

VIRGIN ISLANDS

MUTUAL LEGAL ASSISTANCE (TAX MATTERS) (NO.4) ORDER, 2014

ARRANGEMENT OF SECTIONS

Section

1. Citation.
2. Application of Part 1 of the Act.

SCHEDULE

VIRGIN ISLANDS

STATUTORY INSTRUMENT 2014 NO. 75

**MUTUAL LEGAL ASSISTANCE (TAX MATTERS) ACT, 2003
(No. 18 of 2003)**

Mutual Legal Assistance (Tax Matters) (No.4) Order, 2014

[Gazetted 23rd October, 2014]

The Minister, in exercise of the power conferred by section 3 (3) of the Mutual Legal Assistance (Tax Matters) Act, 2003 (No. 18 of 2003) makes this Order.

Citation.

1. This Order may be cited as the Mutual Legal Assistance (Tax Matters) (No.4) Order, 2014.

Application of
Part 1 of the
Act.
No. 18 of 2003
Schedule

2. Part 1 of the Mutual Legal Assistance (Tax Matters) Act, 2003 applies to the Agreements reproduced in the Schedule.

SCHEDULE

[Section 2]

1.

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

Whereas, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the British Virgin Islands (each, a “Party”) have an ongoing relationship with respect to mutual assistance in tax matters and desire to conclude an agreement to improve international tax compliance by further building on that relationship;

Whereas, Articles 5, 5a and 5b of the 2008 Agreement between the United Kingdom of Great Britain and Northern Ireland and the Government of the British Virgin Islands for the exchange of information relating to tax matters (the “TIEA”) authorises exchange of information for tax purposes, including on an automatic basis;

Whereas, both Parties are committed to compliance with international standards of transparency and exchange of information for tax purposes and are supportive of improving tax compliance;

Whereas, the Parties are committed to working together over the longer term towards achieving common reporting and due diligence standards for financial institutions;

Whereas, the Parties are committed to promoting a new single global standard in the automatic exchange of tax information and will look to align this agreement to that new global standard in due course;

Whereas, the Parties desire to conclude an agreement to improve international tax compliance based on domestic reporting and automatic exchange of information 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;

Whereas, the parties fully support the internationally agreed principles regarding tax information exchange, including the principle of reciprocity, and will continue to engage on that basis, including in relation to any future desire of the Government of the Virgin Islands to move to reciprocal information exchange under the terms of this agreement;

Now, therefore, the Parties have agreed as follows:

ARTICLE 1

Definitions

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

- a) The term “**United Kingdom**” means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised.
- b) The term “**British Virgin Islands**” means the territory of the British Virgin Islands as referred to in the Virgin Islands Constitution order 2007.
- c) The term Tax Information Exchange Agreement or “**TIEA**” means means the 2008 Agreement between the United Kingdom of Great Britain and Northern Ireland and the Government of the British Virgin Islands for the exchange of information relating to tax matters, as amended from time to time or such successor arrangement as may henceforth be agreed between the Parties. References to paragraphs of the TIEA shall be read as references to the paragraphs of the TIEA as amended from time to time or to such equivalent provisions contained in any successor arrangement.
- d) The term “**HMRC**” means Her Majesty’s Revenue and Customs.
- e) The term “**Competent Authority**” means:
 - (1) in the case of the United Kingdom, the Commissioners for HMRC or their authorised representative; and
 - (2) in the case of the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing.
- f) The term “**U.S. Treasury Regulations**” means the U.S. Regulations Relating to Information Reporting by Foreign Financial Institutions and Withholding on Certain Payments to Foreign Financial Institutions and Other Foreign Entities. In the event that these Regulations are amended, then the term “U.S. Treasury Regulations” shall mean the amended Regulations where both Parties agree that any or all of the amendments should apply.
- g) The term “**Financial Institution**” means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.

- h) The term “**Custodial Institution**” means any Entity that holds, as a substantial portion of its business, financial assets for the account of others. An Entity holds financial assets for the account of others as a substantial portion of its business if the Entity’s gross income attributable to the holding of financial assets and related financial services equals or exceeds 20 percent of the Entity’s gross income during the shorter of: (i) the three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or (ii) the period during which the Entity has been in existence.
- i) The term “**Depository Institution**” means any Entity that accepts deposits in the ordinary course of a banking or similar business.
- j) The term “**Investment Entity**” means any Entity that conducts as a business (or is managed by an Entity that conducts as a business) one or more of the following activities or operations for or on behalf of a customer:
- (1) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
 - (2) individual and collective portfolio management; or
 - (3) otherwise investing, administering, or managing funds or money on behalf of other persons.
- This subparagraph 1(j) shall be interpreted in a manner consistent with similar language set forth in the definition of “financial institution” in the Financial Action Task Force Recommendations.
- k) The term “**Specified Insurance Company**” means any Entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.
- l) The term “**British Virgin Islands Financial Institution**” means (i) any Financial Institution resident in the British Virgin Islands, but excluding any branches of such Financial Institution that are located outside the British Virgin Islands, and (ii) any branch of a Financial Institution not resident in the British Virgin Islands, if such branch is located in British Virgin Islands.
- m) The term “**Reporting British Virgin Islands Financial Institution**” means any British Virgin Islands Financial Institution that is not a Non-Reporting British Virgin Islands Financial Institution.

- n) The term “**Non-Reporting British Virgin Islands Financial Institution**” means any British Virgin Islands Financial Institution, or other Entity resident in the British Virgin Islands that is described in Annex II as a Non-Reporting Financial Institution, other than a Sponsored Investment Entity or a Sponsored Closely Held Investment Vehicle where the sponsoring entity has failed to comply with the obligations contained in subparagraphs III.B.2. or III.C.5. of Annex II.
- o) 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(o)(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 the class of interests was established with a purpose of avoiding reporting in accordance with this Agreement; and
 - (3) any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a noninvestment-linked, nontransferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account, product, or arrangement that is excluded from the definition of Financial Account in Annex II.

Notwithstanding the foregoing, the term “Financial Account” does not include any account, product, or arrangement identified that is excluded from the definition of Financial Account in Annex II.

- p) The term “**Depository Account**” includes any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a Financial Institution in the ordinary course of a banking or similar business. A Depository Account also generally includes an amount held by an insurance company under an agreement to pay or credit interest thereon.
- q) 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).

- r) 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 United Kingdom Person shall be treated as being a beneficiary of a trust if such Specified United Kingdom 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.
- p) 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.
- q) 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.
- r) 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.
- s) 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.
- t) The term “**Preexisting Account**” means a Financial Account maintained by a Reporting British Virgin Islands Financial Institution as of 30 June 2014.

- u) The term “**United Kingdom Reportable Account**” means a Financial Account maintained by a Reporting British Virgin Islands Financial Institution and held by one or more Specified United Kingdom Persons or by a non-United Kingdom Entity with one or more Controlling Persons that is a Specified United Kingdom Person. Notwithstanding the foregoing, an account shall not be treated as a United Kingdom Reportable Account if such account is not identified as a United Kingdom Reportable Account after application of the due diligence procedures in Annex I.
- v) 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 adviser, or intermediary, is not treated as holding the account for the purposes of this Agreement, and such other person is treated as holding the account. In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder.
- w) The term “**Specified United Kingdom Person**” means a person or Entity who is resident in the United Kingdom for tax purposes, and includes a person or Entity who is resident in both the United Kingdom and the British Virgin Islands, under the respective domestic law of each Party, other than: (i) a corporation the stock of which is regularly traded on one or more established securities markets; (ii) a corporation that is a member of the same affiliated group, as defined in Section 1471(e)(2) of the U.S. Internal Revenue Code, as a corporation described in (i) above; (iii) a Depository Institution; (iv) a broker or dealer in securities, commodities, or derivative financial instruments (including notional principle contracts, futures, forwards, and options) that is registered as such under the laws of the United Kingdom; or (v) a Non-Reportable United Kingdom Entity as defined in Annex II paragraph V.
- x) The term “**Entity**” means a legal person or a legal arrangement such as a trust, partnership or limited liability partnership. An Entity such as a partnership, limited liability partnership or similar arrangement shall be resident in the United Kingdom if the control and management of the business takes place in the United Kingdom.
- y) The term “**Non-United Kingdom Entity**” means an Entity that is not a person or Entity who is resident in the United Kingdom for tax purposes.

- z) 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, either Party may treat an Entity as not a related entity if the two Entities are not members of the same affiliated group, as defined in Section 1471(e)(2) of the U.S. Internal Revenue Code.
- aa) The term “**Controlling Persons**” means the natural persons who exercise control over an Entity. In the case of a trust, such term means the settlor, the trustees, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term “Controlling Persons” shall be interpreted in a manner consistent with the Recommendations of the Financial Action Task Force.

2. Any term not otherwise defined in this Agreement shall, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the Party applying the Agreement, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

3. Notwithstanding paragraphs 1 and 2 of Article 1, and the definitions provided in the Annexes to this Agreement, in implementing this Agreement the British Virgin Islands may use, and may permit its Financial Institutions to use, any definition in the relevant U.S. Treasury Regulations instead of the corresponding definition in this Agreement, where the Parties have agreed that the definitions in questions may be used, provided that such use would not frustrate the purposes of this Agreement.

ARTICLE 2

Obligations to Obtain and Exchange Information with Respect to Reportable Accounts

1. Subject to the provisions of Article 3, the British Virgin Islands shall obtain the information specified in paragraph 2 of this Article with respect to all United Kingdom Reportable Accounts and shall annually exchange this information with the United Kingdom on an automatic basis pursuant to the provisions of the TIEA.

2. The information to be obtained and exchanged is:

- a) With respect to each United Kingdom Reportable Account of the Reporting British Virgin Islands Financial Institution:

- (1) the name, address, date of birth and, where available, the UK National Insurance Number of each Specified United Kingdom Person that is an Account Holder of such account and, in the case of an Entity that, after application of the due diligence procedures set forth in Annex I, is identified as having one or more Controlling Persons that is a Specified United Kingdom Person, the name and address of such Entity and the name, address, date of

birth and where available, the UK National Insurance Number of each such Specified United Kingdom Person;

- (2) the account number (or functional equivalent in the absence of an account number);
- (3) the name of the Reporting British Virgin Islands Financial Institution and, where provided when registering with the U.S. Internal Revenue Service for FATCA purposes, the Global Intermediary Identification Number (GIIN). Where the Reporting British Virgin Islands Financial Institution does not have a GIIN a local reference for the Reporting Financial Institution should be reported instead;
- (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 British Virgin Islands 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 British Virgin Islands Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

ARTICLE 3

Time and Manner of Exchange of Information

1. For purposes of the exchange obligation in Article 2, the amount and characterisation of payments made with respect to a United Kingdom Reportable Account may be determined in accordance with the principles of the British Virgin Islands laws.
2. For purposes of the exchange obligation in Article 2, the information exchanged shall identify the currency in which each relevant amount is denominated.
3. With respect to paragraph 2 of Article 2, information is to be obtained and exchanged with respect to 2014 and all subsequent years, except that:
 - a) the information to be obtained and exchanged with respect to 2014 is only the information described in subparagraphs 2.a)(1) to 2.a)(4) of Article 2 of this Agreement;
 - b) the information to be obtained and exchanged with respect to 2015 is the information described in subparagraphs 2.a)(1) to 2.a)(7), except for gross proceeds described in subparagraph 2.a)(5)(B) of Article 2 of this Agreement; and
 - c) the information to be obtained and exchanged with respect to 2016 and subsequent years is the information described in subparagraph 2.a)(1) to 2.a)(7) of Article 2 of this Agreement.
4. Subject to paragraph 3 of this Article, the information described in Article 2 shall be exchanged within nine months after the end of the calendar year to which the information relates. Notwithstanding the foregoing, the information that relates to calendar years 2014 shall be exchanged no later than 30 September 2016.
5. Unless otherwise agreed, the information to be exchanged under Article 2 will be provided in the agreed format to be used when complying with the agreement between the Government of the British Virgin Islands and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA.
6. The Competent Authorities of each Party shall enter into an agreement under the mutual agreement procedure provided for in Article 5a of the TIEA which shall:
 - a) establish the detailed procedures for the automatic exchange obligations described in Article 2; and
 - b) prescribe rules and procedures as may be necessary to implement Article 4;
7. All information exchanged shall be subject to the confidentiality and other protections provided for in Article 5a of the TIEA, including the provisions limiting the use of the information exchanged.

