



Circular

IRDA/F&A/Cir/GLD/222/12/2015

Date: 21st December, 2015

To

All Insurers,

Dear Sir/ Madam,

Registration and submission of information to CBDT for compliance with obligations under Foreign Account Tax Compliance Act (FATCA)/ Common Reporting Standards (CRS).

1. The Authority, vide circular dt. 31.12.2014, had advised all insurers (excluding GIC) to get themselves registered with the United States Internal Revenue Service (US-IRS) and obtain a Global Intermediary Identification Number (GIIN), in order to avoid withholding of tax on payments made to specified entities/ individuals. The agreement with the US government was then at discussion and negotiation stage.
2. The government of India has since, entered into an Inter Governmental Agreement (IGA) with the United States of America on 9th July, 2015. India has also become a part of the Multilateral Competent Authority Agreement (MCAA) on 3rd June, 2015 for Automatic Exchange of Information (AEOI) on a mutual basis.
3. As a part of enabling legal framework to ensure compliance with obligations under the above agreements, the Central Board of Direct Taxes (CBDT) has notified the set of new Rules 114F to 114H to the Income Tax Rules, 1962 vide notification of Income Tax (11th Amendment) Rules, 2015 dt. 7th August, 2015.
4. The Rules have introduced definitions of certain new terms (Rule 114F), collection, recording and reporting of information (Rule 114G) and due diligence requirements (Rule 114H). A format of reporting the information of Reportable Accounts by the Reporting Financial Institutions, Form 61B has also been notified as a part of the Rules. Further, vide notification dt. 25th August, 2015, the CBDT has notified the procedure for registration on their e-filing website and filing reports under digital signature.

Guidance notes on implementation of reporting requirements under Rules 114F to 114H of the Income Tax Rules have also been issued by the CBDT. The same are being reviewed for revision, if required. These notifications are available on the website www.incometaxindia.gov.in and are also attached as annexure to this circular for ease of reference.

5. All insurers (including GIC) are hereby advised to register on the e-filing portal of the income tax department and take the necessary steps to comply with the reporting requirements. The submissions have to be made under the digital signature of the Designated Director as defined in the Rules referred above. The reporting is to be made by uploading of Form 61B or 'NIL' report as applicable.

6. Compliance and Reporting under FATCA/ CRS:

(i) Insurers would have to segregate the reportable accounts into 'pre-existing' and 'new' and also separately identify the individual and entity accounts as defined in the Rule 114H, for compliance with the applicable due diligence procedures.

(ii) All Insurers (Reporting Entities) must undertake a value search for new accounts opened after September 1, 2015 and up to October 31, 2015, by December 31, 2015. The complete due diligence wherever required, in case of such accounts, must be completed by the 31st March, 2016. Insurers shall also ensure the on-boarding of all new accounts opened on or after November 1, 2015 based on FATCA/ CRS compliant forms and documentation.

(iii) For ascertaining the value of Reportable Accounts in INR terms, the value searches on various dates as indicated in the Rules, insurers may refer the spot reference rates published by the Foreign Exchange Dealers Association of India (FEDAI) on their website on the following link:

<http://www.fedai.org.in/RevaluationRates.aspx> .

(iv) All the insurers are advised to develop suitable IT systems for generating and maintaining the information relating to the reportable accounts and also for carrying out the due diligence procedures. The IT systems should also provide adequate functionality for audit.

(v) The requirements and obligations stipulated under the Income Tax Rules are towards implementation of the provisions of the FATCA and CRS and are based on agreements of the Government of India with the USA and other countries. Therefore, appropriate Corporate Governance mechanism to ensure the compliance with the reporting requirements must be put in place with oversight of the MD/ CEO and the Designated Director or any equivalent official of the insurers.

Insurance Companies are advised to place this communication before their Board in the next meeting and take the required initiatives for compliance with the directions/ obligations as envisaged under the notifications.

These directions are issued under Section 14 (2) of the IRDA Act, 1999 and any non-compliance with the same shall be liable to appropriate regulatory action.



(V R Iyer)

Member F&I