IMPLEMENTATION OF FATCA

Guidance Notes

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May 2015

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List of Abbreviations

AML	Anti-Money Laundering
CFC	Controlled Foreign Corporation
CIS	Collective Investment Scheme
DoB	Date of Birth
FA	Financial Advisor
FATCA	Foreign Account Tax Compliance Act
FATF	Financial Action Task Force
FFI	Foreign financial institution
GIIN	Global intermediary identification number
IGA	Intergovernmental Agreement
IRC	U.S. Internal Revenue Code
IRS	U.S. Internal Revenue Service
ITA	Income Tax Act
KYC	Know Your Client
MC	Management Company
MFI	Mauritius Financial Institutions
MRA	Mauritius Revenue Authority
NFFE	Non Financial Foreign Entities
NPFI	Non Participating Financial Institution
TIN	Tax Identification Number
QI	Qualified intermediary

CHAPTER 1

Background

1.1 General

The Foreign Account Tax Compliance Act (FATCA) was introduced by the United States (US) in 2010 as part of the US Hiring Incentives to Restore Employment (HIRE) Act. The objective of FATCA is to combat tax evasion by improving exchange of information between tax authorities in relation to U.S. citizens and residents who hold assets off-shore. FATCA requires Financial Institutions outside the US to report information on financial accounts held by their US customers to the US Tax Authorities, i.e. to the Internal Revenue Service (IRS). A foreign Financial Institution which fails to comply with FATCA is imposed a 30% withholding tax on US source income of that financial institution.

On 27 December 2013 the Government of the Republic of Mauritius and the Government of the United States of America signed an Agreement for the Exchange of Information Relating to Taxes (the Agreement) to set the legal framework to enable exchange of tax information between the two countries. This was followed by the signing of another agreement known as the Inter-Governmental Agreement (Model 1 IGA) to improve international tax compliance and to implement FATCA. Both agreements have been published in the Government Gazette No. 61 of 5th July 2014 as GN 135 of 2014 – the Agreement and the IGA are attached to these Guidance Notes as Appendix I and Appendix II respectively. Both the Agreement and the IGA have entered into force on the 29 August 2014.

The Agreement provides for exchange of tax information (upon request, spontaneous and automatic) between Mauritius and USA. The IGA provides for the automatic reporting and exchange of information in relation to accounts held with Mauritius

Financial Institutions by US persons and the reciprocal exchange of information regarding financial accounts held by Mauritius residents in the USA.

Following the IGA, Mauritius Financial Institutions will not be subject to the 30% withholding tax on U.S. source income provided they comply with the requirements of FATCA.

1.2 The Purpose of these Guidance Notes

These Guidance Notes are intended to provide practical assistance to Financial Institutions, businesses, their advisers and officials dealing with the application of FATCA.

Guidance is provided to ensure the efficient operation of the reporting requirements. Accordingly, these Guidance Notes are not definitive or immutable and valid suggestions for alterations and amendments will be welcomed by the MRA.

1.3 Scope of FATCA

FATCA applies to Financial Institutions located in Mauritius, referred to as "Mauritius Financial Institutions". In these Guidance Notes these are generally referred to as "Financial Institutions". In order to determine how the legislation applies it will be necessary for a Financial Institution to consider whether the entity -

(a) is a Financial Institution?;
(b) maintains Financial Accounts?;
(c) shows indicators that the Account Holders' are specified US Persons?;
(d) needs to register with the IRS and, if so, by when and how?;
(e) has any Reportable Accounts after applying the relevant due diligence?;
(f) needs to report any information and, if so, what information, when and how?

1.4 Interaction with US Regulations

In policy terms a Mauritius Financial Institution will not be, under Article 4 or Annex 1 of the IGA, at a disadvantage from applying the legislation implementing the IGA, as compared to the position that it would have been in if it were to apply the US regulations or another Intergovernmental FATCA Agreement entered into between the US and another jurisdiction.

However, a Mauritius Financial Institution has the obligation to comply with the Mauritius legal requirements in force. Where a Financial Institution identifies an element of the US Regulations or an element of another Intergovernmental Agreement that provides for a beneficial position to be taken, it should contact the MRA to discuss the issue.

If the US authorities subsequently amend the underlying US regulations to introduce additional or broader exemptions MRA will consider whether to incorporate those changes into its Regulations or Guidance Notes. Any update will be published and made available on MRA's website.

1.5 The Mauritius Competent Authority

The Mauritius competent authority is the Director-General of the MRA or his authorised delegate. The delegated functions are carried out by the responsible officer delegated by the Director-General and the staff of the FATCA Unit which is responsible for the implementation of FATCA.

The MRA will receive, from the relevant Mauritius Financial Institutions, the information required to be disclosed and transmit that information to the IRS under FATCA. The MRA does not have responsibility for the audit of the information provided by the Financial Institutions. It is the responsibility of each Financial Institution to decide whether it should get registered with the IRS and to provide the correct information in the correct format to the MRA for exchange with the IRS.

The MRA will monitor compliance by Financial Institutions with domestic legal requirements and, as necessary, will enforce applicable Mauritius Laws and Regulations, including in cases of significant non-compliance notified to it by the US Authorities.

1.6 Revenue Contacts

Where a Financial Institution requires further information on the issues raised in these guidelines, it may contact the MRA at the following address –

FATCA Unit
Mauritius Revenue Authority
5th Floor, Ehram Court
Cnr Sir Virgil Naz & Mgr Gonin Streets
Port Louis

Tel: (230) 207 6000
Email: fatcaunit@mra.mu

CHAPTER 2

Financial Institutions

2.1 Introduction

The term "Mauritius Financial Institution", as defined in the IGA, means (i) any Financial Institution resident in Mauritius, but excluding any branch of such Financial Institution that is located outside Mauritius, and (ii) any branch of a Financial Institution not resident in Mauritius, if such branch is located in Mauritius.

The first step to be undertaken by an entity or its representative is to establish whether, for the purposes of the IGA, the entity is a Financial Institution. This will determine the extent of the obligations that need to be undertaken.

FATCA introduces through the US Regulations the concept of a Foreign Financial Institution (FFI). This term applies to non-US entities that meet the definition of a Financial Institution, i.e. a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company. As such, the scope of FATCA applies if an entity falls within any of, or more than one of, the following categories –

(a) Depository Institution;
(b) Custodial Institution;
(c) Investment Entity;
(d) Specified Insurance Company.

An entity may fall within more than one category of Financial Institution.

Under the IGA, Mauritius Financial Institutions will be classified either as a Reporting Mauritius Financial Institution or a Non-Reporting Mauritius Financial Institution. (see below).

As long as Mauritius Financial Institutions are in compliance with FATCA they will not be subject to any withholding tax on their US source income under s1471 of the US Internal Revenue Code.

2.2 Categories of Financial institutions

(a) **Depository Institution** is defined in subparagraph 1 (i) of Article 1 of the IGA as any entity which accepts deposits in the ordinary course of a banking or similar business. Entities that fall within this definition include entities regulated in Mauritius as a bank or non-bank deposit taking institutions[1].

(b) **Custodial Institution** is defined in subparagraph 1 (h) of Article 1 of the IGA as an entity that holds, as a substantial portion of its business, financial assets for the account of others.

An entity will fall within this description where –

- in its last 3 accounting periods; or
- in the period since commencement of business, where the entity has not been in business for 3 years,

its income attributable to the holding of financial assets and the provision of related financial services is 20 per cent or greater of its gross income.

The term "related financial services" means any ancillary service directly related to the holding of assets by the institution on behalf of others. Income arising from these services includes –

- custody, account maintenance and transfer fees;
- execution and pricing commission and fees from securities transactions;

[1]The list of Non-Bank deposit taking institution is available on the website of the Bank of Mauritius at http://www.bom.mu

- income earned from extending credit to customers;
- income earned from contracts for difference and on the bid-ask spread of financial assets; and
- fees for providing financial advice, clearance and settlement services.

Such institutions could include brokers, custodial banks, Trust companies, clearing organisations and nominees. Insurance brokers do not hold assets on behalf of clients and thus should not fall within the scope of this provision.

(c) **Investment Entity**

As per the definition in the IGA and the provisions of the U.S. Regulations, an entity may choose which of the two available definitions of 'Investment Entity' given below to follow:

(i) An investment entity within the meaning of the IGA.

As per subparagraph 1 (h) of Article 1 of the IGA, an entity will qualify as an Investment Entity where it conducts as a business, or is managed by an entity that conducts as a business, one or more of the following activities, for or on behalf of a customer (for example an Account Holder) –

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

This definition should be interpreted in a manner consistent with similar language set forth in the definition of "Financial Institution" in the Financial Action Task Force Recommendations.

In practice, when applying the IGA definition, an entity that is professionally managed

will generally be an Investment Entity, by virtue of the managing entity being an Investment Entity. This is referred to as the "managed by" test.

For the purposes of the "managed by" test, a distinction should be made between one entity 'managing' another and one entity 'administering' another. For instance, the following services provided by an entity to another will not constitute the latter entity being "managed by" the former:

- Provision of co-secretary and/or company secretarial services
- Provision of registered office
- Preparation of final financial statements (from company books and records)
- Preparation of Tax and/or VAT returns
- Provision of bookkeeping services including budgeting and cash-flow forecasts.

It therefore follows that where a company is *managed by* another company which itself is an Investment Entity, the first mentioned company is to be treated as an Investment Entity.

(ii) An Investment Entity within the meaning of the US Regulations ("Financial Assets" test).

As permitted under the IGA, the definition of Investment Entity included in the US Regulations may also be used. An investment entity is any entity that is described in A, B, or C:

A. The entity primarily 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 (checks, bills, certificates of deposit, derivatives, etc.); foreign currency; foreign exchange, interest rate, and index instruments; transferable securities; or commodity futures;

(2) Individual or collective portfolio management; or

(3) Otherwise investing, administering, or managing funds, money, or financial assets

on behalf of other persons.

B. An entity will be regarded as an *Investment Entity* where the entity is managed by a Financial Institution and its gross income attributable to investing, reinvesting, or trading in financial assets, is equal to or exceeds 50 per cent of the entity's gross income during the shorter of –

- the three-year period ending on 31 December of the year preceding the year in which the determination is made; or
- the period during which the entity has been in existence.

Where an entity satisfies the above condition and is managed by a Financial Institution that performs any of the activities listed in sub-paragraph (i) above, either directly or through another third party service provider, the managed entity will be an Investment Entity.

Where an entity is managed by an individual who performs the activities described above the managed entity will not be an Investment Entity because an individual is not an Investment Entity.

The entity's gross income must be primarily attributable to investing, reinvesting, or trading in financial assets (as defined below). Therefore an entity whose assets consist of non-debt direct interests in manufacturing, trading, mining and property development, real property etc even if managed by another Investment Entity would not be an Investment Entity. 'Direct interest' means direct line of ownership i.e. this can include real property that is indirectly held through companies.

Financial assets

The term "Financial Assets" includes, but is not restricted to:

- 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 interest swaps and similar arrangements);
- 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.

C. The entity functions or holds itself out as a 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.

(d) **Specified Insurance Company** is defined in subparagraph 1 (k) of the IGA as 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.

Insurance companies that provide only general insurance or term life insurance and reinsurance companies that provide only indemnity reinsurance contracts are not covered under this definition.

A specified insurance company can include both an insurance company and its holding company. However, the holding company itself will be a specified insurance company only if it issues or is obligated to make payments with respect to Cash Value Insurance Contracts or Annuity Contracts.

Each category of Financial Institution is determined by set criteria, which must be met. Where an entity does not meet the definition of a Financial Institution then the entity will be regarded as a Non-Financial Foreign Entity (NFFE).

2.3 Non-Reporting Mauritius Financial Institutions

A Non-Reporting Mauritius Financial Institution is any Financial Institution specifically identified as such in Annex II of the IGA; or one which otherwise qualifies under subparagraph 1 (q) of Article 1 of the IGA as –

- a Deemed Compliant Foreign Financial Institution; or
- an Exempt Beneficial Owner.

A Non-Reporting Financial Institution will not need to obtain a Global Intermediary Identification Number (GIIN) or carry out the due diligence and reporting obligations under the IGA.

However, there is one scenario in which an entity which is treated as Deemed Compliant Foreign Financial Institution under Annex II could still have some reporting obligations. That is where an entity meets the criteria of a Financial Institution with a Local Client Base and has US Reportable Accounts. This is covered later in this chapter.

2.4 Reporting Mauritius Financial Institutions

Any Mauritius Financial Institution that is not a Non-Reporting Financial Institution will be a Reporting Mauritius Financial Institution. It will be responsible for ensuring that the due diligence requirements are met and for reporting to the MRA in accordance with the law.

2.5 Mauritius Financial Institutions (MFIs)

The IGA applies to Mauritius Financial Institutions. Under the IGA a Mauritius Financial Institution is any Financial Institution resident in Mauritius, as well as any branch of a non-resident Financial Institution located in Mauritius.

In many cases whether or not a Financial Institution is resident in or located in Mauritius will be clear, but there may be situations where this is less obvious.

"Residence" is defined in section 73 of the Income Tax Act 1995 as follows –

(a) **An individual**

An individual is resident in Mauritius in an income year if he –

(i) has his domicile in Mauritius unless his permanent place of abode is outside Mauritius;

(ii) has been present in Mauritius in that income year, for a period of, or an aggregate period of, 183 days or more; or

(iii) has been present in Mauritius in that income year and the 2 preceding income years, for an aggregate period of 270 days or more;

(b) **A company**

A resident company is one which –

(i) is incorporated in Mauritius; or

(ii) has its central management and control in Mauritius;

(c) **A société**

A resident société –

(i) means a société which has its seat or *siège* in Mauritius; and

(ii) includes a société which has at least one associate or *associé* or *gérant* resident in Mauritius;

(d) **A trust**

A resident trust is one –

(i) which is administered in Mauritius and where a majority of the trustees are resident in Mauritius; or

(ii) where the settlor of the trust was resident in Mauritius at the time the instrument creating the trust was executed;

(e) **A Foundation**

A resident foundation is a foundation which –

(i) is registered in Mauritius; or

(ii) has its central management and control in Mauritius;

(f) **Other associations**

Any other association or body of persons is resident in Mauritius if the association or body of persons is managed or administered in Mauritius.

Thus, any person meeting the conditions specified in section 73 of the Income Tax Act and applicable to that person will be considered resident for FATCA purposes.

While a company holding a Category 1 Global Business Licence is clearly a resident of Mauritius, the question is whether a company holding a Category 2 Global Business Licence is also to be treated as resident in Mauritius for FATCA purposes. The answer is "yes" since such a company is incorporated in Mauritius or has its central management and control in Mauritius, but is considered "non-resident" only for treaty-benefit purposes by virtue of section 73A of the Income Tax Act.

2.6 Related Entities

For the purposes of FATCA an entity is regarded as being related to another entity if one entity controls the other or the two entities are under common control. For this purpose control is taken as including the direct or indirect ownership of more than 50 per cent of the vote and value in an entity.

Whether or not there are Related Entities is relevant in the context of the obligations placed on Mauritius Financial Institutions, in respect of any related entities that are Non-Participating Financial Institutions (NPFI).

Where a Mauritius Financial Institution has any Related Entities that as a result of the jurisdictions they operate in, are unable to comply with FATCA, then the Mauritius Financial Institution must treat the related entity as an NPFI and fulfill obligations in respect of that NPFI as set out in subparagraph 5 of Article 4 of the IGA.

Investment Entities which have been provided with seed capital by a member of a group to which the Investment Entity belongs will not be considered to be a Related Entity for the purposes of the IGA.

Seed capital investment is the original capital contribution made to an Investment Entity that is intended to be a temporary investment. This would generally be for the purpose of establishing a performance record before selling interests in the entity to unrelated investors or for purposes otherwise deemed appropriate by the manager.

Specifically, an Investment Entity will not be considered to be a Related Entity as a result of a contribution of seed capital by a member of the group if –

- the member of the group that provides the seed capital is in the business of providing seed capital to Investment Entities that it intends to sell to unrelated investors;
- the Investment Entity is created in the course of its business;
- any equity interest in excess of 50% of the total value of stock of the Investment Entity is intended to be held for no more than three years from the date of acquisition; and
- in the case of an equity interest that has been held for over three years, its value is less than 50% of the total value of the stock of the Investment Entity.

2.7 Non-Participating Financial Institutions (NPFIs)

A Non-Participating Financial Institution (NPFI) is a Financial Institution that is not FATCA compliant. This non-compliance arises either where –

- the Financial Institution is located in a jurisdiction that does not have an Intergovernmental Agreement with the US and the Financial Institution has not entered into a FATCA Agreement with the IRS, or

- the Financial Institution is classified by the IRS as being a NPFI following the conclusion of the procedures for significant non-compliance being undertaken. In this case a Mauritius Financial Institution will only be classed as an NPFI where there is significant non-compliance, after a period of enquiry that non-compliance has not been addressed to satisfaction. In such circumstances the Mauritius Financial Institution's details may be published electronically by the IRS and the Financial Institution will cease to be covered by the IGA.

The presence of an NPFI in its group will not preclude a Mauritius Financial Institution from being treated as a Participating Financial Institution for FATCA purposes. Where a Mauritius Financial Institution has a related entity that, because of the jurisdiction it operates in, is a NPFI, the Financial Institution must treat the related entity as an NPFI and report payments made to the NPFI.

2.8 Non-Financial Foreign Entities (NFFEs)

A NFFE is any non-US entity that is not a Foreign Financial Institution (FFI) as defined in the relevant U.S Treasury Regulations. It also includes any Non-U.S Entity that is established in Mauritius or another Partner Jurisdiction and that is not a Financial Institution. There are two categories of NFFE –

- Active NFFE
- Passive NFFE

(a) Active NFFE

An Active NFFE is defined as any NFFE that meets any of the following criteria –

(i) Less than 50 per cent of the NFFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50 per cent 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 (see definition below).

(ii) The stock of the NFFE is regularly traded on an established securities market **or** the NFFE is a Related Entity of an entity, the stock of which is traded on an established securities market. See Section 3.10 for how this should be applied under the IGA.

(iii) The NFFE is organised in a US Territory and all of the owners of the payee are bona fide residents of that US Territory. The definition of US Territory is set out in Article 1 (1) (b) of the IGA.

(iv) The NFFE is a non-US Government, a political subdivision of such non-US Government (which, for the avoidance of doubt, includes a state, province, county, or municipality), or a public body performing a function of such non-US Government or a political subdivision thereof, a government of a US Territory, an international organisation, a non-US central bank of issue, or an entity wholly owned by one or more of the foregoing.

(v) Substantially all of the activities of the NFFE consist of holding (in whole or in part) the outstanding stock of, and providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution. However, the entity will not qualify as a NFFE if it 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.

(vi) The NFFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution; provided that

the NFFE shall not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFFE.

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

(viii) 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.

(ix) The NFFE is an "Excepted NFFE" as described in relevant US Treasury Regulations; **or**

(x) The NFFE meets **all** of the following requirements –

A. 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;

B. It is exempt from income tax in its country of residence;

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 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 of residence or the entity's formation documents require that, upon the entity'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 entity's country of residence or any political subdivision thereof.

Passive Income

Passive income means income other than trading income includes, but is not restricted to, the following:

a) Distributions;
b) Interest;
c) Income equivalent to interest, including amounts received in lieu of interest;
d) Rents and royalties;
e) Annuities;
f) Foreign currency gains;

Passive income does not include:

g) Any income from interest, dividends, rents or royalties that is received or accrued from a related person if that amount is properly derived from income of that related

person that is not passive income. For this purpose, related person has the meaning given to Related Entity, substituting person for entity

(b) 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.

2.9 Exempt Beneficial Owners

An entity falling within the Exempt Beneficial Owner category will not have to register with the IRS nor will it have any reporting obligations in relation to any Financial Accounts that it may maintain. Reporting Financial Institutions will not be required to review or report on accounts held by such Exempt Beneficial Owners.

Exempt Beneficial Owners are entities that fall within the following categories –

- Government Entity;
- International Organisations;
- Central Bank of Mauritius;
- Funds –
  - Broad Participation Retirement Fund; and
  - Narrow Participation Retirement Fund;
- Pension Funds; and
- Investment Entity wholly owned by Exempt Beneficial Owners.

(a) Governmental Entity

The government of Mauritius, any local authority, or any wholly owned agency or instrumentality of Mauritius. This category is comprised of the integral parts, controlled entities, and local authorities of Mauritius.

(i) An integral part of Mauritius means any person, organization, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of Mauritius. The net earnings of the governing authority must be credited to its own account or to other accounts of Mauritius, 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.

