

# ENTITY SELF-CERTIFICATION FORM

If you are opening or hold an Evelyn Partners for a Trust, a Company, a Partnership, a Charity or other organisation you will need to complete this form (in this form we refer to all of these as 'Entity'). Do not use this form if the account is for an individual, sole trader or sole proprietor. Instead, the Individual Self-Certification Form should be completed. Please contact your Evelyn Partners representative for this form.

## Why am I being asked to complete this form?

Evelyn Partners, like other financial services firms across Europe and the rest of the world, is required to comply with international tax regulations and these regulations require Evelyn Partners to collect certain information for all its clients. In certain circumstances, Evelyn Partners may be required to share this information with relevant tax authorities.

These regulations were created to prevent tax evasion via enabling the automatic exchange of financial account information between tax authorities of different countries and include:

- The United States Government's Foreign Account Tax Compliance Act (FATCA);
- The Common Reporting Standard (CRS) of the Organisation for Economic Co-operation and Development (OECD).

Further information can be found in Her Majesty's Revenue & Customs (HMRC)'s Quick Guide "[Automatic exchange of information – Account holders](https://www.gov.uk/guidance/automatic-exchange-of-information-account-holders)" or the UK Government's website at: <https://www.gov.uk/guidance/automatic-exchange-of-information-account-holders>.

If you need advice to determine your entity's tax status and/or have any questions regarding this form or these tax regulations, please contact a professional tax adviser.

If you need help to complete this form, please refer to the Guidance Notes (below) and the Further Information and Glossary pages. For the avoidance of doubt, the supporting Guidance Notes and the Further Information and Glossary and Key Terms pages are provided for reference only, they do not constitute tax or legal advice and should not be construed as tax or legal advice.

## Guidance on completing this form

Please complete all sections as below:

<b>Section 1</b> 'Entity Details'	Complete <b>Section 1</b> by providing the name and address of the entity and the country in which the entity is tax resident. If the entity has a tax number issued by Her Majesty's Revenue & Customs (HMRC), please provide this too.
<b>Section 2</b> 'Entity category under FATCA'	<p>To complete <b>Section 2</b> you will need to determine for yourself under what FATCA category your entity falls. Please <u>tick only one box</u> between the options provided. Please refer to the Guidance Notes below this section and to the Further Information and Glossary pages at the end of this form for further details.</p> <p>For a <u>charity</u> – Under the FATCA UK-US Intergovernmental Agreement (IGA), charities that are "non-profit organisations" (see Glossary definition) are excluded so would not need to register or report under FATCA. This applies to: any entity registered as a charity with the Charity Commission of England and Wales; any entity registered with HMRC for charitable tax purposes; any entity registered as a charity with the Office of the Scottish Charity Regulator; any Community Amateur Sports Club if registered as such with HMRC.</p> <p>A charity that meets the above conditions will be a '<u>Certified Deemed Compliant Financial Institution</u>' under the FATCA classification. So please tick this option in this section.</p>
<b>Section 3</b> 'Entity category under CRS'	<p>To complete <b>Section 3</b> you will need to determine for yourself under what CRS category your entity falls. Please <u>tick only one box</u> between the options provided. Please refer to the Guidance Notes below this section and to the Further Information and Glossary pages at the end of this form for further details.</p> <p>For a <u>charity</u> – Under the CRS, charities are not excluded from reporting so you will need to determine what CRS category applies to your charity and tick the relevant option in this section.</p>
What if I do not know either the FATCA or CRS entity category?	<p>If you get to the end of this document and are still unclear how to establish the entity's FATCA or CRS category, you will need to seek tax advice from a professional tax adviser.</p> <p>Your Evelyn Partners representative will not be in a position to provide assistance beyond the information contained within the Guidance Notes of each section and the Further Information and Glossary pages due to the complexity of the entity classification rules and Evelyn Partners not providing tax advice.</p>
<b>Section 4</b> 'FATCA and CRS Declaration'	Please sign and date the form, print your name and add the position you hold in the entity. You need to be an authorised signatory for the entity to sign this form.
<b>Pages entitled</b> 'Entity Self-Certification on Controlling Persons'	Only complete these pages if you have selected that your entity is a ' <b>Passive Non- Financial Foreign Entity</b> ' in Section 3 or a ' <b>Passive Non-Financial Entity</b> ' or ' <b>Financial Institution – Investment Entity located in a non-CRS jurisdiction</b> ' in section 4.

# ENTITY SELF-CERTIFICATION FORM

XPLAN reference number (if an Evelyn Partners account is already set up for the entity)

OFFICE USE ONLY

IN ORDER FOR THIS FORM TO BE VALID ALL 4 SECTIONS MUST BE COMPLETED

## 1. Entity Details

1.1 Name of Entity:
1.2 Entity's registered address (do not use a P.O. Box or an 'in care of' address):  <div>Postcode</div>
1.3 Mailing address (only if different from above):  <div>Postcode</div>
1.4 Country of incorporation or organisation (or country under whose laws the entity is created, organised, or governed):
1.5 Country in which entity is resident for tax purposes:
1.6 Entity's unique taxpayer reference (UTR) or charity's registration number (as applicable):

### Guidance Notes to complete Section 1:

Please complete with the entity's details and the country of tax residence.

