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To: Steve Cordi, Chair
and MTC Executive Committee

From: Shirley Sicilian, General Counsel

Date: May 4, 2009

Subject: **Model Combined Reporting Statute - Tax Haven Provision**

I. Introduction

At last year's May meeting, the Executive Committee heard public comment from representatives of the Isle of Man expressing concern with the MTC model combined reporting statute's definition of "tax haven," which references determinations and standards set by the OECD. In the intervening year, the Isle of Man has kept the Commission informed on expected developments at the OECD regarding those determinations and standards. In March, the Commission staff met with Jersey and heard similar concerns and expectations for OECD developments (the staff expects to meet with another jurisdiction, Guernsey, on May 5, 2009).

The OECD met in April 2009, as part of the G20 conference in London, and gave a detailed report re-examining its membership, architecture, and role in setting standards and evaluating progress regarding tax havens. The OECD has now restructured its list into three categories, as well as expanded it from the original 41 non-OECD jurisdictions assessed in the 2000 Report to 84 jurisdictions that include OECD countries and countries that participate in the OECD Committee on Fiscal Affairs as observers. Notably, the Isle of Man, Jersey, and Guernsey are now listed along with such countries as the United States as jurisdictions that have substantially implemented the internationally agreed tax standard.

II. Recommendation

Because the OECD has restructured its list, the Executive Committee may wish to consider asking the Uniformity Committee to review these developments to determine whether changes to the model statute, or a model regulation, are needed.

The following sections describe OECD developments on this issue and how they may impact the Commission's model statute.

III. The Commission’s Model Combined Reporting Statute

The model statute requires world-wide combination but allows a water’s edge election. The water’s edge election includes all unitary members incorporated in the U.S. It also includes a unitary member regardless of where the member is incorporated if certain conditions are met. One such condition is that the member is “doing business in a tax haven...” (See §5.A.vii.).

A jurisdiction is a “tax haven” under the model if “*during the tax year in question*” it:

- 1) “is identified by the Organization for Economic Co-operation and Development (OECD) as a tax haven ...”, *or*
- 2) “exhibits the...characteristics established by the OECD in its 1998 report...as indicative of a tax haven...regardless of whether it is listed by the OECD as an un-cooperative tax-haven...” (See MTC Model CR statute, §1.I.)

IV. The Concern

The Commission has heard from two jurisdictions, Isle of Man and Jersey, and will soon hear from a third, Guernsey, regarding concerns that the OECD list of tax haven jurisdictions is not appropriate for the purposes of our model. For example, Isle of Man wrote in November 2007 that “the proposed model statute’s reference to the 1998 OECD designation of tax havens’ does not reflect current facts and should be omitted from the model language.” To illustrate its concern, Isle of Man pointed to various statements of the OECD, including a statement by the Financial Action Task Force that reviewed the island’s money-laundering defenses and concluded with respect to that issue that the Island is a “co-operating jurisdiction...”

In addition, this March the Commission staff heard from both Isle of Man and Jersey that in April the OECD would announce a restructuring of its list, and that this restructuring could result in a list that would not be appropriate for our purposes (e.g., a list of jurisdictions that are not tax havens, rather than a list of jurisdictions that are tax havens). In April, the OECD did announce a restructuring of its list and a refocusing of its tax haven efforts.

V. Analysis

- *The model’s interaction with OECD List*

There may be some confusion over how the 1998 OECD report is used in the model statute. The model does not lock-in to a statutory list based on what the OECD determined in 1998 (or, more accurately, 2000). Rather, it applies the OECD list as it stands “during the tax year in question.” This language allows for states to apply updated OECD information. So, for example, if a taxpayer has an affiliate doing business in a jurisdiction that is on the OECD tax haven list in 2009, then the taxpayer must include that affiliate in its water’s edge report for tax year 2009. If the OECD removes the jurisdiction from its list of tax havens in 2010, then the taxpayer would not include the

affiliate in its water's edge report for tax year 2010. Since 2005, the OECD has been publishing annual assessments showing the extent of each cooperative tax haven's progress in implementing its commitments. At its April 2009 meeting, OECD reassessed its role in reviewing tax haven progress, and announced that it would reinforce its involvement by undertaking "more robust reviews, to strengthen the implementation of the standard." The OECD also maintains a web site that provides updated information on the status of each of the 35 originally listed tax havens as either cooperative or uncooperative.¹

