional) Mandatory
B.2.1	Branch Number Type	The type of branch reference number used. Entities with no Branch reference number can use self-generated numbers to uniquely identify the branch. Permissible values are: • R – Regulator Issued • B – BIC • I – IFSC • S – Self generated • Z – Other sources • X – Self Generated IFSC is compulsory in case of banking institutions.	Validation
B.2.2	Branch Reference Number	The unique number to uniquely identify the branch. Reporting Financial Institution can use self-generated numbers to uniquely identify the branch.	Validation
B.2.3	Branch Name	Name of Branch linked to the account. This could be the home or linked branch.	Validation
B.2.4	Branch Address	Complete address consisting of house number, building name, street, locality, city, state etc.	Validation
B.2.5	City / Town	Name of City, Town or Village	Validation
B.2.6	Postal Code	In case of India, the 6 digit Pin code as per India Posts has to be mentioned. In case of countries outside India, respective code may be used. If Pin code is not available, use XXXXXX.	Validation
B.2.7	State Code	The two digit state code has to be mentioned as per Indian Motor Vehicle Act 1988. If state code is not available, use XX.	Validation
B.2.8	Country Code	The Country Code as per ISO 3166 has to be mentioned. Use IN for India. If Country Code is not available, use XX	Validation

S. No.	Element	Description	Requirement
B.2.9	Telephone	Telephone number in format STD Code-Telephone number. (Example 0120-2894016)	Optional
B.2.10	Mobile	Contact Mobile number. Please do not add "0" before the number	Optional
B.2.11	Fax	Fax number in format STD Code-Telephone number. (Example 0120-2894016)	Optional
B.2.12	Email	E-mail of the Branch head	Optional
B.3.1	Account balance or value at the end of reporting period	The account balance or value of the reported financial account as on the last day of the reporting period. In case if the account was closed during the reporting period then the balance immediately before closure. (Mandatory for all account types) The cash value insurance or annuity contract is the balance or value of the account. For Debt or equity accounts, the account balance is the value of the debt or equity interest that the account holder has in the financial institution.	Validation
B.3.2	Aggregate gross interest paid or credited	The aggregate gross amount of interest paid or credited to the account during the period. This information is mandatory for depository account and custodial account.	(Optional) Mandatory
B.3.3	Aggregate gross dividend paid or credited	The aggregate gross amount of dividend paid or credited to the account during the period. This information can be collected from other regulated entity. This information is mandatory for custodial account.	(Optional) Mandatory
B.3.4	Gross proceeds from sale of property	The gross proceeds from sale or redemption of property paid or credited to the account during the period with respect to which the reporting entity acted as a custodian, broker, nominee, or otherwise as an agent for the account holder. This information is mandatory for custodial account.	(Optional) Mandatory
B.3.5	Aggregate gross amount of all other income paid or credited to the account	The aggregate gross amount of all other income paid or credited to the account during the period. This information is mandatory for custodial account.	(Optional) Mandatory
B.3.6	Aggregate gross amount credited to the account	Aggregate gross amount credited to the account during the period.	Optional
B.3.7	Aggregate gross amount debited to the account	Aggregate gross amount debited to the account during the period.	Optional

S. No.	Element	Description	Requirement
B.4.1	Name	Name of the Individual in whose name the account stands. This will be mandatory for accounts of individuals.	Validation
	Preceding Title	Title of the person such as “His Excellency”, “Estate of the late”.	Optional*
	Title	Greeting title of the reported person such as Mr., Dr., Mrs., Herr etc. Can have multiple titles	Optional*
	First Name	First name of the person. In case if the first name is not available, no first name or NFN may be used here.	Optional*
	Middle name	Middle name (essential part of the name for many nationalities). Eg. Shakti in “Nivetha Shakti Shantha”. Can have multiple middle names.	Optional*
	Name prefix	De, van,van de, von, etc. Example: Derick de Clarke	Optional*
	Last Name	Represents the position of the name in a name string. Can be Given name, Forename, Christian name, Surname, Family name etc. In case of a company, this field can be used for the company name.	Optional*
	Generation Identifier	The identifier of generation such as Jnr, Thr, III	Optional*
	Suffix	Could be compressed initials such as: Phd, VC, QC	Optional*
	General Suffix	Deceased, retired etc.	Optional*
	Name Type	It is possible for an individual or entity to have several names. This is a qualifier to indicate the type of a particular name. Such types include nick names (“nick”), names under which a party does business (“dba” a short name for the entity, or a name that is used for public acquaintance instead of the official business name) etc. The possible values are: • N1= SMFAliasOrOther • N2= indiv • N3= alias • N4= nick • N5= aka • N6= dba • N7= legal • N8= atbirth	Optional*
B.4.2	Customer ID	Customer ID/Number allotted by the reporting entity. This information is mandatory if Customer ID/Number is allotted.	(Optional) Mandatory
B.4.3	Father's Name	Name of the father. This information is mandatory if valid PAN is not reported.	Optional

