

Automatic Exchange of Information and FATCA

Entity self-certification

(not for use by individual Accountholders)

Instructions for completion

This form is provided to you in the context of the implementation of (1) the OECD Standard for the Automatic Exchange of Financial Account Information in Tax Matters (the ***OECD Standard***) and (2) the intergovernmental agreement on FATCA signed between Luxembourg and the United States (the ***FATCA Agreement***).

We are required, pursuant to the legislation applicable in Luxembourg¹, to collect and process certain information about all our Accountholders. Where the Accountholder or any of its Controlling Persons has a tax residence outside Luxembourg or is a US Person, the information given in this form as well as other financial information with respect to any Financial Account held with our institution may be reported on an annual basis to the Luxembourg tax authorities² for continuation to the competent foreign tax authorities.

Considering the aforementioned legal provisions, you are required to complete the sections below as directed.

Please note that failure to fill in this self-certification may lead to multiple and inaccurate reporting.

If the Account holder is acting as an ***Intermediary***, is a ***Disregarded Entity*** or is **holding US securities** for the purpose of Chapter 3 of the US Internal Revenue Code, please do also fill in an **IRS Form W8 IMY, W8 BEN-E or W-9**.

Definitions of who is classified as an ***Accountholder***, a ***Controlling Person*** or a ***US Person***, and other capitalized terms in the present form, can be found in the glossary attached hereto. If you still have any questions about how to complete this form or to determine your tax residency status, we invite you to contact your tax advisor or local tax authorities.

Section 1 – IDENTIFICATION OF ACCOUNT HOLDER

A. Legal name of entity/branch³

Ceska exportni banka, a.s.

B. Country of incorporation/organisation

Czech Republic

C. Current residence address

Number, Street

34 Vodickova

Postal Code, City

11121 Prague 1

Country

Czech Republic

Section 2 – TAX RESIDENCE AND TAX IDENTIFICATION NUMBER

Please provide below the list of **ALL** countries where the Accountholder is resident for tax purposes and associated tax identification number or functional equivalent (***TIN***).

Country of Tax Residence (*)	TIN (**)
Czech Republic	CZ63078333

(*) Additional indications on ***tax residence*** can be found in the glossary attached hereto.

(**) Please indicate N/A if the country of tax residence does not issue a TIN. Please indicate "applied for" if you are a newly incorporated company having applied for a TIN (you will be required to communicate the TIN within 90 days). The indication of a TIN remains optional if the Accountholder is only resident in Luxembourg for tax purposes.

¹ FATCA law dated 24 July 2015, published in the Mémorial A – N° 145 on July 29, 2015; the CRS Law (transposing Council Directive 2014/107/UE of 9 December 2014, amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation).

² Being the *Administration des contributions directes*.

³ The entity/branch is hereinafter referred to as the "Accountholder" for the purpose of the present form.

Section 3 – US PERSON

Please tick **one** box as appropriate:

- The Entity is a ***Specified U.S. Person*** and the Entity's U.S. federal taxpayer identifying number (U.S. TIN) is as follows: _____.
- The Entity is a ***U.S. Person*** that is not a Specified U.S. Person. Indicate exemption⁴ _____. Indicate the Entity's U.S. TIN here: _____.
- The Entity is a not a ***U.S. Person***.]

Section 4 – ENTITY TYPE

Please tick **one** box under **each** of subsection 4.1 and 4.2. below.

4.1 FATCA

Please provide the Accountholder's status under FATCA by ticking **one** box in this subsection 4.1. (If you are a US Person or a Specified US Person according to Section 3 above, you do not need to complete this subsection 4.1.).

- The Accountholder is a ***Financial Institution*** → please proceed to subsection 5.1.
- The Accountholder is an ***Exempt Beneficial Owner*** → please specify status: _____.
- The Accountholder is an ***Active NFFE*** (including an ***Excepted NFFE***) → please specify status: _____.
- The Accountholder is a ***Passive NFFE***, which has one or more Controlling Person(s) who are a ***Specified US Person*** → please also complete Annex 1.
- The Accountholder is a ***Passive NFFE***, which does not have any Controlling Person who is a Specified US Person.
- Other (please specify): _____.

4.2 OECD Standard (CRS)

Please provide the Accountholder's status under the OECD Standard by ticking **one** box in this subsection 4.2.