The model does reference the OECD's 1998 report, but only the OECD's identification in that report of the characteristics that define a tax haven generally. In fact, the 1998 Report did not identify specific tax haven jurisdictions at all. The 1998 Report only provides the analytical framework for making such an evaluation. (Specific tax havens were identified in 2000.) The 1998 Report makes clear that while "no or low tax" is a gateway criterion to determine whether further analysis is necessary, it does not by itself indicate a harmful tax practice. A number of additional characteristics should be evaluated to determine whether a jurisdiction is a tax haven. These characteristics, established by the OECD in its 1998 report, are referenced in the model statute and have become the international agreed standard. They were endorsed by G20 Finance Ministers in 2004 and by the UN Committee of Experts on International Co-operation in Tax Matters in 2008.

- *The OECD April 2009 restructured list*

Last month, the OECD announced a restructuring, expansion, and update of its list. The new list is expanded from the original 41 non-OECD jurisdictions assessed in the 2000 Report to 84 jurisdictions that include OECD countries and countries that participate in the OECD Committee on Fiscal Affairs as observers.

The list is restructured into three categories: (1) jurisdictions that have substantially implemented the internationally agreed tax standard, (2) jurisdictions that have committed to the internationally agreed tax standard, but have not yet substantially implemented it, and (3) Jurisdictions that have not committed to the internationally agreed tax standard. The second category contains two sub-categories: (2)(a) tax havens, and (2)(b) other financial centers. "Tax havens" are jurisdictions that the OECD identified in 2000 as meeting the tax haven criteria described in its 1998 report. "Other financial centers" are jurisdictions in addition to the original "tax havens" that were identified in the outcomes of the OECD's Berlin 2004 Global Forum's meeting.

The restructured list also updates the OECD assessment of each jurisdiction's progress. OECD pledges in its April report to continue evaluating progress through "robust reviews."

A copy of the new list is provided in Attachment A. Attachment B is a timeline of developments. Attachment C is a statement submitted to the Executive Committee by the Isle of Man in light of the recent developments.

¹ http://www.oecd.org/document/19/0,3343,en_2649_33745_1903251_1_1_1_1,00.html

Attachment A

A PROGRESS REPORT ON THE JURISDICTIONS SURVEYED BY THE OECD GLOBAL FORUM IN IMPLEMENTING THE INTERNATIONALLY AGREED TAX STANDARD¹

Progress made as at 2nd April 2009

| Jurisdictions that have substantially implemented the internationally agreed tax standard | | | |
|---|-------------|--------------------|----------------------|
| Argentina | Germany | Korea | Seychelles |
| Australia | Greece | Malta | Slovak Republic |
| Barbados | Guernsey | Mauritius | South Africa |
| Canada | Hungary | Mexico | Spain |
| China ² | Iceland | Netherlands | Sweden |
| Cyprus | Ireland | New Zealand | Turkey |
| Czech Republic | Isle of Man | Norway | United Arab Emirates |
| Denmark | Italy | Poland | United Kingdom |
| Finland | Japan | Portugal | United States |
| France | Jersey | Russian Federation | US Virgin Islands |