If the entity has a tax number issued by Her Majesty's Revenue & Customs (HMRC), please provide this.

A **company** will generally be tax resident in the country where it is incorporated or the country from which it is centrally managed and controlled.

**For a trust:**

- The residence status of a trust will depend on where the trustees and settlor are tax resident when the trust is set up and when later funds are added. If all the trustees are resident in the UK for tax purposes then the trust is UK resident. Where some of the trustees, but not all, are UK tax resident then the trust is to be treated as UK tax resident if the settlor is both resident and domiciled in the UK for tax purposes.
- A trust will not have a tax reference number unless it has registered with HMRC to report income or chargeable gains.

**For a charity**, please provide the HMRC's Charity Registration number (if available).

## 2. Entity classification under FATCA

If you require assistance in determining your entity's FATCA category, please refer to a professional tax or legal adviser. By law, Evelyn Partners cannot give tax advice of this nature.

Please tick only **one box** to identify the FATCA category applicable to your entity:

<b>2.1 Financial Institution</b> (an entity that is 'professionally managed' <b>and</b> that has more than 50% of its gross income from investing, reinvesting and trading in 'Financial Assets' – see definitions on page 3; e.g. any type of trust investing in portfolio of investments that has appointed a discretionary investment manager to look after the investments of the trust – i.e. the investment manager has discretion over these investments).	
<b>2.2 Passive Non-Financial Foreign Entity</b> (an entity that is not a Financial Institution; e.g. any type of trust looked after on an advisory basis, where the financial planner or investment manager has no discretionary authority over the trust's investments; a trust set up on an Execution-only basis; a trust set up via an onshore or offshore investment bond; a Partnership or other entity which is not 'professionally managed' – see definition on page 3).	
<b>2.3 Certified Deemed Compliant Foreign Financial Institution</b> (other than Trustee Documented Trust) (e.g. a charitable trust; a Non-Profit Organisation; an Investment Trust Company; a Venture Capital Trust)	
<b>2.4 Exempt Beneficial Owner</b> (certain retirement funds or other tax favoured products; e.g. a Small Self-Administered Scheme)	
<b>2.5 Trustee Documented Trust</b> (e.g. a trust that has appointed a corporate trustee that is a Financial Institution, as above)	
<b>2.6 Active Non-Financial Foreign Entity</b> (e.g. a publicly traded corporation such as a Limited Company that engages in active business.)	

If you have ticked **2.1** above, please provide the entity's **Global Intermediary Identification Number (GIIN)** (please see Guidance Notes below for details on this), then go to section 3:

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If you have ticked **2.3, 2.4, 2.5** or **2.6** please go straight to section 3.

If you have ticked **2.2**, please complete section 3 and 4 and then also complete the '**Entity Self-Certification on Controlling Persons Form**' (pages 5-7).

#### Guidance Notes to complete Section 2:

- Under FATCA, a '**Financial Institution**' is defined as an entity that has more than 50% of its gross income attributable to investing, reinvesting and trading in '**Financial Assets**' (i.e. funds, shares, managed portfolios, etc.) **and** the entity is '**professionally managed**'.
- An entity is 'professionally managed' if it has appointed another Financial Institution which has discretionary authority to manage the entity's financial assets (either in whole or part). UK Guidance suggests that with regard to **trusts**, 'professionally managed' would typically be where the trust has appointed a discretionary fund manager to manage the trust's assets.
- If your entity is a '**Financial Institution**', FATCA regulations require that you register your entity with the United States (**US**) Internal Revenue Service (**IRS**) to obtain a **Global Intermediary Identification Number (GIIN)** regardless of whether or not the entity has a connection with the US. The GIIN is a 19 character number (including three dots) assigned by the US IRS to each financial institution when it registers for FATCA compliance. You will need to add the GIIN you obtain from the IRS in the box provided. You may also have reporting responsibilities to HMRC. You should refer to a professional tax adviser if you need advice on this.
- Your Evelyn Partners representative can provide a guide on how to register with the US IRS to obtain a GIIN, however Evelyn Partners cannot register your entity on your behalf and will not be in a position to provide assistance beyond the information provided in Evelyn Partners' GIIN guide.
- If your entity is a '**Passive Non-Financial Foreign Entity**' under FATCA, you will need to provide details of your entity's
- '**Controlling Persons**' (see definition on page 5) and also complete and sign the **Entity Self-Certification on Controlling Persons** (pages 5, 6 and 7 of the form).

### 3. Entity classification under CRS

If you require assistance in determining your entity's CRS category, please refer to a professional tax or legal adviser. By law, Evelyn Partners cannot give tax advice of this nature.

