

# Guidance notes for the purposes of International Tax Information Exchange



JANUARY 2023

These guidance notes are intended to assist you in completing this application form. The tax regulations involved here are very complex and these guidance notes are not exhaustive. We strongly recommend you seek the assistance of a professional tax advisor when completing this application form.

The US government has introduced tax regulations aimed at combating tax evasion by US tax residents using foreign Accounts (commonly known as the 'FATCA Regulations'). The Crown Dependencies of Guernsey, Jersey and the Isle of Man have entered into agreements with the US to enable FATCA to be implemented. You can find the Intergovernmental agreements between the Channel Islands and the US on the Treasury website at the following address, <https://www.treasury.gov/resource-center/tax-policy/treaties/pages/FATCA.aspx>

On 1 January 2016 the OECD Common Reporting Standard (CRS) came into force implementing tax exchange information involving a number of countries. You can find additional guidance in relation to CRS at the following address: <https://www.oecd.org/tax/automatic-exchange/>

The information in these Guidance Notes is subject to change, as and when tax regulations and/or guidance notes are updated.

Please tick the relevant FATCA **and** CRS classification for the entity. Your tax advisor can explain what these categories mean, and further information is available in the FATCA Guidance and the Crown Dependencies Guidance on the HMRC website or States of Guernsey website.

Within this form we have used the following categories:

FATCA	
<b>Registered deemed compliant FFI (Foreign Financial Institution)</b>	Includes a sponsored investment entity, restricted funds, financial institutions with only a local client base, qualified investment vehicles and other forms of registered deemed compliant institution.
<b>Participating FFI/ Model 1 or 2 IGA FFI</b>	Where the entity has been issued with its own Global Intermediary Identification Number ("GIIN")
<b>Sponsored FFI</b>	Where a Financial Institution (FI) has entered into a sponsoring agreement with another FI who will fulfil the sponsored entities reporting and due diligence requirements under the regime.
<b>Sponsored investment entities</b>	Please provide both the sponsored and sponsoring entities GIIN.
<b>Certified deemed compliant FFI</b>	Includes a sponsored closely held investment vehicle, FFI with only low value accounts, advisory only investment managers and advisors and any other entity included in Annex II of the relevant IGA.
<b>Active NFFE</b>	Active Non-Financial Foreign Entity such as an asset holding company where less than 50% of the entity's income is from Passive sources, such as investment income, rents and interest.
<b>Passive NFFE</b>	Passive Non-Financial Foreign Entity such as a property holding company where more than 50% of the entity's income is derived from passive sources such as rent from property.
<b>Direct Reporting NFFE</b>	Direct Reporting Non-Financial Foreign Entity which has chosen to register with the IRS in its own right in order to complete its own reporting in respect of FATCA and has been issued with a GIIN.
<b>Non-participating FFI</b>	Includes any entity that is not compliant under FATCA, is not registered with the IRS as an FFI or does not have an alternative FATCA compliant status such as a Trustee Documented Trust or Sponsored Closely Held Investment Vehicle. Please note if your entity is resident in a country that has entered into a Model 1 or Model 2 IGA with the United States there is no ability to classify the entity as a non-participating FFI. In addition Investec Bank (Channel Islands) Limited is unable to offer banking services to non-participating FFIs.
<b>Exempt beneficial owner</b>	Includes exempt retirement plans such as Sec 157A RATS and not for profit organisations such as registered charities.

