

Common terms for FATCA and AEOI

C _____**Controlling persons**

This term means the natural persons 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 member of a class(es) of beneficiaries and any other natural person(s) exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term must be interpreted in a manner consistent with the Swiss implementation of the Financial Action Task Force (FATF) Recommendations, i.e. for Switzerland the 2016 Regulation of the self-regulatory organization of the Swiss Insurance Organization to combat money laundering and terrorism financing (available only in French and German).

E _____**Entity to be identified**

This term refers to:

- for a depository account, the person listed or identified as the account holder;
- for a cash value insurance contract or an annuity contract, the person that has the right to access the cash value or change the beneficiary of the contract. If no person has such a right, the persons designated as owners in the contract or any person with an inalienable right to payment under the contract are deemed entities to be identified. Upon maturity of a cash value insurance contract or an annuity contract, each person entitled to receive a payment under the contract is treated as an entity to be identified.

If a person, other than a financial institution, holds an account for the benefit or on behalf of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, such other person is treated as the account holder. Please note that in the case of trusts, the trust itself is treated as the entity to be identified and not the trustee.

P _____**Protector**

This term means the person whose role is to implement and monitor the trustee's actions, such as overseeing investment decisions or authorizing a payment to a beneficiary.

S _____**Settlor**

This term means the person transferring a specific asset to the trustee, with the intention that it would be administered for the benefit of others (the beneficiaries). A settlor (also called « grantor ») may place any kind of transferable asset into a trust.

T _____**Trust**

This notion means a fiduciary arrangement, whereby a person (the settlor) transfers property, and the control thereof, to a trustee for the benefit of certain persons (the beneficiaries).

Trustee

This term means the person who holds the legal title to the trust property in the interests of the beneficiaries. The terms on which the trustee must act on behalf of the beneficiaries are determined by the settlor.

Terms related to FATCA

- Part A(2) of tax identification and self-declaration form -

A _____

Active NFFE

This term means any non-financial foreign entity that meets any of the following criteria:

- NFFE less than 50% of whose gross income for the preceding calendar year or other appropriate reporting period is passive income (see below); and less than 50% of whose assets held during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
- NFFE whose stock is regularly traded on an established securities market or which is a related entity of an entity the stock of which is traded on an established securities market;
- NFFE organized in a US territory and all of the owners of the payee are bona fide residents of that US territory;
- non-US government, political subdivision of such government (which includes states, provinces, counties, or municipalities), or public body performing a function of such government or political subdivision thereof, government of a US territory, international organization, non-US central bank of issue, or entity wholly owned by one or more of the foregoing;
- NFFE substantially all of whose activities consist of holding (in whole or in part) the outstanding stock of, and providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a financial institution. An NFFE shall not qualify for this status if the NFFE functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
- NFFE that was not a financial institution in the past five years, and is in the process of liquidating its assets or is reorganizing with the intent to continue or restart operations in a business other than that of a financial institution;
- NFFE which primarily engages in financing and hedging transactions with or for related entities that are not financial institutions, and 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;
- NFFE not yet operating a business and which has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a financial institution; the NFFE shall not qualify for this exception after the date that is 24 months after the date of the initial organization of the NFFE;
- excepted NFFE as described in relevant US Treasury Regulations (§1.1472-1(c)(1));
- non-profit organization which meets all of the following requirements:
 - it is established and maintained in its state of residence exclusively for religious, charitable, scientific, artistic, cultural, or educational purposes or it is established and operating in its jurisdiction of residence and it is a professional organization, business league, chamber of commerce, labour organization, agricultural or horticultural organization, civic league or an organization operated exclusively for the promotion of social welfare;
 - it is exempt from income tax in its country of residence;
 - it has no shareholders or members who have proprietary or beneficial interest in its income or assets;
 - the applicable laws of its 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
 - the applicable laws of its country of residence or the entity's formation documents require that, upon the entity's liquidation or dissolution, all of its assets will be distributed to a governmental entity or other non-profit organization, or escheat to the government of the entity's country of residence or any political subdivision thereof.