Please tick only **one box** to identify the CRS category applicable to your entity:

<b>3.1 Financial Institution – Investment Entity</b> (an entity that is 'professionally managed' <b>and</b> that has more than 50% of its gross income from investing, reinvesting and trading in 'Financial Assets' – see definitions on page 3; e.g. any type of trust investing in portfolio of investments that has appointed a discretionary investment manager to look after the investments of the trust – i.e. the investment manager has discretion over these investments).	
<b>3.2 Passive Non-Financial Entity</b> (an entity that is not a Financial Institution; e.g. a trust set up on an advisory basis with no discretionary management agreement; a trust set up on an Execution-only basis; a trust set up via an onshore or offshore investment bond; an execution only trust; a Partnership or other entity which is not 'professionally managed' – see definition above)	
<b>3.3 Financial Institution – Investment Entity in a non-CRS jurisdiction*</b> (a 'professionally managed' entity in a country that has not signed up to CRS regime) * If not on the list of CRS jurisdictions (available at <a href="http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/crs-by-jurisdiction">http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/crs-by-jurisdiction</a> ), a country will be a non-CRS jurisdiction.	
<b>3.4 Non-Reporting Financial Institution</b> (e.g. a Pension scheme, a Small Self-Administered Scheme; a Trustee Documented Trust)	
<b>3.5 Active Non-Financial Entity</b> (an entity that is not a Financial Institution; e.g. a publicly traded corporation or affiliate such as a Limited Company that engages in active business; a UK non-profit organisation established exclusively for religious, charitable, scientific, artistic, cultural, athletic or educational purposes).	

If you have ticked **3.1, 3.4** or **3.5**, please go straight to section 4.

If you have ticked **3.2** or **3.3** please complete section 4 and then also complete the '**Entity Self-Certification on Controlling Persons Form**' (pages 5, 6 and 7 of the form).

#### Guidance Notes to complete Section 3:

- If your entity is a 'Financial Institution' under CRS you may have reporting responsibilities to HMRC. You should refer to a professional tax adviser if you need advice on this.
- If your entity is a '**Passive Non-Financial Entity**' under CRS or a '**Financial Institution – Investment Entity located in a non-CRS jurisdiction**', you will need to provide details of your entity's 'Controlling Persons' and also complete and sign the **Entity Self-Certification on Controlling Persons** (pages 5, 6 and 7).

## 4. Declaration for FATCA and CRS

I declare that the information provided on this form is to the best of my knowledge and belief, accurate and complete. I agree to notify Evelyn Partners within 30 days of any changes to the information provided in the Entity Self-Certification Form and provide a suitably updated Entity Self-Certification Form within 90 days of such a change (including any changes to the entity's Controlling Persons or their details).

I certify that I am authorised to sign on behalf of the entity to which this form relates to.

Signature:
Name:
Date:
Position:

If more than one person is required to sign on behalf of the entity, they should sign below.

Signature:
Name:
Date:
Position:

#### Guidance Notes to complete Section 4:

This form should be signed by a person who has authority to sign on behalf of the entity for which an Evelyn Partners account is being opened or has been opened, as detailed below:

- For a **company** – an authorised signatory.
- For a **trust** – one or more appointed trustees, based on what the Trust Deed says.
- For a **partnership** – one or more partners, based on the Partnership agreement.
- For **any other organisation** – any person that has authority to sign for the organisation.

Please also indicate the capacity in which you are signing the form, e.g. trustee or settlor (i.e. the donor of the trust).

If your entity is **not**:

a '**Passive Non-Financial Foreign Entity**' under FATCA; or

a '**Passive Non-Financial Entity**' or a '**Financial Institution – Investment Entity in a non-CRS jurisdiction**' under CRS;

there is no need to complete pages 5 to 7. The form is complete and can be returned to Evelyn Partners.

# ENTITY SELF-CERTIFICATION ON CONTROLLING PERSONS

Please complete only if you have selected that your entity is a 'Passive Non-Financial Foreign Entity' under the FATCA classification or a 'Passive Non-Financial Entity' or professionally managed 'Financial Institution – Investment Entity in a non-CRS jurisdiction' under the CRS classification.

If you are required to complete this form, please provide details of ALL 'Controlling Persons' of your entity.

Name of Entity:
Total number of controlling persons in your entity:

**Guidance Notes to complete the "Entity Self-Certification on Controlling Persons" pages:**

Please complete with details of all of your entity's 'Controlling Persons', including their **Tax Identification Number (TIN)**. For UK residents, this will be their National Insurance Number.

Please sign and date the Declaration on page 7 and return to us via your Evelyn Partners representative.  
\*\***Controlling Persons** are the individuals who exercise ultimate control over your entity.

**For a trust, 'Controlling Persons' means:** the settlor, all trustees, the protector (if one exists) and all named beneficiaries. These must always be treated as Controlling Persons of a trust, regardless of whether or not any of them exercises control over the trust. Where the settlor or trustee of a trust is a reporting Financial Institutions (e.g. a corporate trustee), it must also identify the Controlling Person(s) of the settlor/trustee and report them as Controlling Person(s) of the trust.