S. No.	Element	Description	Requirement
B.4.4	Spouse's Name	Name of the spouse, if available	Optional
B.4.5	Gender	Permissible values are: • M - Male • F - Female • O - Others	Validation
B.4.6	PAN	Permanent Account Number issued by Income-tax Department. This information is mandatory if PAN is required to be collected as per regulatory guidelines.	(Optional) Mandatory
B.4.7	Aadhaar Number	Aadhar number issued by UIDAI	Optional
B.4.8	Identification Type	Document submitted as proof of identity of the individual. Permissible values are: • A - Passport • B - Election Id Card • C - PAN Card • D - ID Card • E - Driving License • G - UIDAI Letter • H - NREGA job card • Z – Others • X – Not Categorised	Validation
B.4.9	Identification Number	Number mentioned in the identification document. This information is mandatory if PAN or Aadhar number is not reported	(Optional) Mandatory
B.4.10	Occupation Type	Permissible values are: • S - Service • B - Business • O - Others • X - Not Categorised	Validation
B.4.11	Occupation	Please specify occupation of the individual.	Optional
B.4.12	Birth Date	This data element identifies the date of birth of the Individual Account Holder. The data format is DD/MM/YYYY. This information is mandatory if valid PAN is not reported.	(Optional) Mandatory
B.4.13	Nationality	2 character Country Code (ISO 3166)	Validation

S. No.	Element	Description	Requirement
B.4.14	Country of Residence as per tax laws	This data element describes the tax residence country code(s) for the individual being reported upon and must be present in all data records. The Country Code as per ISO 3166 has to be mentioned. If the individual is certified or treated as tax resident in more than one jurisdiction then this element may be repeated.	Validation
B.4.15	Place of Birth	Place of Birth.	(Optional) Mandatory
	City Sub entity of birth	City Sub entity of birth	Optional*
B.4.16	Country of Birth	This data element describes the Country of birth for the individual. The Country Code as per ISO 3166 has to be mentioned. This information is mandatory for foreign national or non-resident.	(Optional) Mandatory
	Former Country Name	Former name of the country	Optional*
B.4.17	Foreign Tax Identification Number (TIN) allotted by tax resident country	This data element identifies the Tax Identification Number (TIN) used by the residence country of the reported account holder to identify the Individual Account Holder. In case if there is no TIN, provide functional equivalent. This information is mandatory for foreign national or non-resident.	(Optional) Mandatory
B.4.18	TIN Issuing Country	This attribute identifies the jurisdiction that issued the TIN. The Country Code as per ISO 3166 has to be mentioned. If Country Code is not available, use XX. This information is mandatory for foreign national or non-resident in certain situations.	(Optional) Mandatory
B.4.19	Address Type	Indicates the type of the address. Permissible values are: • 1- Residential Or Business • 2 - Residential • 3 - Business • 4 – Registered Office • 5 – Unspecified	Validation
B.4.20	Address	Complete address consisting of house number, building name, street, locality, city, state etc.	Validation
	Street		Optional*
	Building Identifier		Optional*
	Suite Identifier		Optional*

