

**SECTION 285BA OF THE INCOME-TAX ACT, 1961, READ WITH RULES 114F TO 114H OF THE INCOME-TAX RULES, 1962 - FURNISH STATEMENT OF FINANCIAL TRANSACTION OR REPORTABLE ACCOUNT - OBLIGATION TO - GUIDANCE NOTES ON IMPLEMENTATION OF REPORTING REQUIREMENTS UNDER RULES 114F TO 114H OF SAID RULES**

**LETTER F. NO. 500/137/2011-FTTR-III, DATED 31-8-2015**

**1. Introduction**

**1.1 New Global Standards on Automatic Exchange of Information**

To combat the problem of offshore tax evasion and avoidance and slashing 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 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 and its Commentary are available at <http://www.oecd.org/ctp/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-information-in-tax-matters-html>.

**1.2 Enactment of FATCA and signing of IGA**

Earlier, in 2010, the USA enacted a law known as 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 (FIs) unless they enter into an agreement with the Internal Revenue Service (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, which provides that the Indian FIs will provide the necessary information to Indian tax authorities, which will then be transmitted to USA automatically. Under the IGA, USA will also provide substantial information about Indians having Financial assets in USA although the exchange of information is not fully reciprocal as yet. The text of the IGA signed between India and USA is available at [http://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/375/india/iga/final-india\\_english.pdf](http://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/375/india/iga/final-india_english.pdf).

**1.3 Commitment to Implement CRS on AEOI**

In keeping with its leadership role in developing the new global standards. India is one of the early adopters of the CRS and has committed to exchange information automatically by 2017 as under :

First exchange in September, 2017 for new accounts (both individuals and entity) opened after 1.1.2016 and for pre-existing (as on 31.12.2015) individual high value accounts (balance more than USD 1,000,000)

Exchange in September, 2018 of pre-existing (as on 31.12.2015) individual low value accounts and pre-existing (as on 31.12.2015) entity accounts.

The Government of India has also joined the Multilateral Competent Authority Agreement (MCAA) on 3rd June, 2015 for exchanging information as per the above timelines. By August, 2015, 93 jurisdictions have committed to exchange information as per the new global standards. 58 of them from 2017 and the balance 35 from 2018. 61 of the 93 jurisdictions have also joined the MCAA. Table in Annexure provides a list of the 93 jurisdictions and the time for exchanging information.

#### **1.4 Steps taken for Implementation of CRS on AEOI and IGA**

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 smoothen the reporting requirements and to address their concerns wherever possible. A copy of the Notification No. 62 of 2015 modifying the Income-tax Rules, 1962, is at <http://www.incometaxindia.gov.in/communications/notification/notification%20no.%2062%20dated%2007-08-2015.pdf>.

#### **1.5 Purpose of the Guidance Note**

The purpose of this Guidance Note is to provide guidance to the Financial Institutions. Regulators and officers of the 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 complex reporting requirements and provide further guidance wherever required. Since a large part of the Rules is based on CRS on AEOI, the Financial Institutions may refer the CRS and its Commentary to get further understanding of the terms used. In this Guidance Note, reference to the CRS and Commentary has been given for further reference. All the stakeholders are requested to provide feedback and suggestions so that an updated version of the Guidance Note can be issued before 1st January, 2016, when most of the reporting requirements will commence including Frequently Asked Questions (FAQs).

### **2. Reporting Financial Institutions**

#### **2.1 Introduction**

Rule 114G(1) casts an obligation on "Reporting Financial Institutions" to maintain and report certain information in respect of each "Reportable Account". "Reporting Financial Institution" is defined in Rule 114F (7) to mean

- (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.

Following steps may be followed to determine whether a person is a Reporting Financial Institution (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?

## **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, and foundations. 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 is very wide and includes custodial institutions, depository institutions, investment entities and specified insurance companies.

### **2.3.1 Custodial Institution**

*Explanation* (a) to Rule 114F(3) defines a "custodial institution" 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 20% 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. Entities that safe keep Financial Assets for the account of others, such as custodian banks, brokers and central securities depositories, would generally be considered Custodial Institutions.

