

NOTICE FROM INTERNATIONAL TAX AUTHORITY ISSUED ON THE 9TH DAY OF MARCH, 2016



**BVI FINANCIAL INSTITUTIONS ARE REMINDED OF THEIR REPORTING OBLIGATIONS
FOR US FATCA AND UK CDOT OR UK FATCA**

The Government of the British Virgin Islands continues to be vigilant in the international fight to combat tax evasion, as such BVI Financial Institutions (BVIFIs) are reminded of their reporting obligations under the Inter-governmental Agreements that the Government of the British Virgin Islands has signed with the Government of the United Kingdom of Great Britain and Northern Ireland (UK CDOT or UK FATCA or UK IGA) and the Government of the United States (US FATCA or US IGA). The purpose of both Agreements is to automatically exchange information with the relevant partner jurisdiction, with an aim to improve international tax compliance.

As a result of these Agreements BVIFIs have an obligation to collect and maintain information in accordance with Annex I of these Agreements and report all relevant accounts to the Government of the British Virgin Islands, via the International Tax Authority (ITA). The ITA accepts reports, electronically through the BVI Financial Account Reporting System (BVIFARS). You can access BVIFARS, along with copies of the Agreements, relevant legislation, guidance notes and self-certification forms via our website: www.bvi.gov.vg/FATCA or www.bvi.gov.vg/ministry-finance-international-tax-authority.

US FATCA

The first reporting under the US FATCA Agreement occurred last year and as a result of the cooperation of the BVIFIs, the Government of the British Virgin Islands was able to fulfill its obligations under this Inter-governmental Agreement.

However, for those BVIFIs that were unable to complete their customer due diligence for 2014 accounts, they are reminded that they can still submit 2014 reportable accounts in 2016 as well, without incurring any penalties. The Government of the United States, by way of IRS Notice 2015-66, extended the time for reporting 2014 accounts.

BVIFIs are reminded that the annual reporting deadline for US FATCA is 31st May, as such BVI Financial Institutions are asked to take note that for this year they can submit reports up to 31st May, 2016.

Financial Institutions are required to enroll on BVIFARS, in order to be able to access the system to submit their reportable accounts. The BVIFARS portal is open year round to accept enrolment applications; however, where a Financial Institution has information to be reported in a given year, the deadline for enrolment for that year is April.

All BVIFIs that have reportable accounts under the US FATCA Agreement to be reported this year, if that Financial Institution has not already enrolled, they can enrolment up to 30th April, 2016.

UK CDOT or UK FATCA

The Government of the United Kingdom also has an equivalent regime to that of US FATCA, to allow for automatic exchange of information between the United Kingdom and its Overseas Territories and its Crown Dependencies.

Under the UK CDOT Agreement, the first reporting is required this year.

This reporting period will cover 1st July, 2014 to 31st December, 2015. The information to be reported for this period is to be reported in an XML format via BVIFARS. BVIFIs will have the option to manually enter their information or prepare an XML file outside of the system and upload the XML file to BVIFARS.

BVIFIs are advised that Her Majesty's Revenue and Customs (HMRC) has confirmed that they will be accepting UK reportable accounts for 2014 and 2015 using the format for the US XML Schema. A copy

of the format of US XML Schema can be found on the following website:
<https://www.irs.gov/Businesses/Corporations/FATCA-XML-Schemas-and-Business-Rules-for-Form-8966>.

BVIFIs with reportable accounts for UK CDOT purposes are informed that, the ITA is in the process of configuring BVIFARS to accept UK CDOT reporting, using the US XML Schema.

For those BVIFIs that have UK CDOT reporting obligations and have not already enrolled on BVIFARS, they are advised to refrain from enrolling on BVIFARS at this time, until the system is properly configured to accept UK CDOT filings. A further Notice will be issued at a later date to inform all BVIFIs when BVIFARS is ready to accept enrolment applications and reporting information for UK CDOT purposes.

For those BVIFIs that have already enrolled on BVIFARS, and have both US FATCA and UK CDOT reporting obligations, they are advised that they will not be required to submit a new enrolment application for UK CDOT reporting. The system will be configured in such a way to allow Financial Institutions that have already enrolled to log into their account and complete a Change of Reporting Obligations form to update their reporting obligations to include UK CDOT reporting.

Further, as we will be using the US XML Schema, for UK CDOT purposes, where it states "US" this should be interpreted as UK where applicable, however, there will be changes to a few validation fields in BVIFARS, in particular in relation to the Global Intermediary Identification Number (GIIN) and the Tax Identification Number (TIN) fields.