S. No.	Element	Description	Requirement
	Floor Identifier		Optional*
	District Name		Optional*
	POB		Optional*
B.4.21	City / Town	Name of City, Town or Village	Validation
B.4.22	Postal Code	In case of India, the 6 digit Pin code as per India Posts has to be mentioned. In case of countries outside India, respective code may be used. If Pin code is not available, use XXXXXX.	Validation
B.4.23	State Code	The two digit state code has to be mentioned as per Indian Motor Vehicle Act 1988. In case of countries outside India, or if state code is not available, use XX.	Validation
B.4.24	Country Code	The Country Code as per ISO 3166 has to be mentioned. Use IN for India. If Country Code is not available, use XX	Validation
B.4.25	Mobile/Telephone Number	Primary Telephone (STD Code-Telephone number) or mobile number (Please do not add "0" before the number)	Optional
B.4.26	Other Contact Number	Other Telephone (STD Code-Telephone number) or mobile number (Please do not add "0" before the number)	Optional
B.4.27	Remarks	Any additional information related to individual	Optional
B.5.1	Name of the Entity	Name of the Legal Entity	Validation
	Name Type	Name type of the legal entity	Optional*
B.5.2	Customer ID	Customer ID/Number allotted by the reporting entity. This information is mandatory if Customer ID/Number is allotted.	(Optional) Mandatory
B.5.3	Account Holder Type for US Reportable Person	The permissible values are: • F1 - Owner-Documented FI with specified US owner(s) • F2 - Passive Non-Financial Entity with substantial US owner(s) • F3 - Non-Participating FFI • F4 - Specified US Person • F5 - Direct Reporting NFFE • XX –Not Applicable	Validation
B.5.4	Account Holder Type for Other Reportable Person	The permissible values are: • C1- Passive Non-Financial Entity with – one or more controlling person that is a Reportable Person • C2 - Other Reportable Person • C3 - Passive Non-Financial Entity that is a CRS Reportable • XX – Not Applicable	Validation

S. No.	Element	Description	Requirement
B.5.5	Entity Constitution Type	Permissible values are: • A - Sole Proprietorship • B - Partnership Firm • C - HUF • D - Private Limited Company • E- Public Limited Company • F- Society • G- AOP/BOI • H - Trust • I – Liquidator • J – Limited Liability Partnership • K- Artificial Juridical Person • Z - Others • X – Not Categorised.	Validation
B.5.6	Date of Incorporation	To be reported in DD/MM/YYYY format. This information is mandatory if valid PAN is not reported.	(Optional) Mandatory
	Nature of Business	Nature of Business. This information is mandatory if it is captured.	(Optional) Mandatory
B.5.7	Business Code	Business Code as per Income Tax Return form	Optional*
B.5.8	PAN	Permanent Account Number issued by Income-tax Department. This information is mandatory if PAN is required to be collected as per regulatory guidelines.	(Optional) Mandatory
B.5.9	Identification Type	This Attribute defines the type of identification number being sent • T- TIN • C- Company Identification Number • G- US GIIN • E- Global Entity Identification Number (EIN) • O - Other This data element can be repeated if a second Identification is present	Validation
B.5.10	Identification No.	This data element provides the identification number used.	(Optional) Mandatory
B.5.11	Identification issuing Country	2 character Country Code (ISO 3166).	(Optional) Mandatory
B.5.12	Place of Incorporation	Place of Incorporation.	(Optional) Mandatory
B.5.13	Country of Incorporation	This data element describes the Country of Incorporation for the entity. The Country Code as per ISO 3166 has to be mentioned	(Optional) Mandatory

S. No.	Element	Description	Requirement
B.5.14	Country of Residence as per tax laws	This data element describes the tax residence country for the entity being reported upon and must be present in all data records. The Country Code as per ISO 3166 has to be mentioned. If the entity is certified or treated as tax resident in more than one jurisdiction then this element may be repeated.	(Optional) Mandatory
B.5.15	Tax Identification Number (TIN)# allotted by tax resident country	This data element identifies the Tax Identification Number (TIN) used by the residence country of the reported account holder to identify the Individual Account Holder. In case if there is no TIN, provide functional equivalent.	(Optional) Mandatory
B.5.16	TIN Issuing Country#	This attribute identifies the jurisdiction that issued the TIN. (Mandatory for Foreign national or Non Resident). The Country Code as per ISO 3166 has to be mentioned.	(Optional) Mandatory
B.5.17	Address Type	Indicates the type of the address. Permissible values are: • 1- Residential Or Business • 2 - Residential • 3 - Business • 4 – Registered Office • 5 – Unspecified	
B.5.18	Address	Complete address consisting of house number, building name, street, locality, city, state etc.	Validation
	Street		Optional*
	Building Identifier		Optional*
	Suite Identifier		Optional*
	Floor Identifier		Optional*
	District Name		Optional*
	POB		Optional*
B.5.19	City / Town	Name of City, Town or Village	Validation
B5.20	Postal Code	In case of India, the 6 digit Pin code as per India Posts has to be mentioned. In case of countries outside India, respective code may be used. If Pin code is not available, use XXXXXX.	Validation
B.5.21	State Code	The two digit state code has to be mentioned as per Indian Motor Vehicle Act 1988. If state code is not available, use XX.	Validation