ARTICLE 4

Collaboration on Compliance and Enforcement

1. **Minor and Administrative Errors.** Subject to any further terms set forth in a competent authority agreement executed pursuant to paragraph 6 of Article 3, the United Kingdom Competent Authority may make an inquiry directly to a Reporting British Virgin Islands Financial Institution in the British Virgin Islands where it has reason to believe that administrative errors or other minor errors may have led to incorrect or incomplete information reporting or resulted in other infringements of this Agreement. The competent authority agreement may provide that the United Kingdom Competent Authority shall notify the British Virgin Islands when it makes such an inquiry of a Reporting British Virgin Islands Financial Institution regarding the Reporting British Virgin Islands Financial Institution's compliance with the conditions set forth in this Agreement.
2. **Significant Non-Compliance.** The United Kingdom Competent Authority shall notify the British Virgin Islands Competent Authority when the United Kingdom Competent Authority has determined that there is significant non-compliance with the obligations under this Agreement with respect to a Reporting British Virgin Islands Financial Institution. The British Virgin Islands Competent Authority shall apply its domestic law (including applicable penalties) to address the significant non-compliance described in the notice in a timely manner.
3. **Reliance on Third Party Service Providers.** The British Virgin Islands may allow Reporting British Virgin Islands Financial Institutions to use third party service providers to fulfill the obligations imposed on them by the British Virgin Islands, as contemplated in this Agreement, but these obligations shall remain the responsibility of the Reporting British Virgin Islands Financial Institutions.
4. **Prevention of Avoidance.** The British Virgin Islands shall:
 - a) support the full and effective implementation of this Agreement including through any changes to domestic legislation or administrative practice;
 - b) implement, as necessary, requirements to prevent Financial Institutions, any persons or intermediaries from adopting practices intended to circumvent the reporting required under this Agreement. This shall include legislation with the equivalent effect, and introduced to the same timetable as, that required by any agreement the British Virgin Islands has with Government of the United States of America to Improve International Tax Compliance and to Implement FATCA.

ARTICLE 5

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

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

2. **Documentation of Accounts Maintained as of 30 June 2014.** With respect to United Kingdom Reportable Accounts that are Preexisting Accounts maintained by a Reporting British Virgin Islands Financial Institution, the British Virgin Islands commits to establish, by 1 January 2017, for reporting with respect to 2017 and subsequent years, rules requiring Reporting British Virgin Islands Financial Institutions to obtain and report the date of birth and UK National Insurance Number of each Account Holder of a United Kingdom Reportable Account as required pursuant to subparagraph 2.b)(1) of Article 2.

ARTICLE 6

Consistency in the Application of the Agreement

1. The British Virgin Islands shall be granted the benefit of any more favourable terms afforded to another jurisdiction under a signed bilateral agreement with the United Kingdom pursuant to which the other jurisdiction commits to undertake substantially the same obligations as described in Articles 2 and 3 of this Agreement, and subject to substantially the same terms and conditions as described therein and in Articles 4 to 8 of the Agreement.

2. The United Kingdom shall notify the British Virgin Islands of any more favourable terms and such more favourable terms shall apply automatically under this Agreement as if they were specified in this Agreement and effective as of the date of the entry into force of the agreement incorporating the more favourable terms.

ARTICLE 7

Consultations and Amendments

1. In case any difficulties in the implementation of this Agreement arise, either Party may request consultations to develop appropriate measures to ensure the fulfilment of this Agreement.

2. This Agreement may be amended by written mutual consent of the Parties. Unless otherwise agreed upon, such an amendment shall enter into force through the same procedures as set forth in Article 9.

ARTICLE 8

Annexes

The annexes form an integral part of this Agreement.

ARTICLE 9

Entry into Force

The Parties shall notify each other in writing when their necessary internal procedures for entry into force have been completed. The Agreement shall enter into force on the date of the later of these written notifications.

ARTICLE 10
Termination

This Agreement shall remain in force until it is terminated by one of the Parties. Either Party may terminate this Agreement by giving written notice of termination. In such event, this Agreement shall cease to have effect on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this agreement.

Done at London, in duplicate, this 28 day of November, 2013

**FOR THE GOVERNMENT OF THE
UNITED KINGDOM:**

Mr. David Gauke
Exchequer Secretary, Her Majesty's Treasury

**FOR THE GOVERNMENT OF THE
THE BRITISH VIRGIN ISLANDS:**

Dr. the Hon. D. Orlando Smith, OBE
Premier of the British Virgin Islands

ANNEX I

DUE DILIGENCE OBLIGATIONS FOR IDENTIFYING AND REPORTING ON REPORTABLE ACCOUNTS

I. General

- A. Under the agreement the British Virgin Islands shall require that Reporting British Virgin Islands Financial Institutions apply the due diligence procedures contained in this Annex I to identify United Kingdom Reportable Accounts.
- B. For purposes of the Agreement,
1. All dollar amounts are US 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 30 June 2014 under this Annex I, the relevant balance or value shall be determined as of the last day of the reporting period ending immediately before 30 June 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 reporting period that ends with or within that calendar year.
 4. Subject to paragraph E.1. of section II of this Annex I, an account shall be treated as a United Kingdom 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 United Kingdom 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 the British Virgin Islands may allow its Reporting Financial Institutions to apply the procedures described in the relevant U.S. Treasury Regulations, in so far as they have been accepted by both Parties, to establish whether an account is a United Kingdom Reportable Account. The British Virgin Islands may allow its Reporting Financial Institutions to make such an 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 identifying United Kingdom Reportable Accounts among Preexisting Accounts held by individuals (“Preexisting Individual Accounts”).

A. **Accounts Not Required to Be Reviewed, Identified or Reported.** Unless the Reporting British Virgin Islands 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 the British Virgin Islands provide for such an election, the following accounts are not required to be reviewed, identified, or reported as United Kingdom Reportable Accounts:

1. Subject to subparagraph E.2. of this section, Preexisting Individual Accounts with a balance or value that does not exceed \$50,000 as of 30 June 2014.
2. Subject to subparagraph E.2. of this section, Preexisting Individual Accounts that are Cash Value Insurance Contracts and Annuity Contracts with a balance or value of \$250,000 or less as of 30 June 2014.
3. Any Depository Account with a balance or value of \$50,000 or less.

B. **Review Procedures for Preexisting Individual Accounts With a Balance or Value as of 30 June 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 British Virgin Islands Financial Institution must review electronically searchable data maintained by them for any of the following United Kingdom indicia:
 - a) Identification of the Account Holder as tax resident in the United Kingdom;
 - b) Current United Kingdom mailing or United Kingdom residence address (including a post office box, “in-care-of” or “hold mail” address);
 - c) Currently effective power of attorney or signatory authority granted to a person with an address in the United Kingdom; and
 - d) For accounts that are not Depository Accounts the Reporting British Virgin Islands Financial Institution must also review electronically searchable data maintained by them for standing instructions to transfer funds to an account maintained in the United Kingdom.

2. If none of the United Kingdom indicia listed in subparagraph B.1. of this section are discovered in the electronic search, then no further action is required until there is a change in circumstances described in subparagraph C.2. of this section with respect to the account that results in one or more United Kingdom indicia being associated with the account.
3. If any of the United Kingdom indicia in subparagraph B.1. of this section are discovered in the electronic search, then the Reporting Financial Institution must treat the account as a United Kingdom Reportable Account unless subparagraph B.4. applies.
4. Notwithstanding a finding of United Kingdom indicia under subparagraph B.1. of this section, a Reporting British Virgin Islands Financial Institution is not required to treat an account as a United Kingdom Reportable Account if:
 - a) Where Account Holder information contains a current mailing or residence address (including a post office box, “in-care-of” or “hold mail” address) in the United Kingdom, the Reporting British Virgin Islands Financial Institution obtains or has previously reviewed and maintains a record of:
 - (1) a self-certification that the Account Holder is not resident in the United Kingdom for tax purposes, *and*
 - (2) *either*
 - (a) a certificate of residence for tax purposes issued by an appropriate official of the country or jurisdiction in which the Account Holder claims to be resident, *or*
 - (b) the provision of a local tax identification number of the country or jurisdiction in which the Account Holder claims to be resident, *and*, a passport issued by the jurisdiction in which the Account Holder claims to be resident.
 - b) Where Account Holder information contains currently effective power of attorney or signatory authority granted to a person with an address in the United Kingdom, or in the case of United Kingdom Financial Accounts other than Depository Accounts where Account Holder information contains a standing instructions to transfer funds to an account maintained in the United Kingdom; the Reporting British Virgin Islands Financial Institution obtains or has previously reviewed and maintains a record of:
 - (1) a self-certification that the Account Holder is not resident in the United Kingdom for tax purposes, *and*
 - (2) a piece of documentary evidence, as defined in paragraph VI.D of this Annex I, establishing the Account Holder’s non-United Kingdom residence status.

C. **Additional Procedures Applicable to Preexisting Individual Accounts That Are Lower Value Accounts**

1. Review of Preexisting Individual Accounts that are Lower Value Accounts for United Kingdom indicia must be completed by 30 June 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 United Kingdom indicia described in subparagraph B.1. of this section being associated with the account, the Reporting British Virgin Islands Financial Institution must treat the account as a United Kingdom Reportable Account unless subparagraph B.4. of this section applies.
3. Except for Depository Accounts described in subparagraph A.3. of this section, any Preexisting Individual Account that has been identified as a United Kingdom Reportable Account under this section shall be treated as a United Kingdom Reportable Account in all subsequent years, unless the Account Holder ceases to be a Specified United Kingdom Person.

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

1. **Electronic Record Search.** The Reporting British Virgin Islands Financial Institution must review electronically searchable data maintained by them for any of the United Kingdom indicia identified in subparagraph B.1. of this section.
2. **Paper Record Search.** If the Reporting British Virgin Islands Financial Institution’s electronically searchable databases include fields for and capture all of the information identified in subparagraph D.3. of this section, then no further paper record search is required. If the electronic databases do not capture all of this information, then with respect to High Value Accounts, the Reporting British Virgin Islands 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 British Virgin Islands Financial Institution within the last five years for any of the United Kingdom indicia identified in subparagraph B.1. of this section:
 - a) the most recent documentary evidence collected with respect to the account;
 - b) the most recent account opening contract or documentation;

- c) the most recent documentation obtained by the Reporting British Virgin Islands 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) in the case of Financial Accounts other than Depository Accounts, any standing instructions to transfer funds currently in effect.
3. **Exception Where Databases Contain Sufficient Information.** A Reporting British Virgin Islands Financial Institution is not required to perform the paper record search described in subparagraph D.2. of this section if the Reporting British Virgin Islands Financial Institution's electronically searchable information includes the following:
- a) the Account Holder's residence address and mailing address currently on file with the Reporting British Virgin Islands Financial Institution;
 - b) whether there is a current "in-care-of" address or "hold mail" address for the Account Holder; *and*
 - c) whether there is any power of attorney or signatory authority for the account; *and*
 - d) in the case of Financial Accounts other than Depository Accounts whether there are standing instructions to transfer funds in the account to another account (including an account at another branch of the Reporting British Virgin Islands Financial Institution or another Financial Institution).
4. **Relationship Manager Inquiry for Actual Knowledge.** In addition to the electronic and paper record searches described above, the Reporting British Virgin Islands Financial Institution must treat as United Kingdom Reportable Accounts any High Value Accounts assigned to a relationship manager (including any accounts aggregated with such account) if the relationship manager, has actual knowledge that the Account Holder is a Specified United Kingdom Person.
5. **Effect of Finding United Kingdom Indicia.**
- a) If none of the United Kingdom 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 United Kingdom Person in subparagraph D.4. of this section, then no further action is required until there is a change in circumstances described in subparagraph E.4. of this section.