(ii) A controlled entity means an Entity that is separate in form from Mauritius or that otherwise constitutes a separate juridical entity, provided that –

A. The Entity is wholly owned and controlled by one or more Mauritius 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 Mauritius 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 Mauritius Governmental Entities upon dissolution.

(iii) Income does not benefit 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. However, income is considered to benefit 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 will be treated as an Exempt Beneficial Owner. This category will include any intergovernmental organization (including a supranational organization) –

(i) that is comprised primarily of non-U.S. governments;
(ii) that has in effect a headquarters agreement with Mauritius; and

(iii) the income of which does not inure to the benefit of private persons.

(c) Central Bank

The Bank of Mauritius and any of its wholly owned subsidiaries are Non-Reporting Financial Institutions and will be considered as Exempt Beneficial Owners.

(d) Funds

The following Entities are treated as Non-Reporting Mauritius Financial Institutions and as Exempt Beneficial Owners –

(i) Broad Participation Retirement Fund

A fund established in Mauritius 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 percent of the fund's assets;

B. Is subject to government regulation and provides annual information reporting about its beneficiaries to the relevant tax authorities in Mauritius; and

C. Satisfies at least one of the following requirements:

- The fund is generally exempt from tax in Mauritius on investment income under the laws of Mauritius due to its status as a retirement or pension plan;

- The fund receives at least 50 percent of its total contributions from the sponsoring employers;

- 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), or penalties apply to distributions or withdrawals made before such specified events; or

- 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 the IGA for account aggregation and currency translation.

(ii) Narrow Participation Retirement Fund

A fund established in Mauritius 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 NFFEs;

C. The employee and employer contributions to the fund (other than transfers of assets from 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;

D. Participants that are not residents of Mauritius are not entitled to more than 20 percent of the fund's assets; and

E. The fund is subject to government regulation and provides annual information reporting about its beneficiaries to the relevant tax authorities in Mauritius.

(e) Pension Fund of an Exempt Beneficial Owner

A pension fund of an Exempt Beneficial Owner is a fund established in Mauritius by an Exempt Beneficial Owner to provide retirement, disability, or death benefits to beneficiaries or participants that are current or former employees of the Exempt Beneficial Owner (or persons designated by such employees), or that are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services performed for the Exempt Beneficial Owner.

(f) Investment Entity Wholly Owned by Exempt Beneficial Owners

An Investment Entity wholly owned by Exempt Beneficial Owners is an Entity that is a Mauritius 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.

2.10 Subsidiaries and Branches

Subsidiaries and branches of Mauritius tax resident Financial Institutions that are not located in Mauritius are excluded from the scope of the IGA and will not be regarded as Mauritius Financial Institutions.

These entities will be covered by the relevant rules in the jurisdiction in which they are located. Those rules will either be the US Regulations or the legislation introduced to bring effect to an Agreement between that jurisdiction and the US.

However, where such subsidiaries and branches act as introducers with regard to a Financial Account and the relevant account is held and maintained in Mauritius by a Mauritian Financial Institution and is subject to Mauritian Regulatory requirements, the

account will be within the scope of the IGA. The Mauritius Financial Institution maintaining the account(s) will be required to undertake the appropriate due diligence processes and report the appropriate details to the MRA.

Example 1

Mauri Bank Limited, resident in Mauritius, has within its group the following entities –

- a foreign subsidiary (G) located in Partner Jurisdiction 1
- a foreign branch (H) located in Partner Jurisdiction 2
- a foreign branch (J) located in Washington

Under the terms of the IGA –

- G and H will be classified under the IGA as Partner Jurisdiction Financial Institutions and will report to their respective jurisdictions.
- J will report on Mauritian persons who hold accounts to the IRS for exchange to the MRA.

Example 2 - Where an overseas bank has a branch located in Mauritius

IND Bank of India has a branch K located in Mauritius.

K will be a Mauritius Financial Institution and will therefore fall under the IGA and will need to comply with the Mauritius regulations and legislation and report information on any reportable Financial Accounts to the MRA.

2.11 Deemed Compliant Entities

An entity will be deemed compliant if it is listed in Annex II of the IGA or in the US Regulations as:

- Certified Deemed Compliant
- Registered Deemed Compliant

- Owner Documented Deemed Compliant

(a) Certified Deemed Compliant Financial Institutions –

Under the IGA, Non Reporting Financial Institutions include categories of Deemed Compliant Financial Institutions and exempt beneficial owners as set out under the U.S. Regulations.

A Financial Institution that qualifies as one of the Certified Deemed Compliant categories will not need to register to obtain a GIIN. Certified Deemed compliant Financial Institutions include the following:

- Non Profit Organisations;
- Financial Institutions with a Local Client Base
- Certain Collective Investment Vehicles,
- Investment Advisers and Investment Managers.Non-Registering Local Banks;
- Financial Institutions with only Low Value Accounts;
- Sponsored closely held Investment Vehicles; and
- Limited Life Debt Investment Entities.

In general and unless specifically indicated in the qualifying conditions, Certified Deemed Compliant Financial Institutions do not have to register or report under FATCA.

(b) Registered Deemed Compliant Financial Institutions

The Financial Institutions falling within this category are not included as Deemed Compliant Financial Institutions under the IGA. However the institutions are regarded as Registered Deemed Compliant Financial Institutions under the US Regulations. As such, paragraph 1(q) of Article 1 of the IGA enables Mauritius Financial Institutions that comply with the various conditions to qualify for the exemption. An institution falling within this category must register with the IRS and obtain a GIIN but is only required to report information in specific circumstances.

Institutions falling within this category are –

- Non-reporting members of a group of related Participating Financial Institutions,
- Restricted funds,
- Qualified credit card issuers,
- Sponsored investment entities, or
- Controlled foreign corporations.

Detailed descriptions of the various deemed compliant and exempt financial institutions are given later in these Guidance Notes.

Apart from a Registered Deemed Compliant Financial Institution, a Local Client Base Financial Institution, in certain circumstances, is required to register with the IRS.

Financial Institutions with a Local Client Base

There are 10 conditions that must all be met before a Financial Institution can claim this exemption. A Financial Institution should self-assess whether it meets these criteria and maintain appropriate records to support its assessment. These are –

(i) the Financial Institution must be licensed and regulated under the laws of the Mauritius. For example, this would include where a Financial Institution is one falling under the ambit of the Financial Services Act 2007 or the Banking Act 2004;

(ii) the Financial Institution must have no fixed place of business outside Mauritius other than where the location outside Mauritius houses solely administrative functions and is not publicly advertised to customers. This applies even if the fixed place of business is within a jurisdiction that has entered into an IGA with the US with regard to FATCA;

(iii) the Financial Institution must not solicit potential Financial Account Holders outside Mauritius. For this purpose, a Financial Institution shall not be considered to have solicited such customers outside Mauritius merely because it operates a website, provided that the website does not specifically indicate that the Financial Institution provides accounts or services to non-Mauritius residents or otherwise target or solicit US customers.

A Financial Institution will also not be considered to have solicited potential Financial Account Holders outside Mauritius if it advertises in either print media or on a radio or television station and the advertisement is distributed or aired outside Mauritius, as long as the advertisement does not specifically indicate that the Financial Institution provides services to non-residents.

A Financial Institution issuing a prospectus will not, in itself, amount to soliciting Financial Account Holders, even when it is available to US Persons in Mauritius. Likewise, publishing information such as Reports and Accounts to comply with the Stock Exchange of Mauritius rules to support a public listing or quotation of shares will not amount to soliciting customers outside Mauritius.

(iv) the Financial Institution –

- is required under the revenue laws of Mauritius to perform information reporting, such as the reporting required under the Income Tax Act or the withholding of tax with respect to accounts held by residents of Mauritius, or
- is required to identify whether Account Holders are resident in Mauritius as part of the AML/KYC procedures.

(v) at least 98 per cent of the Accounts by value maintained by the Financial Institution must be held by residents of Mauritius.

The 98 per cent threshold can include the Financial Accounts of US Persons if they are resident in Mauritius. It applies to both Individual and Entity Accounts.

A Financial Institution will need to assess whether it meets this criteria annually. The measurement can be taken at any point of the preceding calendar year for it to apply to the following year, as long as the measurement date remains the same from year to year.

(vi) subject to subparagraph (g) below, beginning on July 1, 2014, the Financial Institution does not maintain Financial Accounts in respect of –

- any Specified US Person who is not a resident of Mauritius (including a US Person that was a resident of Mauritius when the account was opened, but subsequently ceases to be a resident of Mauritius);
- a Non-Participating Financial Institution; or
- any Passive NFFE with Controlling Persons who are US citizens or residents.

Where a Local Client Base Financial Institution maintains Financial Accounts in respect of US citizens who are resident in Mauritius, these Financial Accounts do not need to be reported to the MRA unless the Account Holder subsequently ceases to be a resident of Mauritius.

(vii) on or before July 1, 2014, the Financial Institution must implement policies and procedures to establish and monitor whether it opens and maintains Financial Accounts in respect of the persons described in subparagraph (f) above. If any such Financial Account is discovered, the Financial Institution must either report that account as though the Financial Institution were a Reporting Mauritius Financial Institution, or transfer the account to a Participating Foreign Financial Institution, Reporting Model 1 Foreign Financial Institution (as defined in subparagraph A of paragraph VI of Annex II of the IGA) or a US Financial Institution.

This means that even if Financial Accounts have been maintained in respect of Specified US Persons, a Non-Participating Financial Institution or any Passive NFFE with Controlling Persons who are US citizens or residents prior to July 1, 2014, the

Financial Institution can still be a Financial Institution with a Local Client Base provided that the appropriate reporting is carried out.

(viii) with respect to each Financial Account that is held by an individual who is not a resident of Mauritius or by an Entity, and that is opened prior to the date that the Financial Institution implements the policies and procedures described in subparagraph (vi) above, the Financial Institution must review those accounts in accordance with the procedures applicable to Pre-existing Accounts, described in Annex I of the IGA, to identify any US Reportable Account or Financial Account held by a Non-Participating Financial Institution. Where such accounts are identified, they must be closed, or transferred to a Participating Foreign Financial Institution, Reporting Model 1 Foreign Financial Institution or a US Financial Institution or the Financial Institution must report those accounts as if it were a Reporting Mauritius Financial Institution.

This allows a Financial Institution with a Local Client Base to maintain its status whilst reporting on relevant Financial Accounts that were opened prior to the adoption of the requirements set out in this section.

(ix) each Related Entity, which is itself a Financial Institution, of a Financial Institution must be incorporated or organised in Mauritius and must also meet the requirements for a Local Client Base Financial Institution with the exception of a retirement plan classified as an Exempt Beneficial Owner.

(x) the Financial Institution must not have policies or practices that discriminate against opening or maintaining accounts for individuals who are Specified US Persons and who are residents of Mauritius.

2.11.1 Registered Deemed Compliant Financial Institutions

(i) Non-reporting members of Participating FFI groups

A Financial Institution will be treated as Registered Deemed Compliant Financial Institution if it meets the following requirements –

A. By the later of June 30, 2014 or the date it obtains a GIIN, the Financial Institution implements policies and procedures to allow for the identification and reporting of –

- Pre-existing US Reportable Accounts;
- US Reportable Accounts opened on or after July 1, 2014;
- Accounts that become US Reportable Accounts as a result of a change of circumstance;
- Accounts held by NPFI's.

B. The Financial Institution must review accounts opened prior to implementing the appropriate policies and procedures and within six months of identification of the account as a US Reportable Account or where it becomes aware of a change in circumstance of the Account Holder's status. The Financial Institution closes the account or transfers it to a Reporting Model 1 FFI, Participating Financial Institution or US Financial Institution or reports the account to the MRA.

(ii) Qualified Collective Investment Vehicles

The Qualified Collective Investment Vehicles category is intended to provide relief for Investment Entities that are owned solely through Participating Foreign Financial Institutions or directly by large institutional investors not typically subject to FATCA withholding or reporting.

A Qualified Collective Investment Vehicle must be an Investment Entity and must be regulated as an Investment Entity in Mauritius and every other country in which it operates. A Fund is considered to be regulated if its manager is regulated with respect to the fund in all the countries in which the investment fund is registered and in all the countries in which the investment fund operates.

A Qualified Collective Investment Vehicle's investors are limited to equity investors, direct debt investors with an interest greater than $50,000 and other Financial

Account Holders are limited to participating Foreign Financial Institutions, Registered Deemed Compliant Foreign Financial Institutions, retirement plans classified as Exempt Beneficial Owners, US Persons that are not Specified US Persons, Non-Reporting IGA Foreign Financial Institutions, or other Exempt Beneficial Owners.

Each member of the group of Related Entities must be a Participating Foreign Financial Institution, a Registered Deemed Compliant Foreign Financial Institution, a sponsored Foreign Financial Institution, a Non-Reporting IGA Foreign Financial Institution or an Exempt Beneficial Owner.

(iii) Restricted Funds

Restricted fund status is eligible for Investment Entities that impose prohibitions on the sale of units to Specified US Persons, Non-Participating Financial Institutions and Passive NFFEs with Controlling US Persons that meet the following requirements –

A. The Financial Institution is a Financial Institution solely because it is an Investment Entity, and it is regulated as an investment fund in Mauritius and in all the countries in which it is registered and in all the countries in which it operates. A fund will be considered to be regulated as an investment fund for purposes of this paragraph if its manager is regulated with respect to the fund in all the countries in which the investment fund is registered and in all the countries in which the investment fund operates.

B. Interests that are issued directly by the fund are redeemed by or transferred by the fund rather than sold by investors on the secondary market.

C. Interests that are not issued directly by the fund are sold only through distributors that are participating Financial Institutions, Registered Deemed Compliant Financial Institutions, non-registering local banks, or restricted

distributors. A distributor includes an underwriter, broker, dealer, or other person who participates, pursuant to a contractual arrangement with the Financial Institution, in the distribution of securities and holds interests in the Financial Institution as a nominee.

D. The Financial Institution ensures that by the later of June 30, 2014 or six months after the date it registers as a Deemed Compliant Financial Institution, that each agreement that governs the distribution of its Debt or Equity interests, prohibits sales and other transfers of Debt or Equity Interests in the Financial Institution (other than interests that are both distributed by and held through a Participating Financial Institution) to Specified US Persons, Non-Participating Financial Institutions, or Passive NFFEs with one or more substantial US owners.

E. In addition, by that date, the Financial Institution's prospectus and all marketing materials must indicate that sales and other transfers of interests in the Financial Institution to Specified US Persons, Non-Participating Financial Institutions, or Passive NFFEs with one or more substantial US owners are prohibited unless such interests are both distributed by, and held through, a Participating Financial Institution.

F. The Financial Institution ensures that by the later of June 30, 2014, or six months after the date the Financial Institution registers as a Deemed Compliant Financial Institution, each agreement entered into by the Financial Institution that governs the distribution of its Debt or Equity Interests requires the distributor to notify the Financial Institution of a change in the distributor's status within 90 days of the change.

G. The Financial Institution must certify to the MRA with respect to any distributor that ceases to qualify as a distributor that it will terminate its distribution agreement with the distributor, or cause the distribution agreement to be terminated, within 90 days of notification of the distributor's

change in status and, with respect to all Debt and Equity Interests of the Financial Institution issued through that distributor, will redeem those interests, convert those interests to direct holdings in the fund, or cause those interests to be transferred to another compliant distributor within six months of the distributor's change in status.

H. With respect to any of the Financial Institution's Pre-existing Direct Accounts that are held by the Beneficial Owner of the interest in the Financial Institution, the Financial Institution reviews those accounts in accordance with the procedures (and time frames) applicable to Pre-existing Accounts to identify any US Account or account held by a Non-Participating Financial Institution. Notwithstanding the above provisions in this sub paragraph, the Financial Institution will not be required to review the account of any individual investor that purchased its interest at a time when all of the Financial Institution's distribution agreements and its prospectus contained an explicit prohibition of the issuance and/or sale of shares to US entities and US resident individuals. A Financial Institution will not be required to review the account of any investor that purchased its interest in bearer form until the time of payment, but at such time will be required to document the account.

I. By the later of June 30, 2014, or six months after the date the Financial Institution registers as a Deemed Compliant Financial Institution, the Financial Institution will be required to certify to the MRA either that it did not identify any US account or account held by a Non-Participating Financial Institution as a result of its review or, if any such accounts were identified, that the Financial Institution will either redeem such accounts, transfer such accounts to an affiliate or other Financial Institution that is a Participating Financial Institution, Reporting Model 1 FFI, or US Financial Institution.

J. By the later of June 30, 2014 or the date that it registers as a Deemed Compliant Foreign Financial Institution, the Foreign Financial Institution implements the policies and procedures to ensure that it either –

- does not open or maintain an account for, or make a withholdable payment to, any Specified US Person, Non-Participating Financial Institution, or Passive NFFE with one or more substantial US owners and, if it discovers any such accounts, closes all accounts for any such person within six months of the date that the Financial Institution had reason to know the Account Holder became such a person; or

- reports on any account held by, or any withholdable payment made to, any Specified US Person, Non-Participating Financial Institution, or Passive NFFE with one or more substantial US owners to the extent and in the manner that would be required if the Financial Institution were a Participating Financial Institution.

For a Financial Institution that is part of a group of related entities, all other Financial Institutions in the group of related entities are Participating Financial Institutions, Registered Deemed Compliant Financial Institutions, sponsored Financial Institutions, Non-Reporting IGA Financial Institutions, or Exempt Beneficial Owners.

(iv) Qualified credit card issuers

A qualified credit card issuer is an entity that –

- is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when the customer makes a payment in excess of the outstanding balance due and that does not immediately return the overpayment to the customer; and
- implements policies and procedures (by the later of June 30, 2014 or the date it registers as a Deemed Compliant Financial Institution) either to prevent a customer deposit in excess of $50,000 or to ensure that any customer deposit in excess of $50,000 is refunded to the customer within 60 days.

(v) Sponsored Investment Entities

A sponsoring entity (for example a fund manager or a Management Company (MC) which acts as a Trustee) is an entity that is authorised to manage the sponsored Financial Institution (typically a fund, or a sub-fund that is an Investment Entity but is not a US Qualified Intermediary, Withholding Foreign Partnership or Withholding Foreign Trust) and to enter into contracts on behalf of the sponsored Financial Institution. A sponsor must register with the IRS as a sponsoring entity, and must register each of the funds or sub-funds it manages (or a subset of these) as sponsored entities.

A sponsor must undertake all FATCA compliance obligations on behalf of the sponsored funds (and, where appropriate, outsource FATCA compliance obligations to third party service providers). This will include, for example, account identification and documentation. A sponsor will need to ensure that new investors in the funds it manages are appropriately documented for FATCA purposes (and this will typically be done by a transfer agent, acting as a third party service provider).

(vi) Sponsored Controlled Foreign Corporations

A Financial Institution is a Sponsored Controlled Foreign Corporation if the Financial Institution meets the following conditions:

A. it is a Controlled Foreign Corporation (CFC) that is not a Qualified Intermediary, Withholding Foreign Partnership or Withholding Foreign Trust;

B. it is wholly owned, directly or indirectly, by a U.S. Financial Institution that agrees with the CFC to act as its Sponsoring Entity;

C. the CFC shares a common electronic account system with the Sponsoring Entity that enables the Sponsoring Entity to identify all Account Holders and payees of the CFC and to access all account and

customer information maintained by the CFC including, but not limited to, customer identification information, customer documentation, account balance, and all payments made to the Account Holder or payee; and

D. the Sponsoring Entity complies with the conditions set out below –

- it is authorised to manage the Sponsored Entity and enter into contracts on behalf of the entity i.e. it acts as a fund manager, trustee, corporate director, or managing partner of the Sponsored Entity;
- it has registered with the IRS as a Sponsoring Entity;
- it has registered the Sponsored Entity with the IRS;
- it agrees to perform, on behalf of the Sponsored Entity, all due diligence, withholding, reporting, and other requirements that the Sponsored Entity would have been required to perform if it were a Reporting Mauritius Financial Institution;
- it identifies the Sponsored Entity in all reporting completed on the entity's behalf, and it has not had its status as a sponsor revoked.

The IRS may revoke a Sponsoring Entity's status as a sponsor with respect to all Sponsored Financial Institutions if there is a material failure by the Sponsoring Entity to comply with its obligations with respect to any Sponsored Financial Institution.

A Sponsored Financial Institution will remain liable for any failure of its Sponsoring Entity to comply with the obligations that the Sponsoring Entity has agreed to undertake on its behalf.

2.11.2 Certified Deemed Compliant Financial Institutions

Details on the Certified Deemed Compliant categories are given below. Certified Deemed Compliant Financial Institutions are not required to register with the IRS and obtain a GIIN.

(i) Non-Registering local bank

Non-registering local banks are generally small regulated local banks, credit unions and similar cooperative credit organisations that are primarily Depository Institutions; they may operate without a profit.

