

# Inter-Governmental Agreement Declaration to confirm tax status under FATCA

Bank use only

Customer Name

Customer Number

Customer Address

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

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 of Incorporation

All countries in which the entity is resident for Tax purposes

- 1.
- 2.
- 3.

## 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:

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 an agent, intermediary or nominee of another person
3. The entity is **not** a Financial Institution.
  - If you are a Trust please refer to the **Information for Trusts** section available at <http://www.fatca.hsbc.com/en/cmb/channel-islands>

Please read the following information carefully and **select ONLY one of the entity types** to provides confirmation of your status under FATCA. Once you have made your selection, please complete the section 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 satisfies any of the criteria stated in this declaration, please contact a tax advisor.

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>



**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 entity's assets held by us 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*):

**Start Up Non-Financial Foreign Entity**

The entity satisfies the following criteria:

- The entity is not yet operating a business and have no prior operating history, but am investing capital into assets with the intent to operate a business other than that of a financial institution.
- The Entity was formed on:

*Please state day, month and year (cannot be a date which is more than 24 months before the date of signature on this declaration)*

**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



### 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*),
- The entity does not operate 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 of residence exclusively for religious, charitable, scientific, artistic, cultural, 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 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 of residence or the entity's formation documents do not permit any of our 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 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 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

**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

## Declarations and Signature

1. I understand that the information supplied by me is covered by the full provisions of the terms and conditions governing the Account Holder's relationship with HSBC setting out how HSBC may use and share the information supplied by me.
2. I acknowledge that the information contained in this form and information regarding the Account Holder and any Reportable Account(s) may be reported to the tax authorities of the country in which this account(s) is/are maintained and exchanged with tax authorities of another country or countries in which the Account Holder may be tax resident pursuant to intergovernmental agreements to exchange financial account information with the country/ies in which this account(s) is/are maintained.
3. I certify that I am authorised to sign for the Account Holder in respect of all the account(s) to which this form relates.
4. I certify that where I have provided information regarding any other person (such as a Controlling Person or other Reportable Person to which this form relates) that I will, within 30 days of signing this form, notify those persons that I have provided such information to HSBC and that such information may be provided to the tax authorities of the country in which the account(s) is/are maintained and exchanged with tax authorities of another country or countries in which the person may be tax resident pursuant to intergovernmental agreements to exchange financial account information.

**I/We certify that the information on this form is accurate. If at any time, a change in circumstances occurs that causes any of the certifications '1' to '4' above to become no longer true, I/we will inform HSBC within 30 days.**

Signature	<input type="text"/>
Full Name	<input type="text"/>
Official Position	<input type="text"/>
Date	<input type="text"/>

**Please ensure this declaration is signed by an authorised official, as named in the signature mandate.**

This form is issued by:

HSBC Bank plc is a company registered in England and Wales under registration number 14259 and its registered office is at 8 Canada Square, London E14 5HQ. Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. Its firm reference number is 114216.

In the Channel Islands, HSBC Bank plc is regulated by the Jersey Financial Services Commission for Banking, General Insurance Mediation and Investment Business and licensed by the Guernsey Financial Services Commission for Banking, Insurance, Collective Investment Schemes and Investment Business. Licensed by the Isle of Man Financial Supervision Commission.

HSBC Trust Company (UK) Limited

HSBC Trust Company (UK) Limited is registered in England and Wales under registration number 106294 and its registered office is at 8 Canada Square, London E14 5HQ. Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. Its firm reference number is 119297.

HSBC Global Asset Management (UK) Limited

HSBC Global Asset Management (UK) Limited is a company registered in England number registration number 1917956 and its registered office is at 8 Canada Square, London E14 5HQ. Authorised and regulated by the Financial Conduct Authority. Its firm reference number is 12335.

HSBC Life (UK) Limited

HSBC Life (UK) Limited is registered in England and Wales number under registration number 88695 and its Registered Office is at 8 Canada Square, London E14 5HQ. Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. Its firm reference number is 133435

Please ensure that you complete this form alongside referencing the guidance notes.

## **Inter-Governmental Agreement (IGA) under the Foreign Account Tax Compliance Act (FATCA) Notes for signing the Declaration**

**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 customers' interests. One of these changes is the Foreign Account Tax Compliance Act (FATCA), which has been introduced by the US government. The United Kingdom has introduced The International Tax Compliance (United States of America) regulations 2015 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.