- b) If any of the United Kingdom 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 United Kingdom indicia being associated with the account, then the Reporting British Virgin Islands Financial Institution must treat the account as a United Kingdom Reportable Account unless it elects to apply subparagraph B.4. of this section applies and one or more of the exceptions in that subparagraph applies with respect to that account.
- c) Except for Depository Accounts described in subparagraph A.3. of this section, any Preexisting Individual Account that has been identified as a United Kingdom Reportable Account under this section shall be treated as a United Kingdom Reportable Account in all subsequent years, unless the Account Holder ceases to be a Specified United Kingdom Person.

E. Additional Procedures Applicable to High Value Accounts

- 1. If a Preexisting Individual Account is a High Value Account as of 30 June 2014, the Reporting British Virgin Islands Financial Institution must complete the enhanced review procedures described in paragraph D of this section with respect to such account by 30 June 2015. If based on this review such account is identified as a United Kingdom Reportable Account on or before 31 December 2014, the Reporting British Virgin Islands 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 Reportable Account after 31 December 2014 and on or before 30 June 2015, the Reporting British Virgin Islands Financial Institution is not required to report information about such account with respect to 2014, but must report information about the account on an annual basis thereafter.
- 2. If a Preexisting Individual Account is not a High Value Account as of 30 June 2014, but becomes a High Value Account as of 31 December 2015 or of any subsequent calendar year, the Reporting British Virgin Islands 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 United Kingdom Reportable Account, the Reporting British Virgin Islands Financial Institution must report the required information about such account with respect to the year in which it is identified as a United Kingdom Reportable Account and subsequent years on an annual basis, unless the Account Holder ceases to be a Specified Person.

3. Once a Reporting British Virgin Islands Financial Institution applies the enhanced review procedures described in paragraph D of this section to a High Value Account, the Reporting British Virgin Islands Financial Institution shall not be required to re-apply such procedures, other than the relationship manager inquiry in subparagraph D.4. of this section, to the same High Value Account in any subsequent year.
4. If there is a change of circumstances with respect to a High Value Account that results in one or more United Kingdom indicia described in subparagraph B.1. of this section being associated with the account, then the Reporting British Virgin Islands Financial Institution must treat the account as a United Kingdom Reportable Account unless it elects to apply subparagraph B.4. of this section and one of the exceptions in that subparagraph applies with respect to that account.
5. A Reporting British Virgin Islands 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 Kingdom, the Reporting British Virgin Islands Financial Institution shall be required to treat the new address as a change in circumstances and shall be required to obtain the appropriate documentation from the Account Holder.

III. **New Individual Accounts.** The following rules and procedures apply for identifying United Kingdom Reportable Accounts among accounts held by individuals and opened on or after 1 July 2014 (“New Individual Accounts”).

A. **Accounts Not Required to Be Reviewed, Identified, or Reported.** Unless the Reporting British Virgin Islands Financial Institution elects otherwise, either with respect to all New Individual Accounts or, separately, with respect to any clearly identified group of such accounts, where the implementing rules in British Virgin Islands provide for such an election:

1. A New Individual Account that is a Depository Account is not required to be reviewed, identified, or reported as a United Kingdom Reportable Account unless the account balance exceeds \$50,000 at the end of any calendar year or other appropriate reporting period.
2. A New Individual Account that is a Cash Value Insurance Contract is not required to be reviewed, identified, or reported as a United Kingdom Reportable Account unless the Cash Value exceeds \$50,000 at the end of any calendar year or other appropriate reporting period.

- B. **Other New Individual Accounts.** With respect to New Individual Accounts not described in paragraph A of this section, upon account opening, (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 British Virgin Islands Financial Institution must obtain a self-certification which may be part of the account opening documentation, that allows the Reporting British Virgin Islands Financial Institution to determine whether the Account Holder is resident in the United Kingdom for tax purposes and confirm the reasonableness of such self-certification based on the information obtained by the Reporting British Virgin Islands Financial Institution in connection with the opening of the account, including any documentation collected pursuant to AML/KYC Procedures.
- C. If the self-certification establishes that the Account Holder is resident in the United Kingdom for tax purposes, the Reporting British Virgin Islands Financial Institution must treat the account as a United Kingdom Reportable Account.
- D. If there is a change of circumstances with respect to a New Individual Account that causes the Reporting British Virgin Islands Financial Institution to know or have reason to know that the original self-certification is incorrect or unreliable, the Reporting British Virgin Islands Financial Institution cannot rely on the original self-certification and must obtain a valid self-certification that establishes whether the Account Holder is resident in the United Kingdom for tax purposes. If the Reporting British Virgin Islands Financial Institution is unable to obtain a valid self-certification, the Reporting British Virgin Islands Financial Institution must treat the account as a United Kingdom Reportable Account.

IV. **Preexisting Entity Accounts.** The following rules and procedures apply for purposes of identifying United Kingdom Reportable Accounts (“Preexisting Entity Accounts”).

- A. **Entity Accounts Not Required to Be Reviewed, Identified, or Reported.** Unless the Reporting British Virgin Islands Financial Institution elects otherwise, either with respect to all New Individual Accounts or, separately, with respect to any clearly identified group of such accounts, where the implementing rules in the jurisdiction provide for such an election, Preexisting Entity Accounts with account balances that do not exceed \$250,000 as of 30 June 2014, are not required to be reviewed, identified, or reported as United Kingdom Reportable Accounts until the account balance exceeds \$1,000,000.
- B. **Entity Accounts Subject to Review.** Preexisting Entity Accounts that have an account balance or value that exceeds \$250,000 as of 30 June 2014, and Preexisting Entity Accounts that do not exceed \$250,000 as of 30 June 2014 but the account balance of which exceeds \$1,000,000 as of the 31 December 2015 or any subsequent calendar year, must be reviewed in accordance with the procedures set forth in paragraph C of this section.

- C. **Entity Accounts With Respect to Which Reporting is Required.** With respect to Preexisting Entity Accounts described in paragraph B of this section, only accounts that are held by one or more Entities that are Specified United Kingdom Persons or by Passive NFFEs with one or more Controlling Persons who are Specified United Kingdom Persons, shall be treated as United Kingdom Reportable Accounts.
- D. **Review Procedures for Identifying Entity Accounts With Respect to Which Reporting is Required.** For Preexisting Entity Accounts described in paragraph B of this section, the Reporting British Virgin Islands Financial Institution must apply the following review procedures to determine whether the account is held by one or more Specified United Kingdom Persons, by Passive NFFEs with one or more Controlling Persons who is a Specified United Kingdom Persons:
1. **Determine Whether the Entity is a Specified United Kingdom Person.**
 - a) Review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine whether the information indicates that the Entity Account Holder is a Specified United Kingdom Person. For this purpose, information indicating that the Entity is a Specified United Kingdom Person includes the place of incorporation or organisation, or an address in the United Kingdom.
 - b) If the information indicates that the Entity Account Holder is a Specified United Kingdom Person, the Reporting British Virgin Islands Financial Institution must treat the account as a United Kingdom Reportable Account unless it obtains a self-certification from the Account Holder, or reasonably determines based on information in its possession or that is publicly available, that the Account Holder is not a Specified United Kingdom Person.
 2. **Determine Whether a Non-United Kingdom Resident Entity is a Financial Institution.**
 - a) Review information maintained for regulatory or customer relationship purposes (including information collected pursuant to AML/KYC Procedures) to determine whether the information indicates that the Non-United Kingdom Resident Entity Account Holder is a Financial Institution.
 - b) If the information indicates that the Non-United Kingdom Resident Entity Account Holder is a Financial Institution, then the account is not a United Kingdom Reportable Account.

3. **Determine Whether an Account Held by an NFFE is a United Kingdom Reportable Account.** With respect to an Entity Account Holder of a Preexisting Entity Account that is not identified as either a Specified United Kingdom Person or a Non-United Kingdom Resident Entity which is a Financial Institution, the Reporting British Virgin Islands Financial Institution must identify (i) whether the Entity has Controlling Persons, (ii) whether the Entity is a Passive NFFE, and (iii) whether any of the Controlling Persons of the Entity is a Specified United Kingdom Person. In making these determinations the Reporting British Virgin Islands Financial Institution should follow the guidance in a) to d) of this subparagraph in the order most appropriate under the circumstances.
- a) For purposes of determining the Controlling Persons of an Entity, a Reporting British Virgin Islands Financial Institution may rely on information collected and maintained pursuant to AML/KYC Procedures.
 - b) For purposes of determining whether the Entity is a Passive NFFE, the Reporting British Virgin Islands Financial Institution must obtain a self-certification from the Entity Account Holder to establish its status, unless it has information in its possession or that is publicly available, based on which it can reasonably determine that the Entity is an Active NFFE.
 - c) For purposes of determining whether a Controlling Person of a Passive NFFE is a Specified United Kingdom Person, a Reporting British Virgin Islands Financial Institution may rely on:
 - (1) Information collected and maintained pursuant to AML/KYC Procedures in the case of a Preexisting Entity Account held by one or more NFFEs with an account balance that does not exceed \$1,000,000;
or
 - (2) A self-certification from the Entity Account Holder or such Controlling Person in the case of a Preexisting Entity Account held by one or more NFFEs with an account balance that exceeds \$1,000,000.
 - d) If any Controlling Person of a Passive NFFE is a Specified United Kingdom Person, the account shall be treated as a United Kingdom 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 30 June 2014, must be completed by 30 June 2016.
- 2. Review of Preexisting Entity Accounts with a balance or value that does not exceed \$250,000 as of 30 June 2014, but exceeds \$1,000,000 as of 31 December of 2015 or any subsequent year, must be completed within six months after the end of the calendar year in which the account balance exceeds \$1,000,000.

3. If there is a change of circumstances with respect to a Preexisting Entity Account that causes the Reporting British Virgin Islands 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 British Virgin Islands Financial Institution must re-determine the status of the account in accordance with the procedures set forth in paragraph D of this section.

V. **New Entity Accounts.** The following rules and procedures apply to accounts held by Entities and opened on or after 1 July 2014 (“New Entity Accounts”).

- A. **Entity Accounts Not Required to Be Reviewed, Identified or Reported.** Unless the Reporting British Virgin Islands 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 both jurisdictions provide for such election, a revolving credit facility treated as a New Entity Account is not required to be reviewed, identified, or reported, provided that the Reporting British Virgin Islands Financial Institution maintaining such account, in each case applying the rules at paragraph C of section VI of this Annex I, for account aggregation and currency translation, 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 British Virgin Islands Financial Institution must determine whether the Account Holder is: (i) a Specified United Kingdom Person; (ii) a Non-United Kingdom Resident Entity which is a Financial Institution; (iii), a non-reporting Financial Institution; (v) an exempt beneficial owner; (vi) an Active NFFE or a Passive NFFE.
- C. A Reporting British Virgin Islands Financial Institution may determine that an Account Holder is an Active NFFE or a Non-United Kingdom Resident Entity which is a Financial Institution if the British Virgin Islands Reporting Financial Institution reasonably determines that the Entity has such status on the basis of information that is publicly available or in the possession of the Reporting British Virgin Islands Financial Institution.
- D. In all other cases, a Reporting British Virgin Islands Financial Institution must obtain a self-certification from the Entity Account Holder to establish the Account Holder’s status. Based on the self certification, the following rules apply:
 1. If the Entity Account Holder is a *Specified United Kingdom Person*, the Reporting British Virgin Islands Financial Institution must treat the account as a United Kingdom Reportable Account.
 2. If the Entity Account Holder is a *Passive NFFE*, the Reporting British Virgin Islands Financial Institution must identify the Controlling Persons as determined under AML/KYC Procedures, and must determine whether any such person is a resident in the United Kingdom for tax purposes on the basis

of a self-certification from the Account Holder or such person. If any such person is a resident in the United Kingdom for tax purposes, the account shall be treated as a United Kingdom Reportable Account.