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

### **2.3.2 Depository Institution**

*Explanation* (b) to Rule 114F(3) defines a "depository institution" 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, the Entity accepts deposits or other similar investments of funds and regularly engages in one or more of the following activities :

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

Savings banks, commercial banks, savings and loan associations, and credit unions 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 an "investment entity" to be primarily of two types

Entities which primarily conduct as a business one or more of the following activities or operations 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 in vesting, administering, or managing financial assets or money on behalf of other persons;

Entities whose gross income is primarily attributable to investing, reinvesting, or

trading in financial assets, if the said entity is managed by another entity that is a depository institution, a custodial institution, an investment entity or a specified insurance company.

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

### **2.3.4 Specified Insurance Company**

*Explanation* (d) to Rule 114F(3) defines "specified insurance company" 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) is defined to mean 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 US\$ 50,000. 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.

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

### **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 while Foreign Financial Institutions, their foreign branches and foreign branches of Indian Financial Institutions are not. 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)**

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

Rule 114F(5) specifies a number of entities as non-reporting financial institutions and these entities are not required to maintain or report the information, except in case of "financial institution with a local client base" in certain specified situations. These non-reporting financial institutions 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 hold investment vehicle, in case of any U.S. reportable account.

Explanation to Rule 114F(5) provide further explanation of the above categories of non-reporting financial institutions.

**(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. Accounts which are Financial Accounts and therefore need to be reviewed**

### **3.1 Introduction**

RFIs are required to review the Financial Accounts they maintain to identify whether any of them need to be reported. The general rule is that a Financial Account is an account maintained by a Financial Institution and includes specific categories of accounts (Depository Accounts, Custodial Accounts, Equity and debt interests. Cash Value Insurance Contracts and Annuity Contracts). Certain types of Financial Accounts which carry low risk of being used to evade tax are excluded from needing to be reviewed or reported and are called Excluded Accounts.

### **3.2 Categories of Financial Accounts**

Rule 114F (1) defines "Financial Accounts" to include the following

- (a) "depository account" which 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" 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
- (c) in the case of an investment entity, any equity or debt interest in the Financial Institution. "Equity Interest" in a financial institution being a partnership firm, means either a capital or profits interest in the partnership firm and in the case of a trust it would mean 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.
- (d) 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.

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

### **3.3 Excluded Accounts**

"Excluded Accounts" have low risk of being used to evade tax and are thus excluded from needing to be reviewed or reported. 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 favoured 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 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**

Once a RFI has identified the Financial Accounts they maintain they are required to review those accounts to identify whether any of them are Reportable Accounts. Where they are found to be Reportable Accounts information in relation to those accounts must be reported. In general terms, a Reportable Account means an account, which has been identified pursuant to the due diligence procedure prescribed in Rule 114H, as held by one or more Reportable Persons or by a Passive Non-Financial Entity with one or more Controlling Persons that is a Reportable Person. Thus, an account can be Reportable Account by virtue of the Account Holder or by virtue of the Account Holders' Controlling Persons.

### **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". The reportable person as defined in Rule 114F(8) means :

- (a) One or more specified U.S. persons
- (b) One or more persons that is resident of any country or territory outside India under the tax laws of such country or territory other than prescribed entities

The U.S. person includes an individual being a citizen or resident of USA, a partnership or corporation organized in the USA, US trusts etc. In case of USA, an individual account holder who is a citizen or resident of USA is a US reportable account and the account of a US entity which is a specified US person is a US reportable account. In case of other reportable accounts, the accounts held by residents (for tax purposes) of countries/territories outside India, whether individuals or specified entities, would be reportable accounts.

**(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 accounts would be Reportable Account.

**4.3.2** In case of USA, these reportable accounts by virtue of Rule 114F(6)(b) would be accounts held by an entity, not based in USA, with one or more controlling person that is a specified U.S. person. The specified U.S. person is defined in Rule 114F(9) as a U.S. person other than persons exempted under sub-clauses (i) to (xiii) of clause (ff) of Article 1 of the IGA between India and USA . U.S. person is defined in Rule 114F(10) as an individual, being a citizen or resident in USA, a partnership or corporation organized in USA or US Trusts. In case of an entity not based in US. controlling persons and their tax residency to be ascertained only in respect of a passive entity and if such controlling persons are identified as specified US person, the account of such non-US passive entity will be a US reportable account.

**4.3.3** In the ease of other countries/territories, these reportable accounts by virtue of Rule 114F(6)(c) would be accounts held by a Passive Non-Financial Entity (NFE) with one or more controlling persons resident of a country/territory outside India.