They must not have a fixed place of business outside Mauritius; this does not include a location that is not advertised to the public and from which the Financial Institution performs solely administrative support functions.

Non-registering local banks must have policies and procedures prohibiting the solicitation of customers outside Mauritius. There is also a limit on the total assets that can be held of $175 million in assets for single entity and $500 million total for a group of Related Entities.

Any Related Entities of the non-registering local bank must also satisfy those requirements.

(ii) Financial Institutions with only Low Value Accounts

A Financial Institution with only Low Value Accounts must not –

- be an Investment Entity;
- have any Financial Accounts exceeding $50,000;
- have more than $50 million in assets on its balance sheet at the end of its most recent accounting year; and
- have more than $50 million in assets on its consolidated or combined balance sheet where it is in a group with related entities.

(iii) Sponsored Closely Held Investment Vehicles

This category of Deemed Compliant Financial Institution is very similar to a Sponsored Investment Entity under the Registered Deemed Compliant Financial Institution category. The requirements to qualify as a Sponsored Closely Held Investment Vehicle are as follows –

- The Financial Institution must be an Investment Entity that is not a US Qualified Intermediary, Withholding Foreign Partnership or Withholding Foreign Trust;
- The Financial Institution is required to have a contractual arrangement with a sponsoring entity that is a Participating Financial Institution, Reporting Model 1 Financial Institution or US Financial Institution that is authorised to manage the Financial Institution and enter into contracts on its behalf under which the Sponsoring Entity agrees to all due diligence, withholding and reporting responsibilities that the Financial Institution would have if it were a Reporting Financial Institution;
- The sponsored vehicle does not hold itself out as an investment vehicle for unrelated parties; and the sponsored vehicle has 20 or fewer individuals that own its Debt and Equity Interests (disregarding interests owned by Participating Financial Institutions, Deemed Compliant Financial Institutions and an equity interest owned by an entity that is 100% owner and itself a Sponsored Closely Held Investment Vehicle);
- The Sponsoring Entity will have to register with the IRS as a Sponsoring Entity (it does not need to register the sponsored entities) and perform the duties of a Participating or Model 1 Reporting Financial Institution with respect to the sponsored entity.

(iv) Investment Advisers and Investment Managers

Under the terms of the IGA, Investment Advisers and Investment Managers may fall to be a Financial Institution solely because they render investment advice to, or

on behalf of a customer for the purposes of investing, managing or administering funds deposited in the name of the customer.

An Investment Entity established in Mauritius 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,

a customer for the purposes of investing, managing, or administering funds deposited in the name of the customer with a Financial Institution, other than a Non-Participating Financial Institution, will be regarded as a certified Deemed Compliant Financial Institution.

Investment advisers, who solely render investment advice to customers and do not otherwise undertake investment services or maintain financial accounts, are likely to be NFFEs as they are service providers and will not meet the "financial assets" test.

(v) Trustee-Documented Trust

A Trustee Documented Trust is considered as a Non-Reporting Mauritius Financial Institutions and is treated as deemed-compliant FFI for purposes of section 1471 of the U.S. Internal Revenue Code. In the Mauritius context this will be a trust resident in Mauritius to the extent that the trustee of the trust is a Reporting Mauritius Financial Institution and reports all information required to be reported pursuant to the IGA with respect to all US Reportable Accounts of the trust.

(vi) Collective Investment Vehicles

Collective Investment Vehicles in the IGA, unless otherwise specified, should be read as "Collective Investment Scheme" (CIS),referred to in the Securities Act 2005 of Mauritius. A CIS means a scheme constituted as a company, a trust, or any other legal entity prescribed or approved by the FSC, the sole purpose of

which is the collective investment of funds in a portfolio of securities, or other financial assets, real property or non-financial assets as may be approved by the FSC.

A CIS may qualify as Deemed-Compliant Foreign Financial Institution if it is established in Mauritius and is regulated as a collective investment scheme, provided that all of the interests in the CIS (including debt interests in excess of $50,000) are held by or through one or more exempt beneficial owners, active NFFEs, U.S. Persons that are not Specified U.S. Persons, or Financial Institutions that are not Nonparticipating Financial Institutions.

2.11.3 Owner Documented Foreign Financial Institutions

The term deemed compliant Foreign Financial Institution also includes Owner Documented FFI to the extent it meets the requirements, as provided in the US regulations, stated below and with respect to a payment or account for which it does not act as intermediary. In general, an Owner Documented Financial Institution classification may be treated as such only with respect to payments received from and accounts held with a designated withholding agent.or with respect to payments received from and accounts held with another FFI which is treated as Owner documented FFI by the designated withholding agent.

An Owner Documented Financial Institution must satisfy the following requirements–

- The FI is solely an FI because it is an Investment Entity;
- The Financial Institution must not maintain a Financial Account for any Non-Participating Financial Institution;
- The Financial Institution must not be owned by, nor be a member of a group of Related Entities with any Financial Institution that is a Depository Institution, Custodial Institution or Specified Insurance Company;
- The Financial Institution provides the designated withholding agent with the required documentation and agrees to notify the withholding agent if there is a change in circumstances; and

- The designated withholding agent agrees to report to the IRS (or, in the case of a reporting Model 1 FFI, to the relevant foreign government agency thereof) the required information with respect to any specified US persons that are identified. The designated withholding agent is not however required to report information with respect to an indirect owner of the FFI, a deemed-compliant (other than an owner-documented FFI), an entity that is a US person, an exempt beneficial owner or an excepted NFFE.

CHAPTER 3

Financial Accounts

3.1 Introduction

Under the IGA, Mauritius Financial Institutions must provide information to the MRA on an annual basis in relation to Financial Accounts held by specified US persons. In the IGA the Financial Accounts are referred to as US Reportable Accounts.

For the purposes of the IGA a Financial Account is an account maintained by a Financial Institution. However, not all accounts are Financial Accounts for the purposes of FATCA.

3.2 Financial Account

The term Financial Account is defined as an account maintained by a Financial Institution and includes certain equity or debt interests in an Investment Entity. This is a very wide definition and would include, for instance, a capital or profits interest in a partnership if that partnership is an Investment Entity. It does not include equity and debt interests that are regularly traded on a recognised securities market. There are 5 categories of Financial Accounts –

- Depository Accounts;
- Custodial Accounts;
- Cash Value Insurance Contracts;
- Annuity Contracts;
- Equity and Debt Interests in an Investment Entity.

Where a Financial Institution is acting as an executing broker, and simply trading transactions, or receiving and transmitting such instructions to another executing broker,

(either through a recognised exchange, multilateral trading facility or a clearing organisation or on a bilateral basis) the Financial Institution will not be required to treat the facilities established for the purposes of executing a trading transaction, or receiving and transmitting such instructions, as a Financial Account. The Financial Institution acting as custodian will be responsible for performing due diligence procedures and reporting, where necessary.

(a) Depository Account

A Depository Account is any commercial current account, and savings account evidenced by a certificate of deposit, investment certificate, certificate of indebtedness, or other similar instrument where cash is placed on deposit with an entity engaged in a banking or similar business.

The account does not have to be an interest bearing account.

A Depository Account will include any credit balance on a credit card (a credit balance does not include credit balances in relation to disputed charges, but does include credit balances resulting from refunds of purchases) issued by a credit card company engaged in banking or similar business. Where a Financial Institution elects to apply the threshold for Depository Accounts this will mean that a credit card account will only be reportable where, after applying the aggregation rules –

- there are no other accounts and the balance exceeds $50,000;
- the total balance on all aggregated Depository Accounts (including the credit card balance) exceeds $50,000.

The definition of Depository Account also includes an amount held by an Insurance Company under an agreement to pay or credit interest. However, amounts held by an Insurance Company awaiting payment in relation to a Cash Value Insurance Contract where the term has ended will not constitute a Depository Account.

(b) Custodial Account

A Custodial Account is 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.

Financial instruments/contracts which can be held in such accounts can include, but are 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 non-financial index;
- a notional principal contract (in general, contracts that provide for the payment of amounts by one party to another at specified intervals. These are calculated by reference to a specified index upon a notional principal amount in exchange for specified consideration or a promise to pay similar amounts);
- an Insurance Contract or Annuity Contract; and
- any option or other derivative instrument for the benefit of another person.

A Cash Value Insurance Contract or an Annuity Contract is not considered to be a Custodial Account, but these could be assets held in a Custodial Account. Where they are assets in a Custodial Account, the Insurer will only need to provide the Custodian with the cash/surrender value of the Cash Value Insurance Contract.

A Custodial Account does not include financial instruments/contracts (for example, a share or stock in a corporation) held in a nominee sponsored by the issuer of its own shares, which are in every other respect analogous to those held on the issuer's share register.

Collateral

Notwithstanding the above, the Custodial Accounts definition includes all accounts which are maintained for the benefit of another, or arrangements pursuant to which an obligation exists to return cash or assets to another. Transactions which include the collection of margin or collateral on behalf of a counterparty may fall within the definition of Custodial Account. The exact terms of the contractual arrangements will be relevant in applying this interpretation; however, any obligations to return equivalent collateral at conclusion of the contract, and potentially make interim payments (such as interest) to counterparties during the contract term will constitute a Custodial Account for FATCA purposes.

(c) Insurance Contract

An Insurance Contract is a contract, other than an Annuity Contract, under which the issuer agrees to make payments upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.

An Insurance Contract is not to be considered to be a Custodial Account. However, it could be one of the assets that are held in a Custodial Account.

(d) Cash Value Insurance Contract

This is an Insurance Contract where the cash surrender or termination value (determined without reduction of any surrender charges or policy loan) or the amount the policyholder can borrow under (or with regard to) the contract is greater than $50,000. It is most likely that the type of insurance contracts that will be caught will be insurance contracts that are subject to the “gross roll-up” regime.

This definition excludes indemnity reinsurance contracts between two insurance companies. The cash value does not include an amount payable under an insurance contract in the following situations –

- the amount payable on the insured event, which includes death;

- a refund on a non-life insurance policy premium due to cancellation or termination of the policy, a reduction in amount insured, or a correction of an error in relation to the premium due;
- a policyholder on-boarding incentive or bonus.

When a policy becomes subject to a claim and an amount is payable, this does not create a new account.

(e) Annuity Contract

An Annuity Contract is a contract under which the Financial Institution 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 following are not considered to be an Annuity Contract for FATCA purposes:

- pension annuities;
- immediate needs annuities;
- periodic payment orders.

Reinsurance of Annuity Contracts between two insurance companies are excluded from this definition.

(f) Equity or Debt Interest in an Investment Entity

Where an Investment Entity is an asset manager, investment advisor or other similar entity their Debt and Equity Interests are excluded from being a Financial Account. This mirrors the treatment of Debt and Equity interests in entities that are solely Depository or Custodial Institutions.

Debt and Equity Interests (other than regularly traded interests) are only Financial Accounts in relation to those entities that are Investment Entities because –

- the entity's gross income is attributable to investing, reinvesting or trading in financial assets, and they are managed by a Financial Institution including another Investment Entity; or
- the entity functions or holds itself out as a 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.

In the case of a partnership that is a Financial Institution, the term Equity Interest means either a capital or profits interest in the partnership.

In the case of a Trust that is a Financial Institution, an Equity Interest means either an 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 Specified US Person shall be treated as being a beneficiary of a Trust if such person has the right to receive directly or indirectly a mandatory or discretionary distribution from the Trust.

3.3 Accounts maintained by Financial Institutions

In relation to each type of Financial Account, "maintained" has the following meaning–

- Depository Account is maintained by the Financial Institution, which is obliged to make payments with respect to the account.
- A Custodial Account is maintained by the Financial Institution that holds custody over the assets in the account (including a Financial Institution that holds assets in the name of the broker ("in street name") for an Account Holder.

- An Insurance Contract or an Annuity Contract is maintained by the Financial Institution that is obligated to make payments with respect to the contract.
- Any Equity or Debt Interest in a Financial Institution, where that Equity or Debt Interest constitutes a Financial Account, is treated as being maintained by that Financial Institution where that Financial Institution is an Investment Entity.

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

The date on which a Financial Account is created will depend on the type of the account. An account will be created when the Financial Institution is required to recognise the account based on existing operating procedures or regulatory or legal requirements of the jurisdiction in which it operates.

3.4 Accounts held by persons other than a Financial Institution

A person, other than a Financial Institution, that holds a Financial Account for the benefit of another person, as an –

- agent;
- custodian;
- nominee;
- signatory;
- investment advisor; or
- intermediary,

is not treated as an Account Holder with respect to such account for purposes of the IGA. Where the Financial Account does not meet the conditions relating to Intermediary Accounts then the person on whose behalf the account is held is the Account Holder.

For example, where a parent opens an account for a child, the child will be the Account Holder.

3.5 Accounts that will not be regarded as Financial Accounts

The following accounts are excluded from the definition of Financial Accounts and therefore are not treated as US Reportable Accounts –

- certain Savings Accounts (Retirement and Pension Account & Non-Retirement Savings Accounts);
- certain Term Life Insurance Contracts;
- account held by an estate;
- Escrow Accounts;
- Partner Jurisdiction Accounts.

The definitions of the above terms are given in Annex II of the IGA.

3.6 Reportable Accounts

The term Reportable Account means a US Reportable Account or a Mauritius Reportable Account, as the context requires. US Reportable Account means a Financial Account maintained by a Reporting Mauritius Financial Institution and held by one or more specified US persons or by a Non-US entity with one or more controlling persons that is a specified US person. The due diligence procedures that must be followed to identify US reportable accounts will be discussed in the following chapter.

3.7 Account Holders

In order to identify the person or entity that is the Account Holder under the terms of the IGA, a Financial Institution may need to consider the type of account and

the capacity in which it is held.

In most cases, the identification of the holder of a Financial Account by a Financial Institution will be straightforward. However, this may not always be the case as a result of existing commercial or legal practices, for example, as the result of the use of nominees and third party beneficiaries.

Example
Where a parent, in the absence of any formal trust arrangement, opens an account for a child in the child's name, the child is the Account Holder.

3.8 Trusts and Estates and Partnerships

Where a Trust or Estate is listed as the holder of a Financial Account it is to be treated as the Account Holder, rather than any settlor or beneficiary. This does not remove the requirement to identify the controlling persons of a Trust or Estate, where, for example, the Trust is a Passive NFFE.

In relation to a share register, where an issuer's share register has been subject of an acquisition, (for example a takeover of Company X by Company Y) and shareholders of Company X have not responded and accepted the offer, they become known as dissenters or dissenting shareholders. On completion of the takeover, the consideration is transferred to a trustee to be held on the dissenters' behalf until they claim the proceeds and it is paid to them; however, the trustee does not become the Account Holder. This is because the original shareholdings (equity interests) are not Financial Accounts unless provisions regarding Equity or Debt Interest in an Investment Entity apply.

Where a Financial Account is held in the name of a partnership it will be the partnership that is the Account Holder rather than the partners in the partnership.

CHAPTER 4

Due Diligence

4.1 General Requirements

Under the IGA, Financial Institutions are responsible for the identification and reporting of Financial Accounts held by Specified US Persons.

Due diligence is required to be undertaken to identify U.S. Reportable Accounts and payments to NPFIs. Financial Institutions are required to take certain actions, such as collecting information and/or reviewing information in their possession to determine whether to treat an account as a U.S. Reportable Account.

It is important that Financial Institutions follow the procedures set out in the IGA.

A Financial Institution can rely on a third party service provider to fulfil its FATCA obligations, but the obligations remain the responsibility of the Financial Institution and so any failure will be seen as a failure on the part of the Financial Institution.

A Financial Institution will need to follow one or more of these three processes for identification of Account Holders depending on whether the Account Holder is an individual or an entity and whether the account is pre-existing or not –

- **Indicia search**

  The Financial Institution can identify Reportable Account's by searching for US indicia by reference to documentation or information held or collected for maintaining or opening an account; this may include, for example, information held for the purposes of compliance with AML/KYC rules.

- **Self-certification**

By obtaining a self-certification from an Account Holder or Controlling Person of a Passive NFFE, where applicable.

- **Publicly available information (for entities only)**

A Financial Institution may be able to determine, using information publicly available, the FATCA status of an entity Account Holder.

4.2 Acceptable Documentary Evidence

A Financial Institution (or the third party service provider acting on behalf of the Financial Institution) can accept documentary evidence to support an Account Holder's status provided the documentation meets one of the following criteria –

- A Certificate of Residence issued by the Tax Authorities of the country in which the Account Holder claims to be resident, for example, a certificate in relation to a person's tax residence issued by the MRA.
- 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, for example, a passport or a driving license.
- Any financial statement, third party credit report, bankruptcy filing, or US Securities and Exchange Commission report.

4.3 Withholding Certificates

Withholding certificates issued by the IRS such as the W-8 and W-9 series are acceptable in establishing an Account Holder's status.

A Financial Institution may rely upon a pre-FATCA W-8 form, where one is required to establish the Account Holder's status, in lieu of obtaining an updated version of the form until such time that the W-8 is required to be renewed.

4.4 Non-IRS forms for individuals

Financial Institutions can use their own form instead of an official IRS form only where the replacement form contains the following information –

- the name and permanent residence address of the individual city/town and country of birth;
- all countries that the individual is resident in for tax purposes; and
- tax identification number(s), if available, for each country listed.

The form must be dated and signed and also certified under penalties of perjury unless the form is accompanied by documentary evidence that supports the individual's claim of foreign status. For a case in which a withholding certificate is required to be associated with a payment subject to withholding or reportable amount under Treasury. Regulations, however, see the requirements for a beneficial owner withholding certificate under. § 1.1441-1(e)(2) of the Treasury. Regulations.

The form can also request other information required either for other purposes, such as AML due diligence. The form may be in either paper or electronic format.

A Financial Institution can use its own forms to cure any US indicia found in order to determine the Account Holder's status.

4.5 Validity of Documentation

A withholding certificate or other documentary evidence, including a self-certification, used to establish an Account Holder's status will remain valid indefinitely subject to a change in circumstance which results in a change of the Account Holder's status.

4.6 Retention of Documentary Evidence

A Financial Institution or a third party undertaking due diligence procedures for a Financial Institution must retain records of the documentary evidence, or a notation or

record of documents reviewed and used to support an Account Holder's status for six years following the end of the year in which the status was established.

The documentary evidence can be retained as originals, photocopies or in an electronic format.

A Financial Institution that is not required to retain copies of documentation reviewed under AML due diligence procedures will be treated as having retained a record of such documentation if it retains a record in its files noting –

- the date the documentation was reviewed;
- the type of document;
- the document's identification number, where applicable (for example, a passport number); and
- whether any US indicia were identified.

For High Value Pre-existing Accounts where a Relationship Manager enquiry is required, records of electronic searches, requests made and responses to Relationship Manager enquiries should also be retained for six years following the end of the year in which the due diligence was undertaken.

A participating FFI must retain a record of the documentation collected (or otherwise maintained) to establish the status of an account holder or payee pursuant to the requirements of this paragraph. A participating FFI will be treated as having retained a record of a withholding certificate, written statement, or documentary evidence if the participating FFI retains either an original, certified copy, or photocopy (including a microfiche, scan, or similar means of record retention) of the withholding certificate, written statement, or documentary evidence collected to determine the status of the account holder for six calendar years following the year in which the due diligence procedures were performed for the account.

With respect to documentary evidence for an offshore obligation, however, a participating FFI that is not required to retain copies of documentation reviewed pursuant to its AML due diligence will be treated as having retained a record of such documentation if the participating FFI retains a record in its files noting the date the documentation was reviewed, each type of document, the document's identification number (if any) (for example, passport number), and whether any U.S. indicia were identified. The previous sentence applies with respect to an offshore obligation that is also a preexisting obligation, except, in such case, the requirement to record whether the documentation contained U.S. indicia does not apply. A participating FFI must also retain a record of any searches, including search results provided by third-party credit agencies, results from electronic searches, and requests made and responses to relationship manager inquiries for six calendar years following the year in which the due diligence procedures were performed for the account.

A participating FFI may be required to extend the six year retention period if the IRS requests such extension prior to the end of the six year retention period. Notwithstanding the preceding sentences, a participating FFI must retain a record of the status of an account holder or payee for as long as the FFI maintains the account or obligation.

4.7 Document sharing

Documentation is required to support the status of each Financial Account held. However, there are certain circumstances in which documentation obtained by a Financial Institution can be used in relation to more than one Financial Account.

(a) Single Branch System

Where an existing customer opens a new Financial Account with the same Financial Institution and both accounts are treated as a single account or obligation.