**For a Company, 'Controlling Persons' means:** any natural person who holds (directly or indirectly) 25% of the voting shares or voting rights of the entity as a beneficial owner, or anyone who exercises control over the management of the entity, e.g. a director.

Controlling Person:

Full name:		
Address:		
Date of Birth:	Town of Birth:	Country of Birth:

Tax Residency/Citizenship Information:

Country	Tax Resident (please tick)	Citizen (please tick)	Local Tax Identification Number (TIN)	Local Tax Identification Number (e.g. National Insurance Number)

If no TIN held, specify why not by selecting one of the reasons below:

Reason A: the Country does not issue TINs to its residents.
Reason B: No TIN required (authorities do not require a TIN to be collected)
Reason C: Other (please provide reason why below)

Please answer the following questions:

Does this person hold a valid US Green Card?	Yes	No
Was this person born in the US or a US protectorate (i.e. Puerto Rico, US Virgin Islands, Guam)?	Yes	No
Is or was one or both of this person's parents a US citizen?	Yes	No

Controlling Person:

Full name:		
Address:		
Date of Birth:	Town of Birth:	Country of Birth:

Tax Residency/Citizenship Information:

Country	Tax Resident (please tick)	Citizen (please tick)	Local Tax Identification Number (TIN)	Local Tax Identification Number (e.g. National Insurance Number)

If no TIN held, specify why not by selecting one of the reasons below:

Reason A: the Country does not issue TINs to its residents.
Reason B: No TIN required (authorities do not require a TIN to be collected)
Reason C: Other (please provide reason why below)

Please answer the following questions:

Does this person hold a valid US Green Card?	Yes	No
Was this person born in the US or a US protectorate (i.e. Puerto Rico, US Virgin Islands, Guam)?	Yes	No
Is or was one or both of this person's parents a US citizen?	Yes	No

Controlling Person:

Full name:		
Address:		
Date of Birth:	Town of Birth:	Country of Birth:

Tax Residency/Citizenship Information:

Country	Tax Resident (please tick)	Citizen (please tick)	Local Tax Identification Number (TIN)	Local Tax Identification Number (e.g. National Insurance Number)

If no TIN held, specify why not by selecting one of the reasons below:

Reason A: the Country does not issue TINs to its residents.
Reason B: No TIN required (authorities do not require a TIN to be collected)
Reason C: Other (please provide reason why below)

Please answer the following questions:

Does this person hold a valid US Green Card?	Yes	No
Was this person born in the US or a US protectorate (i.e. Puerto Rico, US Virgin Islands, Guam)?	Yes	No
Is or was one or both of this person's parents a US citizen?	Yes	No

Note: if any of the controlling persons are a **US citizen, US tax resident or other US person**, they will need to complete and sign the IRS form "W9- Request for Taxpayer Identification Number and Certification" and enclose with this form. The W9 form can be downloaded from the IRS website.

If there are more Controlling Persons, please print a blank copy of page 6 and attach to the completed form.

Declaration

This form is being submitted on behalf of the above named Controlling Persons.

I declare that the information provided on this form is to the best of my knowledge and belief, accurate and complete on behalf of all Controlling Persons. I agree to notify Evelyn Partners within 30 days of any changes to the information provided (including any changes to Controlling Persons or their details) and to provide a suitably updated Entity Self-Certification Form within 90 days of such a change (including any changes to the entity's Controlling Persons or their details).

I certify that, where I have provided information regarding any other person (such as a Controlling Person to which this form relates to), I will, within 30 days of signing this form, notify those persons that I have provided such information to Evelyn Partners, and that such information may be provided to the tax authority of the country in which the entity is tax resident, and exchanged with tax authorities of another country or countries in which the person may be tax resident, pursuant to intergovernmental agreements to exchange financial account information.

I certify that I am a Controlling Person (or I am authorised to sign for the Controlling Person) of the entity to which this form relates.

Signature:
Name:
Date:
Position:

If more than one person is required to sign on behalf of the entity, they should sign below.

Signature:
Name:
Date:
Position:

**Guidance Notes on who can sign the "Entity Self-Certification on Controlling Persons" pages:**

You need to be an authorised signatory for the entity to sign this Entity Self-Certification on Controlling Persons.

**For a trust,** you will need to be a trustee or the settlor (please check the trust's Deed for details of who can sign documents on behalf of the trust); please indicate the capacity in which you are signing the form, e.g. trustee or settlor (i.e. the donor of the trust).