C _____**Control test**

The control test is met if one or more US Persons (individuals or entities) have the power, by vote or otherwise, to make all substantial decisions regarding the trust, with no other person having the power to veto any of the substantial decisions. The term substantial decisions include, but is not limited to, decisions concerning distributions, beneficiaries, or termination.

Court test

The court test is met if a court within the US has or would have the authority under applicable law to render orders or judgments resolving all issues regarding the administration of the entire trust. The term administration of the trust means the execution of the duties imposed by the terms of the trust instrument and applicable law.

E _____**Exempt beneficial owners**

This term means the classes of entities which are not subject to withholding with respect to income credited on their accounts (§§ 1.1471-2(a)(4)(v) and 1.1472-1(c)(2) of the US Treasury Regulations).

The US Treasury Regulations currently classifies under this category any foreign government, any political subdivision of a foreign government, or any wholly owned agency or instrumentality of any one or more of the foregoing (§ 1.1471-6(b)), any international organization or any wholly owned agency or instrumentality (§ 1.1471-6(c)), any foreign central bank of issue (§ 1.1471-6(d)), any government of a U.S. territory (§ 1.1471-6(e)), certain foreign retirement funds (§ 1.1471-6(f)), certain entities which are wholly owned by one or more other exempt beneficial owners (§ 1.1471-6(g)), as well as any person treated as an exempt beneficial owner pursuant to a Model 1 IGA or Model 2 IGA (§ 1.1471-6(a)).

F _____**Financial asset**

This term means a security (i.e., a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or a trust; bond or other evidence of indebtedness), partnership interest, commodity, swap, insurance contract or annuity contract, or any interest (including a forward contract or option) in one of the foregoing.

Foreign financial institution (« FFI »)

There may be slight differences in the definition and interpretation of the term FFI depending on whether an IGA or the US Treasury Regulations apply. Generally, an entity is considered a financial institution if it falls within at least one of the following categories:

- depository institution: any entity that accepts deposits in the ordinary course of a banking or similar business.
- custodial institution: any entity that holds financial assets (see above) for the benefit of others, if at least 20% of the entity's gross income is attributable to such activities during the last three years (or since the entity has been in existence, if shorter).
- investment entity:
 - any entity that provides as a business certain financial services (e.g. trading, portfolio management, investing, administering or managing funds, money or financial assets) on behalf of other persons, if at least 50% of the entity's gross income is attributable to such activities during the last three years (or since the entity has been in existence, if shorter); namely, a managing investment entity;
 - any professionally managed (see below) entity, if at least 50% of the entity's gross income was attributable to investing, reinvesting, or trading in financial assets during the last three years (or since the entity has been in existence, if shorter); or
 - any entity that functions or holds itself out as a collective investment vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leverage buyout fund, or any similar investment vehicle established with an investment strategy of investing, reinvesting, or trading in financial assets.
- specified insurance company: any entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, cash value insurance contracts or annuity contracts.

G _____**GIIN**

This acronym means Global Intermediary Identification Number. If the issuance of the GIIN has been requested from the Internal Revenue Service (IRS) but has not been assigned yet, please indicate « applied for ». A new form must be provided once the GIIN has been received.

I _____**Intergovernmental Agreement (« IGA »)**

This term means an agreement or arrangement between the United States of America and a foreign government governing the implementation of FATCA in a non-US jurisdiction. Jurisdictions having signed an IGA with the United States of America, but also jurisdictions having an IGA reached in substance are treated as having an IGA in effect. The list of IGA signed and agreed in substance can be found under the following link:

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

N _____**NFFE: Non-financial foreign entity**

This term means any non-US entity that is not an FFI (see above), as defined in relevant US Treasury Regulations or is an active NFFE that is a non-profit organization meeting certain specific requirements (see above), and also includes any non-US entity that is organized under the laws of Switzerland or another partner jurisdiction and that is not a financial institution.

Nonparticipating FFI

This term means an entity that is an FFI other than:

- a participating FFI,
- a reporting Model 1 FFI,
- a reporting Model 2 FFI,
- a registered deemed-compliant FFI, including a sponsored FFI,
- a certified deemed-compliant FFI,
- a nonreporting IGA FFI, or
- an exempt beneficial owner.