(b) Universal account systems

A Financial Institution may rely on documentation furnished by a customer for an account held at another branch location of the same Financial Institution or at a branch location of a related entity of the Financial Institution if –

- the Financial Institution treats all accounts that share documentation as a single account or obligations; and
- the Financial Institution and the other branch location or related entity are part of a universal account system that uses a customer identifier that can be used to retrieve systematically all other accounts of the customer.

In this scenario a Financial Institution must be able to produce to the MRA, if requested, the necessary records and documentation relevant to the status claimed (or a notation of the documentary evidence reviewed, if the Financial Institution is not required to retain copies of the documentary evidence for AML purposes).

(c) Shared account systems

A Financial Institution may rely on documentation provided by a customer for an account held at another branch location of the same Financial Institution, or at a branch location of a member of the expanded affiliated group of the Financial Institution, if –

- the Financial Institution treats all accounts that share documentation as consolidated accounts; and
- the Financial Institution and the other branch location or expanded affiliated group member share an information system, electronic or otherwise, that is described below.

A shared account system must allow the Financial Institution to easily access data about the nature of the documentation, the information contained in the documentation (including a copy of the documentation itself), and the validity status of the documentation.

If the Financial Institution becomes aware of any fact that may affect the reliability of the documentation, the information system must allow the Financial Institution to easily record this data in the system.

Additionally the Financial Institution must be able to show how and when it transmitted data regarding such facts into the information system and demonstrate that any data it has transmitted to the information system has been processed and the validity of the documentation subjected to appropriate due diligence.

A Financial Institution that opts to rely upon the status designated for the Account Holder in the shared account system, without obtaining and reviewing copies of the documentation supporting the status, **must** be able to produce upon request by the MRA all documentation (or a notation of the documentary evidence reviewed, if the Financial Institution is not required to retain copies of the documentary evidence for AML purposes) relevant to the status claimed.

4.8 Self-Certification

Self-certification may be used by a Financial Institution in relation to individual Account Holders in respect of the following –

- to establish whether New Individual Account Holder is a US citizen or US resident for tax purposes;
- to obtain a US TIN from a New Individual Account Holder who is a US resident for tax purposes; or
- in order to show that an individual is not in fact a US citizen or US resident for tax purposes, even if US indicia are found in respect of a Lower Value or High Value Pre-existing Individual Account that they hold.

(a) Purpose of Self-certification

Self-certification is required in relation to entities as follows –

- to establish the status of an entity where a Financial Institution cannot reasonably determine that the Account Holder is not a Specified US Person on the basis of publicly available information or information in its possession;
- to establish the status of a Financial Institution that is neither a Financial Institution nor a Partner Jurisdiction Financial Institution, unless a Financial Institution's status can be established from an IRS published list;
- to establish whether an entity is a Passive NFFE;
- to establish the status of a Controlling Person of a Passive NFFE and whether or not they are a resident in the US for tax purposes.

Self-certification can be in any format and can include the use of withholding certificates or other similar agreed forms.

A self-certification provided by an Account Holder cannot be relied upon if a Financial Institution has reason to know that it is incorrect, unreliable or there is a change in circumstance which changes the Account Holder's status.

(b) Confirming the Reasonableness of Self-Certification

A Financial Institution receiving a self-certification must consider other information it has obtained concerning the individual to check whether the self-certification is reasonable.

Example 1

Where an Account Holder provides one of the US indicia, such as a US address, to the Financial Institution but then provides a self-certification confirming they are not US resident for tax purposes, the Financial Institution would need to make further enquiries in order to establish whether or not the self-certification is reasonable.

Where a Financial Institution relies on AML procedures performed by other parties and no self-certification is provided directly to the Financial Institution, the Financial Institution may request that the third party should obtain a self-certification. The third party should then confirm the reasonableness of the self-certification based on information that it has obtained.

For the avoidance of doubt, where self-certification is received directly by the Financial Institution, there is no requirement to ensure that any third party that carried out AML/KYC procedures has confirmed its reasonableness. The Financial Institution is required to confirm this based on any other information it alone has obtained or holds. Thus, where a Financial Advisor (FA) has performed AML checks, the Financial Institution is not deemed to have seen any documentation the FA has seen, unless the documentation is also provided to the Financial Institution.

Example 2

A Financial Institution has received a New Account opening instruction from an individual (this may have been by telephone) which includes a self-certification regarding the Account Holder's residence status. The Financial Institution has performed AML procedures by checking the identity of the individual (name, address and date of birth) against the records of, for example, a credit reference agency. The check confirmed the identity of the individual.

The Financial Institution can satisfy its obligations by confirming the reasonableness of the self-certification against other information in the account opening instruction and any other information it has on the individual. Where no other information exists, the reasonableness is confirmed based on information in the account opening instruction alone.

If the account opening instruction is received by phone, the Account Holder may receive paperwork that includes their response to the self-certification question and other questions asked. The Account Holder should be requested to contact the Financial Institution in the event that any of the information is not correct within a specified period (say, 30 days). Provided the Financial Institution does not receive any other information from the Account Holder within the specified time, and provided the self-certification is otherwise reasonable, then the requirements are met.

Example 3

A Financial Institution has received New Account opening documentation from an individual who has been advised by a Financial Advisor (FA). The Financial Institution is unaware of any previous contact with the individual and has not delegated the FA to carry out the FATCA due diligence procedures on its behalf. However, the Financial Institution can rely on the introducing FA to perform the necessary AML checks to identify the individual and is provided with a confirmation by the FA that they have done so.

The Financial Institution must therefore ensure it identifies the Account Holder's status for FATCA purposes. The documents received regarding the account opening contains information about the individual (name, address, date of birth, contact details including telephone number and email address), and a self-certification that the individual is not resident in the US for tax purposes, and is not a citizen of the US. The Financial Institution can satisfy its requirements under the IGA by confirming the reasonableness of the self-certification against other information contained in the account opening instruction and any other information it has on the individual. Where no other information exists the reasonableness is confirmed based on the information in the account opening instruction alone. The Financial Institution is not deemed to have seen any documentation the FA has seen.

Example 4

As per example 2, but the Financial Institution has delegated the FA to perform the FATCA due diligence procedures on its behalf.

The introducing FA carries out the AML checks and obtains a self-certification from the individual confirming their FATCA status. The Financial Institution can satisfy its requirements under the IGA by obtaining confirmation from the FA that they have confirmed the reasonableness of the self-certification.

Example 5

As per example 1, but the individual has been introduced by an FA, although the Financial Institution has not placed reliance on the FA's AML procedures and instead has performed its own AML procedures.

The Financial Institution can satisfy its requirements under the IGA by confirming the reasonableness of the self-certification against other information contained in the account opening instruction and any other information it has on the individual. Where no other information exists the reasonableness is confirmed based on the information in the account opening instruction alone.

(c) Self-Certification for New Individual Accounts

The requirements for self-certification for New Individual Accounts are focused on establishing the tax residence or residencies of the Account Holder, and for the specific purposes of the IGA whether or not the Account Holder is a US citizen.

- **Obtaining a self-certification**

  Unless the Financial Account is of a type that does not need to be reviewed, identified or reported, a Financial Institution is required to obtain a self-certification to enable it to determine where the Account Holder is tax resident and whether or not they are a US citizen. The self-certification process and documentation should allow for cases where the Account Holder is a tax resident of more than one country.

  Citizenship is important when considering the IGA as a US citizen is considered a US resident for tax purposes even if they are also tax resident elsewhere.

  For the purposes of the IGA, where a self-certification determines that a New Individual Account Holder is a US resident for tax purposes, there is also a requirement to obtain a US Taxpayer Identification Number (TIN) from the Account Holder.

- **Where a self-certification is already held**

If the individual already holds a self-certification for the Account Holder, for instance, if one has been obtained for another Financial Account, then provided the Financial Institution is able to access this document they will be held to have 'obtained' this document. However, if there has been a Change in Circumstance since this self-certification was obtained, or any of the information obtained when the New account is opened indicates that the previous self-certification can no longer be relied upon, then a new self-certification must be obtained.

- **Timing of a self-certification**

Pursuant to section III, paragragh B, of Annex I of the IGA, an FFI must obtain a self-certification at account opening. If the FFI cannot obtain a self-certification at account opening, it cannot open the account.

- **Wording of self-certification**

A Financial Institution can choose the form of wording it uses to determine the tax residence of a New Individual Account Holder. However, the wording must be sufficient for an Account Holder to confirm the country or countries where they are tax resident and if they are a US citizen.

- **Format of the self-certification**

Financial Institutions may permit individuals to open accounts in various ways. For example, individuals can make investments or purchase financial products by telephone, online or on paper application forms. They may even invest without using any of the Financial Institution's set application processes and instead send a payment with a covering letter (which is then followed up with required documentation). The method of self-certification does not necessarily have to follow the account application method.

Self-certifications can be obtained in any of these account opening procedures. The following examples are intended to illustrate how these may operate, but are not exhaustive.

Example 1 - Telephone Applications

An individual makes a telephone call to a Financial Institution, asking to open an account in line with the Financial Institution's normal account opening procedures.

The Financial Institution asks the Account Holder to state the countries in which they are tax resident and whether they are a US citizen. The individual provides this information on the phone and the Financial Institution records the confirmation on its system. The paperwork sent to the investor to confirm the account opening should include their response to these self-certification questions and require them to contact the Financial Institution in the event that it is not correct.

Example 2 - Online Applications

An individual accesses the website of a Financial Institution to open an account in line with the Financial Institution's normal account opening procedures. On the account opening web page, along with information about the individual such as name and address, the individual is asked to select the appropriate country or countries in which they are tax resident and whether they are a US citizen.

(d) Self-Certification for Pre-existing Individual Accounts

If US indicia are found suggesting that the Account Holder is potentially a US citizen or US resident for tax purposes, the Financial Institution should treat the account as a Reportable Account. However, the account would not be treated as reportable if the Financial Institution obtains a self-certification from the Account Holder confirming their non-US status and obtains or has previously reviewed and recorded details of any other documents required under the applicable procedures.

(e) Self-certification for New Entity Accounts

Unless a Financial Institution can identify or rely on information it holds or that is publicly available, it should obtain a self-certification from the Entity Account Holders who are identified as one of the following –

- a Specified US Person;
- a Financial Institution that is neither a Financial Institution nor a Partner Jurisdiction Financial Institution (Participating FFI, a Deemed Compliant FFI, an Exempt Beneficial Owner, or an Excepted FFI, as those terms are defined in the relevant US Treasury Regulations);
- a Passive NFFE.

For entities that are Passive NFFEs, the Financial Institution must identify the Controlling Persons and obtain a self-certification from the Account Holder or any Controlling Persons to determine whether they are a US citizen or are resident of the US for tax purposes.

This determination can be achieved in the same way as described for New Individual Accounts in Section 4.8(c) above.

(f) Self-certification for Pre-existing Entity Accounts

Self-certification is required for Pre-existing Entity Accounts in the cases mentioned below –

- **An Entity Account Holder is identified as a Specified US Person**

Where an Entity Account Holder is identified as a Specified US Person, the Financial Institution will be required to treat the account as reportable unless it obtains a self-certification showing that the Account Holder is not a Specified US Person.

- **The Entity Account Holder is not a Financial Institution or Partner Jurisdiction Financial Institution**

Where an Entity Account Holder is not a Financial Institution or Partner Jurisdiction Financial Institution a self-certification is required to identify if the entity is a Certified Deemed Compliant FFI, an Exempt Beneficial Owner or an Excepted FFI, as these terms are defined in the relevant US Treasury Regulations.

- **The Entity Account Holder is a Passive NFFE (an Entity Account Holder will be a Passive NFFE if it is not an Active NFFE)**

Where an Entity Account Holder is a Passive NFFE the Financial Institution must obtain a self-certification from the Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the entity is an Active NFFE.

If the account balance held by one or more **Passive** NFFEs exceeds $1,000,000, a self-certification is required from the Account Holder or Controlling Person.

4.9 Aggregation

To identify whether the accounts are reportable a Financial Institution will need to consider aggregation of accounts of both individuals and entities in certain circumstances.

- **When do the aggregation rules apply?**

Aggregation is required where the Financial Institution has elected under the Mauritius legislation to apply the thresholds in relation to Reportable Accounts set out in Annex 1 of the IGA.

A Financial Institution is required to aggregate all Financial Accounts maintained by it or by a Related Entity, but only to the extent that the Financial Institution's current computerised systems link the Financial Accounts by reference to a data element, for example, a customer or taxpayer identification number.

Where accounts can be linked by a data element and details of the balances are provided, but the system does not provide an aggregated balance of the accounts, the Financial Institution will still be required to apply the aggregation requirements.

- **Relationship Manager**

Where the aggregate balance of all Financial Accounts linked by a common data element as belonging to an individual or entity exceeds $1,000,000 the Financial Institution must make enquiry of any Relationship Manager(s) assigned to that individual or entity to establish whether the Relationship Manager(s) knows of any additional accounts that are directly or indirectly owned, controlled or established (other than in a fiduciary capacity) by the same person.

- **Accounts excluded from Financial Accounts**

If an account (of the type provided under Part V of Annex II of the IGA) is excluded from being treated as a Financial Account, it does not need to be included for the purposes of aggregation. Thus, where an Account Holder holds a number of accounts with the same Financial Institution and the system of the Financial Institution allows the accounts to be linked, the accounts would be aggregated, but not the excluded accounts.

- **Related Entities**

Where a computer system links accounts across related entities, irrespective of where they are located, the Financial Institution will need to aggregate in considering whether any of the reporting thresholds apply. However, once it has considered the thresholds, the Financial Institution will only be responsible for reporting on the accounts it holds. The following example sets out how this could work in practice.

Example 1

Bank A is a Mauritius Financial Institution and has a related entity Bank C which is also a Mauritius Financial Institution. Bank A can link the Depository Account of US Person X to a Custodial Account in the name of the same US Person X with Bank C, by virtue of the taxpayer identification number found during the due diligence process. The accounts have balances as follows –

Depository Account with Bank A - $30,000

Custodial Account with Bank C - $40,000

As the aggregated balance or value is $70,000, the accounts are potentially reportable. However, the Depository Account balance is below the $50,000 threshold for Depository Accounts and is therefore not reportable.

The Custodial Account in this example is reportable because the aggregated total exceeds $50,000 and there is no Custodial Account exemption that can apply.

Bank C must report on the account it holds for US person X.
If Bank C were to be located in another jurisdiction it would have to report on the account it holds if it is a Reporting Financial Institution under the FATCA arrangements of that jurisdiction.

(a) Aggregation of Pre-existing Individual Accounts

The following examples provide illustrative outcomes that could occur from the aggregation process –

Example 1 – *Application of the $50,000 threshold*
Bank A has elected to apply the relevant thresholds in Annex 1. It can link the following accounts of US Person X by a taxpayer identification number.

A Depository Account with a balance of $25,000
A Custodial Account with a balance of $20,000

The aggregated total is below $50,000; therefore regardless of the types of account neither account will be reportable.

Example 2 – Application of the $50,000 threshold
In this scenario the account balances of US Person X are –

A Depository Account with a balance of $45,000

A Custodial Account with a balance of $7,000.

As the aggregated balance or value is $52,000 the accounts are potentially reportable. However, the Depository Account balance is below the $50,000 threshold for Depository Accounts and is therefore not reportable.
The Custodial Account in this example is reportable because the aggregated total exceeds $50,000 and there is no Custodial Account exemption that can apply.

Example 3 – Application of the $250,000 Cash Value Insurance Contract threshold
Company B is a Financial Institution and has elected to apply the relevant thresholds in Annex 1. It can link the following accounts of US Person Y by a client number –

A Cash Value Insurance Contract with a value of $230,000
A Custodial Account with a balance of $30,000

The aggregated balance or value indicates the accounts are potentially reportable (aggregated value above $50,000); however, as the Cash Value Insurance Contract is below the threshold that applies to that type of account, it is not reportable.

There is no Custodial Account exemption; therefore the Custodial Account is reportable.

Example 4 – Application of the $1 million threshold for High Value Accounts
Bank A can link the accounts of US Person Z by a taxpayer identification number found during the due diligence process –

A Depository Account with a balance of $40,000
A Custodial Account with a balance of $980,000

As the aggregated total is in excess of $1 million US Person Z is identified as a holder of High Value Account. However, the Depository Account balance is below the $50,000 threshold for Depository Accounts and is therefore not reportable.

The Custodial Account in this example is reportable as a High Value Account.

Example 5 – Aggregation involving joint accounts

Two US Persons have three accounts between them, one Deposit Account each and a Jointly Held Deposit Account with the following balances –

US Person A $35,000
US Person B $25,000
Joint Account $30,000

A data element in the Financial Institution's computer system allows the joint account to be associated with both A and B. The system shows the individual balances of the accounts; however, it does not show a combined balance. The fact that there is not a combined balance does not prevent the aggregation rules to apply.

The balance on the Joint Account is attributable in full to each of the Account Holders. In this example the aggregate balance for A would be $65,000 and for B $55,000. As the amounts after aggregation are in excess of the $50,000 threshold, both Account Holders will be reportable.

If A was not a US Person then only B would be reportable following an aggregation exercise.

Example 6 – Aggregation of negative balances

Two US Persons have three accounts between them, one account each and a jointly held account, all with the same Financial Institution with the following balances –

US Person A $53,000
US Person B $49,000
Joint Account ($ 8,000) – treated as nil

The accounts can be linked and therefore must be aggregated, but for the purposes of aggregation the negative balances should be treated as nil.

Therefore the only reportable account after applying the thresholds would be that for A.

Reporting

Once aggregation has taken place and it is determined that the accounts are reportable, the accounts should be reported individually. A Financial Institution should not consolidate the accounts for reporting purposes.

Example 7 – Separate account reporting

Person Z (a Specified US Person) holds three Depository Accounts with Bank Z. The balances are as follows –

Account 0001 $ 3,000
Account 0002 $32,000
Account 0003 $25,000

The aggregated balances total $60,000 and all the accounts are reportable. Bank Z should report on the three accounts individually and not consolidate the information into a single entry for reporting purposes.

(b) 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 where the Financial Institution has elected under the Mauritius legislation to apply the thresholds set out in Annex 1 of the IGA and the Financial Institution's computerised system can link the accounts by reference to a common data element.

Example 8 - Aggregation of Pre-existing Entity Accounts

Person A (a Specified US Person) has an individual Depository Account with Bank X. Person A also controls 100% of entity Y and 50% of entity Z both of which also have Depository Accounts with Bank X. The balances are as follows –

Individual Depository Account $ 35,000
Entity Y Depository Account $130,000
Entity Z Depository Account $110,000

Bank X has elected to apply the relevant thresholds in Annex 1 and both of these accounts can be linked in Bank X's system.

The individual Depository Account is not reportable as it is below the $50,000 threshold. Entity Y's and Entity Z's Depository Accounts are also non reportable as the aggregated balances are below the $250,000 threshold that applies to Pre-existing Entity Accounts.

4.10 Aggregation of Sponsored funds

The sponsor of a range of funds acts on behalf of the funds and stands in their place in relation to meeting the FATCA obligations of the funds.

Aggregation is required across the range of funds that have the same sponsor, where the sponsor or its service provider uses the same computerised systems to link the accounts.

In practice a sponsor (typically the fund manager) will use a service provider (the transfer agent) to manage the client relationships of the Account Holders (the investors in the funds). Where different service providers are used by the same sponsor, the systems might not link account information across service providers and aggregation would only be required at the level of the service provider (transfer agent).

For example, where a sponsor manages all the client relationships through a single transfer agent, aggregation should take place at the level of the sponsor (to the extent that the system links accounts).

Where a sponsor has two fund ranges each using a different transfer agent, in practice aggregation is possible only at the fund range/transfer agent level, as this is where the client relationship is held. The sponsor would aggregate at the level of the transfer agent (to the extent that the system links accounts).

4.11 Currency Conversion

Where accounts are denominated in a currency other than US dollars the threshold limits must be converted into the currency in which the accounts are denominated before determining if they apply.

This should be done using a published spot rate of the 31 December of the year being reporting upon, or in the case of an insurance contract or annuity contract, the most recent contract anniversary date when applicable.

In the case of closed accounts the spot rate to be used is the rate on the date the account was closed.

Example 1

The threshold to be applied to MUR denominated Pre-existing Individual Depository Accounts with a published spot rate of 30.6 as of 31 December 2013 would be Rs1,530,000. ($50,000 x 30.6)

Example 2

A Pre-existing Insurance Contract is valued at Rs7,750,000 as of 30 April 2013. In order to be measured against the $250,000 threshold, the Financial Institution can use the spot rate at 30 April 2013.

Alternatively a Financial Institution could convert non-US dollar balances into US dollars and then apply the thresholds. Regardless of the method of conversion, the rules for determining the spot rate apply.

The method of conversion must be applied consistently.