| Jurisdictions that have committed to the internationally agreed tax standard, but have not yet substantially implemented | | | | | |
|--|--------------------|----------------------|--------------------------|--------------------|----------------------|
| Jurisdiction | Year of Commitment | Number of Agreements | Jurisdiction | Year of Commitment | Number of Agreements |
| Tax Havens³ | | | | | |
| Andorra | 2009 | (0) | Marshall Islands | 2007 | (1) |
| Anguilla | 2002 | (0) | Monaco | 2009 | (1) |
| Antigua and Barbuda | 2002 | (7) | Montserrat | 2002 | (0) |
| Aruba | 2002 | (4) | Nauru | 2003 | (0) |
| Bahamas | 2002 | (1) | Neth. Antilles | 2000 | (7) |
| Bahrain | 2001 | (6) | Niue | 2002 | (0) |
| Belize | 2002 | (0) | Panama | 2002 | (0) |
| Bermuda | 2000 | (3) | St Kitts and Nevis | 2002 | (0) |
| British Virgin Islands | 2002 | (3) | St Lucia | 2002 | (0) |
| Cayman Islands ⁴ | 2000 | (8) | St Vincent & Grenadines | 2002 | (0) |
| Cook Islands | 2002 | (0) | Samoa | 2002 | (0) |
| Dominica | 2002 | (1) | San Marino | 2000 | (0) |
| Gibraltar | 2002 | (1) | San Marino | 2000 | (0) |
| Grenada | 2002 | (1) | Turks and Caicos Islands | 2002 | (0) |
| Liberia | 2007 | (0) | Vanuatu | 2003 | (0) |
| Liechtenstein | 2009 | (1) | | | |
| Other Financial Centres | | | | | |
| Austria ⁵ | 2009 | (0) | Guatemala | 2009 | (0) |
| Belgium ⁵ | 2009 | (1) | Luxembourg ⁵ | 2009 | (0) |
| Brunei | 2009 | (5) | Singapore | 2009 | (0) |
| Chile | 2009 | (0) | Switzerland ⁵ | 2009 | (0) |

| Jurisdictions that have not committed to the internationally agreed tax standard | | | |
|--|----------------------|--------------|----------------------|
| Jurisdiction | Number of Agreements | Jurisdiction | Number of Agreements |
| Costa Rica | (0) | Philippines | (0) |
| Malaysia (Labuan) | (0) | Uruguay | (0) |

¹ The internationally agreed tax standard, which was developed by the OECD in co-operation with non-OECD countries and which was endorsed by G20 Finance Ministers at their Berlin Meeting in 2004 and by the UN Committee of Experts on International Cooperation in Tax Matters at its October 2008 Meeting, requires exchange of information on request in all tax matters for the administration and enforcement of domestic tax law without regard to a domestic tax interest requirement or bank secrecy for tax purposes. It also provides for extensive safeguards to protect the confidentiality of the information exchanged.

² Excluding the Special Administrative Regions, which have committed to implement the internationally agreed tax standard.

³ These jurisdictions were identified in 2000 as meeting the tax haven criteria as described in the 1998 OECD report.

⁴ The Cayman Islands has enacted legislation that allows it to exchange information unilaterally and has identified 12 countries with which it is prepared to do so. This legislation is being reviewed by the OECD.

⁵ Austria, Belgium, Luxembourg and Switzerland withdrew their reservations to Article 26 of the OECD Model Tax Convention. Belgium has already written to 48 countries to propose the conclusion of protocols to update Article 26 of their existing treaties. Austria, Luxembourg and Switzerland announced that they have started to write to their treaty partners to indicate that they are now willing to enter into renegotiations of their treaties to include the new Article 26.

