

Inter-Governmental Agreement declaration to confirm your tax status under FATCA

Bank use only

Customer Name

Customer Number

Customer Address

Customer Permanent Residence Address, if different from the above address

Your Permanent Residence Address is the address where you are treated as resident for tax purposes, or, if not applicable, the address of your principal office

Country or Territory of Incorporation

FATCA ENTITY CLASSIFICATION STATUS

In relation to chapter 4, subtitle A (sections 1471 through 1474) of the United States Internal Revenue Code of 1986 (the provisions commonly referred to as the "Foreign Account Tax Compliance Act" or "FATCA") and regulations made thereunder or any intergovernmental agreements to facilitate compliance with FATCA with the United States, I/We *(please delete as appropriate)* make the following certifications in relation to the entity listed above:

1. I/We hereby certify that the entity is NOT:

- A corporation or partnership incorporated, created or organised in the United States of America or under the law of the United States of America or of any of the States thereof;
- A trust in respect of which a court within the United States of America is able to exercise primary supervision over the administration of the trust, and one or more United States 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

2. The entity is not acting as agent, intermediary or nominee of another person or organisation

3. The entity is not a financial institution

Please read the following information carefully and select one of the entity types to provide confirmation of your status under FATCA. Once you have made your selection, please complete the box and sign on page 5 of this form. You will find more information on some of the terms used within this declaration within the associated notes.

If you have any questions in relation to this Declaration or are unsure whether the entity listed above satisfies any of the criteria stated in this Declaration, please contact a tax advisor. HSBC cannot provide tax advice in relation to completing this declaration or any other FATCA documentation.

If you are unable to sign this declaration, please provide an IRS tax form, which can be obtained here: <http://www.irs.gov/Forms-&-Pubs>.

PUBLIC



Active Non-Financial Foreign Entity

The entity satisfies the following criteria:

- Less than 50% of the entity's gross income for the preceding calendar year or other appropriate reporting period is passive income (*see notes*)
- and
- Less than 50% of the assets held by the entity during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income **AND**
 - The entity is engaged in the following active trade or business other than that of a financial institution (*see notes*):

Please describe your principal business activity

Start Up Non-Financial Foreign Entity -

The entity satisfies the following criteria:

- The entity 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 (*see notes*)
- The entity was formed on:

Please state day, month and year

This certification will expire 24 months from the date of the initial organization of the entity

Non US Government Entity

The entity satisfies the following criteria:

- The entity is a non-U.S. government entity, a political subdivision of such government (which includes a state, province, county, or municipality), or a public body performing a function of such government or a political subdivision thereof, a government entity of a U.S. Territory, an international organization, a non-U.S. central bank of issue, or an entity wholly owned by one or more of the foregoing

Publicly Traded Non-Financial Foreign Entity or Affiliate

The entity satisfies the following criteria:

- The entity is a non-financial foreign entity and its stock is regularly traded on an established securities market (*see notes*)
- or
- The NFFE is a Related Entity (*see notes*) of an entity the stock of which is regularly traded on an established securities market (*see notes*). The name of the entity which is traded on an established securities market is:

Please list all relevant securities markets that apply

PUBLIC

Non-Financial Group Company

The entity satisfies the following criteria:

EITHER:

- Substantially all of the entity's activities 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 (*see notes*); and
- The entity does not operate (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

OR

- The entity engages primarily in financing and hedging transactions with, or for, Related Entities (*see notes*) that are not financial institutions, and does not provide financing or hedging services to any entity that is not a Related Entity; and
- The group of any such Related Entities (*see notes*) is primarily engaged in a business other than that of a financial institution (*see notes*).

Charitable or Non-Profit Organisation

The entity satisfies the following criteria:

- The entity is established and operated in its country or territory of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional 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;
- The entity is exempt from income tax in its country or territory of residence;
- The entity has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
- The applicable laws of the entity's country or territory of residence or the entity's formation documents do not permit any income or assets 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 the entity's country or territory of residence or its formation documents require that, upon the entity's liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organization, or transferred to the government of the entity's country or territory of residence or any political subdivision thereof
- The Charity registration number is (if applicable)

US Territory Entity

The entity satisfies the following criteria:

- The entity is organized in a U.S. Territory (American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Commonwealth of Puerto Rico or the U.S. Virgin Islands) and all of the owners of the entity are bona fide residents of that U.S. Territory

PUBLIC

Non-Financial Foreign Entity In Liquidation

The entity satisfies the following criteria:

- The entity was not a financial institution (*see notes*) in the past five years, and is in the process of liquidating its assets or reorganizing with the intent to continue or recommence operations in a business other than that of a financial institution (*see notes*)

Passive Non-Financial Foreign Entity

- The entity is not a foreign financial institution and not within any of the other above categories

The entity has no Controlling Persons that are Specified US Persons

OR

Information on the entity's Controlling Persons that are Specified US Persons (*see notes*) is listed below;

Full Name

Full Name

Permanent Residential Address

Permanent Residential Address

United States Tax Identification Number

United States Tax Identification Number

Please provide details of any additional Controlling Persons on the Additional Controlling Persons Insert

Please ensure you sign this declaration on the next page

I/We declare that:

- All statements made in this declaration are, to the best of my knowledge and belief, correct and complete
- Should any of the information we have provided in this declaration become incorrect, I/we will inform HSBC within 30 days

Signature

Full Name

Official Position

Date

Please ensure this declaration is signed by someone authorised to sign on behalf of the entity

Foreign Account Tax Compliance Act (FATCA)

Notes for signing the “Declaration to confirm tax status under FATCA (Non-Financial Foreign Entities)”

IMPORTANT - This document must be read with the Disclaimer which forms part of it

BACKGROUND

There are a number of substantial changes being made by financial regulators, governments and banks to ensure the protection and long-term safety of both the financial system and our clients' interests. One of these changes is the Foreign Account Tax Compliance Act (FATCA), which has been introduced by the United States government. A number of countries and territories have introduced local legislation to achieve the objectives of FATCA. The purpose of FATCA is to report financial assets owned by United States persons to the United States tax authorities.