4.12 Tax Identification Numbers (TINs)

Where it has been established that an Account Holder is a US Person, a Financial Institution is required to obtain a US TIN in several instances. When referred to, a US TIN means a US Federal Taxpayer Identifying Number.

For Pre-existing Individual Accounts that are Reportable Accounts a US TIN need only be provided if it is held by the Reporting Financial Institution. In the absence of a record of the US TIN, a date of birth should be provided, but again only where that is held by the Reporting Financial Institution.

Where for a New Individual Account the Account Holder fails to provide a US TIN, the account is to be treated as reportable.

There is no requirement for a Financial Institution to verify that any US TIN provided is correct. A Financial Institution will not be held accountable where information supplied by an individual proves to be inaccurate and the Financial Institution had no reason to doubt the veracity of the information provided.

A Financial Institution is not restricted by the manner in which it records a TIN, for example, it is not necessary to retain a withholding certificate as the means of recording the TIN.

4.13 Change of Circumstances

A change in circumstances includes any change to or addition of information in relation to the Account Holder's account (including the addition, substitution, or other change of

an Account Holder) or any change to or addition of information to any account associated with such account.

A change of circumstance will only have relevance if the change to or addition of information affects the status of the Account Holder for the purposes of the IGA.

Associated accounts are those accounts that are associated through the aggregation rules or where a New Account is treated as being a pre-existing obligation.

Example 1

Where an Account Holder with a Pre-existing Account opens a New Account that is linked to the Pre-existing Account in the Financial Institution's computer systems and, as part of the account opening process, a US telephone number is provided, then this is a change in circumstance with respect to the Pre-existing Account.

The change will only be relevant if it indicates that an Account Holder's status has changed, that is, it either indicates that they are a US Person or that they are no longer a US Person.

If there is a change of circumstance that causes the Financial Institution to know or have reason to know that the original self-certification (such as one obtained on the opening of a New Individual Account) is incorrect or unreliable, the Financial Institution can no longer rely on the original self-certification.

The Financial Institution should then obtain a new self-certification that establishes whether the Account Holder is a US citizen or US tax resident.

In the event that there is a change in circumstance which indicates a change in the Account Holder's status, the Financial Institution should verify the Account Holder's actual status in sufficient time to allow it to report the account, if required, in the next reportable period.

If an Account Holder fails to respond to a Financial Institution's requests for a self-certification or for other documentation to verify the Account Holder's status, the Financial Institution should treat the account as a US Reportable Account until such time as the Financial Institution is given the necessary information to be able to correctly verify the status.

4.14 Assignment or Sale of Cash Value Insurance Contract

A Cash Value Insurance Contract such as an endowment policy may be the subject of assignment or sale by the beneficial owner of the policy. Such an assignment or sale will result in the Reporting Financial Institution having to consider the reportable status of the new beneficial owner of the policy.

Example 1

An individual holds a mortgage with lender A, and as part of their mortgage arrangements they hold an endowment policy. This endowment was taken out by the individual borrower and although the endowment is part of the mortgage arrangements it is the individual who is beneficially entitled to receive sums payable on the surrender or redemption of the policy (for instance they may be able to keep amounts payable under the endowment if they are able to pay off the mortgage from an alternative source). The borrower takes out a mortgage with a new lender but under the terms of the mortgage agreement they keep their existing endowment. In this case the endowment policy has not been assigned, even if the policy is named in the underlying mortgage arrangement. The endowment is an individual account and continues to be held by the same beneficial owner (the borrower).

Example 2

The same individual holds a mortgage with lender B, and as part of their mortgage arrangements they have taken out an endowment policy. However, in this case mortgage lender B (which is a Financial Institution) has the direct benefit of the endowment policy such that they are beneficially entitled to receive sums payable on the surrender or redemption of the policy, or the sum insured in the event of the death of

the borrower. In this case mortgage lender B is an Entity Account Holder. The borrower takes out a new mortgage with mortgage lender C, repays the existing loan and the Financial Institution assigns the benefit of the policy to mortgage lender C. The account with mortgage lender C is treated as a new account; the Reporting Financial Institution must determine the status of the new Account Holder mortgage lender C. In all likelihood, mortgage lender C will also be a Mauritius Financial Institution or other Partner Jurisdiction Financial Institution, which can be identified on the basis of publicly available information.

Example 3

Individual X holds an endowment policy with a Reporting Financial Institution. This is a Financial Account. Individual X sells the benefit of the policy to another person - Individual Y. Individual Y will be subject to the due diligence procedures as a new individual Account Holder. This is a different situation from a new account being opened where the Financial Institution has direct contact with the individual and if that individual does not provide the necessary information the Financial Institution can simply turn down the business. Where there is an assignment the Financial Institution has no choice in the matter and must therefore take reasonable steps to obtain the necessary information from the new owner of the policy. If the new owner fails to provide a valid self-certification, despite the reasonable efforts of the Financial Institution to obtain one, the account would become reportable.

4.15 Mergers or Bulk Acquisitions of Accounts

Where a Financial Institution acquires accounts by way of a merger or bulk acquisition, the Financial Institution can rely on the status of Account Holders as determined by the predecessor Reporting Model 1 Financial Institution, US withholding agent, or a Participating Financial Institution, provided that the predecessor Financial Institution had met its due diligence obligations.

The Financial Institution may continue to rely on the status of the Account Holder as long as it has no reasonable cause to believe that the status is unreliable or incorrect.

The MRA would expect that the Financial Institution undertake a sample review of the acquired accounts to determine that the Account Holders' status, assigned by the predecessor Financial Institution, is reliable. An Account Holder's status will need to be verified by the acquiring Financial Institution in accordance with the due diligence procedures should the acquirer have reason to know that it is incorrect or if there is a change in circumstance.

Where a Deemed Compliant Financial Institution becomes part of a group as the result of a merger or acquisition, the status of any account maintained by the Deemed Compliant Financial Institution can be relied upon unless there is a change in circumstance in relation to the account.

The Mauritius Financial Institution may treat accounts acquired in a merger or bulk acquisition that takes place after 30 June 2014 as preexisting accounts for the purposes of applying the identification and documentation procedures by treating the accounts as if they had been acquired on 30 June 2014.

- **Mergers of Investment Entities**

Mergers of Investment Entities can be different to mergers of Custodial Institutions or Depository Institutions. The Financial Accounts of Investment Entities are its Equity and Debt Interest. The merger of two such entities creates a series of New Accounts in the surviving entity.

Mergers of Investment Entities will normally involve a surviving fund taking over the assets of the merging fund in exchange for issuing shares or units to the investors of the merging fund. The shares or units in the merging fund are then extinguished. The new shares in the surviving fund will be New Accounts except where both funds are sponsored by the same sponsor.

So that fund mergers are not impeded, or held up by the requirement to perform due diligence on a series of New Accounts, special rules apply to the documentation of New Accounts on a merger of Investment Entities. There are a number of potential scenarios depending upon whether the merging fund (the

investors of which will create the New Accounts in the surviving fund) is a Mauritius Financial Institution and whether it is a Reporting or Participating Financial Institution Deemed Compliant Financial Institution or Non-Participating Financial Institution. These are considered below.

- **More than one fund sponsored by the same Mauritius sponsor**

Where both funds are sponsored Mauritius funds with the same Mauritius sponsor, no New Accounts are created. This is because for Sponsored Financial Institutions, whether a Financial Account is a New Account or not is determined by reference to whether it is new to the sponsor (for example, the fund manager), and not whether it is new to the Sponsored Financial Institution (the fund).

- **Merging fund is a Reporting Financial Institution**

Where the merging fund is a Reporting Financial Institution (including a Sponsored Financial Institution, but where the funds do not share the same sponsor), a FATCA Partner Jurisdiction Financial Institution or a Participating Foreign Financial Institution, the surviving fund can rely on the account identification and documentation performed by the merging fund and will not need to undertake any further account due diligence in order to comply with its FATCA obligations. The surviving fund can continue to use the same account classification as the merging fund until there is a change in circumstances for the Financial Account.

- **Merging fund is not a Reporting Financial Institution**

Where the merging fund is not a Reporting Financial Institution, a FATCA Partner Jurisdiction Financial Institution or a Participating Foreign Financial Institution (because it is a Deemed Compliant fund, a Non-Participating Mauritius Financial Institution or a Non-Participating Foreign Financial Institution), the surviving fund will need to undertake account identification procedures on the New Accounts. However, in these circumstances the account identification procedures will be limited to those that are required for Pre-existing Accounts and should be carried out at the latest by the 31 December following the date of the merger or 31

December of the year following the year of the merger, if the merger takes place after 30 September of any calendar year.

CHAPTER 5

Pre-existing Individual Accounts

5.1 Introduction

A Pre-existing Individual Account is a Financial Account maintained by a Financial Institution as of 30 June 2014. Pre-existing Accounts will fall into one of four categories depending on the balance or value of the account. These are –

- Financial Accounts exempt by threshold;
- Cash Value Insurance Contracts and Annuity Contracts unable to be sold to US residents;
- Lower Value Accounts;
- High Value Accounts.

5.2 Reportable Accounts

Pre-existing Accounts will be reportable if they are not exempt and the Financial Institution has identified US indicia and those indicia have not been cured or repaired.

Where a Pre-existing Lower Value or High Value Account closes prior to the Financial Institution carrying out its due diligence procedures, the account still needs to be reviewed. Where, following the due diligence procedures the account is found to be reportable, the Financial Institution must report the information for the closed account as required.

Once an account is identified as a Reportable Account (unless it is a Depository Account) the account will remain reportable for all subsequent years unless the Account Holder ceases to be a US Person (including death).

Whether a Depository Account is a Reportable Account is dependent on whether the balance or value is above the reporting threshold of $50,000. A Depository Account is the only type of account where the reporting requirement can alter annually even where the Account Holder remains a US Person.

Example 1

A Depository Account belonging to a US Person with a balance of $65,000 at 31 December will need to be reported. The following year there is a large withdrawal from the account bringing the balance down to $20,000 at 31 December. As the balance is now below the $50,000 threshold the account does not need to be reported.

5.3 Threshold Exemptions that apply to Pre-existing Individual Accounts

The IGA allows Financial Institutions to elect to apply the threshold exemptions when reviewing and identifying Pre-existing Individual Accounts.

The election can apply to all Financial Accounts or to a clearly identifiable group of accounts, such as by line of business or the location of where the account is maintained.

The following accounts do not need to be reviewed, identified or reported to the MRA where the election is made by the Financial Institution.

- Any Depository Accounts with a balance or value of $50,000 or less.
- Pre-existing Individual Accounts with a balance not exceeding $50,000 at the 30 June 2014, unless the account subsequently becomes a High Value Account.
- Pre-existing Individual Accounts that qualify as Cash Value Insurance Contracts or Annuity Contracts with a balance or value of $250,000 or less at the 30 June 2014, unless the account subsequently becomes a High Value Account.

If a Financial Institution does not make an election to apply the threshold exemptions, it will need to review all Pre-existing Individual Accounts.

5.4 Pre-existing Cash Value Insurance Contracts or Annuity Contracts unable to be sold to US residents

Pre-existing Cash Value Insurance Contracts or Annuity Contracts that are unable to be sold to US residents because of legal or regulatory restrictions do not need to be reviewed, identified or reported. This also applies to Insurance policies written in Trust or assigned to a Trust on or before 30 June 2014.

This exemption only applies where both of the following conditions are met –

- the Financial Institution's Cash Value Insurance Contracts and Annuity Contracts cannot be sold into the US without legal or regulatory authority; and
- the Mauritius law requires reporting or withholding in respect of these products.

No existing Mauritius law prevents the sale of Cash Value Insurance products or Annuity Contracts to US residents. However, the sale of contracts to US residents will be considered effectively prevented if the issuing Specified Insurance Company (not including any US branches) is not licensed to sell insurance in any state of the US and the products are not registered in US with the Securities and Exchange Commission.

Assignment of Pre-existing Insurance Contracts

When a Pre-existing Cash Value Insurance Contract or Annuity Contract is assigned to another person then this will be treated as a New Account. This is to ensure that Pre-existing Insurance Contracts assigned after 1 July 2014 to US Persons are correctly identified and reported, where necessary.

Once the Financial Institution becomes aware that an assignment has been made, the Financial Institution will need to carry out the due diligence applicable

for New Accounts. If the Financial Institution is unable to obtain a valid self-certification the account should be treated as reportable.

5.5 Lower Value Accounts

A lower value Pre-existing Individual Account is an account with a balance or value that exceeds the appropriate threshold of $50,000 for Depository and other Pre-existing Individual Accounts or $250,000 in the case of Cash Value Insurance Contracts and Annuity Contracts, but does not exceed $1,000,000.

(a) Electronic Record searches and Lower Value Accounts

In order to identify the Account Holder, a Financial Institution is required to review its electronically searchable data for any of the following U.S. indicia –

- identification of the Account Holder as a U.S. citizen or resident;
- unambiguous indication of a U.S. place of birth;
- current U.S. mailing or residence address (including P.O. Box);
- current U.S. telephone number;
- standing instruction to transfer funds to an account maintained in the U.S.;
- current effective power of attorney or signatory authority granted to a person with a U.S. address;
- an 'in care of' or 'hold mail' address that is the sole address the institution holds for the Account Holder. An "in care of address" or "hold mail" address is not treated as U.S. indicia for the purposes of electronic searches but would be regarded as U.S. indicia where a review of paper records is required.

Where none of the indicia listed above are discovered through an electronic search, no further action is required in respect of Lower Value Accounts, unless there is a subsequent change of circumstance that results in one or more US indicia being associated with the account. Where that happens the account will become reportable

unless further action is taken by the Financial Institution to attempt to cure or repair the indicia.

A Financial Institution will not be treated as having reason to know that an Account Holder's status is incorrect because it retains information or documentation that may conflict with its review of the Account Holder's status if it was not necessary under the procedures described in this section to review that information or documentation.

Example

For Lower Value Accounts, where only an electronic search is required and no US indicia are identified, the Financial Institution will not have reason to know that the Account Holder was a US Person even if it held a copy of a US passport for the Account Holder. This applies only if the Financial Institution was not required to review or had not previously reviewed that documentation or information.

Where a Financial Institution has started its review, found indicia and attempted to verify or cure the indicia by contacting the Account Holder, but the Account Holder does not respond, the account should be treated as reportable 90 days after initiating contact. The 90-day limit is to allow the Account Holder sufficient time to respond to requests for information and does not alter the timings set out in section 5.7.

Qualified Intermediaries

A Mauritius Financial Institution that has previously established an Account Holder's status in order to meet its obligations under a Qualified Intermediary, Withholding Partnership or Withholding Trust Agreement, or to fulfil its reporting obligations as a US payor under Chapter 61 of the IRS Code, can rely on that status for the purposes of the IGA where the Account Holder has received a reportable payment under those regimes. The Financial Institution is not required to perform the electronic search in relation to those accounts. It will however have to apply the appropriate due diligence procedures to all other Pre-existing Individual Accounts it maintains.

(b) Identification of the Account Holder as a US citizen or resident

Where the indicia found indicates that the Account Holder is a US citizen or resident by birth, the account needs to be reported unless the Financial Institution obtains or currently maintains a record of all of the following –

- a self-certification showing that the Account Holder is neither a US citizen nor a US resident for tax purposes; and
- evidence of the Account Holder's citizenship or nationality in a country other than the US (for example, passport or other government issued identification).

(c) Unambiguous US Place of Birth

Where the indicia found is an unambiguous US place of birth the account needs to be reported unless the Financial Institution obtains or currently maintains a record of all of the following:

- a self-certification showing that the Account Holder is neither a US citizen nor a US resident for tax purposes;
- evidence of the Account Holder's citizenship or nationality in a country other than the US (for example, passport or other government issued identification); and
- a copy of the Account Holder's Certificate of Loss of Nationality of the United States or a reasonable explanation of the reason the Account Holder does not have such a certificate or the reason the Account Holder did not obtain US citizenship at birth.

(d) Current US mailing address/residence address

Where the indicia found is a current US mailing address, and/or is a current permanent residence address in the US, the account must be reported unless the Mauritius Financial Institution obtains or currently maintains a record of the following –

- a self-certification that the Account Holder is neither a US citizen nor a US resident for tax purposes; and
- a form of acceptable documentary evidence which establishes the Account Holder's non-US status (e.g. passport or other government-issued identification).

(e) Current US telephone numbers

Where the indicia found is one or more US telephone numbers associated with the account, then the account must be reported unless the Mauritius Financial Institution obtains or currently maintains a record of the following –

- a self-certification that the Account Holder is neither a US citizen nor a US resident for tax purposes; and
- a form of acceptable documentary evidence which establishes the Account Holder's non-US status.

In the case of any uncertainty as to whether a phone number is US or not, for example, a mobile phone number, the number should not be treated as a US indicia, as long as reasonable steps have been taken to establish whether or not the number is a US number.

(f) Standing Instructions to transfer funds to an account maintained in the US

There will be a standing instruction if the Account Holder has mandated the Financial Institution to make regular transfers to another account that can clearly be identified as being an account maintained in the United States.

Instructions to make an isolated payment will not be a standing instruction even when given significantly in advance of the payment being made.

Where the indicia found is standing instructions to transfer funds to an account maintained in the United States, the account must be reported unless the Financial Institution obtains or currently maintains a record of –

(i) a self-certification that the Account Holder is neither a U.S. Citizen nor a U.S. resident for tax purposes; and

(ii) acceptable documentary evidence which establishes the Account Holder's non U.S. status. This evidence can be –

- a certificate of residence issued by the Tax Authorities of the country in which the payee claims to be a resident;
- 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;
- any financial statement, third-party credit report, bankruptcy filing, or U.S. Securities and Exchange Commission report;
- with respect to an 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).

(g) Effective Power of Attorney or Signatory Authority

Where the indicia found is a current effective power of attorney or signatory authority granted to a person with a US address, or an 'in care of' or 'hold mail' address in the US that is the sole address the Financial Institution holds for the Account Holder, the account must be reported unless the Financial Institution obtains or currently maintains a record of one of the following –

- a self-certification showing that the Account Holder is neither a US citizen nor a US resident for tax purposes; or
- a form of acceptable documentary evidence which establishes the Account Holder's non-US status.

5.6 High Value Accounts

Pre-existing Individual Accounts with a balance or value that exceeds $1,000,000 at 30 June 2014 or at 31 December of any subsequent year will be regarded as High Value Accounts for FATCA purposes.

(a) Electronic Record searches and High Value Accounts

- A Financial Institution must review its electronically searchable data in the same manner as for Lower Value Accounts.
- If a Financial Institution has previously obtained documentation from a Pre-existing Individual Account Holder to establish the Account Holder's status:
  - in order to meet its obligations under a Qualified Intermediary, Withholding Partnership or Withholding Trust Agreement, or
  - to fulfil its reporting obligations as a US payor under Chapter 61 of the Code,

  it will not have to carry out either the electronic search or the paper record search in respect of such accounts.
- Any Financial Institution that falls into this category is required, however, to perform the Relationship Manager enquiry where the accounts are High Value Pre-existing Individual Accounts.

(b) Paper Record Search and High Value Accounts

A paper record search will be required if the electronic searchable databases do not capture details of all the following –

- the Account Holder's nationality or residence status;
- the Account Holder's resident address and mailing address currently on file;
- the Account Holder's telephone number(s) currently on file;

- whether there are standing instructions to transfer funds to another account;
- whether there is a current “in-care-of” address or “hold mail” address for the Account Holder; and
- whether there is any power of attorney or signatory authority for the account.

The paper record search should include a review of the current customer master file and, to the extent they are not contained in the current master file the following documents associated with the account and obtained by the Financial Institution within the last 5 years should also be reviewed –

- the most recent documentary evidence collected with respect to the account;
- the most recent account opening contract or documentation;
- the most recent documentation obtained by the Financial Institution for AML/KYC Procedures or for other regulatory purposes;
- any power of attorney or signature authority forms currently in effect; and
- any standing instructions to transfer funds currently in effect.

This information should be reviewed for any U.S. indicia.

A Financial Institution can rely on the review of High Value Accounts performed by third party distributors, for example, financial advisers, on their behalf where there is a contract obligating the distributor to perform the review.

A Financial Institution is not required to perform the paper record search for any Pre-existing Individual Account for which it has retained a withholding certificate and acceptable documentary evidence which establishes the Account Holder’s non-US status.

(c) Relationship Manager

In addition to the electronic and paper searches, the Financial Institution must also consider whether any Relationship Manager associated with the High Value Account (including any accounts aggregated with such account) has knowledge that would identify the Account Holder as a Specified US Person.

If the Relationship Manager knows that the Account Holder is a Specified US Person then the account must be reported unless the indicia can be cured.