S. No.	Element	Description	Requirement
B.5.22	Country Code	The Country Code as per ISO 3166 has to be mentioned. Use IN for India. If Country Code is not available, use XX	Validation
B.5.23	Mobile/Telephone Number	Primary Telephone (STD Code-Telephone number) or mobile number (Please do not add "0" before the number)	Optional
B.5.24	Other Contact Number	Other Telephone (STD Code-Telephone number) or mobile number (Please do not add "0" before the number)	Optional
B.5.25	Remarks	Any additional information related to Entity.	Optional
B.6.1	Controlling Person Type	Type of the controlling person: Permissible values are: • C01-CP of legal person-ownership • C02-CP of legal person-other means • C03-CP of legal person-senior managing official • C04-CP of legal arrangement-trust-settlor • C05-CP of legal arrangement--trust-trustee • C06-CP of legal arrangement--trust-protector • C07-CP of legal arrangement--trust-beneficiary • C08-CP of legal arrangement--trust-other • C09--CP of legal arrangement—Other-settlor equivalent • C10--CP of legal arrangement—Other-trustee equivalent • C11--CP of legal arrangement—Other-protector equivalent • C12--CP of legal arrangement—Other-beneficiary equivalent • C13--CP of legal arrangement—Other-other equivalent • C14--Unknown	Mandatory
B.6.2	Name	Name of the Controlling Person i.e. natural persons who exercise control over an entity and includes a beneficial owner as determined under to sub-rule (3) of rule 9 of Prevention of Money-laundering (Maintenance of Records) Rules, 2005. Reporting of Controlling person is mandatory for accounts of Passive Non-Financial Entity (F2, C1)	Validation
	Preceding Title	Title of the person such as "His Excellency", "Estate of the late".	Optional*
	Title	Greeting title of the reported person such as Mr., Dr., Mrs., Herr etc. Can have multiple titles	Optional*
	First Name	First name of the person. In case if the first name is not available, no first name or NFN may be used here.	Optional*
	Middle name	Middle name (essential part of the name for many nationalities). Eg. Shakti in "Nivetha Shakti Shantha". Can have multiple middle names.	Optional*
	Name prefix	De, van,van de, von, etc. Example: Derick de Clarke	Optional*

S. No.	Element	Description	Requirement
	Last Name	Represents the position of the name in a name string. Can be Given name, Forename, Christian name, Surname, Family name etc. In case of a company, this field can be used for the company name.	Optional*
	Generation Identifier	The identifier of generation such as Jnr, Thr, III	Optional*
	Suffix	Could be compressed initials such as: Phd, VC, QC	Optional*
	General Suffix	Deceased, retired etc.	Optional*
	Name Type	It is possible for an individual or entity to have several names. This is a qualifier to indicate the type of a particular name. Such types include nick names ("nick"), names under which a party does business ("dba" a short name for the entity, or a name that is used for public acquaintance instead of the official business name) etc. The possible values are: • N1= SMFAliasOrOther • N2= indiv • N3= alias • N4= nick • N5= aka • N6= dba • N7= legal • N8= atbirth	Optional*
B.6.3	Customer ID	Customer ID/Number allotted by the reporting entity. This information is mandatory if Customer ID/Number is allotted.	(Optional) Mandatory
B.6.4	Father's Name	Name of the father. This information is mandatory if valid PAN is not reported.	Optional
B.6.5	Spouse's Name	Name of the spouse, if available	Optional
B.6.6	Gender	Permissible values are: • M - Male • F - Female • O - Others	Validation
B.6.7	PAN	Permanent Account Number issued by Income Tax Department. This information is mandatory if PAN is required to be collected as per regulatory guidelines.	(Optional) Mandatory
B.6.8	Aadhaar Number	Aadhar number issued by UIDAI	Optional