- Financial Institution*** → please proceed to subsection 5.2.
- Active NFE*** by reason of income and assets, as per (a) in Glossary.
- Active NFE*** – the stock of the NFE is regularly traded on an established securities market, as per (b) in Glossary → please provide the name of the established securities market: _____.
- Active NFE*** – the NFE is a ***Related Entity*** of a NFE the stock of which is regularly traded on an established securities market, as per (b) in Glossary → please provide the name of the regularly traded corporation that the Accountholder is a related entity of: _____.
- Active NFE*** – Government Entity, International Organization or a Central Bank.
- Active NFE*** – other, as per (c) to (h) in Glossary → please specify status: _____.
- Passive NFE*** → please also complete Annex 1.

⁴ A list of the applicable exemptions can be found in the attached glossary in the definition of "Specified U.S. Person".

SECTION 5 – FINANCIAL INSTITUTIONS

➔ Please fill in this section 5 only if the Accountholder is a Financial Institution. If the Accountholder is **not** a Financial Institution, please proceed directly to section 6.

5.1 FATCA

Capitalized terms in the present subsection 5.1 have the meaning ascribed to them in the FATCA Agreement.

5.1.1 If the Accountholder is a **Registered Financial Institution**, please tick one of the below categories, and provide the Accountholder's FATCA GIIN at 5.1.1. 1

- (a) **Reporting Luxembourg Financial Institution** or **Reporting Financial Institution** established in another **FATCA Partner Jurisdiction**⁵
- (b) **Registered Deemed Compliant Foreign Financial Institution**
- (c) **Participating Foreign Financial Institution**

5.1.1.1 Please provide the Accountholder's **Global Intermediary Identification number (GIIN)**:
L83Y5G.99999.SL.203

5.1.1.2 If the Accountholder is a **Reporting Model 1 FFI** and has not yet obtained a GIIN but intends to do so, please tick here .

➔ By ticking the box above at 5.1.1.2, the Accountholder commits to provide a GIIN within 90 days.

5.1.2 If the Accountholder is a **Financial Institution but does not have a GIIN**, please tick one of the below reasons:

- (a) The Accountholder is a **Sponsored Financial Institution** and has not yet obtained a GIIN but is sponsored by another entity that has registered as a Sponsoring Entity. Please provide the Sponsoring Entity's name and GIIN.
Sponsoring Entity's Name: _____
Sponsoring Entity's GIIN: _____
- (b) The Accountholder is a **Certified Deemed Compliant, Owner-Documented** or otherwise **Non-Reporting, Foreign Financial Institution** (including a Foreign Financial Institution deemed compliant under Annex II of an IGA). Indicate exemption:

- (c) The Accountholder is a **Non-Participating Foreign Financial Institution**.
- (d) Other (specify and ➔ submit applicable IRS W-8 Form):

⁵ A list of the FATCA Partner Jurisdictions is available on the U.S. Treasury's website:
<http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA-Archive.aspx>

5.2 OECD Standard (CRS)

Capitalized terms in the present subsection 5.2 have the meaning ascribed to them in the OECD Standard.

5.2.1 If the Accountholder is an **Investment Entity**, please tick one of the two boxes below:

- (a) The Accountholder is an Investment Entity that fulfils all the following requirements:
 - the Accountholder is resident in a Non-participating Jurisdiction; [→ please specify jurisdiction: _____]
 - the gross income of the Accountholder is primarily attributable to investing, reinvesting, or trading in Financial Assets; and
 - the Accountholder is managed by another Financial Institution.

→ please also complete Annex 1.

- (b) **Other Investment Entity.**

5.2.2 If the Accountholder is a **Financial Institution other than an Investment Entity**, please tick here .

SECTION 6 – Declaration and signature

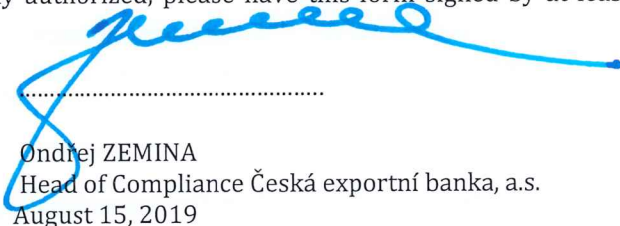
As a representative(s) authorized to sign on behalf of the Accountholder, I/we declare that, to the best of my/our knowledge and belief, the information on this form is correct and complete. In particular I/we confirm that the Accountholder and its Controlling Person(s) listed in Annex 1 hereto are not tax resident in any other country than the one(s) listed in the present form and Annex 1 hereto. I/we hereby acknowledge that Annex 1 hereto forms an integral part of the present document.