Therefore, BVI Financial Institutions that also have US FATCA reporting obligations and as such has registered with the US Internal Revenue Service and obtained a GIIN, will be required to provide that GIIN for UK CDOT purposes. However, for those BVI Financial Institutions that do not have a GIIN, you will be required to insert your "BVI Financial Institution Reference" in the GIIN field. This is the FI number that is assigned to each Financial Institution when it enrolls with BVIFARS and this number is unique to a particular Financial Institution.

As it relates to an Individual's Account Holder TIN, this field must be populated with the UK National Insurance Number of each Specified United Kingdom Person that is an account holder and in the case of an Entity, after application of the due diligence procedures set out in Annex I, if the account is identified as having one or more Controlling Persons that is a Specified United Kingdom Person, the UK National Insurance Number of each such Specified United Kingdom Person shall be inserted in the TIN of owner field.

As we continue to prepare BVIFARS to accommodate UK CDOT reporting, BVI Financial Institutions are encouraged to continue to conduct their due diligence on all relevant accounts to ensure compliance with UK CDOT reporting.

Annex III – Alternative Reporting Regime

In addition, UK CDOT also makes provision for an "Alternative Reporting Regime" (ARR). This means that UK resident non-domiciled individuals may be able to use the ARR which allows for a limited amount of information to be reported.

For a BVIFI to take advantage of ARR, the reporting BVIFI, must have made an election to the ITA and the Specified United Kingdom Person must have made an election for reporting via the ARR, to the reporting BVIFI. Only where such elections were made, will a BVIFI be eligible for the ARR. The deadline for the election to the ITA was extended to 31st September, 2015.

The submission of information under ARR will be the only exception to reporting via BVIFARS.

For ARR purposes only, we will accept reports in an Excel spreadsheet, which must be submitted to the ITA via encrypted email. The type of information to be reported under the ARR is set out in paragraph D of Annex III of the Agreement.

All ARR reports shall be sent to the email address: BVIFARS@gov.vg. The subject of the email must be stated as follows: **UK CDOT – ARR Submission for [insert name of the reporting BVI Financial Institution]**. The password for this email is to be provided by way of a separate email, once the submission has been acknowledged by the ITA. The responsibility remains with the BVIFI, to follow-up

with the ITA if no acknowledgement email is received within 72 hours of submission of the encrypted email.

TRANSITION FROM UK CDOT OR UK FATCA TO COMMON REPORTING STANDARD (CRS)

The Government of the United Kingdom has advised its Overseas Territories and its Crown Dependencies that automatic exchange of information under UK CDOT will transition to automatic exchange of information under the Common Reporting Standard (CRS).

In transitioning to the CRS, the UK has indicated that for 2016 accounts, both the UK IGA and CRS will be operational for all Overseas Territories and Crown Dependencies. In order to comply with both, BVIFs will need to report under the CRS, with supplementary information on pre-existing low-value individual accounts, and pre-existing entity accounts, to satisfy the UK IGA. It is anticipated that the UK IGA, the relevant legislation in relation to this Agreement and the guidance notes as it relates to UK CDOT or UK FATCA will be phased out by 2017. The transition will be completed by 2018 when only CRS reporting will be required.

As indicated above, the US XML Schema will be used for UK CDOT reporting for the years 2014 and 2015 only. Upon the transition to CRS, it is expected that the CRS Schema will be used for 2016 reporting and beyond.

BVIFs are advised to take note that the CRS does not provide for special arrangements, such as the ARR that is available under Annex III of the UK IGA. As a result of the adoption of the CRS from 1 January 2016, reporting of all reportable UK accounts, including all UK non-domiciled account holders will be required in 2017. The ARR will therefore be available for 2014 and 2015 reporting years only.

In addition, BVIFs are reminded that CRS is based on tax residency not citizenship.

Financial Institutions are encouraged to ensure that they have the necessary systems in place to collect and maintain the relevant due diligence information on all of its customers, as such ensuring that it is in a position to exchange the relevant information when required to do so under the CRS.

COMPLIANCE

All of the above Agreements/Arrangements (US FATCA, UK CDOT and CRS) are incorporated into BVI Laws via the Mutual Legal Assistance (Tax Matters) Act, 2003, as amended. Failure to comply with any obligation created under any Agreement/Arrangement under this Act is an offence. Where a specific, penalty section is not provided for under this Act, the General Penalty, section 21, applies.

For more information on your reporting obligations and how to report, please visit our website: www.bvi.gov.vg/ministry-finance-international-tax-authority or contact the ITA via telephone: (284) 468 4415 or email: bvifars@gov.vg or bviita@gov.vg.

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