S. No.	Element	Description	Requirement
B.6.9	Identification Type	Document submitted as proof of identity of the individual. Permissible values are: • A - Passport • B - Election Id Card • C - PAN Card • D - ID Card • E - Driving License • G - UIDAI Letter • H - NREGA job card • Z – Others • X – Not Categorised	Validation
B.6.10	Identification Number	Number mentioned in the identification document. This information is mandatory if PAN or Aadhar number is not reported	(Optional) Mandatory
B.6.11	Occupation Type	Permissible values are: • S - Service • B - Business • O – Others • X - Not Categorised	Validation
B.6.12	Occupation	Please specify occupation of the individual.	Optional
B.6.13	Birth Date	This data element identifies the date of birth of the Individual Account Holder. The data format is DD/MM/YYYY. This information is mandatory if valid PAN is not reported.	(Optional) Mandatory
B.6.14	Nationality	2 character Country Code (ISO 3166)	Validation
B.6.15	Country of Residence as per tax laws	This data element describes the tax residence country code(s) for the individual being reported upon and must be present in all data records. The Country Code as per ISO 3166 has to be mentioned. If the individual is certified or treated as tax resident in more than one jurisdiction then this element may be repeated.	Validation
B.6.16	Place of Birth	Place of Birth.	(Optional) Mandatory
	City Sub entity of birth	City Sub entity of birth	Optional*
B.6.17	Country of Birth	This data element describes the Country of birth for the individual. The Country Code as per ISO 3166 has to be mentioned. This information is mandatory for foreign national or non-resident.	(Optional) Mandatory
	Former Country Name	Former name of the country	Optional*

S. No.	Element	Description	Requirement
B.6.18	Foreign Tax Identification Number (TIN) allotted by tax resident country	This data element identifies the Tax Identification Number (TIN) used by the residence country of the reported account holder to identify the Individual Account Holder. In case if there is no TIN, provide functional equivalent. This information is mandatory for foreign national or non-resident.	(Optional) Mandatory
B.6.19	TIN Issuing Country	This attribute identifies the jurisdiction that issued the TIN. The Country Code as per ISO 3166 has to be mentioned. If Country Code is not available, use XX. This information is mandatory for foreign national or non-resident in certain situations.	(Optional) Mandatory
B.6.20	Address Type	Indicates the type of the address. Permissible values are: • 1- Residential Or Business • 2 - Residential • 3 - Business • 4 – Registered Office • 5 – Unspecified	Validation
B.6.21	Address	Complete address consisting of house number, building name, street, locality, city, state etc.	Validation
	Street		Optional*
	Building Identifier		Optional*
	Suite Identifier		Optional*
	Floor Identifier		Optional*
	District Name		Optional*
	POB		Optional*
B.6.22	City / Town	Name of City, Town or Village	Validation
B.6.23	Postal Code	In case of India, the 6 digit Pin code as per India Posts has to be mentioned. In case of countries outside India, respective code may be used. If Pin code is not available, use XXXXXX.	Validation
B.6.24	State Code	The two digit state code has to be mentioned as per Indian Motor Vehicle Act 1988. In case of countries outside India, or if state code is not available, use XX.	Validation
B.6.25	Country Code	The Country Code as per ISO 3166 has to be mentioned. Use IN for India. If Country Code is not available, use XX	Validation
B.6.26	Mobile/Telephone Number	Primary Telephone (STD Code-Telephone number) or mobile number (Please do not add “0” before the number)	Optional

S. No.	Element	Description	Requirement
B.6.27	Other Contact Number	Other Telephone (STD Code-Telephone number) or mobile number (Please do not add “0” before the number)	Optional
B.6.28	Remarks	Any additional information related to controlling person	Optional

Appendix D : Draft Self-Certification for Individual
(This Self- Certification is only indicative)

FATCA/CRS Declaration Form

FATCA/CRS Declaration Form		
Part I- Please fill in the country for each of the following:		
1	Country of:	
a)	Birth	
b)	Citizenship	
c)	Residence for Tax Purposes	
2	US Person (Yes / No)	
Part II- Please note: a. If in all fields above, the country mentioned by you is India and if you do not have US person status, please proceed to **Part III** for signature. b. if for any of the above field, the country mentioned by you is not India and/or if your US person status is Yes, please provide the Tax Payer Identification Number (TIN) or functional equivalent as issued in the specific country in the table below:		
i)	TIN	
	Country of Issue	
ii)	TIN	
	Country of Issue	
iii)	TIN	
	Country of Issue	
a. In case any of the parameters in **Part I** indicates that you are a US person or a person resident outside of India for tax purpose and you do not have Taxpayer Identification Numbers/functional equivalent, please complete and sign the Self-Certification section given in **Part IV**.		

b. In case you are declaring US person status as 'No' but your Country of Birth is US, please provide document evidencing Relinquishment of Citizenship. If not available provide reasons for not having relinquishment certificate _____

Please also fill **Part IV** Self-Certification.