**4.3.4** Passive NFE is defined in Explanation (D) to Rule 114F(6) as any non-financial entity which is not Active NFE, an investment entity or a withholding partnership or withholding foreign trust. Active NFE has been defined in Explanation (A) to Rule 114F(6) and includes regularly traded entities etc.

**4.3.5** Controlling Person is defined in Explanation (B) to Rule 114F(6) to mean 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/GLD/CIR/019/02/2013, issued on the 4th February, 2013 by the Insurance Regulatory and Development Authority.

It has also been specified that 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.

**4.3.6** Thus, if the Controlling Persons of a Passive NFE having an account in a Reporting Financial Institution, is a person resident of a country/territory outside India, the account becomes a Reportable Account for all such country/territory outside India which the 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.

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

## **5. Due Diligence Procedure**

### **5.1 Introduction**

The RFIs need to identify the Reportable Accounts by carrying out due diligence procedures. There are different rules for accounts held by individuals and Entities as well as for Pre-existing and New Accounts, reflecting the differing characteristics between the different types of accounts. The standardized approach to be applied for carrying out due diligence procedure ensures quality of information to be reported and exchanged. The rules also leverage on existing processes such as those for

Anti Money Laundering purposes but not for any other process that may have been in place for identification of the account holders for any other purposes or under any Act, Regulations etc., including under Income-tax Act, 1961. This is particularly the case for Pre-existing Accounts where it is more challenging and costly for Financial Institutions to obtain new information from the Account Holder,

## **5.2 Split between Pre-existing Accounts and New Accounts**

**5.2.1** There are separate due diligence procedure for Preexisting and New Accounts and thus the date from which the procedure for New Accounts become applicable is critical. Generally from this date, persons opening New Accounts will be required to provide additional information for Financial Institutions to determine where they are resident of a country/territory outside India. For accounts opened prior to this date, Financial Institutions will generally be allowed to rely on the information they hold on file.

**5.2.2** The date from which the procedure for New Accounts would be applicable is

1st July, 2014 in case of U.S. Reportable Accounts

1st January, 2016 in case of other Reportable Accounts

**5.2.3** In the case of U.S.A., 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). As per this alternate procedure, the self-certification required for New Accounts should be obtained within one year of entry into force of the IGA, i.e., by 31st August, 2016 and if it is not obtained, the accounts need to be closed.

## **5.3 Due Diligence for Pre-existing Individual Accounts**

**5.3.1** The following pre-existing individual accounts are not required to be reviewed or reported:

In case of US reportable accounts [Rule 114H (3)(a)(i)]

- where the balance or value as on 30th June, 2014 does not exceed an amount equivalent to US\$ 50,000
- which is a cash value insurance contract or an annuity contract, the balance or value does not exceed an amount equivalent to US\$ 2,50,000 as on 30th June, 2014
- 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 USA, is prevented from selling such contract to a person who is resident of the USA.

In case of other reportable accounts [Rule 114H(3)(a)(ii)]

- 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.

**5.3.2** There are separate due diligence procedures for "lower value account" and "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 one million dollars 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 one million dollar as on 31st December, 2015 or 31st December of any subsequent year.

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 US\$ 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.



**5.3.3** The due diligence procedure for lower value pre-existing individual accounts is prescribed in Rule 114H(3)(b) which provides that the Reporting Financial Institutions must review electronically searchable data maintained on the following indicia

- 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;
- current mailing or residence address (including a post office box) in any country or territory outside India; or
- one or more telephone numbers in a country or territory outside India and no telephone number in India; or
- 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
- currently effective power of attorney or signatory authority granted to a person with an address in a country or territory outside India; or
- 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.

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.

**5.3.4** Notwithstanding finding of indicia in the case of low value pre-existing individual accounts, it would not be reportable if the Reporting Financial Institution obtains and maintains a record of

- a self-certification from the account holder that it is not resident of a country/territory outside India.
- documentary evidence establishing the account holder's non-reportable status.

**5.3.5** The due diligence procedure for high value pre-existing individual accounts is prescribed in Rule 114H(3)(c) which provides for enhanced review procedures described below:

- (a) If the electronic searchable information in case of a customer includes the following information, no paper record search 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 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.
- (b) If the electronic searchable data does not contain all of the above information, the Reporting Financial Institution need to review the current customer master file and the documents obtained during the last five years for identification of any of the indicia.
- (c) The high value accounts assigned to a relationship manager will be treated as reportable account if the relationship manager has actual knowledge that the account holder is a reportable person.
- (d) If after application of review 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.