The undersigned personally undertake(s) to notify Bank of China Limited, Luxembourg Branch promptly in writing within 30 days of any change of circumstances occurring, which may cause any of the declarations on this form and its Annex 1 to be inaccurate or incomplete.

I/we hereby acknowledge that Bank of China Limited, Luxembourg Branch is required to disclose to each Controlling Person listed in Annex 1 hereto the processing of personal data in accordance with the Luxembourg data protection law (the "Data Protection Law")⁶ for the purpose of fulfilling its statutory obligations under the FATCA Agreement and the OECD Standard.

If the representative authorized to sign is jointly authorized, please have this form signed by at least two of the jointly authorized representatives.

Signature(s) of authorized representative(s):



Ondřej ZEMINA
 Head of Compliance Česká exportní banka, a.s.
 August 15, 2019

First name and last name:

Date:

⁶ Luxembourg law dated 2 August 2002 on the Protection of Persons with regard to the Processing of Personal Data, as modified.

Annex 1: Controlling Persons

→ Please complete the present Annex 1 as applicable if the Accountholder is a **Passive NFE** or a **Passive NFFE**, including an **Investment Entity referred to at 5.2.1(a) above**. In case there is any change affecting the information provided below, a new self-certification will have to be provided within 30 days.

Controlling Persons are the natural persons who exercise control over an entity. This definition corresponds to the term "beneficial owner" set out in Recommendation 10 of the Financial Action Task Force Recommendations⁷ and translated accordingly into Luxembourg AML regulations⁸.

Control over an Entity is generally exercised by the natural person(s) who ultimately has a controlling **ownership** interest in the Entity. Where no natural person exercises control through ownership interests, the Controlling Person(s) of the Entity will be the natural person(s) who exercise(s) control of the Entity through **other means**. Where no natural person(s) is/are identified as exercising control of the Entity, the Controlling Person(s) of the Entity will be the natural person(s) who hold(s) the position of **senior managing official**.

Step 1 → Please list **all** the Controlling Persons of the Accountholder according to the table below:

Full name of Controlling Person	Date and place of birth	Residence address (1)

(1) House/Apt/Suite Name, Number, Street, Town/City, Province/State, Country.

Step 2 → Please indicate the country-ies of **tax residence**, **US Person status** and the **TIN(s)** of all the persons listed at Step 1 above according to the table below:

Full name of Controlling Person	Country-ies of tax residence (2)	US Person (3)	TIN(s) (other than US) (4)	US TIN (US Persons only)

(2) Additional indications on **tax residence** can be found in the glossary attached hereto.

(3) Please answer by "Yes" or "No" as applicable. A US Person refers to a US citizen and/or resident for tax purposes.

(4) Please indicate N/A if the country of tax residence does not issue a TIN. The indication of a non-US TIN remains optional if the Controlling Person is only resident in Luxembourg for tax purposes.

Step 3 → Please specify the **type of control** exercised over the Accountholder by any of the persons listed at Step 1 above that are tax resident in one or more **Reportable Jurisdictions**.

For the purpose of this Step 3, a Reportable Jurisdiction means a jurisdiction that is recognized as such by Luxembourg. [A Reportable Jurisdiction notably includes any Member State of the European Union, except Luxembourg.]

⁷ OECD/FATF, International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, The FATF Recommendations, February 2012.

⁸ Loi modifiée du 12 novembre 2004 relative à la lutte contre le blanchiment et contre le financement du terrorisme(---).

If the Accountholder is a legal person (such as a company or a partnership), please complete the table at 3.1 below.
If the Accountholder is a trust or an equivalent legal arrangement, please complete the table at 3.2 below.