3. If the Entity Account Holder is: (i) a Person resident in the United Kingdom that is not a Specified United Kingdom Person; (ii) a Non-United Kingdom Resident Entity which is a Financial Institution; (iii) a Non-Reporting Financial Institution, (iv) an exempt beneficial owner; (v) an Active NFFE; or (vi) a Passive NFFE; none of the Controlling Persons of which is a Specified United Kingdom Person, then the account is not a United Kingdom Reportable Account and no reporting is required with respect to the account.

VI. **Special Rules and Definitions.** The following additional rules and definitions apply in implementing the due diligence procedures described above:

A. **Reliance on Self-Certifications and Documentary Evidence.** A Reporting British Virgin Islands Financial Institution may not rely on a self-certification or documentary evidence if the Reporting British Virgin Islands 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 (CDD) procedures of a Reporting British Virgin Islands Financial Institution pursuant to the anti-money laundering or similar requirements of the British Virgin Islands to which such Reporting British Virgin Islands Financial Institution is subject to.
2. **United Kingdom Resident Entity.** A “United Kingdom Resident Entity” means an Entity that is resident in the United Kingdom and includes an Entity that is resident in both the United Kingdom and also resident in the British Virgin Islands, or any other jurisdiction(s), for the purposes of this Agreement.
3. **Non-United Kingdom Resident Entity.** A Non-United Kingdom Resident Entity means an Entity that is not resident in the United Kingdom for the purposes of this Agreement.
4. **NFFE.** An “NFFE” means any Non-United Kingdom Resident Entity that is not a Financial Institution as defined in this agreement.
5. **Passive NFFE.** A “Passive NFFE” means any NFFE that is not an Active NFFE.
6. **Active NFFE.** An “Active NFFE” means any NFFE that meets any of the following criteria:
 - a) Less than 50 percent of the NFFE’s gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50 percent of the assets held by the NFFE during the preceding

calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;

- b) The stock of the NFFE is regularly traded on an established securities market or the NFFE is a Related Entity of an Entity the stock of which is traded on an established securities market;
- c) The NFFE is a government, a political subdivision of such government or a public body performing a function of such government or a political subdivision thereof, or an Entity wholly owned by one or more of the foregoing;
- d) 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;
- e) 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;
- f) The NFFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution; *or*
- g) The NFFE primarily engages in financing and hedging transactions with or for Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution.

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

1. **Aggregation of Individual Accounts.** For purposes of determining the aggregate balance or value of accounts held by an individual, a Reporting British Virgin Islands Financial Institution shall be required to aggregate all accounts maintained by the Reporting British Virgin Islands Financial Institution, or Related Entities, but only to the extent that the Reporting British Virgin Islands Financial Institution's computerised systems link the accounts by reference to a data element such as client number or taxpayer identification number, and allow account balances to be aggregated. Each holder of a jointly held account shall be attributed the entire balance or value of the jointly held account for purposes of applying the aggregation requirements described in this paragraph.
 2. **Aggregation of Entity Accounts.** For purposes of determining the aggregate balance or value of accounts held by an Entity, a Reporting British Virgin Islands Financial Institution shall be required to take into account all accounts held by Entities that are maintained by the Reporting British Virgin Islands Financial Institution, or Related Entities, to the extent that the Reporting British Virgin Islands Financial Institution's computerised systems link the accounts by reference to a data element such as client number or taxpayer identification number and allow account balances or values to be aggregated.
 3. **Special Aggregation Rule Applicable to Relationship Managers.** For purposes of determining the aggregate balance or value of accounts held by a person to determine whether an account is a High Value Account, a Reporting British Virgin Islands Financial Institution shall also be required, in the case of any accounts that a relationship manager knows or has reason to know are directly or indirectly owned, controlled, or established (other than in a fiduciary capacity) by the same person, to aggregate all such accounts.
 4. **Currency Translation Rule.** For purposes of determining the balance or value of accounts denominated in a currency other than the U.S. dollar, a Reporting British Virgin Islands Financial Institution must convert the dollar threshold amounts described in this Annex I into such currency using a published spot rate determined as of the last day of the calendar year preceding the year in which the Reporting British Virgin Islands 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 for tax purposes issued by an appropriate tax official of the country or jurisdiction in which the Account Holder claims to be resident.

2. With respect to an individual, any valid identification issued by an authorised government body (for example, a government or agency thereof, or a municipality), that includes the individual's name and is typically used for identification purposes.
3. With respect to an Entity, any official documentation issued by an authorised government body (for example, a government or agency thereof, or a municipality) that includes the name of the Entity and either the address of its principal office in the country in which it claims to be a resident or the country in which the Entity was incorporated or organised.
4. With respect to an account maintained in a jurisdiction with anti-money laundering rules that have been approved by the U.S. Internal Revenue Service in connection with a Qualifying Intermediary agreement (as described in relevant U.S. Treasury Regulations), any of the documents other than a Form W-8 or W-9 referenced in the jurisdiction's attachment to the Qualifying Intermediary agreement for identifying individuals or Entities.
5. Any financial statement, third-party credit report, bankruptcy filing.

- E. **Alternative Procedures for Financial Accounts Held by Individual Beneficiaries of a Cash Value Insurance Contract.** A Reporting British Virgin Islands 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 United Kingdom Person and may treat such Financial Account as other than a United Kingdom Reportable Account unless the Reporting British Virgin Islands Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Specified United Kingdom Person. A Reporting British Virgin Islands Financial Institution has reason to know that a beneficiary of a Cash Value Insurance Contract is a Specified United Kingdom Person if the information collected by the Reporting British Virgin Islands Financial Institution and associated with the beneficiary contains indicia as described in subparagraph B.1. of section II of this Annex I. If a Reporting British Virgin Islands Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Specified United Kingdom Person, the Reporting British Virgin Islands Financial Institution must follow the procedures in subparagraph B.3. of section II of this Annex I.
- F. **Reliance on Third Parties.** Subject to paragraph 3 of Article 4, regardless of whether an election is made under paragraph E of section I of this Annex I, British Virgin Islands may permit Reporting British Virgin Islands Financial Institutions to rely on due diligence procedures performed by third parties to the extent provided in the U.S. Treasury Regulation.

ANNEX II

NON-REPORTING BRITISH VIRGIN ISLANDS FINANCIAL INSTITUTIONS AND EXEMPT PRODUCTS AND NON-REPORTABLE UNITED KINGDOM ENTITIES

The following Entities are treated as either exempt beneficial owners, and/or as other Non-Reporting British Virgin Islands Financial Institutions, as the case may be, and the following Exempt Products 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 British Virgin Islands and the United Kingdom: (1) to include additional Entities and accounts that present a low risk of being used by United Kingdom Persons to evade United Kingdom 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 United Kingdom Persons to evade United Kingdom 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 an agreement may be included in the mutual agreement described in paragraph 6 of Article 3 of the Agreement.

Non-Reporting British Virgin Islands Financial Institutions

- I. **Exempt Beneficial Owners.** The following Entities are exempt beneficial owners and are treated as Non-Reporting British Virgin Islands Financial Institutions.
 - A. **Governmental Entity.** The government of the British Virgin Islands, any political subdivision of the British Virgin Islands (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of the British Virgin Islands or any one or more of the foregoing (each, a “British Virgin Islands Governmental Entity”). This category is comprised of the integral parts, controlled entities, and political subdivisions of the British Virgin Islands.
 1. An integral part of the British Virgin Islands means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of the British Virgin Islands. The net earnings of the governing authority must be credited to its own account or to other accounts of a British Virgin Islands Governmental Entity, 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 the British Virgin Islands or that otherwise constitutes a separate juridical entity, provided that:
 - a) The Entity is wholly owned and controlled by one or more British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 Organisation. Any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation (including a supranational organisation) (1) that has in effect a headquarters agreement with the British Virgin Islands; and (2) the income of which does not inure to the benefit of private persons.

C. Broad Participation Retirement Fund. A fund established in the British Virgin Islands 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 authorities in the British Virgin Islands; and
- 3. Satisfies at least one of the following requirements:
 - a) The fund is generally exempt from tax in the British Virgin Islands on investment income under the laws of Virgin Islands 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 C through F of this section or from retirement and pension accounts described in subparagraph B.1. of section IV 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 C through F of this section or retirement and pension accounts described in subparagraph B.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 paragraph C of section VI of Annex I for account aggregation and currency translation.

D. Narrow Participation Retirement Fund. A fund established in the British Virgin Islands 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 B.1. of section IV of this Annex II) are limited by reference to earned income and compensation of the employee, respectively;
4. Participants that are not residents of the British Virgin Islands 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 authorities in the British Virgin Islands.

E. Pension Fund of an Exempt Beneficial Owner. A fund established in the British Virgin Islands 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 Entity that is a British Virgin Islands 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.

G. **Additional Entities.** Any additional entities agreed between the UK Government and the British Virgin Islands.

II. **Small or Limited Scope Financial Institutions that Qualify as Non-Reporting British Virgin Islands Financial Institutions.** The following Financial Institutions are Non-Reporting British Virgin Islands Financial Institutions

A. **Local Credit Unions.** A Financial Institution satisfying all of the following requirements:

1. The Financial Institution carries on business solely as a Credit Union;
2. It is licensed and regulated under the laws of the British Virgin Islands;
3. It has no fixed place of business outside of the British Virgin Islands; and
4. All accounts maintained by the Financial Institution are held by residents of the British Virgin Islands.

B. **Financial Institution with Only Low-Value Accounts.** A British Virgin Islands 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 paragraph C of section VI of 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.

C. **Qualified Credit Card Issuer.** A British Virgin Islands Financial Institution satisfying the following criteria:

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 1 July, 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.

III. Investment Entities that Qualify as Non-Reporting British Virgin Islands Financial Institutions and Other Special Rules. The Financial Institutions described in paragraphs A through E of this section are Non-Reporting British Virgin Islands Financial Institutions. In addition, paragraph F of this section provides special rules applicable to an Investment Entity.

A. Trustee-Documented Trust. A trust resident in the British Virgin Islands to the extent that the trustee of the trust is a Reporting British Virgin Islands Financial Institution and reports all information required to be reported pursuant to the Agreement with respect to all UK Reportable Accounts of the trust.

B. Sponsored Investment Entity. A Financial Institution described in subparagraph B.1. of this section having a sponsoring entity that complies with the requirements of subparagraph B.2. of this section.

1. A Financial Institution is a sponsored investment entity if (a) it is an Investment Entity established in British Virgin Islands; and (b) an Entity has agreed with the Financial Institution to act as a sponsoring entity for the Financial Institution;
2. The sponsoring entity is authorised to act on behalf of the Financial Institution (such as fund manager, trustee, a licensed registered agent, corporate director, or managing partner) and complies with the following requirements:
 - a) The sponsoring entity is a British Virgin Islands Financial Institution;
 - b) The sponsoring entity performs, on behalf of the Financial Institution, all due diligence, reporting and other requirements that the Financial Institution would have been required to perform if it were a Reporting British Virgin Islands Financial Institution;
 - c) The sponsoring entity identifies the Financial Institution in all reporting completed on the Financial Institution's behalf; and
 - d) The sponsoring entity has notified the British Virgin Islands Competent Authority of its status as a sponsor in respect of the Financial Institution and has not had its status as a sponsor revoked by the British Virgin Islands Competent Authority.