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 it obtains a self-certification to establish its residence the

only indicia found is a "hold mail" or "in-care" address, special procedures are applied and the RFIs need to complete paper record search or obtain from the account holder a self-certification or documentary evidence to establish the residence.

- (e) 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.

**5.3.6** For purposes of determining the aggregate balance or value of financial accounts held by an individual, RFI is required to aggregate all financial accounts maintained by it, or by a related entity, but only to the extent that the computerised systems of the RFI 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. In the case of a high value account the RFIs are also required to aggregate those 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, [Rule 114H(7)(c)]

**5.3.7** The timeline for reviewing of the pre-existing individual accounts have been provided in Rule 114H(3)(d) as under:—

- (i) in case of a U.S. reportable account which is high value account as on the 30.6.2014, 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.
- (ii) in case of a U.S. reportable account which is low value account as on the 30.6.2014 shall be completed by the 30.6.2016.
- (iii) in case of other reportable account which is high value account as on the 31.12.2015 shall be completed by the 30.6.2016.
- (iv) in case of other reportable accounts that is low value account as on the 31.12.2015, must be completed by the 30.6.2017.

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

#### **5.4 Due Diligence for Pre-existing Entity Accounts**

**5.4.1** The following pre-existing entity accounts are not required to be reviewed, identified or reported [Rule 114H(5)(a)]

- 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 US\$ 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 US\$ 250,000 or the end of any subsequent calendar year.

**5.4.2** The reportable accounts would only be those accounts which are held by

One or more entities which are reportable persons, or  
Passive NFEs with one or more controlling persons who are reportable persons

For calendar years 2015 and 2016, accounts held by non-participating financial institutions for purposes of FATCA, will also be treated as reportable accounts and need to be reported as US accounts.

**5.4.3** 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, or if 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.

**5.4.4** The account holder will be treated as a non-participating financial institution requiring information to be reported to USA for calendar years 2015 and 2016 if

the account holder is treated as non-participating financial institution by the USA or  
the account holder is a financial institution from a country/territory which has not entered into an IGA with USA and the reporting financial institution does not verify the said account holder's Global Intermediary Identification Number issued by the US IRS if the account holder is an FI referred to in sub-clauses (e) to (m) of Clause 5 of Rule 114F.

the account holder is a financial institution from a country/territory which has entered into an IGA with USA (a partner jurisdiction FI) but has neither registered with US IRS and obtained a GIIN nor it is a Non-Reporting FI (NRFI).

**5.4.5** The Reporting Financial Institution also needs to determine whether the account holder is a Passive NFE and whether its controlling persons are residents of countries/territories outside India as per the following procedure:

for purposes of determining whether the account holder is a passive NFE, 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 NFE or a financial institution other than an investment entity.

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 if the balance does not exceed USD 10,000,00. If it exceeds USD 10,000,00. self-certification from the account holder or such controlling person(s) will be required.

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.

**5.4.6** 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. [Rule 114 (7)(c)]

**5.4.7** The review of the pre-existing entity accounts with an aggregate balance exceeding US\$ 250,000

as on 30.6.2014 in case of U.S. reportable accounts should be completed by 30.6.2016. In case of other reportable accounts with an aggregate balance exceeding US\$ 250,000 as on 31.12.2015, the review should be completed by 30.6.2016. [Rule 114H(4)(E)(e)]

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

## **5.5 Due Diligence for New Individual Accounts**

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

- (a) a depository account unless the account balance exceeds an amount equal to US\$ 50,000 at the end of any calendar year
- (b) a cash value insurance contract unless the cash value exceeds an amount equal to US\$ 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 US\$ 50,000. Further, there is no threshold in case of other reportable accounts and thus any individual account opened from 1.1.2016 has to be reviewed to ascertain whether it is a reportable account.

**5.5.2** In the case of US reportable accounts, not falling under the exemption as above, and in case of other reportable accounts, on account opening, the reporting financial institution must obtain a self-certification, as part of the account opening documentation, to determine the account holder's residence or residences for tax purposes. 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.

**5.5.3** Where the self-certification 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 and date of birth,

**5.5.4** 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 an indicium is identified.

**(Ref: Page 37 of CRS and 127 of Commentary)**

## **5.6 Due Diligence for New Entity Accounts**

**5.6.1** There is no threshold or exemption for new entity accounts and all these accounts need to be reviewed and reported. As in the case of pre-existing entity accounts, two-step process need to be adopted as explained below.