For these purposes a Relationship Manager is assumed to be any person who –

- is an officer or other employee of the Financial Institution;
- is assigned responsibility for specific Account Holders on an on-going basis;
- advises the Account Holders regarding their accounts; and
- arranges for the overall provision of financial products, services and other related assistance.

A person is only considered a Relationship Manager for these purposes with respect to an account with a balance or value exceeding $1,000,000, taking into account the aggregation rules.

A Financial Institution must also ensure that it has procedures in place to capture any change of circumstance in relation to a High Value Individual Account made known to the Relationship Manager in respect of the Account Holder's status.

Example

If a Relationship Manager is notified that the Account Holder has a new mailing address in the US, this would be a change in circumstance and the Financial Institution would either need to report the account or obtain the appropriate documentation to cure or repair that indicia.

The electronic search and paper search only need to be done once for each account identified as a High Value Account, but the responsibilities of Relationship Managers to ensure that any knowledge regarding the Account Holder's status or aggregation of accounts is captured are constant and ongoing.

(c) Effects of Finding US Indicia

Where one or more indicia are discovered through the enhanced review procedures and none of the cures or repairs can be applied, the Financial Institution must treat the account as a US Reportable Account for the current and all subsequent years.

Where no indicia are discovered in the electronic search, the paper record search or by making enquiries of the Relationship Manager, no further action is required unless there is a subsequent change in circumstances.

If there is a change in circumstances that results in one or more of the indicia listed in this section being associated with the account and none of the cures or repairs can be applied, it must be treated as a US Reportable Account for the year of change and all subsequent years. This applies for all accounts except Depository Accounts, unless the Account Holder ceases to be a Specified US Person.

Where a Financial Institution has started its review, indicia are found and attempts made to verify or cure those indicia by contacting the Account Holder, but the account holder does not respond, the account should be treated as reportable 90 days after initiating contact. The 90-day limit is to allow the Account Holder sufficient time to respond to requests for information

5.7 Timing of reviews

(a) Lower Value Accounts

The review of Pre-existing Accounts that are Lower Value Accounts at 30 June 2014 must be completed by 30 June 2016.

Pre-existing Lower Value Accounts that are identified as reportable are only reportable from the year in which they are identified as such.

Example 1

The due diligence procedures are carried out on a Lower Value Account during March 2015 and the account is determined as reportable. The Financial Institution is only required to report on the account information for the year ending 31 December 2015 onwards.

(b) High Value Accounts

The review of Pre-existing Accounts that are High Value Accounts at 30 June 2014 must be completed by 30 June 2015. If a High Value Account is identified as a reportable account in a review carried out before 31 December 2014, the account must be included in the 2014 FATCA report. Otherwise, the account becomes reportable from the year in which it is identified.

Example 2

The due diligence procedures are carried out on a High Value Individual Account during April 2015 and the account is determined as reportable. The Financial Institution is required to report on the account for 2015 and thereafter.

5.8 Change in circumstances

If the account is reportable it will remain reportable for all subsequent years unless there is a change in circumstances that means that the Account Holder ceases to be a Specified U.S. Person. Where the balance or value of an account does not exceed $1,000,000 as of 30 June 2014, but does exceed that amount as of the last day of a subsequent calendar year, the Financial Institution must perform the procedures described for High Value Accounts by 30 June of the year following the year in which the balance or value exceeded $1,000,000. Where the review shows that the account is reportable, the Financial Institution must report the required information about the

account with respect to the year in which it is identified as a U.S. Reportable Account and subsequent years on an annual basis.

CHAPTER 6

Pre-existing Entity Accounts

Pre-existing Entity Accounts are those accounts that are in existence at 30 June 2014.

6.1 Threshold Exemptions that apply to Pre-existing Entity Accounts

The IGA allows Financial Institutions to elect whether to apply the threshold exemptions when reviewing and identifying Pre-existing Entity Accounts.

The election can apply to all Financial Accounts or to a clearly identifiable group of accounts, such as accounts held by a line of business.

If the threshold exemption is applied and where the account balance or value does not exceed $250,000 at 30 June 2014 there is no requirement to review, identify or report the account until the account balance exceeds $1,000,000, at 31 December of a subsequent calendar year.

If a Financial Institution does not make an election under the IGA to apply the threshold exemption, it will need to review and identify all Pre-existing Entity Accounts.

6.2 Reportable Accounts

An Entity Account is only reportable where the account is held by one or more entities that are Specified US Persons or by Passive NFFEs with one or more Controlling Persons who are US citizens or residents.

Where a Pre-existing Entity Account closes prior to the Financial Institution carrying out its due diligence procedures, the account is still required to be reviewed. Where following the due diligence procedures the account is found to be reportable, the

Financial Institution must report the information as required under Chapter 9. This will not apply to accounts that are closed prior to 30 June 2014.

If the Account Holder is a Non-Participating Financial Institution (NPFI), payments made to the NPFI will be reportable.

Controlling Persons are defined as natural persons who exercise control over an entity.

In the case of a Trust this 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.

In the case of a legal arrangement other than a Trust, it means persons in equivalent or similar positions. The term "Controlling Persons" must be interpreted in a manner consistent with the Recommendations of the Financial Action Task Force. In its interpretive note to the definition of "controlling ownership interest", the FATF states that it depends on the ownership structure of the company and may be based on a threshold. In the example given by the FATF use is made of a threshold of 25 percent. However as per the Banking Act 2004, a threshold of 20 per cent is required to be applied by Financial Institutions. After discussions with stakeholders, it has been agreed to use the threshold of 20 per cent to determine the "controlling ownership interest".

An Entity Account will also be reportable where a self-certification is not provided or the entity's status cannot be determined from information held or that is publicly available. In this situation the account should continue to be reported until such time that the entity's status is correctly identified.

6.3 US indicia for Pre-existing Entities

The term US indicia, when used with respect to an entity, includes any of the following –

- classification of an Account Holder as a US resident in the current customer files;
- a current US residence address or US mailing address;
- standing instructions to pay amounts to a US address or an account maintained in the US;
- a current telephone number for the entity in the US, but no telephone number for the entity outside the US;
- a current telephone number for the entity in the US in addition to a telephone number for the entity outside the US;
- a power of attorney or signatory authority granted to a person with a US address;
- an "in-care-of" address or "hold mail" address that is the sole address provided for the entity.

6.4 Documentary evidence required to repair US indicia

If there are US indicia as described above, the Financial Institution may treat the entity as non-US only if the Financial Institution obtains a self-certification for the entity and one form of acceptable documentary evidence which establishes the entity's non-US status such as a Certificate of Incorporation.

6.5 Identification of an entity as a Specified US Person

In order to identify if an entity is a Specified US Person, information maintained for regulatory or customer relationship purposes (including information collected as part of any AML/KYC procedure) can be relied upon.

A US place of incorporation or organisation, a US address, or the US indicia listed above would be examples of information indicating that an entity is a Specified US Person.

If the Account Holder is found to be a Specified US Person then the account should be treated as reportable unless a self-certification is obtained from the Account Holder which shows that the Account Holder is not a Specified US Person or it can be reasonably determined from information held or that is publicly available, that the Account Holder is not a Specified US Person.

Article 1(1)(ff) of the IGA includes a list of exceptions for Specified US Persons. To avoid unnecessary reporting where there is insufficient information held by the Financial Institution to allow it to make a correct determination, a self-certification may be obtained from any entity that is believed to be within this exception.

6.6 Identification of an entity as a Financial Institution

In order to identify whether an entity Account Holder is a Financial Institution, information maintained for regulatory or customer relationship purposes (including information collected as part of any AML/KYC procedure) or a Global Intermediary Identification Number (GIIN) can be relied upon.

If the entity is a Financial Institution, including Non-Reporting Financial Institutions listed in Annex II of the IGA, the account held by the entity is not a Reportable Account.

6.7 Identification of an entity as a Non-Participating Financial Institution (NPFI)

If the Account Holder is a Financial Institution, but not a Mauritius Financial Institution, a Financial Institution in another Partner Jurisdiction or a Participating Financial Institution, it should be treated as a Non-Participating Financial Institution.

This will apply unless –

- the entity is a Mauritius Financial Institution or other Partner Jurisdiction Financial Institution (including Exempt Beneficial Owners and Deemed Compliant Financial Institutions). This may be determined by the Reporting Financial Institution on the basis of information already held/publicly available;
- the entity provides a self-certification stating that it is a Certified Deemed Compliant Financial Institution, an Exempt Beneficial Owner, an Excepted Financial Institution; or
- the Reporting Financial Institution is able to verify that the entity is a participating Financial Institution or Registered Deemed Compliant Financial Institution, for instance from its Global Intermediary Identification Number.

If the Account Holder is a Non-Participating Financial Institution, the Reporting Financial Institution will need to report on payments made to it.

6.8 Identification of an entity as a Non-Financial Foreign Entity (NFFE)

When an entity Account Holder is not identified as either a US Person or a Financial Institution, the Financial Institution must consider whether the entity is a Passive NFFE and if any of the Controlling Persons of that entity are a US citizen or tax resident of the US.

An entity will be a Passive NFFE if it is not an Active NFFE. To determine whether the entity is a Passive NFFE, the Financial Institution must obtain a self-certification from the Account Holder establishing its status; unless it has information in its possession or that is publicly available that enables the Financial Institution to reasonably determine whether or not the entity is an Active NFFE.

To identify the Controlling Persons of an entity, a Financial Institution may rely on information collected and maintained pursuant to AML/KYC procedures.

To determine whether the Controlling Persons of a Passive NFFE are citizens or residents of the US for tax purposes, Financial Institutions may rely on –

- information collected and maintained pursuant to AML/KYC procedures in the case of an account held by one or more Passive NFFEs, with a balance that does not exceed $1,000,000;
- a self-certification from an Account Holder or Controlling Person in the case of an account held by one or more Passive NFFEs, with a balance that exceeds $1,000,000.

6.9 Timing of reviews

The review of Pre-existing Entity Accounts with an account balance or value that exceeds $250,000 at 30 June 2014 must be completed by 30 June 2016.

The review of Pre-existing Entity Accounts with a balance or value that does not exceed $250,000 at 30 June 2014, but exceeds $1,000,000 as of 31 December of any subsequent year, must be completed by 30 June of the following year.

Pre-existing Entity Accounts that are identified as reportable are only reportable from the year in which they are identified as such.

For pre-existing accounts being reviewed the data being considered should be that which is held at the date of the review. However, if the Financial Institution has archived data from the point when the account is identified as reportable then this may also be used, provided that any subsequent changes in circumstance are included in the review process.

CHAPTER 7

New Individual Accounts

An account opened on or after 1 July 2014 will be treated as a New Individual Account.

7.1 Threshold Exemptions that apply to New Individual Accounts

The IGA allows Financial Institutions to elect whether to apply the threshold exemptions when reviewing and identifying New Individual Accounts.

The election can apply to all Financial Accounts or to a clearly identifiable group of accounts, such as accounts held by a line of business.

The threshold exemptions for New Individual Accounts are –

- Depository Accounts do not need to be reviewed, identified or reported unless the account balance exceeds $50,000;
- Cash Value Insurance Contracts do not need to be reviewed, identified or reported unless the cash value exceeds $50,000.

If a Financial Institution does not make an election under the IGA to apply the threshold exemptions to Reportable Accounts, it will need to review and identify the status of all of its New Individual Account Holders.

7.2 Reportable Accounts

Where it is established that the holder of a New Individual Account is a US citizen or resident in the US for tax purposes the account must be treated as a Reportable Account.

In this instance the Financial Institution is required to retain a record of an IRS form W-9 or US TIN. The US TIN may be retained in any manner and does not need to be on an IRS form.

7.3 New Accounts for holders of Pre-existing Accounts

Where a Pre-existing Account Holder wishes to open a New Account with the same institution, there will be no need to re-document the Account Holder as long as –

- the appropriate due diligence requirements have already been carried out, or are in the process of being carried out for the Pre-existing Account; and
- the accounts are treated as linked or as a single account or obligation for the purposes of applying any of the due diligence requirements and reporting.

This means that the standards of knowledge to be applied, the change of circumstances rules and aggregation requirements will apply to all accounts held by the Account Holder.

Therefore, where there is a change of circumstance or where the Financial Institution has reason to know that the Account Holder's status is inaccurate in relation to one account, this will apply to all other accounts held by the Account Holder.

Where the Financial Institution has elected to apply thresholds, the accounts must be treated as linked for aggregation purposes. This can also be applied on a group basis where documentation is shared within the group.

7.4 Identification of New Individual Accounts

For accounts that are not exempt, and for accounts that previously qualified for the threshold exemption, but now have a balance or value above the threshold, the

Financial Institution can carry out the following procedures to determine the Account Holder's status –

- obtain a self-certification that allows the Financial Institution to determine whether the Account Holder is US tax resident; and
- confirm the reasonableness of this self-certification based on the information the Financial Institution holds or obtains in connection with the opening of the account, including any documentation obtained for AML/KYC procedures.

For these purposes a US citizen is considered to be resident in the US for tax purposes even where they are also tax resident in another country.

In the absence of a valid self-certification being provided by the Account Holder, the account cannot be opened.

If the information provided during the account opening process contains any of the indicia described in section 5.5(a) the account will become reportable unless further action is taken by the Financial Institution to attempt to cure or repair the indicia.

7.5 Reliance on Self-Certification and Documentary evidence

Where information already held by a Financial Institution conflicts with any statements or self-certification, or the Financial Institution has reason to know that the self-certification or other documentary evidence is incorrect, it may not rely on that evidence or self-certification.

A Financial Institution will be considered to have reason to know that a self-certification or other documentation associated with an account is unreliable or incorrect if, based on the relevant facts; a reasonably prudent person would know this to be the case.

CHAPTER 8

New Entity Accounts

8.1 Introduction

A New Entity Account is an account that is not held by an individual and that is opened on or after 1 July 2014.

Where a New Account is opened by an entity Account Holder who already has a Pre-existing Account the Financial Institution may treat both accounts as one account for the purposes of applying AML/KYC due diligence. In these circumstances, the Financial Institution may choose to apply the identification and documentation procedures for either Pre-existing or New Accounts to derive the FATCA classification for any New Account or Accounts opened on or after 1 July 2014 by the same entity.

However, pursuant to Article 7 of the IGA, Mauritius benefits from more favourable terms afforded to another partner jurisdiction. The Government of the United States of America and the Government of the British Virgin Islands have signed an agreement on 30 June 2014 which contains terms which are more favourable than those contained in the IGA between Mauritius and the US. Mauritius has therefore been notified of the special paragraphs G and H of Section VI of Annex I of the IGA signed by British Virgin Islands with the US. *(Refer to Attachment I to the IGA)*

As a result, paragraph H of Section VI of Annex I will be relevant to the Mauritius Financial Institutions in respect of New Entity Accounts opened on or after 1 July 2014, but before 1 January 2015, either with respect to all New Entity Accounts or, separately, with respect to any clearly identified group of such accounts. The accounts opened in the above-mentioned period shall be treated as Pre-existing Accounts whereby the due diligence procedures to be followed shall be those stipulated for Pre-existing Entity Accounts. However, the threshold provided for Pre-existing Entity accounts mentioned

in Paragraph A of Section IV of Annex I of the IGA *(See Section 6.1 of the notes)* shall not apply to those New-entity Accounts opened between July 1,2014 and January 1, 2015.

8.2 Exemptions that apply to New Entity Accounts

There are no threshold exemptions that apply to New Entity Accounts. There will therefore be no need to apply any aggregation or currency conversion rules.

However, where a Financial Institution maintains credit card accounts, these do not need to be reviewed, identified or reported where the Financial Institution has policies or procedures that prevent the Account Holder establishing a credit balance in excess of $50,000.

8.3 Reportable Accounts

An Account Holder of a New Entity Account must be classified as either –

- a Specified US Person;
- a US Person other than a Specified US Person;
- a Mauritius Financial Institution or other Partner Jurisdiction Financial Institution;
- a Participating FFI, a Deemed Compliant FFI, an Exempt Beneficial Owner, or an Excepted FFI, as those terms are defined in relevant US Treasury Regulations;
- an Active NFFE or Passive NFFE; or
- a Non-Participating Financial Institution.

New Entity Accounts will be reportable where there is an Account Holder who is –

- a Specified US Person; or

- there is a Passive NFFE with one or more Controlling Persons who are citizens or residents of the US; or
- Owner Documented Foreign Financial Institutions with US owners.
- If the Account Holder is one of those listed below the account is not a US Reportable Account –
- a US Person other than a Specified US Person;
- a Mauritius Financial Institution or other Partner Jurisdiction Financial Institution;
- a Participating FFI, a Deemed Compliant FFI, an Exempt Beneficial Owner, or an Excepted FFI, as those terms are defined in relevant US Treasury Regulations;
- an Active NFFE; or
- a Passive NFFE where none of the Controlling Persons are US citizens or resident in the US.

8.4 Identification of an entity as a Financial Institution

A Financial Institution may rely on publicly available information or information within the Financial Institution's possession to identify whether an Account Holder is an Active NFFE, Participating FFI or a Mauritius or Partner Jurisdiction Financial Institution. In all other instances the Financial Institution must obtain a self-certification from the Account Holder to establish the Account Holder's status.

8.5 Identification of an entity as a Non-Participating Financial Institution

If the entity is a Mauritius Financial Institution or a Financial Institution in another Partner Jurisdiction, no further review, identification or reporting will normally be required. The exception to this is if the Financial Institution becomes a Non-Participating Financial Institution following significant non-compliance.

If the Account Holder is a Financial Institution, but not a Mauritius Financial Institution, Financial Institution in another Partner Jurisdiction or a Participating Financial Institution, then the entity is treated as a Non-Participating Financial Institution. This applies unless the Reporting Financial Institution –

- obtains a self-certification from the entity stating that it is a Certified Deemed Compliant Financial Institution, an Exempt Beneficial Owner, or an Excepted Financial Institution; or
- verifies its status as a Participating Financial Institution or Registered Deemed Compliant Financial Institution, for instance by obtaining a GIIN.

If the Account Holder is a Non-Participating Financial Institution, reports on certain payments made to such entities will be required.

8.6 Identification of an Entity Account Holder as a Specified US Person

If the Financial Institution identifies the Account Holder of a New Entity Account as a Specified US Person, the account will be a US Reportable Account and the Financial Institution must obtain a self-certification that includes a US TIN. The self-certification could be, for example, on IRS form W-9.

8.7 Identification of an entity as Non-Financial Foreign Entity (NFFE)

If on the basis of a self-certification the holder of a New Entity Account is established as a Passive NFFE, the Financial Institution must identify the Controlling Persons in a manner consistent with the Financial Action Task Force Recommendations

To determine whether the Controlling Persons of a Passive NFFE are citizens or residents of the US for tax purposes the Reporting Financial Institution must obtain a self-certification from the Account Holder or Controlling Person.

If they are a citizen or resident of the US, the account shall be treated as a Reportable Account.

CHAPTER 9

Reporting

Once a Financial Institution has applied the procedure and due diligence in respect of the accounts it holds and has identified Reportable Accounts it must report certain information regarding those accounts to the MRA in accordance with the timetable in section 9.4.

9.1 Information to be reported

(a) Information applicable to all accounts –

(i) name and address of Account Holder;
(ii) U.S. TIN, where applicable;
(iii) the account number or the functional equivalent of an account number;
(iv) the name and identifying number of the reporting Financial Institution; and
(v) the account balance or value as at the end of the reporting period.

(b) Information for Custodial Accounts

In addition to (i) to (v) above, where the account is a Custodial Account the following information is also required in relation to the calendar year or other appropriate reporting period –

(i) the total gross amount of interest paid or credited to the account;
(ii) the total gross amount of dividends paid or credited to the account;
(iii) the total gross amount of other income paid or credited to the account; and
(iv) the total gross proceeds from the sale or redemption of property paid or credited to the account.

(c) Information for Depository Accounts

In addition to (i) to (v) under subparagraph (a) above, where the account is a Depository Account the total amount of gross interest paid or credited to the account in the calendar year or other appropriate period is also required.

(d) Information for Cash Value Insurance Contracts

In addition to (i) to (v) under subparagraph (a) above if the account is still in existence at the end of the year the following information must be reported each year –

(i) the annual amount reported to the policyholder as the "surrender value" of the account; or

(ii) the "surrender value" calculated by the Specified Insurance Company as at 31 December; and

(iii) any part surrenders taken throughout the policy year.

(e) Information on other accounts

In addition to (i) to (v) under subparagraph (a) above, for other accounts the total gross amount paid or credited to the account including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period is also required.

(f) Information on Account closures and transfers

In addition to (i) to (iv) under subparagraph (a) above, in the case of a Depository or Custodial Account closed or transferred in its entirety by an Account Holder during a calendar year the payments made with respect to the account shall be –

(i) the payments and income paid or credited to the account that are described earlier in this section for Custodial, Depository and Other Accounts;

(ii) the amount or value withdrawn or transferred from the account in connection with the closure or transfer of the account.