# FURTHER INFORMATION & GLOSSARY

## Further Information

For more information on why we need to ask you to provide certain information about your entity and its tax residence status, please read Her Majesty's Revenue & Customs (HMRC)'s Quick Guide "Automatic exchange of information – Account holders" at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/386413/Automatic\\_exchange\\_of\\_information\\_-\\_account\\_holders.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/386413/Automatic_exchange_of_information_-_account_holders.pdf) and the UK Government's website link: <https://www.gov.uk/guidance/automatic-exchange-of-information-account-holders>

Further information on international tax regulations enabling the automatic exchange of financial account information between tax authorities of different countries can be found at the following links:

- The Government website pages on automatic exchange of financial account information (AEOI): <https://www.gov.uk/government/publications/foreign-account-tax-compliance-act-registration-guidance-fatca/automatic-exchange-of-information-reporting-guidance#overview>
- The US-UK agreement on automatic exchange of information: <https://www.gov.uk/government/publications/uk-us-automatic-exchange-of-information-agreement/uk-us-automatic-exchange-of-information-agreement>
- The Organisation for Economic Co-operation and Development (OECD)'s automatic exchange of information (AEOI) portal: <http://www.oecd.org/tax/transparency/automaticexchangeofinformation.htm>
- HMRC's guidance contained in its International Exchange of Information Manual "Automatic exchange of financial accounts information" at <https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information/ieim400000>
- The OECD's CRS-related Frequently Asked Questions (December 2017) at <https://www.oecd.org/tax/exchange-of-tax-information/CRS-related-FAQs.pdf>
- The FATCA & CRS implementing regulations in the UK: [The International Tax Compliance Regulations 2015 Statutory Instrument 2015/878](#) (which came into force on 15th April 2015/878), as amended by:
  - [The International Tax Compliance \(Amendment\) Regulations 2015 Statutory Instrument 2015/1839](#), which came into force on 20th November 2015;
  - [The International Tax Compliance \(Client Notification\) Regulations 2016 Statutory Instrument 2016/899](#), which came into force on 30th September 2016;
  - [The International Tax Compliance \(Amendment\) Regulations 2017 Statutory Instrument 2017/598](#), which came into force on 17th May 2016.
  - [The European Directive for Administrative Cooperation \(DAC\)](#)

### Important Note

The Entity Self-Certification form, the Guidance Notes at the end of each section and the Further Information and Glossary and Key Terms section have been created based on our interpretation of FATCA, CRS, the intergovernmental agreements entered into by the UK and the HMRC guidance on Automatic Exchange of Information regulations, as at 31st October 2017, which may be subject to change in the future. They are intended solely for the clients of Evelyn Partners to whom they are provided and they do not constitute tax or legal advice and should not be construed as tax or legal advice.

Evelyn Partners makes no guarantee of the accuracy and completeness of the Guidance Notes, the Further Information and Glossary and Key Terms pages nor shall Evelyn Partners be liable for any loss that results from reliance upon this information. Clients should seek legal and/or professional tax advice specific to their own situation.

### Third Party Links Disclosure

The Entity Self-Certification Form contains hyperlinks to other websites operated by third parties, such as HMRC, the UK Government, etc.

Please note:

- These hyperlinks will take you away from our form. You will be linking to third party websites not operated by Evelyn Partners.
- Evelyn Partners is not responsible for the content of these third party websites.
- Evelyn Partners cannot guarantee that all these hyperlinks will continue to work in the future, as they may be amended with no notice by the third parties that maintain them. Where a hyperlink no longer works, you should be able to find the amended one via searching for the subject on the internet.



# GLOSSARY & KEY TERMS

The Automatic Exchange of Information (AEOI) regulations and guidance introduce a number of new terms and a proliferation of acronyms. Please find below definitions and/or descriptions for some of the most important terms used in the Entity Self-Certification Form. A comprehensive glossary for all of the AEOI terms can be found in the HMRC guidance.

Please note, much of the terminology is written from a US perspective so it is important to be sure of the interpretation of each phrase when applying it to the circumstances under consideration.

**Active Non-Financial Foreign Entity (NFFE) / Active Non-Financial Entity (NFE)** – An Active NFFE or Active NFE is an entity engaged in a non-financial business that meets one of the following criteria:

- It is active by reason of income and assets. This requires less than 50% of its gross income for the preceding calendar year or other appropriate reporting period to be 'passive income' and less than 50% of its assets held in the same period to be assets that produce or are held for the production of 'passive income';
- Its stock is regularly traded on an established securities market or it is a Related Entity of such an entity;
- It is a Government Entity, International Organisation, Central Bank or a wholly owned subsidiary of such an entity;
- It is holding company for NFEs that are members of a non-financial group. It will not qualify as an Active NFE where these holdings are part of a business as an investment fund or vehicle whose purpose is to acquire or fund companies and then hold interests as capital assets for investment purposes.
- It is a start-up NFE which is not yet operating a business and has no prior operating history, but is investing capital into assets with the intention of operating a business other than that of a Financial Institution. This category only applies during the first 24 months after the date that the NFE was first formed.
- It is a NFE that has not been a Financial Institution in the last 5 years and which is in the process of liquidating its assets or is reorganising with a view to continuing or recommencing business operations other than as a Financial Institution.
- It is a treasury centre of a non-financial group engaging in financing and hedging transactions with or for Related Entities.
- It is a not for profit organisation set up for religious, charitable, scientific, artistic, cultural, athletic or educational purposes; or it is established and operated as a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated for the promotion of social welfare. In all cases the organisation must be exempt from income tax and its income and assets cannot be applied other than for the express purposes for which the organisation is established.