Nonreporting IGA FFI

This term means an FFI or another entity resident in a jurisdiction that has an IGA in effect and that is described in Annex II of the applicable IGA, or that qualifies as a registered deemed-compliant FFI, including a sponsored FFI, a certified deemed-compliant FFI, or an exempt beneficial owner according to the US Treasury Regulations¹.

O _____**Other status**

The other possible FATCA statuses for an entity that is resident in a country that does not have an IGA in place, include for example:

- certified deemed-compliant nonregistering local bank (§1.1471-5(f)(2)(i) of the US Treasury Regulations);
- certified deemed-compliant FFI with only low-value accounts (§1.1471-5(f)(2)(ii) of the US Treasury Regulations);
- certified deemed-compliant limited life Debt Investment Entity (§1.1471-5(f)(2)(iv) of the US Treasury Regulations);

¹ In certain IGA, the term nonreporting IGA FFI includes an excepted financial institution under the US Treasury Regulations.

- restricted distributor (§1.1471-5(f)(4) of the US Treasury Regulations);
- territory financial institution (§.1.1471-1(b)(130) of the US Treasury Regulations);
- direct reporting NFFE (§1.1472-1(c)(3) of the US Treasury Regulations);
- sponsored direct reporting NFFE (§1.1472(c)(5)(i) of the US Treasury Regulations);
- exempt beneficial owner (§1.1471-6(b); 6(c); 6(d); 6(e); 6(f) and 6(g) of the US Treasury Regulations);
- certified deemed-compliant sponsored, Closely Held Investment Vehicle (§1.1471-5(f)(2)(iii) of the US Treasury Regulations);
- certain Investment Entities That Do Not Maintain Financial Accounts (§1.1471-5(f)(2)(v) of the US Treasury Regulations).

P _____

Participating FFI

This term means an FFI, or the branch of an FFI, that is domiciled in a jurisdiction that does not have an IGA in effect, and is registered with the IRS in order to:

- enter into an FFI agreement (Rev. Proc. 2017-16),
- comply with the terms of this agreement; and
- obtain a GIIN.

Passive income

This term is generally considered to include the portion of gross income that consists of dividends, interest, income equivalent to interest, 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 entity), annuities, the excess of gains over losses from the sale or exchange of property that gives rise to the aforementioned types of passive income, the excess of gains over losses from certain transactions in commodities, the excess of foreign currency gains over foreign currency losses, the net income from swaps transactions, amounts received under a cash value insurance contract, or amounts earned by an insurance company in connection with its reserves for insurance and annuity contracts.

Passive NFFE

This term means an NFFE that is not an active NFFE, nor a withholding foreign partnership or withholding foreign trust pursuant to relevant US Treasury Regulations.

Professional management

An entity is considered professionally managed if another financial institution provides, on the basis of a discretionary mandate, certain financial services on behalf of the entity (e.g. trading, portfolio management, investing, administering or managing funds, money or financial assets).

R _____

Registered deemed-compliant FFI

(other than a reporting Model 1 FFI, sponsored FFI, or nonreporting IGA FFI)

This term means an FFI that is resident in a country that does not have an IGA in effect and which qualifies as a registered deemed-compliant FFI under the US Treasury Regulations because it meets the criteria of one of the following categories:

- financial institution with local client base (§1.1471-5(f)(1)(i)(A) of the US Treasury Regulations);
- nonreporting member of participating FFI groups (§1.1471-5(f)(1)(i)(B) of the US Treasury Regulations);
- collective investment vehicle (§1.1471-5(f)(1)(i)(C) of the US Treasury Regulations);
- restricted fund (§1.1471-5(f)(1)(i)(D) of the US Treasury Regulations);
- qualified credit card issuer and servicer (§1.1471-5(f)(1)(i)(E) of the US Treasury Regulations).

Reporting Model 1 FFI

This term means an FFI or a branch of an FFI that is treated as a reporting financial institution under an applicable Model 1 IGA and that has registered with the IRS to obtain a GIIN.

Reporting Model 2 FFI

This term means an FFI or the branch of an FFI that is treated as a reporting financial institution under an applicable Model 2 IGA and that has registered with the IRS to comply with the terms of the FFI agreement (Rev. Proc. 2017-16) as modified by the applicable Model 2 IGA and to obtain a GIIN.