**5.6.2** The Reporting Financial Institution need to determine whether the Entity itself is a reportable person, i.e., resident of a country/territory outside India, by obtaining a self-certification, as part of the account opening documentation, to determine the account holder's residence or residences for tax purposes. 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.

**5.6.3** The RFI also need to determine whether the account holder is a passive NFE with one or more controlling persons who are reportable persons, i.e., residents of a country/territory outside India, through the following procedure:

- (a) for purposes of determining whether the account holder is a passive NFE, 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.
- (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.

**5.6.4** 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)**

## **5.7 Alternate Procedure in case of US Reportable Accounts**

**5.7.1** 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.

**5.7.2** 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.

**5.7.3** 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".

**5.7.4** 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.

**5.7.5** 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.

**5.7.6** Rule 114H(4)(a) states that the depository accounts having a balance not exceeding US\$ 50,000 or cash value insurance contracts having cash value not exceeding US\$ 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 US\$ 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.

**5.7.7** 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 be 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 US\$ 50,000. Such due diligence needs to be completed within a period of 90 days from the end of calendar year 2015, i.e., by 31.3.2016. 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.

**5.7.8** For a depository entity account, opened between 1.1.2015 to 31.8.2015, 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 US\$ 250,000. Similarly, for a depository entity account, opened after 1.9.2015, 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 US\$ 250,000.

## **6. Reporting Requirements**

### **6.1 Information to be maintained and reported**

Rule 114(G)(1) provides that the 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 years 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 Due date for furnishing the Report**

**6.2.1** 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 clauses (a) to (d) of Para 7.1 needs to be reported.

**6.2.2** 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 clauses (a) to (d), e(i) and (f) to (h) of Para 7.1 needs to be reported.

**6.2.3** 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.

**6.2.4** for calendar years 2016 onwards, all the above information in case of both US and other reportable accounts need to be reported.

**6.2.5** 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.

## **6.3 Other Issues related to Reporting**

The following clarifications have been provided in Rule 114G with regard to reporting:

- (a) "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 another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, such another person will be treated as holding the account.
- (b) 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;
- (c) "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.
  - (d) 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.
  - (e) In case of pre-existing accounts, 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. However, the RFI need to 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.
  - (f) The taxpayer identification number is not required to be reported if it is not issued by the relevant country or territory or the domestic law of the relevant country or territory does not require the collection of taxpayer identification number.
  - (g) The place of birth is not required to be reported if it is not available in the electronically searchable database of the RFI.

## **7. Procedure for Furnishing the Report**

**7.1** 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).

**7.2** The Principal Director General of Income-tax (Systems) through Notification No. 3/2015, dated 25th August, 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.

## **8. Monitoring and Compliance**

### **8.1 By Income-tax Department**

As provided in Rule 114G(9), the statement needs to be furnished to the Directorate of Intelligence 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 271 FA 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.

### **8.2 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.

### **8.3 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.

## **9. 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. Rahul Navin, Director (FT&TR-III), rahul.navin@nic.in

Mr. Gaurav Sharma, US (FT&TR-III)(I), us31eoi-dor@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

**(Mr. Gaurav Sharma)**

Under Secretary (FT&TR-III)(I)]

us31eoi-dor@nic.in

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

<i>Sl. No.</i>	<i>Name of the Jurisdiction</i>	<i>Whether joined MCAA</i>
<b>First Exchange by 2017</b>		
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
58.	Uruguay	No

**First Exchange by 2018**

59.	Albania	Yes
60.	Andorra	No
61.	Antigua and Barbados	No
62.	Aruba	Yes
63.	Australia	Yes
64.	Austria	Yes
65.	Bahamas	No
66.	Belize	No
67.	Brazil	No
68.	Brunei Darussalam	No
69.	Canada	Yes
70.	China	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.	Qatar	No
83.	Russia	No
84.	Saint Kitts and Nevis	No
85.	Saint Lucia	No
86.	Saint Vincent and the Grenadines	No
87.	Samoa	No
88.	Saudi Arabia	No
89.	Singapore	No
90.	Sint Maarten	No
91.	Switzerland	Yes
92.	Turkey	No
93.	United Arab Emirates	No

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