3.1 If the Accountholder is a legal person, please complete the table below:

Full name of Controlling Person	Type of control (Please tick <u>one</u> box for each Controlling Person as appropriate)
	<input type="checkbox"/> Control by ownership: ____% <input type="checkbox"/> Control by other means <input type="checkbox"/> Senior managing official
	<input type="checkbox"/> Control by ownership: ____% <input type="checkbox"/> Control by other means <input type="checkbox"/> Senior managing official
	<input type="checkbox"/> Control by ownership: ____% <input type="checkbox"/> Control by other means <input type="checkbox"/> Senior managing official

3.2 If the accountholder is a trust or an equivalent legal arrangement, please complete the table below:

Full name of Controlling Person	Type of control (Please tick <u>one</u> box for each Controlling Person as appropriate)
	<input type="checkbox"/> Settlor (or equivalent) <input type="checkbox"/> Trustee (or equivalent) <input type="checkbox"/> Protector (or equivalent) <input type="checkbox"/> Beneficiary (or equivalent) <input type="checkbox"/> Other
	<input type="checkbox"/> Settlor (or equivalent) <input type="checkbox"/> Trustee (or equivalent) <input type="checkbox"/> Protector (or equivalent) <input type="checkbox"/> Beneficiary (or equivalent) <input type="checkbox"/> Other
	<input type="checkbox"/> Settlor (or equivalent) <input type="checkbox"/> Trustee (or equivalent) <input type="checkbox"/> Protector (or equivalent) <input type="checkbox"/> Beneficiary (or equivalent) <input type="checkbox"/> Other

Glossary

This glossary provides definitions that are relevant for the purpose of filling out this form. The definitions below are extracted from applicable Luxembourg legislation related to the OECD Standard for the Automatic Exchange of Financial Account Information in Tax Matters (the ***OECD Standard***) and the intergovernmental agreement on FATCA signed between Luxembourg and the United States (the ***FATCA Agreement***) and, as the case may be, relevant US Treasury Regulations. This glossary is for general guidance only and certain definitions are in abridged form. In case of doubt, you should refer to the provisions of the aforementioned instruments. Capitalized terms not defined in the definitions set out below have the meaning ascribed to them in the OECD Standard or, where applicable, the FATCA Agreement.

None of the indications below constitute legal or tax advice and no guarantee can be accepted for completeness, editorial and technical mistakes. If you have any questions about these definitions or require further detail, please seek advice from a competent counsel.

“Accountholder”

For the purpose of FATCA and the OECD Standard, the Accountholder means in the first instance the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. Specific rules apply to accounts held by a person (other than a Financial Institution) for the benefit or account of another person as an agent, custodian, nominee, signatory, investment advisor or intermediary, in which case the said person is, as a rule, not treated as an Accountholder with respect to such accounts. Instead, such other person is treated as holding the account.

“Active NFE”

Active NFEs for the purpose of the OECD Standard consist of a series of NFEs defined in a limitative manner. For the purpose of general guidance, the different categories of Active NFEs can be summarized as follows:

- a) An NFE that meets the following, cumulative income and asset tests:
 - o Under the income test, the entity must have less than 50% of its gross income from the preceding calendar year as passive income; and
 - o Under the asset test, the entity must have less than 50% of its assets for the preceding calendar year as passive assets (i.e. assets that produce or are held for the production of passive income);
- b) An NFE, the stock of which is regularly traded on an established securities market or a NFFE that is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
- c) A NFE that is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
- d) Most holding companies, treasury centers and captive finance companies that are members of a nonfinancial group. This category excludes, however, investment funds that acquire or fund (operational) companies for investment purposes;
- e) Start-up companies investing capital in assets with the intent to operate a business other than that of a Financial Institution within two years as of the date of incorporation of the said company;
- f) Nonfinancial entities that are liquidating or emerging from reorganization or bankruptcy, to the extent that the entity under review was not a Financial Institution in the past five years;
- g) A NFE that primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and that does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution;
- h) Most charitable organizations, non-profit organizations and professional organizations.