S _____

Sponsored FFI

This term means an FFI resident in a jurisdiction that does not have an IGA in effect and that meets the following criteria:

- the FFI is an investment entity;
- the FFI is not a qualified intermediary, a Withholding Foreign Trust or a Withholding Foreign Partnership; and
- an entity, other than a nonparticipating FFI, has agreed to act as a sponsoring entity for the FFI.

U _____

US account

This term means a financial account held by one or more specified US Persons (all US Persons, apart from certain entities that are excluded under the applicable IGA or the US Treasury Regulations) or by a non-US entity with one or more controlling persons that is a specified US Person.

US single member LLC

This term means an entity created by US statute and having only one member. Specifically, a US single member LLC is generally treated as transparent, namely as an entity not considered as separate from its single member for US income tax purposes. Thus, the single member, and not the US single member LLC, must be documented as account holder for FATCA purposes.

Terms related to AEoI

- Part A(3,4) and part B tax identification and self-declaration form -

A _____

Active NFE

An NFE is an active NFE if it meets the criteria for any of the sub-categories listed below:

- active NFE by reason of income and assets: less than 50% of the NFE's gross income for the preceding calendar year or other appropriate reporting period is passive income (e.g. dividends, interest, rents, royalties, annuities) and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
- publicly traded NFE: the interests in the NFE are regularly traded on an established securities market;
- NFE that is a related entity of a publicly traded entity: the NFE is a related entity of an entity the interests in which are regularly traded on an established securities market;
- governmental entity, international organisation, or central bank: the NFE is a governmental entity, an international organisation, a central bank, or an entity wholly owned by one or more of the foregoing;

- holding NFE that is a member of a nonfinancial group: substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a financial institution. An entity does not qualify for this status if the entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;
- start-up NFE: the NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a financial institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE;
- NFE that is liquidating or emerging from bankruptcy: the NFE was not a financial institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or restart operations in a business other than that of a financial institution;
- treasury centre that is a member of a nonfinancial group: the NFE primarily engages in financing and hedging transactions with, or for, related entities (see below) that are not financial institutions, and 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;
- non-profit NFE: the NFE meets all of the following requirements:
 - it is established and operating in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operating 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 operating exclusively for the promotion of social welfare;
 - it is exempt from income tax in its jurisdiction of residence;
 - it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE 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 NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and
 - the applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE's liquidation or dissolution, all of its assets will be distributed to a governmental entity or other non-profit organisation, or escheat to the government of the NFE's jurisdiction of residence or any political subdivision thereof.

C _____

Country of tax liability

The tax residence of an entity is determined according to the domestic legislation of the jurisdiction with which it has a connection. Generally, an entity is resident for tax purposes in a jurisdiction if, under the laws of that jurisdiction, it pays or should be paying tax therein by reason of its place of incorporation or organization, address of its head office, main office or effective place of management (i.e. full tax liability). However, an entity will not be resident for tax purposes in a jurisdiction solely because it has a permanent establishment in this jurisdiction.

In case of a conflict of residence between several jurisdictions, reference should be made, where appropriate, to the applicable double taxation agreements between the jurisdictions involved in order to determine which must take precedence over the other(s).

Custodial institution

This term means any entity that holds, as a substantial portion of its business, financial assets on behalf of third parties. An entity holds financial assets on behalf of third parties as a substantial portion of its business if the entity's gross income attributable to the holding of financial assets and related financial services equals or exceeds 20% of the entity's gross income during the shorter of: the three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or the period during which the entity has been in existence.

D _____

Depository institution

The term depository institution means any entity that accepts deposits in the ordinary course of a banking or similar business.

E _____**Entity not reportable for purposes of the automatic exchange of information in tax matters (AEoI) due to its status**

This term means the following entities:

- a publicly traded corporation;
- any corporation which is a related entity of a publicly traded corporation;
- a governmental entity;
- an international organisation;
- a central bank; or
- a financial institution different from a PMIE.

Excluded account

This term means an account excluded under the Federal Act on the International Automatic Exchange of Information in Tax Matters (AEoI Act), article 4, or the Ordinance on the International Automatic Exchange of Information in Tax Matters, articles 8 to 17.

