

FREQUENTLY ASKED QUESTIONS

TAX CERTIFICATIONS (FATCA AND CRS)

1. Why do I have to provide tax certifications?

Tax evasion is a global problem and international cooperation and sharing of high quality, predictable information between revenue authorities will help them ensure compliance with local tax laws.

Australia is participating in both the Foreign Account Tax Compliance Act ('FATCA'), which was enacted by the United States (U.S.) Congress and the Common Reporting Standard ('CRS'), which was developed by the OECD.

FATCA

Australia and the US have signed an Intergovernmental Agreement ('IGA') to implement the FATCA requirements in Australia. Under the IGA, Australian financial institutions report to the Australian Taxation Office ('ATO') and the information is made available to the IRS. The Fund is therefore required to request information from you to determine whether you are a US Person or Specified US Person and where applicable, provide information to the ATO.

You may review the ATO website¹ and the IGA² or consult your tax advisor should you wish to understand the implications or compliance obligations of FATCA to your particular circumstances. The Responsible Entity and the Fund are not liable for any loss an investor may suffer as a result of the Fund's compliance with FATCA.

CRS

Under the CRS, we are required to determine the country in which you are a 'tax resident' (this will usually be where you are liable to pay income taxes). If your tax residence (or the Controlling Person) is located outside of Australia, we may be legally obliged to pass on the information in this form and other financial information with respect to your financial accounts to the ATO and they may exchange this information with tax authorities of another jurisdiction or jurisdictions pursuant to intergovernmental agreements to exchange financial account information. Even if you have already provided information in relation to FATCA, you may still need to provide additional information for the CRS as this is a separate regulation.

Providing your tax certifications will ensure that we hold accurate and up to date information about your tax residency.

You may review the [ATO website](#), the [IGA](#) (FATCA) and the [OECD automatic exchange of information portal](#) (CRS) or consult your tax advisor should you wish to understand the implications or compliance obligations of FATCA and CRS to your particular circumstances. The Responsible Entity and the Fund are not liable for any loss an investor may suffer as a result of the Fund's compliance with FATCA and CRS.

2. Can I attach self certification forms (e.g. W8BENE and CRS forms) instead of answering the tax certification questions on the Application Form?

Yes, for non-individuals, we do accept original or certified copy of self-certification forms.

3. Glossary of FATCA Terms

FATCA status

Where a financial institution does not have a GIIN, we will need to obtain their FATCA status. This status can ONLY be one of the following:

1. Non reporting IGA FI (listed in Annex II of an IGA)
2. Deemed compliant FI
3. Excepted FI
4. Exempt beneficial owner
5. Non participating FI
6. GIIN applied for but not yet issued.
7. US Financial Institution

Global Intermediary Identification Number (GIIN)

A GIIN is a unique ID number that non-US financial institutions receive from the IRS when they register as a financial institution for FATCA.

¹ www.ato.gov.au/General/International-tax-agreements/In-detail/International-arrangements/FATCA-detailed-guidance/?page=1#1_Financial_Institutions

² The IGA is available here: <http://www.treasury.gov.au/Policy-Topics/Taxation/Tax-Treaties/HTML/Intergovernmental-Agreement>

Foreign Financial Institution (FFI)

FFI refers to a non-US Financial Institution. The FATCA legislation contains an extensive definition of FFI and includes entities such as banks, custodian institutions, investment funds and certain types of insurance companies.

Non-Financial Foreign Entity (NFFE)

A NFFE is a non-US incorporated/established entity that does not meet the definition of an FFI and includes:

- Listed or privately held operating or trading businesses
- Professional service firms
- Certain entities with a passive income (i.e. not an operating/ trading business)
- Charitable organisations

Deemed Compliant Foreign Financial Institution refers to:

- A. Financial Institution with Australian Client Base
- B. Small Local Bank
- C. Financial Institution with only Low-Value Accounts
- D. Qualified Credit Card Issuer
- E. Trustee-Documented Trust
- F. Sponsored Investment Entity
- G. Investment Advisers and Investment Managers
- H. Collective Investment Vehicles

Each of these terms is further defined in Annex II of the IGA.

Excepted Foreign Financial Institution

A Foreign Financial Institution that can rely on an exemption under the FATCA Regulations.

Exempt Beneficial Owners refers to:

- A. Government Entities
- B. International, intergovernmental and supranational organisations
- C. The Reserve Bank of Australia and its subsidiaries
- D. Complying Australian superannuation funds (including self-managed superannuation funds and pooled superannuation trusts)
- E. Investment entities which are wholly owned by exempt beneficial owner

Each of these terms is further defined in Annex II of the IGA.

Non-Reporting Foreign Financial Institution refers to a Financial Institution that meets the requirements to be considered a non-reporting financial institution pursuant to the IGA.

Non-Participating Foreign Financial Institution refers to a Financial Institution that is not exempt from FATCA but which has not registered for FATCA.

US Person

The term "United States person" means:

- A citizen or resident of the United States,
- A partnership created or organized in the United States or under the law of the United States or of any State, or the District of Columbia,
- A corporation created or organized in the United States or under the law of the United States or of any State, or the District of Columbia,
- Any estate or trust other than a foreign estate or foreign trust. (See Internal Revenue Code section 7701(a)(31) for the definition of a foreign estate and a foreign trust.),
- A person that meets the substantial presence test, or
- Any other person that is not a foreign person.