An active NFFE/Active NFE includes most trading companies such as building, retail and service companies.

**Automatic Exchange of Information (AEOI)** – agreements made between tax authorities of different countries to exchange financial account information between them with the aim to tackle tax evasion. All references to AEOI include the United States Foreign Account Tax Compliance (FATCA), the Crown Dependencies and Overseas Territories agreements and the Common Reporting Standard (CRS).

AEOI agreements require UK Financial Institutions (such as banks, investment firms, etc.) to review the accounts they maintain and report certain account holders to Her Majesty's Revenue and Customs (HMRC) every year.

## Charities / Charitable Trusts under FATCA and CRS

- Under the FATCA UK-US Intergovernmental Agreement (IGA), charities and charitable trusts that meet the conditions to be 'non-profit organisations' (see definition below) are excluded so would not need to register or report under FATCA. This applies to:
  - Any entity registered as a charity with the Charity Commission of England and Wales
  - Any entity registered with HMRC for charitable tax purposes
  - Any entity registered as a charity with the Office of the Scottish Charity Regulator
  - Any Community Amateur Sports Club if registered as such with HMRC.

A charity or charitable trust that meets the above conditions will be a 'Certified Deemed Compliant Financial Institution' under the FATCA classification.

**Note:** the UK Regulations are silent on the issue of charities regulated by the Charity Commission for Northern Ireland.

- Under the CRS, charities and other non-profit organisations are not excluded from reporting. According to the HMRC guidance, a charity or other non-profit organisation that is an "Investment Entity" (see definition below) will be a "Financial Institution" under CRS, and must report any relevant payments it makes to tax residents outside the UK to HMRC. Where the charity or non-profit organisation is not a Financial Institution (so it does not meet the 'investment entity' conditions) it will be an Active Non-Financial Entity (NFE) with no reporting requirements.

Please find a link to the HMRC guidance:

<https://www.gov.uk/guidance/automatic-exchange-of-information-guidance-for-charities>

HMRC has also published specific guidance for charities with AEOI reporting obligations at:

<https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information/ieim404700>

**Certified Deemed Compliant Foreign Financial Institution other than Trustee Documented Trust** – This is a type of "Financial Institution" (see definition below) that is not required to register with the United States (US) Internal Revenue Service (IRS) for FATCA purposes and include:

- a. entities classified as such in Annex II of the UK IGA (at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/226267/8656.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/226267/8656.pdf)) which includes non-profit organisations (see definition below) and financial institutions with a local client base (i.e. Credit Unions; Industrial and Provident Societies; Friendly Societies; Building Societies; Mutual Societies; Community Interest Companies; Investment Trust Companies; Venture Capital Trusts); and
- b. entities which otherwise qualify as such under the FATCA regulations.

**Controlling Persons** – the natural persons who exercise control over an entity. For a company, "Controlling Persons" means any natural person who holds (directly or indirectly) 25% of the voting shares or voting rights of the entity as a beneficial owner, or anyone who exercises control over the management of the entity, e.g. a director.

In the case of a trust, "Controlling Persons" 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. Under the CRS, the settlor, the trustees, the protector(s) (if any), and the beneficiaries or classes of beneficiaries, are always treated as "Controlling Persons" of a trust, regardless of whether or not any of them exercises control over the activities of the trust.

Where the settlor of a trust is an Entity, the CRS requires to also identify the "Controlling Persons" of the settlor and, when required, report them as Controlling Persons of the trust.

In the case of a partnership, "Controlling Persons" means any individual who ultimately own or control 25% or more of the capital, or profits, or voting rights in the partnership, or who otherwise exercise control over the management of the partnership.

**CRS – The Common Reporting Standard (CRS)** was developed and approved by the OECD in July 2014 and calls on over 101 jurisdictions (i.e. countries) to obtain certain information from their financial institutions and automatically exchange that information with other jurisdictions on an annual basis. It sets out the financial account information to be exchanged, the financial institutions required to report, the different types of accounts and taxpayers covered, as well as common due diligence procedures to be followed by financial institutions. The Standard consists of the following four key parts:

- A model Competent Authority Agreement (CAA), providing the [international legal framework](#) for the automatic exchange of CRS information;
- The [Common Reporting Standard](#);
- The [Commentaries](#) on the CAA and the CRS; and
- The [CRS XML Schema](#) User Guide

The CRS has been adopted in the UK by "The International Tax Compliance Regulations 2015" (as amended by "The International Tax Compliance (Amendment) Regulations 2015", "The International Tax Compliance (Amendment) Regulations 2017") and by "The International Tax Compliance (Client Notification) Regulations 2016".

**CRS jurisdiction** – a jurisdiction which has an agreement in place to exchange information in accordance with the CRS.