Attachment B

OECD Tax Haven Reports: Time-line and Summary Findings

- 1998 Report - <http://www.oecd.org/dataoecd/33/1/1904184.pdf>
Established factors for identifying tax havens.
- 2000 Progress Report - <http://www.oecd.org/dataoecd/9/61/2090192.pdf>
41 jurisdictions reviewed
 - 35 identified as tax havens (including Isle of Man)
 - 6 which made advance commitments were not included on that list
- 2001 Progress Report – <http://www.oecd.org/dataoecd/60/5/2664450.pdf>
40 tax havens listed (Tonga no longer a tax haven).
 - 29 tax havens
 - 11 committed tax havens (including Isle of Man)1 jurisdiction no longer considered tax haven
- 2002 OECD List of Uncooperative Tax Havens - http://www.oecd.org/document/19/0,3343,en_2649_37427_2082323_1_1_1_37427,00.html
39 tax havens listed (Maldives, Tonga no longer considered tax havens)
 - 7 uncooperative tax havens
 - 32 cooperative tax havens (including Isle of Man)2 jurisdictions no longer considered tax havens
- 2004 Progress Report - <http://www.oecd.org/dataoecd/60/33/30901115.pdf>
39 tax havens listed (Maldives, Tonga no longer considered tax havens)
 - 5 uncooperative tax havens
 - 34 cooperative tax havens (including Isle of Man)2 jurisdictions no longer considered tax havens
- 2005 Assessment - <http://www.oecd.org/dataoecd/28/55/35670025.pdf>
Provides outcomes and next steps from a 2-day global forum on taxation.
- 2006 Progress Assessment - http://www.oecd.org/document/60/0,3343,en_2649_33745_36791868_1_1_1_1,00.html
Provides tables showing progress for each jurisdiction
- 2007 Progress Assessment – http://www.oecd.org/document/29/0,3343,en_2649_33745_39473821_1_1_1_1,00.html
Provides several tables showing progress for each jurisdiction.
- April 28, 2008 Web Site- http://www.oecd.org/document/19/0,3343,en_2649_33745_1903251_1_1_1_1,00.html
39 tax havens listed.
 - 3 uncooperative tax havens (Andorra, Liechtenstein, Monaco)
 - 35 cooperative tax havens (including Isle of Man)
 - 1 effectively treated as cooperative2 jurisdictions no longer considered tax havens.
- April 2009 - Restructured and Updated List - http://www.oecd.org/document/57/0,3343,en_2649_34487_42496569_1_1_1_1,00.html
4 jurisdictions not committed to internationally agreed standards
30 tax havens, plus 8 financial centers, committed but not substantially implemented
40 jurisdictions substantially implemented
- See also, Overview of the OECD's Work on Countering International Tax Evasion - <http://www.oecd.org/dataoecd/32/45/42356522.pdf>



**Isle of Man Statement for the Multistate Tax Commission
Executive Committee Meeting
May 7, 2009**

Executive Director Huddleston, Chairman Cordi and members of the Multistate Tax Commission (“MTC”) Executive Committee, the Isle of Man last met with the MTC Executive Committee on May 8, 2008 to discuss the MTC’s Model Statute for Combined Reporting (“Model Statute”), which would blacklist the Isle of Man by reference to the list of “tax havens” issued in 2000 by the Organisation for Economic Co-operation and Development (“OECD”). The Isle of Man appreciates the MTC’s willingness to continue this dialogue regarding the Model Statute and is pleased to provide new information concerning the OECD list.

On April 2, 2009, the OECD issued a progress report on the jurisdictions surveyed by the OECD Global Forum. The Isle of Man is pleased to inform the MTC Executive Committee that the Isle of Man is listed alongside the United States and the United Kingdom as having substantially implemented the internationally agreed tax standard as now determined by the OECD (copy attached).

Given this latest evaluation by the OECD, the Isle of Man respectfully suggests that if the Model Statute must refer to a list of “tax havens,” the April 2, 2009 OECD list, which does not include the Isle of Man, be used.

I. About the Isle of Man

Located in the middle of the Irish Sea at the centre of the British Isles, the Isle of Man has a total land area of 227 square miles. The resident population is just over 80,000 (2006 interim census).

Constitutionally, the Isle of Man is a self-governing British Crown Dependency with its own ancient parliament (Tynwald), government and laws. The United Kingdom, on behalf of the Crown, is ultimately responsible for the Isle of Man’s international relations, although in recent years, reflecting significant differences in UK and Manx law and policies, the Isle of Man has – in agreement with the United Kingdom and its international partners¹ – represented its own interests internationally, notably by concluding a significant number of bilateral tax agreements. The Isle of Man is financially autonomous and receives no financial assistance either from the United Kingdom or the European Union (“EU”). The Isle of Man is not represented in the United Kingdom or European Parliaments.