C. Sponsored, Closely Held Investment Vehicle. A British Virgin Islands Financial Institution satisfying the following requirements:

1. The Financial Institution is a Financial Institution solely because it is an Investment Entity;
2. The sponsoring entity is a Reporting British Virgin Islands Financial Institution, is authorised to act on behalf of the Financial Institution (such as a professional manager, trustee, a licensed registered agent, or managing partner), and agrees to perform, on behalf of the Financial Institution, all due diligence, reporting and other requirements that the Financial Institution would have been required to perform if it were a Reporting British Virgin Islands 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 Financial Institutions and Equity Interests owned by an Entity if that Entity owns 100 per cent 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 is a British Virgin Islands Financial Institution;
 - b) The sponsoring entity agrees to perform, on behalf of the Financial Institution, all due diligence, reporting and other requirements that the Financial Institution would have been required to perform if it were a Reporting British Virgin Islands 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 accordance with the applicable registration requirements of the British Virgin Islands Competent Authority in all reporting completed on the Financial Institution's behalf; and
 - d) The sponsoring entity has notified the British Virgin Islands Competent Authority of its status as a sponsor in respect of the Financial Institution and has not had its status as a sponsor revoked by the British Virgin Islands Competent Authority.

D. **Investment Advisors and Investment Managers.** An Investment Entity established in the British Virgin Islands the sole activity of which is (1) to render investment advice to, and act on behalf of, or (2) to manage portfolios for, and act 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.

E. **Collective Investment Vehicle.** An Investment Entity established in the British Virgin Islands 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 or Active NFFEs described in subparagraph B.6. of section VI of Annex I.

F. **Special Rules for reporting interests of Investment entities in Collective Investment Vehicles.** The following rules apply to an Investment Entity:

1. Where an Investment Entity (other than a Financial Institution through which interests in the collective investment vehicle are held) has an interest in a collective investment vehicle as described in paragraph E of this section, the reporting obligations of that Investment Entity in respect of its interest in that collective investment vehicle shall be deemed to have been met.
2. Consistent with paragraph 3 of Article 4 of the Agreement (third-party service providers), for interests held in an Investment Entity established in the British Virgin Islands that is not as described in paragraph E of this section, the reporting obligations of all Investment Entities with respect to their interests in that the British Virgin Islands Investment Entity shall be deemed to be satisfied if the information required to be reported under the Agreement with respect to all such interests is reported by the British Virgin Islands Investment Entity itself or another person.

IV. **Exempt Products.** The following accounts are excluded from the definition of Financial Accounts and therefore are not treated as United Kingdom Reportable Accounts.

A. **Qualifying Credit Cards.** Unless the Reporting Financial Institution elects otherwise, either with respect to all accounts or, separately, with respect to any clearly identified group of such accounts, where the implementing rules in both jurisdictions provide for such election, a credit card account is not required to be reviewed, identified, or reported, provided that the Reporting Financial Institution maintaining such account, in each case applying the rules set forth in paragraph C of section VI of this Annex I, for account aggregation and currency translation;

1. implements policies and procedures to prevent an account balance owed to the Account Holder that exceeds \$50,000, *or*,
2. has policies and procedures in place to ensure that any customer deposit in excess of \$50,000 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.

B. Certain Savings Accounts.

1. **Retirement and Pension Account.** A retirement or pension account maintained in the British Virgin Islands that satisfies the following requirements under the laws of the British Virgin Islands.

- a) Annual contributions into the scheme are not more than £50,000;
- b) The scheme is tax-favoured (i.e. contributions to the scheme that would otherwise be subject to tax laws of the British Virgin Islands are deductible or excluded from the gross income of the scheme or taxed at a reduced rate, or taxation on investment income from the scheme is deferred or taxed at a reduced rate)
- c) Funds contributed cannot be accessed before the age of 55 except in circumstances of serious ill health.

2. **Non-Retirement Savings Accounts.** An account maintained in the British Virgin Islands (other than an insurance or Annuity Contract) that satisfies the following requirements under the laws of the British Virgin Islands.

- a) The account is subject to regulation as a savings vehicle for purposes other than for retirement;
- b) The account is tax-favoured (i.e. contributions to the account that would otherwise be subject to tax under the laws of the British Virgin Islands 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 contributions are limited to £15,000 or less, applying the rules set forth in paragraph C of section VI of Annex I for account aggregation and currency translation.
- d) Contributions into the account can only be made by a resident of the British Virgin Islands.

C. Account Held by an Estate. An account maintained in the British Virgin Islands 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 the British Virgin Islands 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 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 or product that would be excluded from the definition of Financial Account under an Agreement to Improve International Tax Compliance (or similar Arrangement) between the UK and another Jurisdiction (Jurisdiction X) where:
1. the account or product is established in Jurisdiction X but is maintained in the British Virgin Islands, *and*
 2. the account or product maintained in the British Virgin Islands is subject to the same requirements and oversight under the laws of Jurisdiction X, as it would be if that account or product was maintained by a Financial Institution in Jurisdiction X.
- F. **Agreed Products.** Any additional products agreed between the UK Government and the British Virgin Islands.
- V. **Non-Reportable United Kingdom Entities.** United Kingdom entities which are not held to be United Kingdom Specified Persons and in respect of which Financial Accounts are not required to be reported.
- A. **UK Governmental Organisations, any political subdivision of the UK Government or any wholly owned agency or instrumentality of any one or more of the foregoing including:**

- The Devolved Administrations as per:
 - the Northern Ireland Act 1998 (updated by The Northern Ireland (St Andrews Agreement) Acts 2006 & 2007, and the Northern Ireland Act 2009)
 - the Scotland Act 1998
 - the Government of Wales Act 2006
- Local Government Authorities as per:
 - Section 33 of the Local Government Act 2003
 - the Local Government Act (NI) 1972 (as amended by The Local Government (Miscellaneous Provisions) Act (NI) 2010 and Local Government Finance Act (NI) 2011)
 - the Local Government etc. (Scotland) Act 1994
 - the Local Government (Wales) Act 1994

B. UK Central Bank

The Bank of England and any of its wholly owned subsidiaries.

C. UK Offices of International Organisations

Any UK office of:

- The International Monetary Fund
- The World Bank
- The International Bank for Reconstruction and Development
- The International Finance Corporation
- The International Finance Corporation Order, 1955 (SI 1955 No.1954)
- The International Development Association
- The Asian Development Bank
- The African Development Bank
- The European Community
- The European Coal and Steel Community
- The European Atomic Energy Community
- The European Investment Bank
- The European Bank for Reconstruction and Development
- The OECD Support Fund
- The Inter-American Development Bank

D. UK Retirement Funds

- Pension schemes or other arrangements registered with HMRC under Part 4 of the Finance Act 2004.
- The UK Pension Protection Fund

ANNEX III

ALTERNATIVE REPORTING REGIME FOR CERTAIN UNITED KINGDOM REPORTABLE ACCOUNTS

The Alternative Reporting Regime.

A. Relationship between this Annex and the Articles of this Agreement:

1. In relation to a United Kingdom Reportable Account and for a Relevant Reporting Period, subject to subparagraph B.3.:
 - a) if the criteria at subparagraph B.1.a) to c) are all met with respect to the United Kingdom Reportable Account for a Relevant Reporting Period, then Article 3.4 of the Agreement shall not apply to those United Kingdom Reportable Accounts, and
 - b) if the certification procedure at subparagraphs C.1. and C.2 is complied with, then
 - (1) subparagraph F.2 of this Annex IV shall apply instead of Article 3.4, and
 - (2) subparagraph D of this Annex IV shall apply instead of Article 2.2. but
 - c) if the certification procedure at subparagraphs C.1. and C.2. is not complied with, then subparagraph F.3. of Annex IV shall apply instead of Article 3.4.

B. United Kingdom Reportable Accounts Eligible for the Alternative Reporting Regime.

1. In order for the Alternative Reporting Regime to apply to a United Kingdom Reportable Account for any Relevant Reporting Period all of the following criteria must be met:
 - a) the Reporting British Virgin Islands Financial Institution must have made an election to the British Virgin Islands Competent Authority in order to offer the Alternative Reporting Regime in relation to the United Kingdom Reportable Accounts of those Specified United Kingdom Persons that have elected for it to apply, and provided the required certification;
 - b) the Specified United Kingdom Person must have made an election for reporting under the Alternative Reporting Regime, to the Reporting British Virgin Islands Financial Institution, for the Relevant Reporting Period; *and*
 - c) where an election is made by any Specified United Kingdom Person for reporting under the Alternative Reporting Regime for a Relevant Reporting Period, it must be applied to all United Kingdom Reportable Accounts held with the Reporting British Virgin Islands Financial Institution by that Specified United Kingdom Person, including the accounts of an Entity of

which the Specified United Kingdom Person is a Controlling Person.

2. For the Alternative Information to be provided under paragraph D, the Specified United Kingdom Person who has made an election under subparagraph B.1.b) must also provide certification to the Reporting British Virgin Islands Financial Institution by following the procedures set out in paragraph C of this Annex.
3. In cases where not all Account Holders of a United Kingdom Reportable Account that are Specified United Kingdom Persons have made a certified election under subparagraph B.2. for the Relevant Reporting Period, or, in the case of an Entity, not all of those Controlling Persons that are United Kingdom Specified Persons have made a certified election under subparagraph B.2. for the Relevant Reporting Period, the Reporting British Virgin Islands Financial Institution must obtain and provide the following information:
 - a) With respect to those Specified United Kingdom Persons that have made a certified election under subparagraph B.2. for the Relevant Reporting Period, the Alternative Information under paragraph D, with respect to the United Kingdom Reportable Account subject to the Time and Manner of Exchange of Information as provided for in paragraph F of this Annex;
 - b) With respect to those Specified United Kingdom Persons that have elected for the Alternative Reporting Regime to apply under subparagraph B.1.b) but have not provided the required certification under subparagraph B.2, the information in relation to the United Kingdom Reportable Account in accordance with the provisions of Article 2 of this Agreement in full, subject to the Time and Manner of Exchange of Information as provided for in paragraph F of this Annex;
 - c) With respect to those Specified United Kingdom Persons that have not elected for the Alternative Reporting Regime to apply, the information in relation to the United Kingdom Reportable Account in accordance with the provisions of Article 2 of this Agreement in full, subject to the Time and Manner of Exchange of Information as provided for in Article 3 of this Agreement.

C. **Alternative Reporting Regime Certification Procedure.** For each Relevant Reporting Period, in order for paragraph D to apply to the United Kingdom Reportable Account, the Specified United Kingdom Person who has made an election under subparagraph B.1.b) must also provide certification to the Reporting British Virgin Islands Financial Institution in accordance with subparagraph C.1.

1. No later than 28 February following the end of the Relevant Tax Year, the Specified United Kingdom Person must provide to the Reporting British Virgin Islands Financial Institution written verification, confirming the following information:
 - a) the Specified United Kingdom Person's United Kingdom tax return for the Relevant Tax Year
 - (1) contains a claim or statement that the Specified United Kingdom Person is not domiciled anywhere within the United Kingdom; and
 - (2) includes a claim to be taxed under the remittance basis under Part 14 Chapter A1 Income Tax Act 2007 and, if appropriate, the tax chargeable under section 809H Income Tax Act 2007 has been paid, or any such equivalent sections in any successor legislation;
 - b) to the best of their knowledge, the domicile status and claim to be taxed on the remittance basis is not being formally disputed by the United Kingdom's Competent Authority.
2. The Reporting British Virgin Islands Financial Institution must retain in their records both the election made by the Specified United Kingdom Person and the written verification for each Relevant Reporting Period for a period of 6 years following the end of the Relevant Tax Year.
3. Where the written verification is not provided, or for any reason the certification process cannot be completed, the information to be reported by the Reporting British Virgin Islands Financial Institution and the timescale for exchange shall be as set out in subparagraph F.3. below.

