

## Controlling Person Self-Certification Form for FATCA and CRS

### Instructions for completion

We are obliged under local laws and regulations to collect and report to the Luxembourg tax authorities certain information about financial accounts held by some of the Controlling Persons of Account Holders that are Passive Non-Financial Entities (NFEs).

For joint or multiple Controlling Persons, please complete a separate Self-Certification Form for each Controlling Person.

If you are completing the Self-Certification Form on the Controlling Person's behalf, then you should indicate the capacity in which you have signed in Section V. For example you may be the custodian or nominee of an account on behalf of the Controlling Person, or you may be completing the form under a signatory authority or power of attorney.

If you have any questions about this Self-Certification Form or defining your FATCA or CRS status, please speak to your tax adviser or local tax authority.

For further information on CRS please refer to the OECD automatic exchange of information portal:  
<http://www.oecd.org/tax/automatic-exchange/>

(Mandatory fields are marked with an \*)

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### Section 1: Controlling Person Identification (please refer to the glossary)

Name\*: \_\_\_\_\_

Residential Address\*:

Number: \_\_\_\_\_ Street: \_\_\_\_\_

City, Town, State, Province or County:  
\_\_\_\_\_

Postal/ZIP Code: \_\_\_\_\_ Country: \_\_\_\_\_

Mailing address (if different from above):

Number: \_\_\_\_\_ Street: \_\_\_\_\_

City, Town, State, Province or County:  
\_\_\_\_\_

Postal/ZIP Code: \_\_\_\_\_ Country: \_\_\_\_\_

Place of Birth\*

Town or City of Birth\*: \_\_\_\_\_ Country of Birth\*: \_\_\_\_\_

Date of Birth\*: \_\_\_\_\_

Legal name of the relevant Passive NFE(s) of which you are a Controlling Person\*

Legal name of Entity 1 \_\_\_\_\_

Legal name of Entity 2 \_\_\_\_\_

Legal name of Entity 3 \_\_\_\_\_

**Section 2: FATCA Declaration of U.S. Citizenship or U.S. Residence for Tax purposes\*:**

Please tick either (a) or (b) and complete as appropriate.

(a)  I confirm that **I am** a U.S. citizen and/or resident in the U.S. for tax purposes and my U.S. federal Taxpayer Identifying Number

(U.S. TIN) is as follows: \_\_\_\_\_

**OR**

(b)  I confirm that **I am not** a U.S. citizen or resident in the U.S. for tax purposes.

**Section 3: CRS Declaration of Tax Residence (please note you may choose more than one country)\***

Please indicate your country of Tax Residence (if resident in more than one country, please detail all countries of Tax Residence and associated Tax Identification Numbers).

| Country of Tax Residence | Tax ID Number (1) |
|--------------------------|-------------------|
|                          |                   |
|                          |                   |
|                          |                   |

**(1) Provision of a Tax ID number ("TIN") is required unless you are tax resident in a Jurisdiction that does not issue a TIN.**

**If applicable, please specify the reason for non-availability of a Tax ID Number:**

\_\_\_\_\_

**Section 4 – Type of Controlling Person (to be completed by any individual who is a Controlling Person of an Entity)**

For Joint or multiple Controlling Persons please use a separate Self-Certification Form for each Controlling Person (please refer to the glossary).

| <b><i>Please provide the Controlling Persons Status by ticking the appropriate box.</i></b> | <b>Please tick</b> | <b>Entity Name</b> |
|---|--------------------|--------------------|
| <b>a.</b> Controlling Person of a legal person – control by ownership                       |                    |                    |
| <b>b.</b> Controlling Person of a legal person – control by other means                     |                    |                    |
| <b>c.</b> Controlling Person of a legal person – senior managing official                   |                    |                    |
| <b>d.</b> Controlling Person of a trust - settlor   |                    |                    |
| <b>e.</b> Controlling Person of a trust – trustee   |                    |                    |
| <b>f.</b> Controlling Person of a trust – protector   |                    |                    |
| <b>g.</b> Controlling Person of a trust – beneficiary                                       |                    |                    |
| <b>h.</b> Controlling Person of a trust – other   |                    |                    |
| <b>i.</b> Controlling Person of a legal arrangement (non-trust) – settlor-equivalent        |                    |                    |
| <b>j.</b> Controlling Person of a legal arrangement (non-trust) – trustee-equivalent        |                    |                    |
| <b>k.</b> Controlling Person of a legal arrangement (non-trust) – protector-equivalent      |                    |                    |
| <b>l.</b> Controlling Person of a legal arrangement (non-trust) – beneficiary-equivalent    |                    |                    |
| <b>m.</b> Controlling Person of a legal arrangement (non-trust) – other-equivalent          |                    |                    |

**Section 5: Declaration and Undertakings:**

I declare that the information provided in this Self-Certification Form is, to the best of my knowledge and belief, accurate and complete.

I undertake to advise the recipient within 30 days and provide an updated Self-Certification Form, where any change in circumstances occurs, which causes any of the information contained in this Form to be incorrect.