Completing the attached form will ensure that we hold accurate and up to date information about your tax residency. If your circumstances change and any of the information provided in this form becomes incorrect, please let us know immediately and provide an updated FATCA declaration form.

### **How does FATCA affect HSBC and our customers?**

HSBC has made a commitment to being fully FATCA compliant in all countries 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 customers to identify US Persons (USPs). There may also be other customers 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 customers, we may have to report information on such clients to the relevant tax authority and may be required to apply U.S. withholding taxes in respect of certain types of US payments we make to our customers or our customers' accounts in the future. We may also end customer relationships.

In order to identify the customers 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?**

Whilst most FATCA categories set out in the legislation are not reportable, some may be applicable to our customers. In order to make sure that we are able to match our customers against the FATCA categories, we are asking our customers 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 U.S. citizens and U.S. residents, certain corporations or partnerships created or organised in the United States, as well as accounts held by certain passive entities (*please see the section on Passive Income and the section What is meant by a passive entity (Passive NFFE) under FATCA?*) with shareholders (Controlling Persons) who are U.S. citizens or U.S. 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 (other than foreign estate, i.e. an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A of the United States Internal Revenue Code)

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.

If you are a United States person you will need to provide alternative documentation, which can be downloaded from <http://www.fatca.hsbc.com/en/cmb/channel-islands>.

### **What is meant by a passive entity (Passive NFFE) under FATCA?**

Very broadly, Passive Entities 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 reporting under FATCA applies in respect of owners of a Passive NFFE that are United States Controlling Persons.

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 .

For further details please refer to The International Tax Compliance Regulations 2015 and associated HMRC Guidance. Or in the Channel Islands and Isle of Man refer to the local tax authority .

### **What is meant by 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 This paragraph replaces the old text:

Controlling Persons will be those that are treated as owning the entity under normal KYC / Money Laundering principles applicable to the entity [insert local references]. If you are a Passive NFFE and have US Controlling Persons, please provide the relevant details on the declaration in the specified section.

In the case of a trust, the Controlling Person may be the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, or any other natural person(s) exercising ultimate effective control over the trust (including through a chain of control or ownership).

For further details please refer to The International Tax Compliance Regulations 2015 and associated HMRC Guidance. Or in the Channel Islands and Isle of Man refer to the local tax authority .

### **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 further details please refer to The International Tax Compliance Regulations 2015 and associated HMRC Guidance. Or in the Channel Islands and Isle of Man refer to the local tax authority .

## **What is a Non-Financial Foreign Entity ?**

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.

For further details please refer to The International Tax Compliance Regulations 2015 and associated HMRC Guidance. Or in the Channel Islands and Isle of Man refer to the local tax authority .

## **What is meant by a Financial Institution under FATCA?**

The term 'financial institution is broadly defined under FATCA and generally includes all banks, building societies, entities with custody of financial assets, certain types of insurance companies, asset management 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. For a detailed definition of financial institution, please refer to The International Tax Compliance (United States of America) regulations 2014 and HMRC Guidance.

If you are a Financial Institution you will need to provide alternative documentation, which can be downloaded from <http://www.fatca.hsbc.com/en/cmb/channel-islands>.

For further details please refer to The International Tax Compliance Regulations 2015 and associated HMRC Guidance. Or in the Channel Islands and Isle of Man refer to the local tax authority .

## **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

## **What is meant by regularly traded on an established securities market ?**

An established securities market generally refers to the following:

Recognised stock exchange includes Channel Islands Securities Exchange. Please refer to local guidance for further details.

For further details please refer to The International Tax Compliance Regulations 2015 and associated HMRC Guidance. Or in the Channel Islands and Isle of Man refer to the local tax authority .

## **How do I know where I am tax resident?**

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. A trust is treated as resident where one or more of its trustees is resident. For additional information on tax residence, please see the following link: [www.oecd.org/tax/transparency/automaticexchangeofinformation.htm](http://www.oecd.org/tax/transparency/automaticexchangeofinformation.htm) or talk to your tax adviser.



**Where to go for further information**

If you do not feel that this form is appropriate to classify yourself under FATCA then please seek to complete an alternate FATCA form which can be downloaded from <http://www.fatca.hsbc.com/en/cmb/channel-islands>.

If you have any questions about this form or these instructions please go to our websites (detailed above), contact your Relationship Manager, visit a branch or give us a call on 03457 606060.

**DISCLAIMER**

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