¹ The Isle of Man has, for example, signed agreements giving effect to the European Commission’s Taxation of Savings Interest Directive with all 27 Member States. Likewise, it has so far negotiated and signed 14 TIEAs with partner countries inside and outside the EU.

The Isle of Man's relationship with the EU is set out in Protocol 3 to the United Kingdom's Act of Accession (1972). In essence, in accordance with Article 299(6)(c) of the treaty establishing the European Community, the Isle of Man is outside the EU except for EU law and policy on the customs union and the free movement of goods. In all other matters, including tax and financial services, the Isle of Man is in the position of a "third country" or non-Member State with respect to the EU.

II. The Isle of Man Is Well-Regulated, Co-operative and Transparent

The Isle of Man takes seriously its role as a world-class location for financial services and investment.

A. Isle of Man Regulation of Financial Services

Business is attracted to the Isle of Man by local expertise in professional services, a supportive government, a world-class telecommunications infrastructure, sound financial regulation and a competitive tax system. New growth areas include e-commerce, the film industry, international shipping, aviation, and space and satellite businesses, whilst traditional sectors, like tourism (including the famous Tourist Trophy motorcycle races) remain important.

The Isle of Man has enacted legislation covering all financial services sectors, as well as related areas such as audit, accounting, company law and anti-money laundering. The Isle of Man's legislation in these fields is modern and based on the highest international standards. Although the Isle of Man is outside the EU for financial services and related fields, its legislation in all these areas is based broadly on corresponding EU secondary legislation.

The Isle of Man's Financial Supervision Commission ("FSC") was established in 1983 as an independent statutory body to license and regulate financial activities in the Isle of Man. The FSC regulates and supervises all deposit-taking, investment business, services to collective investments, trust services, company services, fiduciary services and money transmission services in or from the Isle of Man. These powers include the maintenance and development of the regulatory regime for regulated activities, the oversight of directors and persons responsible for the management, administration or affairs of commercial entities, and the operation of the Companies Registry.

A number of international organisations have assessed the Isle of Man's regulatory practices against global standards and have determined that the Isle of Man is well regulated, co-operates fully in the pursuit of international financial crime and that its money laundering legislation complies with the highest global standards, including those applied by the EU and its Member States.

B. Isle of Man Co-operation in Tax Matters and Financial Crime

The Isle of Man's co-operative approach is based on openness and "constructive engagement" with its partners around the world. As a non-sovereign Crown Dependency of the United Kingdom, an important G20, OECD and EU Member State, the Isle of Man cannot represent its own interests on a basis of sovereign equality, either with G20, OECD or EU Member States.

Formally, therefore, the Isle of Man must rely on the United Kingdom to represent and defend its interests and reputation in these organisations of sovereign states.

Increasingly, however, by agreement with the United Kingdom under a “framework for developing the international identity of the Isle of Man” signed in May 2007, the Isle of Man is “entrusted” to represent and defend its own laws and policies internationally, in full consultation and co-operation with the United Kingdom.² It is in this context that the Isle of Man has adopted a policy of constructive engagement with all its major international partners, including the EU and the United States.

Within the context of the OECD’s work on transparency and effective exchange of information, the Isle of Man is at the forefront of the development of a comprehensive network of Tax Information Exchange Agreements (“TIEAs”), based on mutual economic benefit.

To date, the Isle of Man has 14 TIEAs, based on the OECD’s Model Agreement on exchange of information on tax matters, 12 of which are with OECD Members, including the United States. These agreements are ratified by Tynwald, the Isle of Man’s parliament. The Isle of Man is in TIEA negotiations with a number of other countries, including members of the OECD and the G20, in respect of further TIEAs.

The Isle of Man believes its consistent and long-standing actions in respect of tax agreements and its commitment to adhering to internationally accepted standards of financial regulation provide tangible evidence of its co-operation with the international community. This is supported by the statement of Jeffrey Owens, Director of the OECD’s Centre for Tax Policy and Administration, who welcomed the Isle of Man’s TIEA with Germany (March 2009) as a further step in efforts to bring greater transparency and fairness to cross-border financial transactions. “The time has now come for all jurisdictions that have made commitments to the international standards of transparency and exchange of information to follow the Isle of Man’s lead in implementing them,” Owens said. “I am particularly pleased with the excellent progress the Isle of Man has made in extending its network of these agreements.”