“Active NFFE”

Active NFFEs under FATCA consist of a series of NFFEs defined in a limitative manner. For the purpose of general guidance, the different categories of Active NFFEs can be summarized as follows:

- i) An NFFE that meets the following, cumulative income and asset tests:
 - o Under the income test, the entity must have less than 50% of its gross income from the preceding calendar year as passive income; and
 - o Under the asset test, the entity must have less than 50% of its assets for the preceding calendar year as passive assets (i.e. assets that produce or are held for the production of passive income);

- j) An NFFE, the stock of which is regularly traded on an established securities market or a NFFE that is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
- k) An NFFE organized in a U.S. Territory and wholly-owned by bona fide residents of that U.S. Territory⁹;
- l) A national government (other than the U.S. government), a political subdivision of such government (which, for the avoidance of doubt, includes a state, province, county, or municipality), or a public body performing a function of such government or a political subdivision thereof, a government of a U.S. Territory¹⁰, an international organization, a non-U.S. central bank of issue, or an Entity wholly owned by one or more of the foregoing;
- m) Most holding companies, treasury centers and captive finance companies that are members of a nonfinancial group. This category excludes, however, investment funds that acquire or fund (operational) companies for investment purposes;
- n) Start-up companies investing capital in assets with the intent to operate a business other than that of a Financial Institution within two years as of the date of incorporation of the said company;
- o) Nonfinancial entities that are liquidating or emerging from reorganization or bankruptcy, to the extent that the entity under review was not a Financial Institution in the past five years;
- p) An NFFE that primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and that does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution;
- q) Entities otherwise qualifying as “**Excepted NFFE**” under the relevant US Treasury Regulations. This category includes essentially certain retirement funds;
- r) Most charitable organizations, non-profit organizations and professional organizations.

“Control”

Control over an Entity is generally exercised by the natural person(s) who ultimately has a controlling ownership interest in the Entity. Where no natural person(s) exercises control through ownership interests, the Controlling Person(s) of the Entity will be the natural person(s) who exercises control of the Entity through other means. Where no natural person(s) is identified as exercising control of the Entity, the Controlling Person(s) of the Entity will be the natural person(s) who holds the position of senior managing official.

“Controlling Person(s)”

The term Controlling Person means, for corporate entities, the natural person who exercise control over such Entity. For trusts and other similar legal arrangements, it will include the settlor, the trustee(s), the protector (if any), the beneficiaries, and any other natural person exercising ultimate effective control over the trust. The term controlling persons shall be interpreted in a manner consistent with the Financial Action Task Force Recommendations.

The question to determine whether a natural person exercises control over an Entity must be assessed on the basis of the applicable Luxembourg AML regulations¹¹. This includes, but is not limited to, any natural person owning more than 25% of the shares or voting rights in a corporate entity or, in the case of trusts and other similar legal arrangements, any natural person who is the beneficiary of 25% or more of the underlying property. Where no natural person(s) is/are identified as exercising control of the Entity, the Controlling Person(s) of the Entity will be the natural person(s) who hold(s) the position of senior managing official.

“Disregarded Entity”

For US tax purposes, a business entity that has a single owner and is not a corporation under the Internal Revenue Code is disregarded as an entity separate from its owner.

“Entity”

The term “Entity” means a legal person or a legal arrangement, such as a corporation, partnership, trust, or foundation.

“Exempt Beneficial Owner”

For FATCA purposes, the term exempt beneficial owner means,

- a) any entity that is described under section I or II of Annex II to the Luxembourg IGA;
- b) any entity described under the relevant Treasury Regulations as

⁹ The term “US Territory” refers to American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Commonwealth of Puerto Rico or the US Virgin Islands.

¹⁰ The term “US Territory” refers to American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Commonwealth of Puerto Rico or the US Virgin Islands.

¹¹ *Loi modifiée du 12 novembre 2004 relative à la lutte contre le blanchiment et contre le financement du terrorisme (...).*

- Exempt Beneficial Owners other than Funds
 - Governmental Entity
 - International Organization
 - Central Bank

- Funds that Qualify as Exempt Beneficial Owners
 - Treaty-Qualified Retirement Fund
 - Broad Participation Retirement Fund
 - Narrow Participation Retirement Fund
 - Pension Fund of an Exempt Beneficial Owner

“Financial Institution” (FI)

The term Financial Institution means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company. Additional details on these definitions can be found in the FATCA Agreement and, where applicable, the OECD Standard, as translated into Luxembourg law.

“GIIN” (Global Intermediary Identification Number)

The term GIIN or Global Intermediary Identification Number means the identification number that is assigned by the IRS to a Financial Institution upon registration for purposes of identifying such entity to withholding agents.