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CRS	
<b>Reporting Financial Institution</b>	The term “Financial Institution” means a “Custodial Institution”, a “Depository Institution”, an “Investment Entity”, or a “Specified Insurance Company”. Please see the relevant domestic guidance and the CRS for further classification definitions that apply to Financial Institutions.
<b>Non-Reporting Financial Institution</b>	A Non-Reporting Financial Institution” means any Financial Institution that is: <ul style="list-style-type: none"> <li>· 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;</li> <li>· 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;</li> <li>· an Exempt Collective Investment Vehicle; or</li> <li>· a Trustee-Documented Trust: a trust where 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;</li> <li>· any other defined in a countries domestic law as a Non-Reporting Financial Institution.</li> </ul>
<b>NFE</b>	An NFE is any Entity that is not a Financial Institution.
<b>Passive NFE</b>	Under the CRS a “Passive NFE” means any: <ul style="list-style-type: none"> <li>(i) NFE that is not an Active NFE; and</li> <li>(ii) Investment Entity located in a Non-Participating Jurisdiction and managed by another Financial Institution.</li> </ul>
<b>Active NFE</b>	An NFE is an Active NFE if it meets any of the criteria listed below. In summary, those criteria refer to: <ul style="list-style-type: none"> <li>· active NFEs by reason of income and assets;</li> <li>· Governmental Entities, International Organisations, Central Banks, or their wholly owned Entities;</li> <li>· holding NFEs that are members of a nonfinancial group;</li> <li>· start-up NFEs;</li> <li>· NFEs that are liquidating or emerging from bankruptcy;</li> <li>· treasury centres that are members of a nonfinancial group; or</li> <li>· non-profit NFEs.</li> </ul>
<b>Active NFE Publicly Traded</b>	Where its stock is regularly traded on an established securities exchange.

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<p><b>FOR PASSIVE NFFES ONLY</b></p>	<p>Please note if the entity meets the definition to be treated as a Passive NFFE under the regulations, IBCI will be responsible for reporting information about the controlling persons behind the account. We would therefore ask that you consider carefully if this method of reporting is appropriate or whether it would be better served by being a Direct Reporting NFFE or treated as an FFI under the regulations, meaning that you would be responsible for reporting information relevant to your entity. Should your entity be classified as a Passive NFFE please indicate in section 2, your organisation's owners and controllers as well as their tax status. To assist you, we set out below who these people are likely to be, based on the different types of organisations we usually deal with.</p> <p>If your organisation is a limited company (including a charitable company) we need information about:</p> <ul style="list-style-type: none"> <li>· anyone who owns 25% or more of the company, or who has 25% or more of the voting rights in the company</li> <li>· where the company is owned by another organisation, any individuals who are the ultimate beneficial owners of the company</li> </ul> <p>If your organisation is a limited liability partnership (LLP), we need information about:</p> <ul style="list-style-type: none"> <li>· anyone who owns 25% or more of the LLP or who has 25% or more of the voting rights in the LLP</li> <li>· where the LLP is owned by another organisation, any individuals who are the ultimate beneficial owners of the LLP</li> </ul> <p>If your organisation is a limited partnership, we need information about:</p> <ul style="list-style-type: none"> <li>· anyone who owns 25% or more of the partnership</li> <li>· where the partnership is owned by another organisation, any individuals who are the ultimate beneficial owners of the partnership</li> <li>· the general partners</li> </ul> <p>If your organisation is another type of corporate body, we need information about:</p> <ul style="list-style-type: none"> <li>· anyone who owns 25% or more of the organisation</li> <li>· where your organisation is owned by another organisation, any individuals who are the ultimate beneficial owners of your organisation.</li> </ul>
<p><b>CONTROLLING PERSONS</b></p>	<p>Under CRS there is a specific requirement that, where an entity is determined to be a controlling person of a Passive NFE, the entity must be looked through in order to determine who the underlying individual controlling persons are. As per the Standard the term 'Controlling Persons' means the natural person(s) who exercise control over an entity. In the case of a trust such term means the settlor(s), the trustee(s), the protector(s), the beneficiary(ies) or classes of beneficiary(ies) and any other natural person(s) exercising ultimate, effective control over the trust. In the case of a legal arrangement other than a trust such term means persons in equivalent or similar positions. The term 'Controlling Persons' must be interpreted in a manner consistent with the Financial Action Task Force Recommendations.</p>