How does FATCA affect HSBC and our clients?

HSBC has made a commitment to being fully FATCA compliant in all countries and territories where we operate. This means that affected customers have to be reported to the US tax authorities. In order to do so, we will need to obtain additional information from our clients to identify US Persons (USPs). There may also be other persons who we have to identify for this purpose.

Every year Banks and other Financial Organisations will be required to report information on financial accounts held directly or indirectly by US Persons.

Where we are not able to obtain the required information or documentation from our clients, we may have to report information on such clients to the relevant tax authority and may be required to apply US withholding taxes in respect of certain types of US payments we make to our clients or our clients' accounts in the future. We may also end client relationships.

In order to identify the clients where reporting under FATCA may apply, we need to match our customer base against certain categories set out in the FATCA legislation.

Does this apply to your organisation?

In order to make sure that we are able to match our clients against the FATCA categories, we are asking our clients to provide confirmation of their FATCA status, review the conditions that apply, and confirm that they are satisfied.

HSBC is not able to provide tax advice in respect of this process or for FATCA classification purposes.

Who do we need to report under FATCA?

We are required to report certain information on accounts held by *Specified US Persons*. This includes accounts held by US citizens and US residents, certain corporations or partnerships created or organised in the United States, as well as accounts held by certain passive entities with owners (Controlling Persons) who are US citizens or US resident persons. We will also be required to report certain information on customers or financial counterparties who do not provide us with documentation to establish a tax status under FATCA.

What is a United States Person (USP)?

The term 'United States person' includes:

- A citizen or resident of the United States

- A corporation or partnership created or organized in the United States of America or under the law of the United States or of any State of the United States of America
- Any estate of a decedent that is a citizen or resident of the United States
- Any trust if – (i) a court within the United States is able to exercise primary supervision over the administration of the trust, and (ii) one or more United States persons have the authority to control all substantial decisions of the trust.

What is a Non-Financial Foreign Entity (NFFE)?

The term Non-Financial Foreign Entity (NFFE) generally refers to a non-US entity that is not a financial institution (as defined for the purpose of FATCA). There are several different sub-categories and these are shown on the declaration for you to review and confirm whether the client entity satisfies the criteria of any of these categories and provide your certification.

HSBC is unable to provide advice about our clients' classification. If you are unable to select any of the classifications, you should seek advice from a tax professional.

What is meant by a Financial Institution under FATCA?

The term 'financial institution' is broadly defined under FATCA and generally includes all banks, entities with custody of financial assets, certain types of insurance companies and certain investment funds or investment vehicles. An entity which appoints a trustee company or an entity that is a third party asset manager or acts as the holding company to a group of companies carrying on a financial business may also fall within the definition of financial institution.

What is meant by a passive Non-Financial Foreign Entity (Passive NFFE) under FATCA and Controlling Persons?

Very broadly, Passive NFFEs are defined under FATCA as non-US entities, organisations or companies that are in receipt of passive income or hold passive assets and do not fall under any of the other FATCA classifications. These entities do not carry on a business of a financial institution.

HSBC needs to understand the ownership of such entities to determine whether they are owned by United States Controlling Persons.

Controlling Persons are the natural persons who exercise control over an Entity. In the case of a trust, such term means the settlor, the trustees, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust, and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term "Controlling Persons" shall be interpreted in a manner consistent with the Financial Action Task Force Recommendations.

If you are a Passive NFFE and have Controlling Persons that are USPs, please provide the relevant details on the declaration in the specified section.

What is meant by passive income?

Passive income generally includes:

- Dividends including income equivalent to dividends
- Interest including income equivalent to interest and certain returns from investments in insurance contracts
- Certain rents and royalties other than those derived from an active trade or business
- Annuities

- Net gains from transactions, including forwards and similar transactions relating to certain types of transactions in commodities
- Certain foreign currency exchange gains
- Net income from notional principal contracts
- Amounts received under cash value insurance contracts or amounts earned by an insurance company in connection with its reserves for insurance and annuity contracts
- Net gains from the sale of assets that give rise to certain of the above types of income

Certain exceptions apply. For a detailed definition of passive income, please refer to the United States Internal Revenue Code and regulations thereunder, §1.1472-1(c)(1)(iv)(A)-(B).

What is a Related Entity?

An entity is a Related Entity of another 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 percent of the vote or value in an entity.

DISCLAIMER

This document is intended solely for the customers of HSBC to whom it is provided and not for any other person. It is a summary for information purposes only and general in nature. It should not be considered as tax or legal advice. HSBC makes no guarantee of its accuracy and completeness and is not responsible for any errors, nor shall HSBC be liable for any loss that results from reliance upon this information. Customers should seek professional legal and tax advice specific to their own situation.