C. Isle of Man Transparency

The Isle of Man has no bank secrecy laws, customs or practices that impede the ability of the United States or other TIEA partners to request and receive tax information. The Isle of Man has access to the beneficial ownership information that makes tax information exchange an effective tool for other countries to enforce their domestic tax laws. The Isle of Man has successfully responded to all requests for information by the United States under the TIEA between the Isle of Man and the United States.

As noted earlier, all company and trust service providers are licensed and regulated pro-actively to ensure that high levels of due diligence are applied in all areas of the business. The Isle of Man’s customer due diligence (“CDD”) regulations as set forth in its Anti-Money Laundering and Countering the Financing of Terrorism Handbook require both identification and relationship information. Licenceholders must collect relevant CDD information to identify: (i) the customer; (ii) the beneficial ownership and control of the customer; (iii) the nature of the customer’s business and the customer’s economic circumstances; (iv) the anticipated relationship

² <http://www.gov.im/lib/docs/cso/iominternationalidentityframework.pdf>

with the licenceholder; (v) and the source of funds. Licenceholders must, in all cases, know the identity of underlying principals and/or beneficial owners at the outset of a business relationship. This is irrespective of the geographical origin of the client, or of any introducer or fiduciary, or of the complexity of a legal structure.

When requested, regulated intermediaries must provide relevant information to the regulators and law enforcement authorities who have appropriate powers to assist in domestic and cross-border investigations. Access to this beneficial ownership information ensures that the Isle of Man can provide the United States with accurate and usable information under the TIEA.

The regulation of corporate and trust service providers is also a clear example of the Isle of Man's proactive effort to identify a potential threat to its reputation and enact pioneering legislation to prevent financial fraud. In so doing, and in regulating business that still remains unsupervised in most major jurisdictions, the Isle of Man has acted to ensure that its reputation as a well-regulated and transparent jurisdiction is protected.

III. International Assessments and Recognition of the Isle of Man

A number of international organisations have assessed the Isle of Man's regulatory practices against global standards and have determined that the Isle of Man is well regulated, co-operates fully in combating international tax evasion and financial crime, and that its anti-money laundering legislation complies with the highest global standards, including those applied by the EU and its Member States.

On April 2, 2009, the OECD issued a detailed progress report on jurisdictions' efforts to implement the OECD's internationally agreed standard requiring the exchange of information on request in all tax matters for the administration and enforcement of domestic tax law without regard to a domestic tax interest requirement or bank secrecy for tax purposes. In this report, the Isle of Man was listed alongside the United States as having "substantially implemented the internationally agreed tax standard."

Just prior to the publication of this new OECD report, Jeffrey Owens, Director of the OECD's Centre for Tax Policy and Administration, issued a statement on March 27, 2009 further commending the Isle of Man's co-operative efforts. "At a time when many countries have been promising change, Guernsey, Jersey and the Isle of Man have been delivering," Owens said. "I am particularly pleased that the Isle of Man now has 12 TIEAs with OECD countries in accordance with the OECD standard. This is an important milestone in implementing its commitment to international co-operation."

In 2003, the IMF conducted a full assessment of the Isle of Man's compliance with all of the international standards referred to above. The Isle of Man was found to have a "high level of compliance." The IMF report commended the Isle of Man for its attention given to: "upgrading the financial regulatory and supervisory system to meet international supervisory and regulation standards in banking, insurance, securities, and anti-money laundering and combating the financing of terrorism."

A further review by the IMF was undertaken in September 2008 as part of its ongoing programme of assessment. The results are to be published shortly, and the Isle of Man is confident that the IMF will again confirm positive findings.