F _____**Financial asset**

This term means a security (for example, a share of stock in a corporation; partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust, or other evidence of indebtedness), partnership interest, commodity, swap (for example, interest rate swaps, currency swaps, basis swaps, interest rate caps, interest rate floors, commodity swaps, equity swaps, equity index swaps, and similar agreements), insurance contract or annuity contract, or any interest (including a futures or forward contract or option) in a security, partnership interest, commodity, swap, insurance contract, or annuity contract. The term financial asset does not include a non-debt, direct interest in real property.

Financial institution

This term means a custodial institution, a depository institution, a managing or professionally managed investment entity, or a specified insurance company. Entities that are typically treated as such include banks, brokers, investment managers and life insurance companies.

M _____**Managing investment entity**

This term means any entity that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:

- 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;
- individual and collective portfolio management; or
- otherwise investing, administering, or managing financial assets or money on behalf of other persons.

An entity is treated as primarily conducting as a business one or more of the activities described above, if the entity's gross income attributable to the relevant activities equals or exceeds 50% of the entity's gross income during the shorter of: the three-year period ending on 31 December of the year preceding the year in which the determination is made; or the period during which the entity has been in existence.

N _____**Non-financial entity (« NFE »)**

This term means an entity that is not a financial institution.

P _____

Participating jurisdiction

In addition to partner states according to article 2, paragraph 1, letter c of the AEOI Act, this term means the other jurisdictions that have committed to the Global Forum on Transparency and Exchange of Information for Tax Purposes to implement the AEOI.

Partner state

This term means a state or territory with which Switzerland has agreed to apply the automatic exchange of information.

Passive NFE

This term means any NFE that is not an active NFE. Additionally, an account holder that is a PMIE (see below) located in a non-participating jurisdiction is also treated as a passive NFE for AEOI/CRS purposes.

Professionally managed investment entity (« PMIE »)

This term means any entity 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 a managing investment entity.

An entity's gross income is primarily attributable to investing, reinvesting, or trading in financial assets, if the entity's gross income attributable to the relevant activities equals or exceeds 50% of the entity's gross income during the shorter of: the three-year period ending on 31 December of the year preceding the year in which the determination is made; or the period during which the entity has been in existence.

An entity is « managed by » another entity if the managing entity performs, either directly or through another service provider, any of the following activities or operations on behalf of the managed entity:

- 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;
- individual and collective portfolio management; or
- otherwise investing, administering, or managing financial assets or money on behalf of other persons.

However, an entity is not professionally managed if the managing entity does not have discretionary authority to manage the entity's assets (in whole or in part). Where an entity is managed by a mix of financial institutions, NFEs or individuals, the entity is considered to be managed by another entity that is a financial institution.

Generally, entities that are treated as professionally managed investment entities include private and collective investment vehicles (for example private equity investment entities, trusts, foundations or funds) that are professionally managed because they have, for example, a discretionary management mandate with another financial institution.

R _____

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 direct or indirect ownership of more than 50% of the vote and value in an entity.

Reportable account

This term means an account held by one or more reportable persons or by a passive NFE (or a professionally managed investment entity located in a non-participating jurisdiction) with one or more controlling persons being a reportable person, provided it has been identified as such pursuant to the applicable AEOI/CRS due diligence procedures.

Reportable jurisdiction

This term means a country/jurisdiction with which Switzerland has an agreement in place pursuant to which Switzerland is obliged to provide the information about the residents of that country/jurisdiction and their accounts (reportable accounts), and which is identified in the following list:

<https://www.sif.admin.ch/sif/en/home/themen/internationale-steuerpolitik/automatischer-informationsaustausch.html>.

Reportable person

This term means a person that is resident for tax purposes in a reportable jurisdiction under the tax laws of such jurisdiction, other than: a corporation the stock of which is regularly traded on one or more established securities markets; any corporation that is a related entity of a corporation the stock of which is regularly traded on one or more established securities markets; a governmental entity; an international organisation; a central bank; or a financial institution different from a PMIE.

S _____

Specified insurance company

This term means any entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a cash value insurance contract or an annuity contract.

T _____

TIN

This term 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.