In the case of a Cash Value Insurance Contract that has been fully surrendered during the calendar year the Specified Insurance Company will need to report the total amount paid out to the Account Holder or nominated person at the closure of the account. This will include any amount of interest following maturity where the amount is awaiting payment.

9.2 Explanation of information required

(a) Address

The address to be reported with respect to an account held by a Specified US Person is the residence address recorded by the Reporting Financial Institution for the Account Holder or, if no residence address is associated with the Account Holder, the address for the account used for mailing or other purposes by the Reporting Financial Institution.

In the case of Controlling Persons of a Passive NFFE, the address required will be the address of each Controlling Person who is reportable.

(b) Taxpayer Identification Numbers (TINs)

Where it has been established that an Account Holder is a US Person, a Financial Institution is required to obtain a US TIN in several instances. A US TIN means a US Federal Taxpayer Identification Number.

For Pre-existing Individual Accounts that are Reportable Accounts a US TIN need only be provided if it exists in the records of the Reporting Financial Institution. In the absence of a record of the US TIN, a date of birth should be provided, but again only where it is held by the Reporting Financial Institution.

For all New Individual Accounts that are identified as Reportable Accounts from 1 July 2014 onwards, the Reporting Institution must obtain a self-certification from Account Holders identified as resident in the US that includes a US TIN. This self-certification could be on, for example, IRS forms W-9 or on another similar agreed form.

Where, for a New Individual Account the proposed Account Holder fails to provide a US TIN or evidence of non-US status and the account becomes active, the account is to be treated as reportable.

There is no requirement for a Financial Institution to verify that any US TIN provided is correct. A Financial Institution will not be held accountable where information supplied by an individual proves to be inaccurate and the Financial Institution had no reason to know.

(c) Account Number

The account number to be reported with respect to an account is the identifying number assigned to the account or other number that is used to identify the account within the Financial Institution.

(d) Registration Number

The registration number to be reported is the Global Intermediary Identification Number (GIIN) that will be assigned to the institution by the IRS on registration.

(e) Determination of the account balance or value

The account balance or value of an account may be reported in US dollars or in the currency in which the account is denominated. Generally the balance or value of a Financial Account is the balance or value that is calculated by the Financial Institution for the purposes of reporting to the Account Holder. The balance to be reported is the balance or value of the account at the end of the reporting period except in the case of closed accounts. The account balance or value to be reported where an account is closed during a year is the balance or value of the account immediately before closure.

In the case of a trust, the balance or value to be reported in the case of a person who is the beneficial owner of a portion or all of the trust will be the most recent value calculated by the Financial Institution. The balance or value for a beneficiary that is entitled to a mandatory distribution from the trust will be the net present value of amounts payable in the future.

(i) Depository Accounts

The balance or value in the case of Depository Account will be the amount in the account on 31 December, unless the account is closed on a date before that.

Example 1

For a reportable Depository Account the balance or value to be reported will be the balance or value as at the 31 December 2014. This will be reported in 2015.

(ii) Other Financial Accounts

The balance or value in the case of other Financial Accounts will be the amount in the account on 31 December. Where it is not possible to or usual to value an account at 31 December, a Financial Institution should use the normal valuation point for the account that is nearest to the 31 December.

Example 2

When a Specified Insurance Company has chosen to use the anniversary date of a policy for valuation purposes where if, for example, the policy was opened on 3 August 2013, it will be valued on 2 August 2014. If it exceeds the reporting threshold it is the 2 August 2014 value that will be reported for the year ending 31 December 2014. This will be reported to the MRA in 2015.

The date to be used where the 31 December falls on a weekend or non-working day, is the last working day before the 31 December.

In arriving at the balance or value the Financial Institution will use the valuation methods that it applies in the normal course of its business. Any valuation method adopted must be consistent and verifiable.

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, and the balance or value of a debt interest is its principle amount.

The balance or value of the account should 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 and should not be reduced by any fees, penalties, or other charges for which the Account Holder may be liable upon terminating, transferring, surrendering, liquidating, or withdrawing cash from the account.

(iii) Joint Accounts

For joint accounts the entire balance or value of the account should be attributed to each holder of the account. This applies for both aggregation and reporting purposes.

Example 3

Where a jointly held account has a balance or value of $100,000 and one of the Account Holders is a Specified U.S. Person the amount to be attributed to that person would be $100,000. If both Account Holders were Specified U.S. Persons then each would be attributed the $100,000 and reports would be made for both.

(iv) Account Closures

The amount reportable where an account is closed during a year is the amount in the account immediately before the date of closure. The intention is to capture the amount withdrawn from the account in connection with the closure process as opposed to the balance at the point of closure as there is an expectation that the balance will be reduced prior to the point of closure.

For these purposes, it is acceptable for the Financial Institution to –

- report the balance or value within 5 business days of when they receive instructions from the Account Holder to close the account; or
- report the most recently available balance or value that is obtainable following receipt of instructions to close the account. This may include the

balance or value that predates the instructions to close the account if this is the balance or value that is most readily available.

For accounts that close because the customer has switched to another bank, the balance to be reported should be that calculated as the transferable balance.

9.3 Currency Conversion

Where accounts are denominated in a currency other than U.S. dollars, the threshold limits must be converted into the currency in which the accounts are denominated in order to determine whether the account is reportable.

The conversion rate to be used should be a published spot rate as of 31 December of the year for which the report is being prepared. In case 31 December is a non-working day, the published spot rate of the previous working day should be used.

9.4 Timetable for reporting

Reporting Year	In respect of	Information to be reported	Reporting date to the MRA
2014	• Each Specified US Person either holding a Reportable Account Or • as a Controlling Person of an Entity Account	• Name • Address • US TIN (where applicable or DoB for Pre-existing Accounts) • Account number or functional equivalent • Name and identifying number of Reporting Financial Institution • Account balance or value	**31 July 2015**
2015 As 2014, plus the following:	• Custodial Accounts	• The total gross amount of interest; • The total gross amount of dividends; • The total gross amount of other income paid or credited to the account	**31 July 2016**
	• Depository Accounts	• The total amount of gross interest paid or credited to the account in the calendar year or other reporting period	
	• Other Accounts	• The total gross amount paid or credited to the account including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period	
2016 As 2015, plus the following	• Custodial Accounts	• The total gross proceeds from the sale or redemption of property paid or credited to the account	**31 July 2017**
2017 onwards		• All of the above	

9.5 Reporting on nonparticipating Financial Institutions

Under the Treasury regulations, if an FFI maintains an account for a nonparticipating FFI, the FFI must report on Form 8966 the name and address of the nonparticipating FFI, and the aggregate amount of foreign source payments, described below, paid to or with respect to each such account (foreign reportable amount).

(a) Payments to be reported

Payments made with respect to an account:

(i) Depository Account

The payments made during a calendar year with respect to a depository account consist of the aggregate gross amount of interest paid or credited to the account during the year.

(ii) Custodial accounts.

The payments made during a calendar year with respect to a custodial account consist of—

(1) the aggregate gross amount of dividends paid or credited to the account;

(2) the aggregate gross amount of interest paid or credited to the account;

(3) the gross proceeds from the sale or redemption of property paid or credited to the account with respect to which the FFI acted as a custodian, broker, nominee, or otherwise as an agent for the account holder; and

(4) the aggregate gross amount of all other income paid or credited to the account.

(iii) Other accounts

In the case of an account relating to debt or equity interests or relating to cash value insurance contracts and annuity contracts, the payments made with respect to such account are the gross amounts paid or credited to the account holder including payments in redemption (in whole or part) of the account.

(iv) Transfers and closings of deposit, custodial, insurance, and annuity financial accounts.

In the case of an account closed or transferred in its entirety by an account holder during a calendar year that is a depository account, custodial account, or a cash value insurance contract or annuity contract, the payments made with respect to the account shall be—

(1) the payments and income paid or credited to the account that are described in paragraph (i) or (ii) (with respect to depository and custodial account) for the calendar year until the date of transfer or closure; and

(2) the amount or value withdrawn or transferred from the account in connection with the closure or transfer of the account.

9.6 Payments of Dividends made by a Financial Institution

Shareholdings in a Financial Institution, (other than shareholdings or equity interests in an Investment Entity), are not Financial Accounts in their own right and, as such, where a payment is made directly to an investor who is an NPFI, the payment will not be reportable.

However, dividend payments made by a Financial Institution will be reportable, where the shareholding is held in a Financial Account of a NPFI (i.e. where the shareholding is held in a Custodial Account).

9.7 Reporting Process

A payment will be treated as being made when an amount is paid or credited to an NPFFI. Only the aggregate amount of payments made to the payee during the calendar year are required to be reported. The amount of income to be aggregated is the net amount of the income payment made. There is no requirement to consider amounts withheld.

Where the payments cannot be separately identified as being the equivalent of a U.S. source interest or dividend income the entire amount of the payment made in relation to that transaction is to be reported.

9.8 Reporting payments of US Source Withholdable Payments to Non-Participating Financial Institutions

Financial Institutions will also need to report up the payment chain when a Non-Participating Financial is the recipient of specific US Source Payments. The requirement to report US Source Withholdable Payments to Non-Participating Financial Institutions up the payment chain will fall on Financial Institutions other than those who have elected to act as qualifying intermediaries with primary withholding responsibility, withholding foreign partnerships or withholding foreign trusts (see Article 4(1)(d)&(e) of the IGA).

Where such a Financial Institution pays, or acts as an intermediary for the payment of, a US Source Withholdable Payment to a Non-Participating Financial Institution, the Financial Institution is required to provide information to the "immediate payer" of that income. The immediate payer is the person with withholding and reporting obligations to the US authorities.

The information that must be provided in respect of the payment is that required for withholding and reporting to occur.

9.9 Format of Return

Reporting, for FATCA, has to be in 'XML' format. More information regarding the format of return can be obtained from the IRS website[2].

9.10 Transmission

MRA e-Services, hosted on the website of the MRA will be used for FATCA reporting to the MRA. Mauritius Financial Institutions will submit their FATCA returns to the MRA by uploading the data onto the portal using the MRA e-Services. The data which will be submitted by the Financial Institutions to the MRA has to be in 'XML' format.

[2] http://www.irs.gov/Businesses/Corporations/International-Data-Exchange-Service

In order to use the MRA e-Services, the Financial Institutions will need to register with the MRA. Upon registration, the Financial Institutions will be provided with a username and a password which they will use to log onto the MRA e-Services and upload the XML file. If the Financial Institutions are using a sponsor or third party service provider, then this party will be required to register with the MRA. If there is a sponsor/sponsored entity relationship or the Financial Institution is using a third party service provider the legal responsibility for ensuring that reporting is done correctly and properly remains that of the Financial Institutions.

Once received from the Financial Institutions, the MRA will transmit the XML file to the IRS. However, validation of the file will be done by the IRS only. In the event the file is rejected by the IRS, the relevant Financial Institution will receive a rejection notice from the IRS. Upon receipt of such a notice, the Financial Institution will have to correct and resubmit the XML file to the MRA for onward transmission to the IRS.

9.11 Penalties

Where a reporting Financial Institution fails to provide the required information or where it provides inaccurate information, the MRA shall impose penalties on the institution in accordance with the provisions of the law.

CHAPTER 10

Compliance

In IRS notice 2014-33 the IRS has announced that calendar years 2014 and 2015 will be regarded as a transition period for purposes of IRS enforcement and administration of the due diligence, reporting, and withholding provisions. For this period it was proposed that the IRS will take into account the extent to which a Financial Institution has made good faith efforts to comply with the requirements.

However, if a Reporting Mauritius Financial Institution has taken all reasonable efforts to supply accurate information and to establish appropriate governance and due diligence processes then they will be held to be compliant with the Mauritius Revenue laws. This will be the case despite the occurrence of minor and administrative errors, or a failure to supply accurate information despite reasonable care having been taken. It is the view of Mauritius that if the Financial Institution has made all good faith efforts for 2014 and 2015 reporting (as outlined in the IRS notice) this will also constitute all reasonable efforts for the purposes of establishing compliance with the Mauritius Revenue laws.

Note: If, despite all reasonable efforts being taken to supply accurate information and to establish appropriate governance and due diligence processes no reportable accounts have been identified by the regulatory reporting date the Financial Institution is still obliged to make a return, even if it is a Nil return.

10.1 Minor Errors

In the event that the information reported is corrupted or incomplete, the IRS will be able to contact the Reporting Financial Institution directly to try and resolve the problem.

Examples of minor errors could include –

- data fields missing or incomplete;

- data that has been corrupted;
- use of an incompatible format.

Where this leads to the information having to be resubmitted it will have to be via the MRA.

Continual and repeated administrative or minor errors could be considered as significant non-compliance where they continually and repeatedly disrupt and prevent transfer of the information.

10.2 Recalcitrant accounts

As per Article 4(2) of the IGA, a Reporting Mauritius Financial Institution will not be required to withhold tax with respect to an account held by a recalcitrant account holder or to close such account, if the U.S. Competent Authority receives the information, such as, the name, address, US TIN and account number of each Specified U.S. Person that is an Account Holder of such account, set forth in Article 2 of the IGA.

10.3 Significant Non-Compliance

Significant non-compliance may be determined from either the IRS or MRA perspective. In either event the relevant Competent Authorities will notify the other regarding the circumstances.

Where one Competent Authority notifies the other of significant non-compliance there is an 18-month period in which the Financial Institution must resolve the non-compliance.

Where the MRA is notified of or identifies significant non-compliance by a Mauritius Financial Institution, the MRA will apply any relevant penalties under the legislation.

The MRA will also engage with the Financial Institution to –

- discuss the areas of non-compliance;
- discuss remedies/solution to prevent future non-compliance;

- agree measures and a timetable to resolve its significant non-compliance.

The MRA will inform the IRS of the outcome of these discussions.

In the event that the issues remain unresolved after a period of 18 months the Financial Institution will be treated as a Non-Participating Financial Institution.

The following are examples of what would be regarded as significant non-compliance –

- repeated failure to file a return or repeated late filing;
- ongoing or repeated failure to register, supply accurate information or establish appropriate governance or due diligence processes;
- the intentional provision of substantially incorrect information;
- the deliberate or negligent omission of required information.

CHAPTER 11

Miscellaneous

11.1 Registration

Financial Institutions are required to register with the IRS for FATCA purposes. The IRS have developed a registration portal and details of the registration process are set out in the IRS user guide which is available on the website of the IRS: – http://www.irs.gov

Once registered, a Financial Institution will be issued a Global Intermediary Identification Number (GIIN) by the IRS and will be included on a published list available on the IRS website. The GIIN may be used by a Financial Institution to identify itself to withholding agents and to tax administrations for FATCA purposes.

The published list is posted electronically on a monthly basis by the IRS.

11.2 Frequently Asked Questions

Common issues have been addressed by the IRS. These have been posted on the IRS website in the form of FAQS and can be accessed through the link below: http://www.irs.gov/Businesses/Corporations/Frequently-Asked-Questions-FAQs-FATCA--Compliance-Legal#General

11.3 MRA Website

A copy of these Guidance Notes is available on the MRA website :- www.mra.mu

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Appendix I - TIEA

Republic of Mauritius

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS

AND

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

FOR

THE EXCHANGE OF INFORMATION RELATING TO TAXES

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR THE EXCHANGE OF INFORMATION RELATING TO TAXES

The Government of the Republic of Mauritius ("Mauritius") and the Government of the United States of America (the "United States"), desiring to facilitate the exchange of information with respect to taxes, have agreed as follows:

ARTICLE 1

Object and Scope of this Agreement

The competent authorities of the Contracting Parties shall provide assistance to each other through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 10 (Confidentiality).

ARTICLE 2

Jurisdiction

A requested Party shall not be obligated to provide information that is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction. With respect to information held by its authorities or in the possession or control of persons who are within its territorial jurisdiction, however, the requested Party shall provide information in accordance with this Agreement regardless of whether the person to whom the information relates is, or whether the information is held by, a resident or national of a Contracting Party.

ARTICLE 3

Taxes Covered

1. This Agreement shall apply to the following taxes imposed by the Contracting Parties:

(a) in the case of the United States, all federal taxes; and

(b) in the case of Mauritius, the income tax.

2. This Agreement shall also apply to any identical taxes imposed after the date of signature of this Agreement in addition to or in place of the existing taxes. This Agreement shall also apply to any substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes if the competent authorities of the Contracting Parties so agree in writing. The competent authorities of the Contracting Parties shall notify each other of any substantial changes to the taxation and related information gathering measures covered by this Agreement.

ARTICLE 4

Definitions

1. For the purposes of this Agreement, unless otherwise defined:

(a) the term "Contracting Party" means the United States or Mauritius, as the context requires;

(b) the term "competent authority" means:

(i) in the case of the United States, the Secretary of the Treasury or his delegate, and

(ii) in the case of Mauritius, the Director-General of the Mauritius Revenue Authority or his authorized delegate;

(c) the term "person" includes an individual, a company and any other body of persons;

(d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

(e) the term "national" of a Contracting Party means any individual possessing the nationality or citizenship of that Contracting Party, and any legal person, partnership or association deriving its status as such from the laws in force in that Contracting Party;

(f) the term "publicly traded company" means any company whose principal class of shares is listed on a recognized stock exchange if the purchase or sale of its listed shares is not implicitly or explicitly restricted to a limited group of investors;

(g) the term "principal class of shares" means the class or classes of shares representing a majority of the voting power and value of the company;

(h) the term "recognized stock exchange" means any stock exchange agreed

upon by the competent authorities of the Contracting Parties;

(i) the term "public collective investment fund or scheme" means any pooled investment vehicle, irrespective of legal form, if the purchase, sale or redemption of the units, shares or other interests in the investment vehicle is not implicitly or explicitly restricted to a limited group of investors;

(j) the term "tax" means any tax to which this Agreement applies and does not include customs duties;

(k) the term "applicant Party" means the Contracting Party requesting information;

(l) the term "requested Party" means the Contracting Party requested to provide information;

(m) the term "information gathering measures" means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information; and

(n) the term "information" means any fact, statement or record in any form whatever.

2. For purposes of determining the geographic area within which jurisdiction to compel production of information may be exercised:

(a) the term "United States" means the territory of the United States of America, including American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the U.S. Virgin Islands and any other U.S. possession or territory; and

(b) the term "Mauritius" means the Republic of Mauritius.

3. As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires or the competent authorities agree to a common meaning pursuant to the provisions of Article 12 (Mutual Agreement Procedure), have the meaning that it has at that time under the law of that Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

ARTICLE 5

Exchange of Information Upon Request

1. The competent authority of the requested Party shall provide information for the purposes referred to in Article 1 (Object and Scope of this Agreement) upon request by the competent authority of the applicant Party. Such information shall be exchanged without regard to whether the requested Party needs such information for its own tax purposes or whether the conduct being investigated would constitute a crime under the laws of the requested Party if such conduct occurred in the requested Party.

2. If the information in the possession of the competent authority of the requested Party is not sufficient to enable it to comply with the request for information, the requested Party shall use all relevant information gathering measures to provide the applicant Party with the information requested, notwithstanding that the requested Party may not need such information for its own

tax purposes. Privileges under the laws and practices of the applicant Party shall not apply in the execution of a request by the requested Party and the resolution of such matters shall be solely the responsibility of the applicant Party.

3. If specifically requested by the competent authority of the applicant Party, the competent authority of the requested Party shall, to the extent allowable under its domestic laws:

(a) specify the time and place for the taking of testimony or the production of books, papers, records and other data;

(b) place the individual giving testimony or producing books, papers, records or other data under oath;

(c) permit the presence of individuals designated by the competent authority of the applicant Party as being involved in or affected by execution of the request, including an accused, counsel for the accused, individuals charged with the administration or enforcement of the domestic laws of the applicant Party covered by this Agreement or a commissioner or magistrate for the purpose of rendering evidentiary rulings or determining issues of privilege under the laws of the applicant Party;

(d) provide individuals permitted to be present with an opportunity to question, directly or through the executing authority, the individual giving testimony or producing books, papers, records and other data;

(e) secure original and unedited books, papers, records and other data;

(f) secure or produce true and correct copies of original and unedited books, papers, records and other data;

(g) determine the authenticity of books, papers, records and other data produced, and provide authenticated copies of original books, papers, records and other data;

(h) examine the individual producing books, papers, records and other data regarding the purpose for which and the manner in which the item produced is or was maintained;

(i) permit the competent authority of the applicant Party to provide written questions to which the individual producing books, papers, records and other data is to respond regarding the items produced;

(j) perform any other act not in violation of the laws or at variance with the administrative practice of the requested Party; and

(k) certify either that procedures requested by the competent authority of the applicant Party were followed or that the procedures requested could not be followed, with an explanation of the deviation and the reason therefor.