I acknowledge that, in case the Country(ies) of Tax Residence listed in section 3 is/are CRS Reportable Jurisdiction(s), the information disclosed in this Form together with required information related to my financial account (as described in Annex I Section I of "Loi du 18 décembre 2015 relative à la Norme Commune de Déclaration (NCD)", hereafter "the Luxembourg CRS law") will be reported to the Luxembourg tax authorities or any other authorized delegates under Luxembourg law, and subsequently exchanged with the tax authorities of the CRS Reportable Jurisdiction(s) listed in Section 3, pursuant to international agreements to exchange financial account information.

I acknowledge that, as per Article 5 of the Luxembourg CRS law, answering questions related to the information disclosed in this Self Certification Form is mandatory.

Upon request I will have access to the data concerning me that are disclosed to the Luxembourg tax authorities, and I will be in a position to rectify any of my personal data. The data collected will not be kept longer than necessary for the purpose of the Luxembourg CRS law.

Authorised Signature\*: \_\_\_\_\_

Print Name\*: \_\_\_\_\_

Date: (dd/mm/yyyy)\*: \_\_\_\_\_

Capacity\*: \_\_\_\_\_

## GLOSSARY CRS

**Note:** These are selected definitions provided to assist you with the completion of this Self-Certification Form. Further details can be found in the Directive 2014/107/EU of 9 December 2014 “as regards mandatory automatic exchange of information” and in the OECD Standard for Automatic Exchange of Financial Account Information (“OECD Common Reporting Standard, CRS”).

### “Account Holder”

The “Account Holder” in [X] is the person listed or identified as the holder of the Debt or Equity Interest in [X]. This is regardless of whether such person is a flow-through Entity.

A person, other than a Financial Institution, holding a Debt or Equity Interest in [X] for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account, and such other person is treated as holding the account.

### “Active NFE”

An entity will be classified as Active NFE if it meets any of the following criteria:

- a) 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;
- b) 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;
- c) the NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
- d) 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, except that 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;
- e) the NFE is not yet operating a business and has no prior operating history, (a “ start-up NFE”) 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;
- f) 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 recommence operations in a business other than that of a Financial Institution;
- g) the NFE 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; **or**
- h) the NFE meets all of the following requirements (a “non-profit NFE”) :
  - i. it is established and operated in its jurisdiction 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 organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organisation, civic league or an organisation operated exclusively for the promotion of social welfare;
  - ii. it is exempt from income tax in its jurisdiction of residence;

- iii. it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
- iv. 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
- v. 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 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.

#### **"Control"**

"Control" over an Entity is generally exercised by the natural person(s) who ultimately has a controlling ownership interest (typically on the basis of a certain percentage (e.g. 25%)) 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/are identified as exercising control of the Entity through ownership interests, then under the CRS the Reportable Person is deemed to be the natural person who hold the position of senior managing official.

#### **"Controlling Person(s)"**

"Controlling Person(s)" are the natural person(s) who exercise control over an entity. Where that entity is treated as a Passive Non-Financial Entity ("Passive NFE") then a Financial Institution is required to determine whether or not these Controlling Persons are Reportable Persons. This definition corresponds to the term "beneficial owner" described in Recommendation 10 of the Financial Action Task Force Recommendations (as adopted in February 2012).

In the case of a trust, the Controlling Person(s) are 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). Under the CRS the settlor(s), the trustee(s), the protector(s) (if any), and the beneficiary(ies) or class(es) of beneficiaries, are always treated as Controlling Persons of a trust, regardless of whether or not any of them exercises control over the activities of the trust.

Where the settlor(s) of a trust is an Entity then the CRS requires Financial Institutions to also identify the Controlling Persons of the settlor(s) and when required report them as Controlling Persons of the trust. In the case of a legal arrangement other than a trust, "Controlling Person(s) means persons in equivalent or similar positions.

#### **"Financial Institution"**

The term "Financial Institution" means a "Custodial Institution", a "Depository Institution", an "Investment Entity", or a "Specified Insurance Company". Please see the relevant domestic guidance and the CRS for further classification definitions that apply to Financial Institutions.

#### **"Investment Entity"**

The term "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” (“Investment Entity managed by another Financial Institution” – as defined under §A(6)(b) of Section VIII of the CRS) is any Entity the gross income of which 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 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).

**“NFE”**

An “NFE” is any Entity that is not a Financial Institution.

**“Non-Participating Jurisdiction”**

A “Non-Participating Jurisdiction” means a jurisdiction with which no agreement is in place pursuant to which it will provide the information set out in the CRS.

**“Participating Jurisdiction Financial Institution”**

The term “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: (i) NFE that is not an Active NFE; and (ii) Investment Entity as defined under §A(6)(b) of Section VIII of the CRS resident in a Non-Participating Jurisdiction.

**“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.

**“Resident for tax purposes” / “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. A trust is treated as resident where one or more of its trustees is resident.

**“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.