“Investment Entity”

For the purpose of the OECD Standard, the term Investment Entity means any Entity:

- (a) that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:
 - i. trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
 - ii. individual and collective portfolio management; or
 - iii. otherwise investing, administering, or managing Financial Assets or money on behalf of other persons; or
- (b) the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described under subparagraph (a) above.

An Entity is treated as primarily conducting as a business one or more of the activities described in subparagraph (a) above, or an Entity’s gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of subparagraph (b) above, if the Entity’s gross income attributable to the relevant activities equals or exceeds 50 per cent of the Entity’s gross income during the shorter of: (i) the three-year period ending on 31 December of the year preceding the year in which the determination is made; or (ii) the period during which the Entity has been in existence.

The term “Investment Entity” does not include an Entity that is an Active NFE because it meets any of the criteria in subparagraphs (d) through (g) in the definition of Active NFE set out above.

The definition of Investment Entity shall be interpreted in a manner consistent with similar language set forth in the definition of “financial institution” in the Financial Action Task Force Recommendations.

“Luxembourg Financial Institution” (Lux FI)

The term Luxembourg Financial Institution means, for the purpose of FATCA, (a) any Financial Institution resident in Luxembourg, but excluding any branch of such Financial Institution that is located outside Luxembourg, and (b) any branch of a Financial Institution not resident in Luxembourg, if such branch is located in Luxembourg.

“NFE”

For the purpose of the OECD Standard, a NFE or “Non-financial Entity” means an Entity that is not a Financial Institution.

“NFFE”

For the purpose of FATCA, an NFFE or “Non-financial foreign entity” means any Non-U.S. Entity that is not an FFI as defined in relevant U.S. Treasury Regulations or is an Entity in subparagraph B(4)(j) of Annex I to the FATCA Agreement, and also includes any Non-U.S. Entity that is established in Luxembourg or another Partner Jurisdiction and that is not a Financial Institution.

“Non-Participating Jurisdiction”

The term Non-Participating Jurisdiction means a jurisdiction that is not recognized by Luxembourg as a Participating Jurisdiction for the purpose of the OECD Standard.

“Non-U.S. Entity”

The term Non-U.S. Entity means an Entity that is not a U.S. Person for the purpose of FATCA.

“Participating Jurisdiction”

For the purpose of the OECD Standard, a Reportable Jurisdiction means a jurisdiction that is recognized as such by Luxembourg. [A Reportable Jurisdiction notably includes any Member State of the European Union, including Luxembourg.] [The list of Participating Jurisdictions may be updated from time to time by the Luxembourg authorities.]

“Partner Jurisdiction”

For FATCA purposes, the term Partner Jurisdiction means a jurisdiction that has in effect an IGA with the United States. The U.S. Treasury is publishing a list identifying all Partner Jurisdictions, which is updated on a regular basis¹².

“Passive income”

In determining what is meant by “passive income”, reference must be made to each jurisdiction’s particular rules.

According to the Commentaries to the OECD Standard published by the OECD, Passive income would generally be considered to include the portion of gross income that consists of:

- a) dividends and dividend substitute payments (income equivalent to dividend);
- b) interest and income equivalent to interest;
- d) rents and royalties, other than rents and royalties derived in the active conduct of a business conducted, at least in part, by employees of the NFE/NFFE;
- e) annuities;
- f) the excess of gains over losses from the sale or exchange of Financial Assets that gives rise to the passive income described previously;
- g) the excess of gains over losses from transactions (including futures, forwards, options, and similar transactions) in any Financial Assets;
- h) the excess of foreign currency gains over foreign currency losses;
- i) net income from swaps; or
- j) amounts received under Cash Value Insurance Contracts.

Notwithstanding the foregoing, passive income will not include, in the case of a NFE that regularly acts as a dealer in Financial Assets, any income from any transaction entered into in the ordinary course of such dealer’s business as such a dealer.

“Passive NFE”

For the purpose of the OECD Standard, a “Passive NFE” means any: (i) NFE that is not an Active NFE; or (ii) any Investment Entity as defined under subparagraph (b) of the aforementioned definition of Investment Entity that is resident in a Non-Participating Jurisdiction.

“Passive NFFE”

A “Passive NFFE” for FATCA purposes means any NFFE that is not (a) an Active NFFE, or (b) a withholding foreign partnership or withholding foreign trust pursuant to relevant U.S. Treasury Regulations.