D. Alternative Information to be Provided.

1. Where for a Relevant Reporting Period the criteria in paragraph B of this Annex are met in relation to a United Kingdom Reportable Account, and certification within paragraph C is obtained, the information to be provided to the United Kingdom Competent Authority in relation to that United Kingdom Reportable Account for the Relevant Reporting Period shall be:
 - a) the Gross Payments and Movements of Assets from an originating United Kingdom source into the United Kingdom Reportable Account during the Relevant Tax Year;
 - b) the Gross Payments and Movements of Assets from an originating source territory or jurisdiction which cannot be determined, into the United Kingdom Reportable Account during the Relevant Tax Year;
 - c) the Gross Payments from the United Kingdom Reportable Account to an ultimate United Kingdom destination, during the Relevant Tax Year; *and*
 - d) the Gross Payments from the United Kingdom Reportable Account to an ultimate territory or jurisdiction destination which cannot be determined, during the Relevant Tax Year.
2. Where any Gross Payments and Movements of Assets within the scope of any of subparagraphs D.1.a) to d) of this Annex III have been made during the Relevant Tax Year, then the additional information set out in subparagraphs D.2.a) to c) is also required to be exchanged relating to the United Kingdom Reportable Account.
 - a) the name, address, date of birth and, where available, the National Insurance Number of each Specified United Kingdom Person that is an Account Holder of such an account and, in the case of an Entity that, after application of the due diligence procedures set forth in Annex I, is identified as having one or more Controlling Persons that is a Specified United Kingdom Person, the name and address of such Entity and the name, address, date of birth and, where available, the National Insurance Number of each such Specified United Kingdom Person;
 - b) the account number (or functional equivalent in the absence of an account number); *and*
 - c) the name of the Reporting British Virgin Islands Financial Institution and, where provided when registering with the U.S. Internal Revenue Service for FATCA purposes, the Global Intermediary Identification Number.

3. In any case where Alternative Information has been provided for a United Kingdom Reportable Account and the British Virgin Islands enters a bi-lateral agreement with any other jurisdiction that is equivalent in effect to this Agreement and the British Virgin Islands exchanges information on the same United Kingdom Reportable Account under any other Agreement which is equivalent to the information set out in Article 2 of this Agreement in respect of a United Kingdom Reportable Account then the British Virgin Islands shall also exchange the same information with the United Kingdom, regardless of any elections for the Alternative Reporting Regime to apply that have been made by Specified United Kingdom Persons in respect of that United Kingdom Reportable Account.

E. The British Virgin Islands Retention and Exchange of Alternative Reporting Regime User Information.

1. For each year, the British Virgin Islands shall exchange with the United Kingdom the name, address, date of birth and, where available, the National Insurance Number for all Specified United Kingdom Persons who have made an election under subparagraph B.1.b) of this Annex. This information shall be exchanged to the timescale as set out in subparagraph F.1 below.
2. For each United Kingdom Reportable Account to which the Alternative Reporting Regime is applied, where the British Virgin Islands has not exchanged all of the following information under paragraph D, the British Virgin Islands shall retain or have access to the following information for a period of 6 years following the end of each Relevant Tax Year:
 - a) the name, address, date of birth and, where available, the National Insurance Number for each Specified United Kingdom Person that holds the United Kingdom Reportable Account and, in the case of an Entity having one or more Controlling Persons that is a Specified United Kingdom Person, the name and address of that Entity and the name, address, date of birth and, where available, the National Insurance Number of each such Specified United Kingdom Person;
 - b) the account number (or functional equivalent in the absence of account number); *and*
 - c) the name of the Reporting the British Virgin Islands Financial Institution and, where provided when registering with the U.S. Internal Revenue Service for FATCA purposes, the Global Intermediary Identification Number.

F. Time and Manner of Exchange of Information.

1. The British Virgin Islands shall exchange information on United Kingdom Reportable Accounts on the same basis as the requirements set out in Article 3 of the Agreement unless otherwise stated below.
2. Any information required to be reported under subparagraphs D.1. and D.2. of this Annex IV shall be exchanged no later than one year and nine months after the end

of the Relevant Reporting Period to which the information relates.

3. Where an election has been made under subparagraph B.1.b) of this Annex IV, but the certification procedure in subparagraphs C.1. and C.2. has not been successfully completed, then the information referred to in Article 2 of this agreement shall be exchanged no later than one year and nine months after the end of the Relevant Reporting Period to which the information relates - subject to Article 3, Paragraph 3 of this Agreement.

G. Definitions.

The following definitions apply for purposes of Annex III

1. the term “Alternative Reporting Regime” means the reporting regime set out in this Annex IV.
2. the term “Relevant Reporting Period” means the calendar year to which all the information required to be reported under the Agreement would relate in the absence of the Alternative Reporting Regime.
3. the term “Relevant Tax Year” means the period from 30 June 2014 to the 5 April 2015 for Relevant Reporting Period 2014, and for all other years means the period from 6 April following the start of the Relevant Reporting Period to the following 5 April.
4. the term “Gross Payments” means the sum total of monies that are transferred.
5. the term “Gross Payments and Movements of Assets” means the sum total of monies and property (both tangible and intangible), that are transferred.

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF BRITISH VIRGIN ISLANDS TO IMPROVE TAX COMPLIANCE AND TO IMPLEMENT FACTA

Whereas, the Government of the British Virgin Islands and the Government of the United States of America (each, a “Party,” and together, the “Parties”) desire to conclude an agreement to improve tax compliance;

Noting that the Government of the United Kingdom of Great Britain and Northern Ireland (the “United Kingdom”) provided a copy of a Letter of Entrustment, via diplomatic note of May 28, 2014, dated July 15, 2010 to the Government of the United States of America in which the United Kingdom entrusts the Government of the British Virgin Islands to negotiate and conclude Agreements relating to taxation that provide for exchange of information on tax matters to the OECD standard. In accordance with this entrustment letter, the United Kingdom via the Foreign and Commonwealth Office provided a copy of a letter dated March 24, 2014 authorizing the Government of the British Virgin Islands to sign an agreement with the United States on information exchange to facilitate implementation of the Foreign Account Tax Compliance Act;

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 British Virgin Islands is supportive of the underlying policy goal of FATCA to improve tax compliance;

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

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 British Virgin Islands financial institutions to avoid duplicative reporting;

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

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

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 “**British Virgin Islands**” means the United Kingdom and Northern Ireland’s territory of the Virgin Islands.
- 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 the British Virgin Islands, the Financial Secretary or a person or authority designated by him in writing.
- 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 “**British Virgin Islands Financial Institution**” means (i) any Financial Institution organized under the laws of the British Virgin Islands, but excluding any branch of such Financial Institution that is located outside the British Virgin Islands, and (ii) any branch of a Financial Institution not organized under the laws of the British Virgin Islands, if such branch is located in the British Virgin Islands.
- 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 British Virgin Islands Financial Institution**” means any British Virgin Islands Financial Institution that is not a Non-Reporting British Virgin Islands Financial Institution.
- o) The term “**Non-Reporting British Virgin Islands Financial Institution**” means any British Virgin Islands Financial Institution, or other Entity organized under the laws of the British Virgin Islands, that is described in Annex II as a Non-Reporting British Virgin Islands Financial Institution or that otherwise qualifies as a deemed-compliant FFI or an exempt beneficial owner under relevant U.S. Treasury Regulations.
- p) 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 British Virgin Islands 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.

- q) 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(q)(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(q), 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.

- r) 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.

- s) 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).
- t) 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.
- u) 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.
- v) 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.
- w) 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.
- x) 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.
- y) The term “**U.S. Reportable Account**” means a Financial Account maintained by a Reporting British Virgin Islands 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.
- z) 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.
- aa) 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(aa) shall be interpreted in accordance with the U.S. Internal Revenue Code.

- bb) 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.
- cc) The term “**Entity**” means a legal person or a legal arrangement such as a trust.
- dd) The term “**Non-U.S. Entity**” means an Entity that is not a U.S. Person.
- ee) 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.
- ff) 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, the British Virgin Islands 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.
- gg) The term “**U.S. TIN**” means a U.S. federal taxpayer identifying number.

- hh) 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 U.S. Reportable Accounts

1. Subject to the provisions of Article 3 of this Agreement, the British Virgin Islands shall obtain the information specified in paragraph 2 of this Article with respect to all U.S. Reportable Accounts and shall annually exchange this information with the United States on an automatic basis.

2. The information to be obtained and exchanged with respect to each U.S. Reportable Account of each Reporting British Virgin Islands Financial Institution is:

- a) 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;
- b) the account number (or functional equivalent in the absence of an account number);
- c) the name and identifying number of the Reporting British Virgin Islands Financial Institution;
- d) the account balance or value (including, in the case of a Cash Value Insurance Contract or Annuity Contract, the Cash Value or surrender value) 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;
- e) in the case of any Custodial Account:
 - (1) 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

- (2) 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 British Virgin Islands Financial Institution acted as a custodian, broker, nominee, or otherwise as an agent for the Account Holder;
- f) in the case of any Depository Account, the total gross amount of interest paid or credited to the account during the calendar year or other appropriate reporting period; and
- g) in the case of any account not described in subparagraph 2(e) or 2(f) 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 British Virgin Islands Financial Institution is the obligor or debtor, including the aggregate amount of any redemption payments made to the Account Holder during the calendar year or other appropriate reporting period.

Article 3

Time and Manner of Exchange of Information

1. For purposes of the exchange obligation in Article 2 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 laws of the British Virgin Islands.
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) the information to be obtained and exchanged with respect to 2014 is only the information described in subparagraphs 2(a) through 2(d) of Article 2 of this Agreement;
 - b) the information to be obtained and exchanged with respect to 2015 is the information described in subparagraphs 2(a) through 2(g) of Article 2 of this Agreement, except for gross proceeds described in subparagraph 2(e)(2) of Article 2 of this Agreement; and
 - c) the information to be obtained and exchanged with respect to 2016 and subsequent years is the information described in subparagraphs 2(a) through 2(g) of Article 2 of this Agreement;

4. Notwithstanding paragraph 3 of this Article, with respect to each U.S. Reportable Account maintained by a Reporting British Virgin Islands Financial Institution as of June 30, 2014, and subject to paragraph 2 of Article 6 of this Agreement, the British Virgin Islands is not required to obtain and include in the exchanged information the U.S. TIN of any relevant person if such U.S. TIN is not in the records of the Reporting British Virgin Islands Financial Institution. In such a case, the British Virgin Islands shall obtain and include in the exchanged information the date of birth of the relevant person, if the Reporting British Virgin Islands 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 the British Virgin Islands and the United States shall enter into an agreement or arrangement under the mutual agreement procedure provided for in Article 8 of this Agreement, 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 Article 9 of this Agreement, including the provisions limiting the use of the information exchanged.

Article 4

Application of FATCA to British Virgin Islands Financial Institutions

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

- a) identifies U.S. Reportable Accounts and reports annually to the British Virgin Islands Competent Authority the information required to be reported in paragraph 2 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 paragraph 2 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 British Virgin Islands 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, British Virgin Islands retirement plans described in Annex II. For this purpose, a British Virgin Islands retirement plan includes an Entity established or located in, and regulated by, the British Virgin Islands, 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 the British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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) the British Virgin Islands 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; and
- b) the British Virgin Islands 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.