Part III- Customer Declaration (Applicable for all customers)

(i) Under penalty of perjury, I/we certify that:

1. The applicant is (i) an applicant taxable as a US person under the laws of the United States of America ("U.S.") or any state or political subdivision thereof or therein, including the District of Columbia or any other states of the U.S., (ii) an estate the income of which is subject to U.S. federal income tax regardless of the source thereof. **(This clause is applicable only if the account holder is identified as a US person)**
2. The applicant is an applicant taxable as a tax resident under the laws of country outside India. (**This clause is applicable only if the account holder Is a tax resident outside of India)**

(ii) I/We understand that the Bank is relying on this information for the purpose of determining the status of the applicant named above in compliance with FATCA/CRS. The Bank is not able to offer any tax advice on CRS or FATCA or its impact on the applicant. I/we shall seek advice from professional tax advisor for any tax questions.

(iii) I/We agree to submit a new form within 30 days if any information or certification on this form becomes incorrect.

(iv) I/We agree that as may be required by domestic regulators/tax authorities the Bank may also be required to report, reportable details to CBDT or close or suspend my account.

(v) I/We certify that I/we provide the information on this form and to the best of my/our knowledge and belief the certification is true, correct, and complete including the taxpayer identification number of the applicant.

Signature :	
Name :	
Date (DD/MM/YYYY) :	

Part IV- Self-Certification: To be filled only if- (a) Name of the country in Part I is other than India and TIN or functional equivalent is not available, or (b) US person is mentioned as Yes in Part I, and TIN is not available	
I confirm that I am neither a US person nor a resident for Tax purpose in any country other than India, though one or more parameters suggest my relation with the country outside India. Therefore, I am providing the following document as proof of my citizenship and residency in India.	Signature
Document Proof submitted (Pls tick document being submitted)	
☐ Passport ☐ Election Id Card ☐ PAN Card ☐ Driving License ☐ UIDAI Letter NREGA Job Card ☐ Govt. Issued ID Card	

Appendix E: Draft Self-Certification for Entities
(This Self- Certification is only indicative)

Part I

A. Is the account holder a Government body/International Organization/listed company on recognized stock exchange ☐ Yes ☐ No

If "No", then proceed to point B
If "yes" please specify name of stock exchange, if you are listed company _____, and proceed to sign the declaration

B. Is the account holder a (Entity/Financial Institution) tax resident of any country other than India ☐ Yes ☐ No
If "yes", then please fill of FATCA/ CRS Self certification Form
If "No", proceed to point C

C. Is the account holder an Indian Financial Institution ☐ Yes ☐ No
If "yes", please provide your GIIN, if any _____
If "No", proceed to point D

D. Are the Substantial owners or controlling persons in the entity or chain of ownership resident for tax purpose in any country outside India or not an Indian citizen ☐ Yes ☐ No
If "yes", (then please fill FATCA/ CRS self-certification form)).
If "No", proceed to sign the declaration

Customer Declaration
( ) Under penalty of perjury, I/we certify that:
1. The applicant is:
(i) An applicant taxable as a US person under the laws of the United States of America ("U.S.") or any state or political subdivision thereof or therein, including the District to Columbia or any other states of the U.S.,
(ii) An estate the income of which is subject to U.S. federal income tax regardless of the source thereof. (This clause is applicable only if the account holder is identified as a US person)
2. The applicant is an applicant taxable as a tax resident under the lows of country outside India.
(ii) I/We understand that the Bank is relying on this information for the purpose of determining the status of the applicant named above in compliance with FATCA/CRS. The Bank is not able to offer any tax advice on FATCA/CRS or its impact on the applicant. I/we shall seek advice from professional tax advisor for any tax questions.
(iii) I/We agree to submit a new form within 30 days if any information or certification on this form becomes incorrect.
(iv) I/We agree that as may be required by domestic regulators/tax authorities the Bank may also be required to report, reportable details to CBDT or close or suspend my account.
(v) I/We certify that I/we provide the information on this form and to the best of my/our knowledge and belief the certification is true, correct, and complete including the taxpayer identification number of the applicant.