“Related Entity”

An entity is a Related Entity of another entity if either entity controls the other entity, or two entities are under common control. For this purpose control includes direct or indirect ownership of more than 50 per cent of the vote and value in an entity.

“Reportable Jurisdiction”

For the purpose of the OECD Standard, a Reportable Jurisdiction means a jurisdiction that is recognized as such by Luxembourg. [A Reportable Jurisdiction notably includes any Member State of the European Union, except

¹² <http://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA-Archive.aspx>

Luxembourg.] [The list of Reportable Jurisdictions may be updated from time to time by the Luxembourg authorities.]

“Specified US person”

The term Specified U.S. Person means a U.S. Person, other than:

- a) a corporation the stock of which is regularly traded on one or more established securities markets;
- b) any corporation that is a member of the same expanded affiliated group as a corporation described in clause (j) above;
- c) the United States or any wholly owned agency or instrumentality thereof;
- d) any State of the United States, any U.S. Territory, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing;
- e) any organization exempt from taxation under section 501(a) of the U.S. Internal Revenue Code or an individual retirement plan as defined in section 7701(a)(37) of the U.S. Internal Revenue Code;
- f) any bank as defined in section 581 of the U.S. Internal Revenue Code;
- g) any real estate investment trust as defined in section 856 of the U.S. Internal Revenue Code;
- h) any regulated investment company as defined in section 851 of the U.S. Internal Revenue Code or any entity registered with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C 80a-64);
- i) any common trust fund as defined in section 584(a) of the U.S. Internal Revenue Code;
- j) any trust that is exempt from tax under section 664(c) of the U.S. Internal Revenue Code or that is described in section 4947(a)(1) of the U.S. Internal Revenue Code;
- k) a dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any State;
- l) a broker as defined in section 6045(c) of the U.S. Internal Revenue Code; or
- m) any tax-exempt trust under a plan that is described in section 403(b) or section 457(g) of the U.S. Internal Revenue Code.

“Tax resident”

A person is always tax resident in at least one country.

An entity is a Tax Resident in a jurisdiction when it is considered a resident under a tax law of that jurisdiction and there is a full liability to tax. The concept of tax residency may differ from jurisdiction to jurisdiction. Common international criteria that may be factored into tax residency include:

- domicile in a jurisdiction; or
- place of effective management or incorporation/organisation; or
- nationality.

It should be noted that a temporary stay in a jurisdiction can contribute to tax residency. Further it is possible to be considered a Tax Resident in more than one jurisdiction. Government officials, diplomats and military personnel are generally Tax Resident in their home jurisdiction.

The actual determination of tax residency takes place under the local tax regime(s).

The domestic laws of the other countries lay down the conditions under which an entity is to be treated as tax resident. You can check the conditions with the local government or by visiting the OECD’s portal on the automatic exchange of information:

<http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/#d.en.347760>

Legal arrangements and tax residency:

An entity such as a legal arrangement, that has no residence for tax purposes (transparent entities) is tax resident for the purpose of the OECD Standard in the jurisdiction in which its place of effective management is located. If there is no place of effective management, the address of its principal office can serve as a proxy for determining residence. Please note therefore that the residence for the purpose of the OECD Standard may differ from the residence for other purposes.

“TIN” (including “functional equivalent”)

The term “TIN” means Taxpayer Identification Number or a functional equivalent in the absence of a TIN. A TIN is a unique combination of letters or numbers assigned by a jurisdiction to an individual or an Entity and used to identify the individual or Entity for the purposes of administering the tax laws of such jurisdiction.

Some jurisdictions do not issue a TIN. However, these jurisdictions often utilise some other high integrity number with an equivalent level of identification (a “functional equivalent”). Examples of that type of number include, for individuals, the social security number.

“US Person”

The term U.S. Person means a U.S. citizen or resident individual, a partnership or a corporation organized in the United States or under the laws of the United States or any States thereof, a trust if (a) a court within the United States would have authority under applicable law to render orders or judgements concerning substantially all issues regarding administration of the trust, and (b) one or more US persons have the authority to control all substantial decisions of the trust, or an estate of a decedent that is a citizen or resident of the United States. This definition shall be interpreted in accordance with the US Internal Revenue Code.

“(US) Treasury”

Means the United States Department of the Treasury.