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, the British Virgin Islands may use, and may permit the British Virgin Islands 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.** Subject to any further terms set forth in a competent authority agreement concluded pursuant to paragraph 6 of Article 3 of this Agreement, the U.S. Competent Authority may make an inquiry directly to a Reporting British Virgin Islands Financial Institution where it has reason to believe that administrative errors or other minor errors may have led to incorrect or incomplete information reporting or resulted in other infringements of this Agreement. The U.S. Competent Authority shall notify the British Virgin Islands Competent Authority when the U.S. Competent Authority makes such an inquiry of a Reporting British Virgin Islands Financial Institution regarding the Reporting British Virgin Islands Financial Institution's compliance with the conditions set forth in this Agreement.

2. **Significant Non-Compliance.**

- a) The U.S. Competent Authority shall notify the British Virgin Islands Competent Authority when the U.S. Competent Authority has determined that there is significant non-compliance with the obligations under this Agreement with respect to a Reporting British Virgin Islands Financial Institution. The British Virgin Islands Competent Authority shall apply its domestic law (including applicable penalties) to address the significant non-compliance described in the notice.
- b) If such enforcement actions do not resolve the non-compliance within a period of 18 months after notification of significant non-compliance is first provided by the U.S. Competent Authority, the United States shall treat the Reporting British Virgin Islands Financial Institution as a Nonparticipating Financial Institution pursuant to this subparagraph 2(b).

3. **Reliance on Third Party Service Providers.** The British Virgin Islands may allow Reporting British Virgin Islands Financial Institutions to use third party service providers to fulfill the obligations imposed on such Reporting British Virgin Islands Financial Institutions by the British Virgin Islands, as contemplated in this Agreement, but these obligations shall remain the responsibility of the Reporting British Virgin Islands Financial Institutions.

4. **Prevention of Avoidance.** The British Virgin Islands shall implement as it deems 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

I. **Treatment of Passthru Payments and Gross Proceeds.** The Parties are committed to work together to develop a practical and effective alternative approach to achieve

the policy objectives of foreign passthru payment and gross proceeds withholding that minimizes burden.

- II. **Documentation of Accounts Maintained as of June 30, 2014.** With respect to U.S. Reportable Accounts maintained by a Reporting British Virgin Islands Financial Institution as of June 30, 2014, the British Virgin Islands commits to establish, by January 1, 2017, for reporting with respect to 2017 and subsequent years, rules requiring Reporting British Virgin Islands Financial Institutions to obtain the U.S. TIN of each Specified U.S. Person as required pursuant to subparagraph 2(a) of Article 2 of this Agreement.

Article 7

Consistency in the Application of FATCA to Partner Jurisdictions

1. The British Virgin Islands 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 British Virgin Islands 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 the British Virgin Islands described in Articles 2 and 3 of this Agreement, and subject to the same terms and conditions as described therein and in Articles 5, 6, 7, 10 and 11 of this Agreement.
2. The United States shall notify the British Virgin Islands 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 signing of the agreement incorporating the more favorable terms, unless the British Virgin Islands declines in writing the application thereof.

Article 8

Mutual Agreement Procedure

1. Where difficulties or doubts arise between the Parties regarding the implementation, application, 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 may communicate with each other directly for purposes of reaching a mutual agreement under this Article.

Article 9

Confidentiality

1. The British Virgin Islands Competent Authority shall treat any information received from the United States pursuant to Article 5 of this Agreement as confidential and shall only disclose such information as may be necessary to carry out its obligations under this Agreement. Such information may be disclosed in connection with court proceedings or

administrative actions related to the performance of the obligations of the British Virgin Islands under this Agreement.

2. Information provided to the U.S. Competent Authority pursuant Articles 2 and 5 of this Agreement shall be treated as confidential and may be disclosed only to persons or authorities (including courts and administrative bodies) of the Government of the United States concerned with the assessment, collection, or administration of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, U.S. federal taxes, or the oversight of such functions. Such persons or authorities shall use such information only for such purposes. Such persons 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 British Virgin Islands 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 Parties that allows for the exchange of tax information.

Article 10

Consultations and Amendments

1. In case any difficulties in the implementation of this Agreement arise, either Party may, independently of the mutual agreement procedure described in paragraph 1 of Article 8 of this Agreement, 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 12 of this Agreement.

Article 11

Annexes

The Annexes form an integral part of this Agreement.

Article 12

Term of Agreement

1. This Agreement shall enter into force on the date of the British Virgin Islands' written notification to the United States that the British Virgin Islands has completed its necessary internal procedures for entry into force of this Agreement.

2. Either Party may terminate this Agreement by giving notice of termination in writing to the other Party. Such termination shall become effective on the first day of the month following the expiration of a period of 12 months after the date of the notice of termination.

3. The Parties shall, prior to December 31, 2016, consult in good faith to amend this Agreement as necessary to reflect progress on the commitments set forth in Article 6 of this Agreement.

4. If this Agreement is terminated, both Parties shall remain bound by the provisions of Article 9 of this Agreement with respect to any information obtained under this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

Done at Washington DC, USA, in duplicate, in the English language, this 30th day of June, 2014.

**FOR THE GOVERNMENT OF
THE BRITISH VIRGIN ISLANDS:**

Dr. the Hon. D. Orlando Smith, OBE
Premier of the British Virgin Islands

**FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:**

Mr. Mark Mazur
Deputy Assistant Secretary (Tax Policy)

ANNEX I

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

5. General.

a) The British Virgin Islands shall require that Reporting British Virgin Islands 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 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, the British Virgin Islands may permit Reporting British Virgin Islands 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. The British Virgin Islands may permit Reporting British Virgin Islands 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).

6. **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 British Virgin Islands 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 the British Virgin Islands 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 the British Virgin Islands 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 the British Virgin Islands requires reporting or withholding with respect to insurance products held by residents of the British Virgin Islands).
- (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 British Virgin Islands Financial Institution must review electronically searchable data maintained by the Reporting British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands Financial Institution obtains, or has previously reviewed and 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 (which may be on an IRS Form W-8 or other similar agreed form);

(ii) 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*

(iii) A copy of the Account Holder’s Certificate of Loss of Nationality of the United States or a reasonable explanation of:

- (i) The reason the Account Holder does not have such a certificate despite relinquishing U.S. citizenship; **or**
- (ii) 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 British Virgin Islands Financial Institution obtains, or has previously reviewed and 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 (which may be on an IRS Form W-8 or other similar agreed form); **and**
- (ii) 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 British Virgin Islands Financial Institution obtains, or has previously reviewed and 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 (which may be on an IRS Form W-8 or other similar agreed form); **and**
- (ii) 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 British Virgin Islands Financial Institution obtains, or has previously reviewed and 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 (which may be on an IRS Form W-8 or other similar agreed form); **or**
- (ii) 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 British Virgin Islands 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 British Virgin Islands Financial Institution must review electronically searchable data maintained by the Reporting British Virgin Islands Financial Institution for any of the U.S. indicia described in subparagraph B(1) of this section.

(2) **Paper Record Search.** If the Reporting British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands Financial Institution is not required to perform the paper record search described in subparagraph D(2) of this section if the Reporting British Virgin Islands 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 British Virgin Islands Financial Institution;

(C) The Account Holder's telephone number(s) currently on file, if any, with the Reporting British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands Financial Institution is not required to report information about such account with respect to 2014, but must report information about the account on an annual basis thereafter.

(2) If a Preexisting Individual Account is not a High Value Account as of June 30, 2014, but becomes a High Value Account as of the last day of 2015 or any subsequent calendar year, the Reporting British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands Financial Institution applies the enhanced review procedures described in paragraph D of this section to a High Value Account, the Reporting British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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.

7. **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 British Virgin Islands Financial Institution elects otherwise, either with respect to all New Individual Accounts or, separately, with respect to any clearly identified group of such accounts, where the implementing rules in the British Virgin Islands 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 British Virgin Islands

Financial Institution must obtain a self-certification, which may be part of the account opening documentation, that allows the Reporting British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands Financial Institution to know, or have reason to know, that the original self-certification is incorrect or unreliable, the Reporting British Virgin Islands 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 British Virgin Islands Financial Institution is unable to obtain a valid self-certification, the Reporting British Virgin Islands Financial Institution must treat the account as a U.S. Reportable Account.

8. **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 British Virgin Islands Financial Institution elects otherwise, either with respect to all Preexisting Entity Accounts or, separately, with respect to any clearly identified group of such accounts, where the implementing rules in the British Virgin Islands provide for such an election, a Preexisting Entity Account with an account balance or value that does not exceed \$250,000 as of June 30, 2014, is not required to be reviewed, identified, or reported as a U.S. Reportable Account until the account balance or value exceeds \$1,000,000.

b) **Entity Accounts Subject to Review.** A Preexisting Entity Account that has an account balance or value that exceeds \$250,000 as of June 30, 2014, and a Preexisting Entity Account that does not exceed \$250,000 as of June 30, 2014 but the account balance or value of which exceeds \$1,000,000 as of the last day of 2015 or any subsequent calendar year, must be reviewed in accordance with the procedures set forth in paragraph D of this section.

c) **Entity Accounts With Respect to Which Reporting Is Required.** With respect to Preexisting Entity Accounts described in paragraph B of this section, only accounts that are held by one or more Entities that are Specified U.S. Persons, or by Passive NFFEs with one or more Controlling Persons who are U.S. citizens or residents, shall be treated as U.S. Reportable Accounts. In addition, accounts held by Nonparticipating Financial Institutions shall be treated as accounts for which aggregate payments as described in subparagraph 1(b) of Article 4 of the Agreement are reported to the British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands Financial Institution may determine that the Account Holder is a British Virgin Islands Financial Institution or other Partner Jurisdiction Financial Institution if the Reporting British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands Financial Institution or other Partner Jurisdiction Financial Institution, then the Reporting British Virgin Islands 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 British Virgin Islands Financial Institution:

(i) 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*

(ii) 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands Financial Institution may rely on:

(i) Information collected and maintained pursuant to AML/KYC Procedures in the case of a Preexisting Entity Account held by one or more NFFEs with an account balance or value that does not exceed \$1,000,000; *or*

(ii) 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 British Virgin Islands 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 British Virgin Islands Financial Institution must redetermine the status of the account in accordance with the procedures set forth in paragraph D of this section.

9. **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 British Virgin Islands 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 the British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands Financial Institution must determine whether the Account Holder is: (i) a Specified U.S. Person; (ii) a British Virgin Islands 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 British Virgin Islands Financial Institution may determine that the Account Holder is an Active NFFE, a British Virgin Islands Financial Institution, or other Partner Jurisdiction Financial Institution if the Reporting British Virgin Islands 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 British Virgin Islands Financial Institution, as applicable.

2. If the Account Holder is a British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands Financial Institution must treat the account as a U.S. Reportable Account.

b) If the Account Holder is *a Passive NFFE*, the Reporting British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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. **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 British Virgin Islands Financial Institution may not rely on a self-certification or documentary evidence if the Reporting British Virgin Islands 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 British Virgin Islands Financial Institution pursuant to the anti-money laundering or similar requirements of the British Virgin Islands to which such Reporting British Virgin Islands 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 the British Virgin Islands or another Partner Jurisdiction and that is not a Financial Institution.