4. Each Contracting Party shall ensure that its competent authority, for the purposes specified in Article 1 (Object and Scope of this Agreement) of this Agreement, has the authority to obtain and provide upon request:

(a) information held by banks, other financial institutions, and any person acting in an agency or

fiduciary capacity including nominees and trustees; and

(b) information regarding the ownership of companies, partnerships, trusts, foundations, "Anstalten" and other persons, including, within the constraints of Article 2 (Jurisdiction), ownership information on all such persons in an ownership chain; in the case of trusts, information on settlors, trustees and beneficiaries; and in the case of foundations, information on founders, members of the foundation council and beneficiaries.

Notwithstanding subparagraph 4(b), this Agreement does not create an obligation on the Contracting Parties to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds or schemes unless such information can be obtained without giving rise to disproportionate difficulties to the requested Party.

5. The competent authority of the applicant Party shall provide the following information to the competent authority of the requested Party when making a request for information under this Agreement, with the greatest degree of specificity possible:

(a) the identity of the person or ascertainable group or category of persons under examination or investigation;

(b) a statement of the information sought, including its nature and the form in which the applicant Party wishes to receive the information from the requested Party;

(c) the period of time with respect to which the information is requested;

(d) the matter under the applicant Party's tax law with respect to which the information is sought;

(e) grounds for believing that the information requested is foreseeably relevant to tax administration or enforcement of the applicant Party with respect to the person or group or category of persons identified in subparagraph 5(a);

(f) grounds for believing that the information requested is held in the requested Party or is in the possession or control of a person within the jurisdiction of the requested Party;

(g) to the extent known, the name and address of any person believed to be in possession or control of the requested information;

(h) a statement that the request is in conformity with the law and administrative practices of the applicant Party, that if the requested information was within the jurisdiction of the applicant Party then the competent authority of the applicant Party would be able to obtain the information under the laws of the applicant Party or in the normal course of administrative practice and that it is in conformity with this Agreement; and

(i) a statement that the applicant Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

ARTICLE 6

Automatic Exchange of Information

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

ARTICLE 7

Spontaneous Exchange of Information

The competent authority of a Contracting Party may spontaneously transmit to the competent authority of the other Contracting Party information that has come to the attention of the first-mentioned competent authority and that the first-mentioned competent authority supposes to be foreseeably relevant to the accomplishment of the purposes referred to in Article 1 (Object and Scope of this Agreement). The competent authorities shall determine the procedures to be used to exchange such information.

ARTICLE 8

Tax Examinations Abroad

1. A Contracting Party may allow representatives of the other Contracting Party to enter the territory of the first-mentioned Party to interview individuals and examine records with the written consent of the persons concerned. The competent authority of the second-mentioned Party shall notify the competent authority of the first-mentioned Party of the time and place of the meeting with the individuals concerned.

2. At the request of the competent authority of one Contracting Party, the competent authority of the other Contracting Party may allow representatives of the competent authority of the first-mentioned Party to be present at the appropriate part of a tax examination in the second-mentioned Party.

3. If the request referred to in paragraph 2 of this Article is acceded to, the competent authority of the Contracting Party conducting the examination shall, as soon as possible, notify the competent authority of the other Party about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the first-mentioned Party for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the Party conducting the examination.

ARTICLE 9

Possibility of Declining a Request

1. The requested Party shall not be required to obtain or provide information that the applicant Party would not be able to obtain under its own laws for purposes of the administration or enforcement of its own tax laws. The competent authority of the requested Party may decline to assist where the request is not made in conformity with this Agreement. The competent authority of the requested Party may decline to assist where the applicant Party has not pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

2. The provisions of this Agreement shall not impose on a Contracting Party the obligation to supply information that would disclose any trade, business, industrial, commercial or professional secret or trade process. Notwithstanding the foregoing, information of the type referred to in Article 5 (Exchange of Information upon Request), paragraph 4 shall not be treated as such a secret or trade process merely because it meets the criteria in that paragraph.

3. The provisions of this Agreement shall not impose on a Contracting Party the obligation to obtain or provide information that would reveal confidential communications between a client and an attorney, solicitor or other admitted legal representative where such communications are:

(a) produced for the purposes of seeking or providing legal advice; or

(b) produced for the purposes of use in existing or contemplated legal proceedings.

4. The requested Party may decline a request for information if the disclosure of the information would be contrary to public policy (ordre public).

5. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.

6. A request for information shall not be refused on the ground that the period of limitations in the requested party has expired. Instead, the statute of limitations of the applicant Party pertaining to the taxes to which the Agreement applies shall govern a request for information.

ARTICLE 10

Confidentiality

Any information received by a Contracting Party under this Agreement shall be treated as confidential and may be disclosed only to persons or authorities (including courts and administrative bodies) in the jurisdiction of the Contracting Party concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Agreement, or the oversight of such functions. Such persons or authorities shall use such information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. The information may not be

disclosed to any other person, entity, authority or jurisdiction. Notwithstanding the foregoing, where the requested Party provides prior, written consent, the information may be used for purposes permitted under the provisions of a mutual legal assistance treaty in force between the Contracting Parties that allows for the exchange of tax information.

ARTICLE 11

Costs

Unless the competent authorities of the Contracting Parties otherwise agree, ordinary costs incurred in providing assistance shall be borne by the requested Party and extraordinary costs incurred in providing assistance shall be borne by the applicant Party.

ARTICLE 12

Mutual Agreement Procedure

1. Where difficulties or doubts arise between the Contracting Parties regarding the implementation or interpretation of this Agreement, the competent authorities shall endeavor to resolve the matter by mutual agreement.

2. The competent authorities may adopt and implement procedures to facilitate the implementation of this Agreement.

3. The competent authorities of the Contracting Parties may communicate with each other directly for purposes of reaching a mutual agreement under this Article.

ARTICLE 13

Mutual Assistance Procedure

The competent authorities of the Contracting Parties may agree to exchange technical know-how, develop new audit techniques, identify new areas of non-compliance and jointly study non-compliance areas.

ARTICLE 14

Entry Into Force

This Agreement shall enter into force one month from the date of Mauritius' written notification to the United States that Mauritius has completed its necessary internal procedures for entry into force of this Agreement. The provisions of this Agreement shall have effect for requests made on or after the date of entry into force, without regard to the taxable period to which the request relates.

ARTICLE 15

Termination

1. The Agreement shall remain in force until terminated by a Contracting Party.

2. Either Contracting Party may terminate the Agreement by giving notice of termination in writing to the other Contracting Party. Such termination shall become effective on the first day of the month following the expiration of a period of six months after the date of the notice of termination.

3. If the Agreement is terminated, both Contracting Parties shall remain bound by the provisions of Article 10 (Confidentiality) with respect to any information obtained under the Agreement.

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

Done at Port Louis in duplicate, in the English language, this 27 day of December, 2013.

FOR THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS:	**FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:**
Hon. Charles Gaëtan Xavier-Luc Duval, G.C. S.K	**Her Excellency Shari Villarosa**
Vice-Prime Minister, Minister of Finance and Economic Development	***Ambassador***

Appendix II – IGA

Republic of Mauritius

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS

AND

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

TO IMPROVE INTERNATIONAL TAX COMPLIANCE AND TO IMPLEMENT FATCA

Agreement between the Government of the Republic of Mauritius 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 Mauritius 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, the Tax Information Exchange Agreement between the United States and the Republic of Mauritius (the "TIEA"), done at Port Louis on 27 December 2013 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 the Republic of Mauritius is supportive of the underlying policy goal of FATCA to improve tax compliance;

Whereas, FATCA has raised a number of issues, including that Mauritius 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 Mauritius and is committed to exchanging such information with the Government of the Republic of Mauritius and pursuing equivalent levels of exchange, provided that the appropriate safeguards and infrastructure for an effective exchange relationship are in place;

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 Mauritius financial institutions to avoid duplicative reporting;

Whereas, an intergovernmental approach to FATCA implementation would address legal impediments and reduce burdens for Mauritius 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 TIEA, and subject to the confidentiality and other protections provided for therein, including the provisions limiting the use of the information exchanged under the TIEA;

Now, therefore, the Parties have agreed as follows:

Article 1
Definitions

1. For purposes of this agreement and any annexes thereto ("Agreement"), the following terms shall have the meanings set forth below:

a) The term **"United States"** means the United States of America, including the States thereof, but 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 **"Mauritius"** means the Republic of Mauritius.

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 Mauritius, the Director-General of the Mauritius Revenue Authority or his authorized delegate.

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

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 Mauritius Financial Institution or a Reporting U.S. Financial Institution, as the context requires.

o) The term **"Reporting Mauritius Financial Institution"** means any Mauritius Financial Institution that is not a Non-Reporting Mauritius 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 Mauritius Financial Institution"** means any Mauritius Financial Institution, or other Entity resident in Mauritius, that is described in Annex II as a Non-Reporting Mauritius Financial Institution or that otherwise qualifies as a deemed-compliant FFI or an exempt beneficial owner under relevant U.S. Treasury Regulations.

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 a Mauritius 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 a Mauritius Reportable Account, as the context requires.

bb) The term **"Mauritius 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 Mauritius 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 Mauritius, including an Entity that certifies that it is resident in Mauritius 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 Mauritius 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(b) 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, Mauritius 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 **"Mauritius TAN"** means a Mauritius taxpayer account 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.

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 6 of the TIEA.

2. The information to be obtained and exchanged is:

a) In the case of Mauritius with respect to each U.S. Reportable Account of each Reporting Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius Reportable Account of each Reporting U.S. Financial Institution:

(1) the name, address, and Mauritius TAN of any person that is a resident of Mauritius 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 Mauritius, and the amount and characterization of payments made with respect to a Mauritius 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 Mauritius:

(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 Mauritius TAN 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 Mauritius and the United States shall enter into an agreement under the mutual agreement procedure provided for in Article 12 of the TIEA, 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 TIEA, 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. Notwithstanding the foregoing, if the Mauritius Competent Authority is satisfied that the United States has the safeguards and infrastructure described in paragraph 8 of this Article in place, but additional time is necessary for the U.S. Competent Authority to establish that Mauritius has such safeguards and infrastructure in place, the obligation of Mauritius to obtain and exchange information under Article 2 of this Agreement shall take effect on the date of the written notification provided by the Mauritius Competent Authority to the U.S. Competent Authority pursuant to paragraph 8 of this Article.

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

Article 4
Application of FATCA to Mauritius Financial Institutions

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

a) identifies U.S. Reportable Accounts and reports annually to the Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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, Mauritius retirement plans described in Annex II. For this purpose, a Mauritius retirement plan includes an Entity established or located in, and regulated by, Mauritius, 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 Mauritius 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 Mauritius 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 a Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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) Mauritius 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) Mauritius 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 Mauritius 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 Mauritius 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, Mauritius may use, and may permit Mauritius 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 Mauritius 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 Mauritius 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 Mauritius. The Government of the United States is committed to further improve transparency and enhance the exchange relationship with Mauritius 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 Mauritius TAN of each Account Holder of a Mauritius Reportable Account as required pursuant to subparagraph 2(b)(1) of Article 2 of this Agreement; and

b) Mauritius commits to establish, by January 1, 2017, for reporting with respect to 2017 and subsequent years, rules requiring Reporting Mauritius 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. Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 the entry into force of the agreement incorporating the more favorable terms, unless Mauritius declines 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 later of: (i) the date of Mauritius's written notification to the United States that Mauritius has completed its necessary internal procedures for entry into force of this Agreement, or (ii) the date of entry into force of the TIEA.

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 Port Louis in duplicate, in the English language, this 27 day of December, 2013.

FOR THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS:	FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:
Hon. Charles Gaëtan Xavier-Luc Duval, G.C.S.K ***Vice-Prime Minister, Minister of Finance and Economic Development***	**Her Excellency Shari Villarosa** ***Ambassador***

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. Mauritius shall require that Reporting Mauritius 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.

C. As an alternative to the procedures described in each section of this Annex I, Mauritius may permit Reporting Mauritius Financial Institutions to rely on the procedures described in relevant U.S. Treasury Regulations to establish whether an account is a U.S. Reportable Account or an account held by a Nonparticipating Financial Institution. Mauritius may permit Reporting Mauritius Financial Institutions to make such election separately for each section of this Annex I either with respect to all relevant Financial Accounts or, separately, with respect to any clearly identified group of such accounts (such as by line of business or the location of where the account is maintained).

II. **Preexisting Individual Accounts.** The following rules and procedures apply for 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius requires reporting or withholding with respect to insurance products held by residents of Mauritius).

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 Mauritius Financial Institution must review electronically searchable data maintained by the Reporting Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius Financial Institution must review electronically searchable data maintained by the Reporting Mauritius Financial Institution for any of the U.S. indicia described in subparagraph B(1) of this section.

2. **Paper Record Search.** If the Reporting Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius Financial Institution is not required to perform the paper record search described in subparagraph D(2) of this section if the Reporting Mauritius 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 Mauritius Financial Institution;

c) The Account Holder's telephone number(s) currently on file, if any, with the Reporting Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius Financial Institution is not required to report information about such account with respect to 2014 in the first report on the account, 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 Mauritius 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 Mauritius 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 Mauritius Financial Institution applies the enhanced review procedures described in paragraph D of this section to a High Value Account, the Reporting Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 inMauritius 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 Mauritius Financial Institution must obtain a self-certification, which may be part of the account opening documentation, that allows the

Reporting Mauritius 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 Mauritius 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 Mauritius 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 Mauritius Financial Institution to know, or have reason to know, that the original self-certification is incorrect or unreliable, the Reporting Mauritius 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 Mauritius Financial Institution is unable to obtain a valid self-certification, the Reporting Mauritius 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 Mauritius 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 inMauritius 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 toMauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius Financial Institution may determine that the Account Holder is a Mauritius Financial Institution or other Partner Jurisdiction Financial Institution if the Reporting Mauritius 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 Mauritius 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 a Mauritius 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 a Mauritius Financial Institution or other Partner Jurisdiction Financial Institution, then the Reporting Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius Financial Institution must determine whether the Account Holder is: (i) a Specified U.S. Person; (ii) a Mauritius 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 Mauritius Financial Institution may determine that the Account Holder is an Active NFFE, a Mauritius Financial Institution, or other Partner Jurisdiction Financial Institution if the Reporting Mauritius 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 Mauritius Financial Institution, as applicable.

2. If the Account Holder is a Mauritius 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 Mauritius 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 Mauritius Financial Institution must treat the account as a U.S. Reportable Account.

b) If the Account Holder is ***a Passive NFFE***, the Reporting Mauritius

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 Mauritius 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, a Mauritius 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 a Mauritius 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 Mauritius Financial Institution may not rely on a self-certification or documentary evidence if the Reporting Mauritius 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 Mauritius Financial Institution pursuant to the anti-money laundering or similar requirements of Mauritius to which such Reporting Mauritius 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 Mauritius 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 NFFE shall not qualify for this status if the NFFE functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;

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 Mauritius Financial Institution is required to aggregate all Financial Accounts maintained by the Reporting Mauritius Financial Institution, or by a Related Entity, but only to the extent that the Reporting Mauritius 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 Mauritius Financial Institution is required to take into account all Financial Accounts that are maintained by the Reporting Mauritius Financial Institution, or by a Related Entity, but only to the extent that the Reporting Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Specified U.S. Person. A Reporting Mauritius 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 Mauritius 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 Mauritius Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Specified U.S. Person, the Reporting Mauritius 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, Mauritius may permit Reporting Mauritius Financial Institutions to rely on due diligence procedures performed by third parties, to the extent provided in relevant U.S. Treasury Regulations.

Annex II

The following Entities are 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 agreement entered into between the Competent Authorities of Mauritius 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 agreement, unless otherwise provided therein. Procedures for reaching such a mutual agreement may be included in the mutual agreement described in paragraph 6 of Article 3 of the Agreement.

I. **Exempt Beneficial Owners other than Funds.** The following Entities are treated as Non-Reporting Mauritius 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 Mauritius, any political subdivision of Mauritius (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of Mauritius or any one or more of the foregoing (each, a "Mauritius Governmental Entity"). This category is comprised of the integral parts, controlled entities, and political subdivisions of Mauritius.

1. An integral part of Mauritius means any person, organization, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of Mauritius. The net earnings of the governing authority must be credited to its own account or to other accounts of Mauritius, 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 Mauritius or that otherwise constitutes a separate juridical entity, provided that:

a) The Entity is wholly owned and controlled by one or more Mauritius 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 Mauritius 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 Mauritius 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 Mauritius; 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 Mauritius itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of Mauritius, whether or not owned in whole or in part by Mauritius.

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

A. **Broad Participation Retirement Fund.** A fund established in Mauritius 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 Mauritius; and

3. Satisfies at least one of the following requirements:

a) The fund is generally exempt from tax in Mauritius on investment income under the laws of Mauritius 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 C 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 C 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.

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

1. The fund has fewer than 50 participants;

2. The fund is sponsored by one or more employers that are not Investment Entities or Passive NFFEs;

3. The employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described in subparagraph 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 Mauritius 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 Mauritius.

C. **Pension Fund of an Exempt Beneficial Owner.** A fund established in Mauritius 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.

D. **Investment Entity Wholly Owned by Exempt Beneficial Owners.** An Entity that is a Mauritius 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.

III. **Small or Limited Scope Financial Institutions that Qualify as Deemed-Compliant FFIs.** The following Financial Institutions are Non-Reporting Mauritius Financial Institutions that are 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 Mauritius;

2. The Financial Institution must have no fixed place of business outside of Mauritius. 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 Mauritius. For this purpose, a Financial Institution shall not be considered to have solicited customers or Account Holders outside Mauritius 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 Mauritius 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 Mauritius 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 Mauritius'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 Mauritius;

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 Mauritius (including a U.S. Person that was a resident of Mauritius when the Financial Account was opened but subsequently ceases to be a resident of Mauritius) or any Passive NFFE with Controlling Persons who are U.S. residents or U.S. citizens who are not residents of Mauritius;

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 Mauritius or by a Passive NFFE with Controlling Persons who are U.S. residents or U.S. citizens who are not residents of Mauritius is identified, the Financial Institution must report such Financial Account as would be required if the Financial Institution were a Reporting Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 Mauritius.

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 Mauritius 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 Mauritius, 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.** A Mauritius 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.** A Mauritius 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 Mauritius Financial Institutions that are 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 Mauritius 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 Mauritius 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[3] organized under the laws of Mauritius 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

[3] 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.

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;

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 Mauritius 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.** A Mauritius 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 Mauritius 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 Mauritius 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.** An Investment Entity established in Mauritius 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, a customer for the purposes of investing, managing, or administering funds 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 Mauritius 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 a Mauritius 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 Mauritius 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 are not treated as U.S. Reportable Accounts.

A. **Certain Savings Accounts.**

1. Retirement and Pension Account. A retirement or pension account maintained in Mauritius that satisfies the following requirements under the laws of Mauritius.

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 Mauritius 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 Mauritius 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. An account maintained in Mauritius (other than an insurance or Annuity Contract) that satisfies the following requirements under the laws of Mauritius.

a) The account is subject to regulation as a savings vehicle for purposes other than for retirement;

b) The account is tax-favored (*i.e.*, contributions to the account that would otherwise be subject to tax under the laws of Mauritius 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) 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

d) Annual contributions are limited to $50,000 or less, applying the rules set forth in Annex I for account aggregation and currency translation.

B. **Certain Term Life Insurance Contracts.** A life insurance contract maintained in Mauritius 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 Mauritius 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 Mauritius 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 Mauritius 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 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.

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.

ATTACHMENT I

Pursuant to Article 7 of the IGA, the US Treasury notified the MRA on the 03 October 2014 that they have offered more favourable terms to the British Virgin Islands for the Implementation of FATCA, as set out in the new paragraphs G and H of Section VI of Annex I to the IGA. The new paragraphs G and H where the name of British Virgin Islands has been substituted by Mauritius are set out below and form part of the provisions of the IGA.

1. Paragraph G of Section VI of Annex I:

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

1. ***Applicability.*** *If Mauritius has provided a written notice to the United States prior to entry into force of this Agreement that, as of July 1, 2014, Mauritius lacked the legal authority to require Reporting Mauritius 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 Mauritius 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 Mauritius has the ability to compel Reporting Mauritius Financial Institutions to comply with the due diligence procedures described in section III or section V of this Annex I, as applicable, which date Mauritius 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 Mauritius 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 Mauritius 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) Mauritius 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 Mauritius 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 Mauritius 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) Mauritius 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.

2. Paragraph H of Section VI of Annex I:

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, Mauritius may permit Reporting Mauritius 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.*

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