US Citizen

The term "United States Citizen" means:

- An individual born in the United States,
- An individual whose parent is a U.S. citizen,
- A former alien who has been naturalized as a U.S. citizen,
- An individual born in Puerto Rico,
- An individual born in Guam, or
- An individual born in the U.S. Virgin Islands.

Specified US Person

The term specified United States person means any United States person other than:

- A. a corporation the stock of which is regularly traded on one or more established securities markets for a calendar year;
- B. any corporation which is a member of the same expanded affiliated group as a corporation the stock of which is regularly traded on one or more established securities markets for the calendar year;
- C. any organisation exempt from taxation under U.S. federal tax law or an individual retirement plan;

- D. the United States or any wholly owned agency or instrumentality thereof;
- E. any State, the District of Columbia, 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;
- F. any bank incorporated and doing business under the laws of the United States (including laws relating to the District of Columbia) or of any state thereof;
- G. any real estate investment trust;
- H. any regulated investment company, or any entity registered with the Securities Exchange Commission under the Investment Company Act of 1940,
- I. any common trust fund;
- J. any trust that is exempt from tax or is deemed a charitable trust;
- K. a dealer in securities, commodities, or derivative financial instruments that is registered as such under the laws of the United States or any State;
- L. a broker, and
- M. any tax exempt trust under a tax exempt or public school annuity plan or governmental plan.

4. Glossary of CRS Terms

Investment Entity

Investment Entity includes two types of entities:

(i) an 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.

Such activities or operations do not include rendering non-binding investment advice to a customer.

(ii) the second type of “Investment Entity”, also known as an “Investment Entity managed by another Financial Institution”, is any entity where its gross income is primarily attributable to investing, reinvesting, or trading in financial assets where the entity is managed by another entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or the first type of Investment Entity.

Investment Entity located in a Non-Participating Jurisdiction and managed by another Financial Institution

Any entity where its gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets if the entity is:

- (i) managed by a Financial Institution; and
- (ii) not a Participating Jurisdiction Financial Institution.

Investment Entity managed by another Financial Institution

An entity is “managed by” another entity if the managing entity performs, either directly or through another service provider on behalf of the managed entity, any of the activities or operations described in clause (i) above in the definition of ‘Investment Entity’.

An entity only manages another entity if it has discretionary authority to manage the other entity’s assets (either in whole or 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 Depository Institution, a Custodial Institution, a Specified Insurance Company, or the first type of Investment Entity, if any of the managing entities is such another entity.

NFE

Any entity that is not a Financial Institution.

Active NFE

An Active NFE is a NFE that meets any of the criteria summarised below:

- active NFEs 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 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 NFEs - the stock of the NFE is regularly traded on an established securities market or the NFE is a related entity of an entity the stock of which is regularly traded on an established securities market;
- Governmental entities, international organisations, central banks, or their wholly owned entities;
- holding NFEs that are members of a non-financial group;
- start-up NFEs;
- NFEs that are liquidating or emerging from bankruptcy;

- treasury centres that are members of a non-financial group; or
- non-profit NFEs.

Passive Income

Passive income refers to income such as:

- Dividends
- Interest
- Rents and royalties
- Annuities
- Capital gains / losses on investments
- The excess of gains over losses from the sale or exchange of property that gives rise to passive income described above
- Amounts received under cash value insurance contracts
- Amounts earned by an insurance company in connection with its reserves for insurance and annuity contracts

Participating Jurisdiction

A jurisdiction with which an agreement is in place pursuant to which it will provide the information required on the automatic exchange of financial account information set out in the Common Reporting Standard and that is identified in a published list. Refer to the [OECD automatic exchange of information portal](#) (CRS by jurisdiction).

Participating Jurisdiction Financial Institution

Participating Jurisdiction Financial Institution means (i) any Financial Institution that is tax resident in a Participating Jurisdiction, but excludes any branch of that Financial Institution that is located outside of that jurisdiction, and (ii) any branch of a Financial Institution that is not tax resident in a Participating Jurisdiction, if that branch is located in such Participating Jurisdiction.

Passive NFE

Under the CRS, a Passive NFE means any NFE that is not an Active NFE. An Investment Entity located in a Non-Participating Jurisdiction and managed by another Financial Institution is also treated as a Passive NFE for purposes of the CRS.

Resident for tax purposes

Each jurisdiction has its own rules for defining tax residence, and jurisdictions have provided information on how to determine whether an entity is tax resident in the jurisdiction on the [OECD automatic exchange of information portal \(tax residency\)](#). Generally, an entity will be resident for tax purposes in a jurisdiction if, under the laws of that jurisdiction (including tax conventions), it pays or should be paying tax therein by reason of his domicile, residence, place of management or incorporation, or any other criterion of a similar nature, and not only from sources in that jurisdiction. Dual resident entities may rely on the tiebreaker rules contained in tax conventions (if applicable) to solve cases of double residence for determining their residence for tax purposes. An entity such as a partnership, limited liability partnership or similar legal arrangement that has no residence for tax purposes shall be treated as resident in the jurisdiction in which its place of effective management is situated. For additional information on tax residence, please talk to your tax adviser.

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. Further details of acceptable TINs can be found at the [OECD automatic exchange of information portal \(tax identification numbers\)](#).

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 entities, a business/company registration code/number.