Under the auspices of the FATF, the Isle of Man has been assessed on two occasions in respect of anti-money laundering measures and has been found to be co-operative and in compliance with all key FATF recommendations. The Isle of Man has never been listed as non co-operative by the FATF. All anti-money laundering actions on the Isle of Man are co-ordinated through an industry-wide Joint Anti-Money Laundering Advisory Group.

The Financial Stability Forum (“FSF”) has considered the effect that offshore centres generally can have on global financial stability. The Isle of Man was placed in the top group of centres reviewed based on responses from FSF members (Group 1 Category of offshore jurisdictions).

The Isle of Man Financial Supervision Commission is a member of the International Organisation of Securities Commissions (“IOSCO”) and is a full signatory to the benchmark IOSCO Multilateral Memorandum of Understanding. As such, the Isle of Man has been judged fully competent in having the legislative ability to provide full co-operation in dealing with market manipulation and abuse, insider dealing and other securities malpractices. The Isle of Man Financial Supervision Commission has established a strong track record of co-operation in this area.

The Isle Man Financial Supervision Commission is a member of the Enlarged Contact Group, which is a discussion forum for global regulators of collective investments that considers policy developments and market issues and is a member of the Offshore Group of Banking Supervisors (of the Basel Committee on Banking Supervision).

The Isle of Man Insurance and Pensions Authority is a member of the International Association of Insurance Supervisors (“IAIS”) and the Offshore Group of Insurance Supervisors. Its regulation has been assessed against the IAIS Insurance Core Principles, as part of the IMF’s assessment. In addition, the Isle of Man has made contributions to the development of IAIS guidance papers.³

The Isle of Man’s regulators have also exchanged individual memoranda of understanding (“MOUs”) with international regulators in a number of international jurisdictions which underpin its ability to co-operate on supervisory, regulatory and enforcement matters, including in the cross-border supervision of international financial services groups.

The Financial Supervision Commission, which regulates financial services activities in and from the Isle of Man (with the exception of insurance and pensions) has entered into MOUs with equivalent regulators in Bahrain, Bermuda, Cayman Islands, Cyprus, Czech Republic, Dubai, Gibraltar, Guernsey, Iceland, Ireland, Jersey, Malta, Mauritius, Qatar, South Africa, United Arab Emirates, United Kingdom and the United States.

The IPA has entered into MOUs with regulators in Bahrain, Dubai, Hong Kong, Malta, Qatar, and the United Kingdom. In addition, the IPA will, in due course, also become a signatory to the IAIS Multilateral Memorandum of Understanding, which is currently in the early stages of implementation.

³ Particularly the IAIS Guidance Paper on the Regulation and Supervision of Captive Insurers.
http://www.iaisweb.org/temp/17_Guidance_paper_No_3_6_on_regulation_and_supervision_of_captive_insurers.pdf

In addition, the Isle of Man's financial services legislation includes extensive powers for its regulators to exchange information with other regulators' relevant organisations. These powers ensure that information can be exchanged whether or not specific MOUs are in place.

The UK Treasury has granted the Isle of Man "designated territory" status, which provides the legal basis for the marketing and sale of Isle of Man investment funds in the United Kingdom. This status is subject to regular review by the UK Financial Services Authority ("FSA") on behalf of the UK Treasury.

The Isle of Man has been placed on a list of jurisdictions approved by the U.S. Internal Revenue Service under its Qualified Intermediary ("QI") program. Broadly speaking, the legislation requires local financial institutions to apply for QI status if they wish to invest in U.S. securities and claim exemption from U.S. withholding tax for their clients.

The Isle of Man operates compensation programs for depositors, investors and policyholders, as well as a financial services ombudsman program within the Isle of Man's Office of Fair Trading.

IV. Suggested Revision to the Model Statute

As discussed above, the Isle of Man is not a "tax haven," is so acknowledged by the OECD and should not be identified as such in the Model Statute issued by the MTC. The Isle of Man again respectfully requests that if the Model Statute decides to refer to a list of "tax havens," the April 2, 2009 OECD list, which does not include the Isle of Man, be used.

Respectfully submitted by:

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May 6, 2009