Also referred to as a **Participating jurisdiction**. A list of all current CRS jurisdictions can be found at <http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/crs-by-jurisdiction/>

**'Entity' under FATCA and CRS** – An 'entity' for FATCA and CRS purposes will include a legal arrangement such as a corporation, company, partnership, organisation, trust or foundation. This term covers any person other than an individual (i.e. a natural person). Whilst trusts are not considered as separate entities under general UK law, they are considered as such under the reporting standards for FATCA and CRS.

**Exempt Beneficial Owner** – The term "exempt beneficial owner" means:

- a. a UK Governmental Organisation;
- b. an international organisation (examples of which include The International Monetary Fund, The World Bank, The International Bank for Reconstruction and Development and The European Community – for a full list please see the relevant guidance issued by HMRC, or the IRS);
- c. a central bank; or
- d. A UK registered pension scheme, or non-UK pension scheme falling within the definition of exempt beneficial owner for the purpose of FATCA.

"Exempt Beneficial Owners" are not required to register with the US IRS for FATCA purposes.

**FATCA** – FATCA stands for the 'Foreign Account Tax Compliance Act' and is part of a larger piece of legislation which was introduced in the United States (US) as part of the 'Hiring Incentives to Restore Employment (HIRE) Act' in March 2010 to ensure that that US citizens are fully disclosing their worldwide income to the Internal Revenue Service (IRS). FATCA regulations are contained in sections 1471 to 1474 of the US Internal Revenue code and the Treasury regulations and official guidance issued thereunder, as amended from time to time.

FATCA requires Foreign Financial Institutions (i.e. those outside of the US) to identify and report US citizens who hold accounts and/or investments outside of the US to the US Internal Revenue Service (IRS). Numerous countries around the world have entered into agreements with the US, and passed local legislation to enable and mandate compliance with FATCA.

As a result of a UK-US intergovernmental agreement (IGA), the legislation is now part of UK law through s222 of the Finance Act 2013 and the regulations issued under that section. All UK entities are subject to the FATCA legislation and must comply with this, **regardless of whether or not they have a US connection.**

**Financial Assets** – includes securities and financial instruments held in an account maintained by a financial institution but excludes non-debt direct interests in real property.

**Financial Institution** – is a defined term and can include companies, trusts, or partnerships, but not individuals. The term "Financial Institution" in this context means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company. Please see the AEOI HMRC guidance and the CRS regulations for further classification definitions that apply to Financial Institutions.

**Form W9 "Request for Taxpayer Identification Number and Certification"** – a form identifying a 'US person' and disclosing their US taxpayer identification number (TIN). It can be downloaded from the US IRS website.

**Global Intermediary Identification Number (GIIN)** – A GIIN is a 19 character number (including three dots) assigned by the US IRS to "Financial Institutions" (see definition above) when they register with the IRS and becomes FATCA compliant, regardless of whether or not the "Financial Institution" has a connection with the US. It is used as a reference for all FATCA reporting and will need to be disclosed on FATCA documentation.

**Investment entity** – any entity either trading in financial assets or 'otherwise investing administering or managing money or funds on behalf of other persons' (50% or more of gross income) or acting as an investment adviser. In addition entities managed by a "Financial Institution" (see definition above) or whose assets are managed by "Financial Institutions" may be Investment Entities. Some family trusts and some trust companies will fall into this category.

The term "Investment Entity" does not include an entity that is an "Active NFE/Active NFFE" (see definition above).

An entity that an "Investment Entity" will be classed as a "Financial Institution" for FATCA and CRS purposes.

**IGA – intergovernmental agreement** – This is a treaty negotiated between the US and other countries to apply the US FATCA rules globally. There are two formats of the agreement:

1. **Model 1** in which domestic law is enacted and under which reporting is undertaken to the domestic authority. The UK has a Model 1 agreement so that these regulations are UK law and reporting will be through HMRC. The only interaction with the US Internal Revenue Service (IRS) will be the initial registration and obtaining of a GIIN;
2. **Model 2** in which the country concerned agrees to the principles of FATCA but the governing law and reporting is directly to the USA. Reporting is enabled irrespective of any data protection or bank secrecy laws in the jurisdiction concerned. Switzerland and Japan for example, have Model 2 IGAs.

**Non-CRS jurisdiction** – a jurisdiction which does not have an agreement in place to exchange information in accordance with the CRS. Also referred to as a **Non-Participating jurisdiction**. A list of all current CRS jurisdictions can be found at <http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/crs-by-jurisdiction/>.

**Non-Financial Entity (NFE) /Non-Financial Foreign Entity (NFFE)** – a NFE or NFFE is any entity which is not a Financial Institution. There are two forms of NFFE: active and passive. The Passive NFE/Passive NFFE category is effectively a default category, any NFE/NFFE that does not meet the criteria to be an Active NFE/Active NFFE will be a Passive NFE/Passive NFFE.

The most common way a NFE/NFFE will be an **Active NFE/Active NFFE** category is if less than 50% of its gross income for the preceding year is "passive income" AND less than 50% of its assets are held for the production of "passive income". See definitions for **Active NFE/Active NFFE**; **Passive NFE/Passive NFFE** and "passive income".