3. **Passive NFFE.** A “Passive NFFE” means any NFFE that is not (i) an Active NFFE, or (ii) a withholding foreign partnership or withholding foreign trust pursuant to relevant U.S. Treasury Regulations.
4. **Active NFFE.** An “Active NFFE” means any NFFE that meets any of the following criteria:
 - a) Less than 50 percent of the NFFE’s gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50 percent of the assets held by the NFFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
 - b) The stock of the NFFE is regularly traded on an established securities market or the NFFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
 - c) The NFFE is organized in a U.S. Territory and all of the owners of the payee are bona fide residents of that U.S. Territory;
 - d) The NFFE is a government (other than the U.S. government), a political subdivision of such government (which, for the avoidance of doubt, includes a state, province, county, or municipality), or a public body performing a function of such government or a political subdivision thereof, a government of a U.S. Territory, an international organization, a non-U.S. central bank of issue, or an Entity wholly owned by one or more of the foregoing;
 - e) Substantially all of the activities of the NFFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an entity shall not qualify for NFFE status if the entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
 - f) The NFFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFFE shall not qualify for this exception after the

date that is 24 months after the date of the initial organization of the NFFE;

- g) The NFFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganizing with the intent to continue or recommence operations in a business other than that of a Financial Institution;
- h) The NFFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution;
- i) The NFFE is an “excepted NFFE” as described in relevant U.S. Treasury Regulations; *or*
- j) The NFFE meets all of the following requirements:
 - i. It is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organization, business league, chamber of commerce, labor organization, agricultural or horticultural organization, civic league or an organization operated exclusively for the promotion of social welfare;
 - ii. It is exempt from income tax in its jurisdiction of residence;
 - iii. It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - iv. The applicable laws of the NFFE’s jurisdiction of residence or the NFFE’s formation documents do not permit any income or assets of the NFFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFFE’s charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFFE has purchased; *and*
 - v. The applicable laws of the NFFE’s jurisdiction of residence or the NFFE’s formation documents require that, upon the NFFE’s liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organization, or escheat to the government of the NFFE’s jurisdiction of residence or any political subdivision thereof.

5. **Preexisting Account.** A “Preexisting Account” means a Financial Account maintained by a Reporting British Virgin Islands 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 British Virgin Islands Financial Institution is required to aggregate all Financial Accounts maintained by the Reporting British Virgin Islands Financial Institution, or by a Related Entity, but only to the extent that the Reporting British Virgin Islands 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 British Virgin Islands Financial Institution is required to take into account all Financial Accounts that are maintained by the Reporting British Virgin Islands Financial Institution, or by a Related Entity, but only to the extent that the Reporting British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Specified U.S. Person. A Reporting British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands Financial Institution has actual knowledge, or reason to know, that the beneficiary is a Specified U.S. Person, the Reporting British Virgin Islands 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, the British Virgin Islands may permit Reporting British Virgin Islands Financial Institutions to rely on due diligence procedures performed by third parties, to the extent provided in relevant U.S. Treasury Regulations.

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

1. **Applicability.** If the British Virgin Islands has provided a written notice to the United States prior to entry into force of this Agreement that, as of July 1, 2014, the British Virgin Islands lacked the legal authority to require Reporting British Virgin Islands 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 British Virgin Islands 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 the British Virgin Islands has the ability to compel Reporting British Virgin Islands Financial Institutions to comply with the due diligence procedures described in section III or section V of this Annex I, as applicable, which date the British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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) The British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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) The British Virgin Islands must report on any closed account that is identified pursuant to subparagraph G(2)(c) of this section as a U.S. Reportable Account or as an account held by a Nonparticipating Financial Institution, as applicable, by the date that is the later of: (i) September 30 next following the date that the account is identified as a U.S. Reportable Account or as an account held by a Nonparticipating Financial Institution, as applicable, or (ii) 90 days after the account is identified as a U.S. Reportable Account or as an account held by a Nonparticipating Financial Institution, as applicable. The information required to be reported for such a closed account is any information that would have been reportable under this Agreement if the account had been identified as a U.S. Reportable Account or as an account held by a Nonparticipating Financial Institution, as applicable, as of the date the account was opened.

H. **Alternative Procedures for New Entity Accounts Opened on or after July 1, 2014, and before January 1, 2015.** For New Entity Accounts opened on or after July 1, 2014, and before January 1, 2015, either with respect to all New Entity Accounts or, separately, with respect to any clearly identified group of such accounts, the British Virgin Islands may permit Reporting British Virgin Islands Financial Institutions to treat such accounts as Preexisting Entity Accounts and apply the due diligence procedures related to Preexisting Entity Accounts specified in section IV of this Annex I in lieu of the due diligence procedures specified in section V of this Annex I. In this case, the due diligence procedures of section IV of this Annex I must

be applied without regard to the account balance or value threshold specified in paragraph A of section IV of this Annex I

Annex II

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

This Annex II may be modified by a mutual written decision entered into between the Competent Authorities of the British Virgin Islands and the United States: (1) to include additional Entities and accounts that present a low risk of being used by U.S. Persons to evade U.S. tax and that have similar characteristics to the Entities and accounts described in this Annex II as of the date of signature of the Agreement; or (2) to remove Entities and accounts that, due to changes in circumstances, no longer present a low risk of being used by U.S. Persons to evade U.S. tax. Any such addition or removal shall be effective on the date of signature of the mutual decision, unless otherwise provided therein. Procedures for reaching such a mutual decision may be included in the mutual agreement or arrangement described in paragraph 6 of Article 3 of the Agreement.

- III. **Exempt Beneficial Owners other than Funds.** The following Entities shall be treated as Non-Reporting British Virgin Islands 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 the British Virgin Islands, any political subdivision of the British Virgin Islands (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of the British Virgin Islands or any one or more of the foregoing (each, a “British Virgin Islands Governmental Entity”). This category is comprised of the integral parts, controlled entities, and political subdivisions of the British Virgin Islands.
1. An integral part of the British Virgin Islands means any person, organization, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of the British Virgin Islands. The net earnings of the governing authority must be credited to its own account or to other accounts of the British Virgin Islands, 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 the British Virgin Islands or that otherwise constitutes a separate juridical entity, provided that:
 - a) The Entity is wholly owned and controlled by one or more British Virgin Islands 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 British Virgin Islands 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 British Virgin Islands 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 the British Virgin Islands; 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 the British Virgin Islands itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the British Virgin Islands, whether or not owned in whole or in part by the British Virgin Islands.

IV. **Funds that Qualify as Exempt Beneficial Owners.** The following Entities shall be treated as Non-Reporting British Virgin Islands 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 the British Virgin Islands 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 the British Virgin Islands; and
3. Satisfies at least one of the following requirements:
 - a) The fund is generally exempt from tax in the British Virgin Islands on investment income under the laws of the British Virgin Islands 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 the British Virgin Islands 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 the British Virgin Islands 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 the British Virgin Islands.

C. **Pension Fund of an Exempt Beneficial Owner.** A fund established in the British Virgin Islands 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 British Virgin Islands 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.

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

A. **Financial Institution with a Local Client Base.** A Financial Institution satisfying the following requirements:

1. The Financial Institution must be licensed and regulated as a financial institution under the laws of the British Virgin Islands;
2. The Financial Institution must have no fixed place of business outside of the British Virgin Islands. 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 the British Virgin Islands. For this purpose, a Financial Institution shall not be considered to have solicited customers or Account Holders outside the British Virgin Islands 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 the British Virgin Islands 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 the British Virgin Islands to identify resident Account Holders for purposes of either information reporting or withholding of tax with respect to Financial Accounts held by residents or for purposes of satisfying the British Virgin Islands'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 the British Virgin Islands;
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 the British Virgin Islands (including a U.S. Person that was a resident of the British

Virgin Islands when the Financial Account was opened but subsequently ceases to be a resident of the British Virgin Islands) or any Passive NFFE with Controlling Persons who are U.S. residents or U.S. citizens who are not residents of the British Virgin Islands;

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 the British Virgin Islands or by a Passive NFFE with Controlling Persons who are U.S. residents or U.S. citizens who are not residents of the British Virgin Islands is identified, the Financial Institution must report such Financial Account as would be required if the Financial Institution were a Reporting British Virgin Islands 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 the British Virgin Islands 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 British Virgin Islands 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 the British Virgin Islands and, with the exception of any Related Entity that is a retirement fund described in paragraphs A through C 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 the British Virgin Islands.

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 the British Virgin Islands 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 the British Virgin Islands, 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 C 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 British Virgin Islands 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 British Virgin Islands 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.

VI. **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 British Virgin Islands Financial Institutions that shall be treated as deemed-compliant FFIs for purposes of section 1471 of the U.S. Internal Revenue Code. In addition, paragraph F of this section provides special rules applicable to an Investment Entity.

- A. **Trustee-Documented Trust.** A trust established under the laws of the British Virgin Islands 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 to the British Virgin Islands 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 the British Virgin Islands 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 corporation⁸ organized under the laws of the British Virgin Islands that is not a qualified intermediary, withholding foreign partnership, or withholding foreign trust pursuant to relevant U.S. Treasury Regulations; (b) the Financial Institution is wholly owned, directly or indirectly, by a Reporting U.S. Financial Institution that agrees to act, or requires an affiliate of the Financial Institution to act, as a sponsoring entity for the Financial Institution; and (c) the Financial Institution shares a common electronic account system with the sponsoring entity that enables the sponsoring entity to identify all Account Holders and payees of the Financial Institution and to access all account and customer information maintained by the Financial Institution including, but not limited to, customer identification information, customer documentation, account balance, and all payments made to the Account Holder or payee.
 3. The sponsoring entity complies with the following requirements:
 - a) The sponsoring entity is authorized to act on behalf of the Financial Institution (such as a fund manager, trustee, a licensed registered agent, 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

⁸ 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.

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 British Virgin Islands 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 British Virgin Islands 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, licensed registered agent, corporate director, 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 British Virgin Islands 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 British Virgin Islands 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 the British Virgin Islands 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 the British Virgin Islands 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 British Virgin Islands 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 the British Virgin Islands 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.

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

A. **Certain Savings Accounts.**

1. **Retirement and Pension Account.** A retirement or pension account maintained in the British Virgin Islands that satisfies the following requirements.
 - 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 the British Virgin Islands 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 the British Virgin Islands 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 the British Virgin Islands (other than an insurance or Annuity Contract) that satisfies the following requirements.-
 - 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 the British Virgin Islands 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 the British Virgin Islands 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 the British Virgin Islands 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 the British Virgin Islands 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, or a construction or engineering contract entered into between the account holder and a counterparty, 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, the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease, or to secure payment by the account

holder to the counterparty of costs incurred under the contract or amounts paid in settlement of disputes under the contract;

- 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, lessee or counterparty (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, the lease terminates, or the specified terms in the contract have been satisfied, and in the case of a construction or engineering contract, deposits to the account cannot be withdrawn except upon satisfaction of the specified terms in the contract;
 - 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 the British Virgin Islands 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.

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

- A. **Reporting Model 1 FFI.** The term Reporting Model 1 FFI means a Financial Institution with respect to which a non-U.S. government or agency thereof agrees to obtain and exchange information pursuant to a Model 1 IGA, other than a Financial Institution treated as a Nonparticipating Financial Institution under the Model 1 IGA. For purposes of this definition, the term Model 1 IGA means an arrangement between the United States or the Treasury Department and a non-U.S. government or one or more agencies thereof to implement FATCA through reporting by Financial Institutions to such non-U.S. government or agency thereof, followed by automatic exchange of such reported information with the IRS.
- B. **Participating FFI.** The term Participating FFI means a Financial Institution that has agreed to comply with the requirements of an FFI Agreement, including a Financial Institution described in a Model 2 IGA that has agreed to comply with the requirements of an FFI Agreement. The term Participating FFI also includes a qualified intermediary branch of a Reporting U.S. Financial Institution, unless such

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

Made by the Minister this 30th day of September, 2014.

(Sgd) Dr. D. Orlando Smith, OBE,
Minister for Finance.