Name of the Entity

Signature1	Signature 2
Signature 3	(As per MOP)
Date :_____	

Part II

Self-Certification Form (Entity) for Foreign Account Tax Compliance Act ("FATCA") and Common Reporting Standards (CRS)

Section 1: Entity information	
Name of Entity	
Customer id (if existing)	
Entity Constitution Type	
Entity Identification type	☐ T ☐ G ☐ C ☐ E ☐ O
Entity Identification No	
Entity Identification issuing country	
Country of Residence for tax purpose	

Section 2: Classification of Non-Financial entities	
I/We (on behalf of the entity) certify that the entity is:	
a) An entity incorporated and taxable in US (Specified US person)	☐ Yes ☐ No
*If "**Yes**", please provide your U.S. Taxpayer Identification Number (TIN)*	TIN

		-								

b) An entity incorporated and taxable outside of India (other than US) ☐ Yes ☐ No

*If "**Yes**", please provide your TIN or its functional equivalent*

TIN										
		-								

Provide your TIN issuing country _____

c) *Please provide the following additional details if you are not a Specified US Person :*

FATCA / CRS classification for Non-financial entities (NFFE)
☐ Active NFFE
☐ Passive NFFE without any controlling Person
☐ Passive NFFE with Controlling Person(s): US ☐ Others ☐
☐ Direct Reporting NFFE (Choose this if any entity has registered itself for direct reporting for FATCA and thus bank is not required to do the reporting) Please provide GIIN number: _____

Section 3: Classification of financial institutions (including Banks)

I/We (on behalf of the entity) certify that the entity is :

a. An entity is a U.S. financial institution ☐ Yes ☐ No

*If "**Yes**",*

(i) Please provide your Taxpayer Identification Number (TIN)

TIN										
		-								

(ii) Please provide GIIN, if any _____

*If "**No**", please* tick one of the following boxes below:

FATCA classification	**Please provide the Global Intermediary Identification number (GIIN) or other information where**

☐	Reporting Foreign Financial Institution in a Model 1 Inter-Governmental Agreement ("IGA") Jurisdiction	
☐	Reporting Foreign Financial Institution in a Model 2 IGA Jurisdiction	
☐	Participating FFI in a Non-IGA Jurisdiction	
☐	Non-reporting FI	
☐	Non-Participating FI	
☐	Owner-Documented FI with **specified US owners**	

Section 4: Controlling person declaration					
If you are classified as "**Passive NFFE with Controlling Person(s)**" or **"Owner documented FFI" or "Specified US person",** please provide the following details:					
Name of controlling person	**Correspondence Address**	**Country of residence for tax purpose**	**TIN**	**TIN issuing country**	**Controlling person type**

Details	**Controlling person 1**	**Controlling person 2**	**Controlling person 3**	**Controlling person 4**	**Controlling person 5**
Identification Type					
Identification Number					
Occupation Type					
Occupation					
Birth Date					
Nationality					
Country of Birth					

Section 5: Declaration
(i) Under penalty of perjury, I/we certify that: 1. The number shown on this form is the correct taxpayer identification number of the applicant, and 2. The applicant is (i) an applicant taxable as a US person under the laws of the United States of America ("U.S.") or any state or political subdivision thereof or therein, including the District of Columbia or any other states of the U.S., (ii) an estate the income of which is subject to U.S. federal income tax regardless of the source thereof, or 3. The applicant Is an applicant taxable as a tax resident under the laws of country outside India. (ii) I/We understand that the Bank is relying on this information for the purpose of determining the status of the applicant named above in compliance with CRS/FATCA. The Bank is not able to offer any tax advice on CRS or FATCA or its impact on the applicant. I/we shall seek advice from professional tax advisor for any tax questions. (iii) I/We agree to submit a new form within 30 days if any information or certification on this form gets changed. . (iv) I/ We agree as may be required by /Regulatory authorities, bank shall be required to comply to report, reportable details to CBDT or close or suspend my account. (v) I/We certify that I/we provide the information on this form and to the best of my/our knowledge and belief the certification is true, correct and complete including the tax payer identification number of the applicant.

☐ **I/We hereby confirm that details provided are accurate, correct and complete**

S.V.

_____

Authorized Signatories and Company Seal (if applicable)

Name _____

Date (DD/MM/YYYY) _____

_____

सत्यमेव जयते
Indian Revenue Service