**Non-Profit Organisation** – An entity that meets ALL of the following criteria:

- a. it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
- b. it is exempt from income tax in its country of residence;
- c. it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
- d. the applicable laws of the entity's country of residence or the entity's formation documents do not permit any income or assets of the entity to be distributed to, or applied for the benefit of, a private person or non-charitable entity other than pursuant to the conduct of the entity's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the entity has purchased; and
- e. the applicable laws of the entity's country of residence or the entity's formation documents require that, upon the entity's liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organisation, or escheat to the government of the entity's country of residence or any political subdivision thereof.

**Non-Reporting Financial Institution** – means any financial institution which is:

- a. a Governmental entity, international organisation or central bank, 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;
- b. a broad participation retirement fund; a narrow participation retirement fund; a pension fund of a Governmental entity, international organisation or central bank; or a qualified credit card issuer;
- c. any other entity that presents a low risk of being used to evade tax, has substantially similar characteristics to any of the entities described in (a) or (b) above, and is included in the list of non-reporting financial institutions provided to the European Commission by the UK;
- d. an exempt collective investment vehicle; or
- e. a trust to the extent that the trustee of the trust is a reporting "Financial Institution" and reports all information required to be reported with respect to all reportable accounts of the trust.

**OECD** – The Organisation for Economic Co-operation and Development is an international organisation composed of 34 democratic countries with market-based economies which work with each other, as well as with more than 70 non-member economies to promote economic growth, prosperity, and sustainable development. Find a link to the OECD website at <http://www.oecd.org/about/>

**Passive Income** – derived from investing in assets rather than from activities carried on in the normal course of a trade or business. 'Passive income' includes the portion of income that consists of: dividends and other distributions of income; interest; income equivalent to interest; rents and royalties, other than rents and royalties derived in the active conduct of a trade or business conducted, at least in part, by employees of the NFFE / NFE (see definition below); annuities; the excess of gains over losses from the sale or exchange of property that gives rise to passive income described previously; the excess of gains over losses from transactions (including futures, forwards, options and similar transactions) in any Financial Assets; the excess of foreign currency gains over foreign currency losses; net income from swaps; amounts received under Cash Value Insurance Contracts.

**Passive Non-Financial Entity (NFE) / Passive Non-Financial Foreign Entity (NFFE)**: A passive NFE/ passive NFFE is any non-financial entity that is not an Active NFFE. Very broadly, a passive NFE/passive NFFE is an entity that does not fall under any of the other FATCA or CSR categories, that primarily earns passive income (for example, dividends, interest, rent, patent royalties) and whose assets are mainly assets that generate such income. An entity primarily earns passive income if more than 50% of its gross income over the last three-year period is passive income. These entities are not engaged in a business and will usually be required to identify their Controlling Persons to the financial institutions with which they have a relationship (e.g. investment firm, bank, custodian, etc.).

**Professionally managed** – the US Regulations (§1.1471-5(e)(4)(v) Example 5) indicate that any Financial Institution undertaking the activities of an "Investment Entity" (see definition above) on behalf of another "Investment Entity", typically as a discretionary fund manager, will be deemed to be a manager of the entity in this context.

HMRC's guidance suggests that, with regard to trusts, "professionally managed" would typically be where the trustees have appointed a discretionary fund manager to manage the trust's assets. Further details can be found at the following link: <https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information/ieim400820>

**Related Entity**: 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 director in direct ownership of more than 50 percent of the vote or value in an entity.

**Trustee Documented Trust** – a trust with a corporate or professional trustee which is, itself, registered as a "Financial Institution" (see definition above) with the US IRS. In this case the corporate trustee undertakes the FATCA compliance and the trust itself need not register for a GIIN.

**Trusts under FATCA** – A trust can be either a Financial Institution or a Passive Non-Financial Foreign Entity.

All trusts are caught by FATCA irrespective of whether or not they have US Persons as settlors, trustees or beneficiaries, or US assets or any US connections. The fact that a trust has a US-connected settlor or trustee or beneficiary does not alter the categorisation for FATCA purposes. It may, however, alter the reporting requirements and in the case of a US trustee, there may be more of a question over the residence of the trust.

**US Person** – any person including individuals who are United States (US) citizens by birth or naturalisation including dual citizens; any lawful permanent US resident; any green card holder; any resident US passport holder; any individual born in the US who has not renounced their citizenship; any individual with a "substantial presence test" in the US as defined in US tax law; any US corporation or partnership or trust organised in the US or subject to the jurisdiction of the US courts; any non-US entity which is controlled by US Persons.

To assist in identifying US Persons, financial institutions are required to have regard to US indicators (defined in the US legislation as 'US indicia') which include: US place of birth; citizenship; a green card; US address or telephone number; standing instructions to correspond with the US such as a power of attorney or mail collection address; regular payments to or from a US bank account.



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