



**FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA)**  
**and**  
**COMMON REPORTING STANDARD (CRS)**  
**Frequently asked questions**

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## Foreign Account Tax Compliance Act (FATCA) overview

### 1 What is FATCA?

FATCA stands for the Foreign Account Tax Compliance Act. It is a piece of legislation to counter tax evasion in the United States of America (US), introduced by the United States Department of Treasury (Treasury) and the US Internal Revenue Service (IRS). The purpose of FATCA is to encourage tax compliance by preventing US persons\* from using banks and other financial organisations to avoid US taxation on their income and assets.

A significant number of countries worldwide have signed intergovernmental agreements\* (IGAs) relating to FATCA compliance with the US\* government. These IGAs will result in the FATCA legislation becoming part of these countries' local laws.

\*For any defined terms please see the Table of terms and definitions.

### 2 What is the objective of the Foreign Account Tax Compliance Act (FATCA)?

FATCA's objective is the prevention of tax evasion by identifying US persons\* who invest directly in offshore accounts, or indirectly through the ownership of foreign passive income generating entities.

FATCA will require foreign financial institutions (FFIs)\* to provide information to the US Internal Revenue Service (IRS) on accounts held by US persons\*. In addition, passive non-financial foreign entities (NFFEs)\* will be required to provide information on their substantial US\* owners to their FFIs where the passive NFFE holds its accounts.

To enforce compliance, a 30% withholding tax will be imposed on certain payments. Please refer to Question 12 in the FATCA section.

\*For any defined terms please see the Table of terms and definitions.

### 3 What is a US citizen?

The term 'United States citizen' or 'US citizen' means:

- An individual born in the US; or
- An individual whose parent or parents is/are a US citizen(s); or
- An individual of whom either one or both parents were born in the US; or
- A former alien who has been naturalised as a US citizen; or
- An individual born in Puerto Rico; or
- An individual born in Guam; or
- An individual born in the US Virgin Islands.

### 4 What is a US person?

The term 'United States person' or 'US person' means:

- A US citizen (including dual citizen).
- A US resident.
- An individual born in the US but resident in another country and who has not given up his or her US citizenship.
- A person residing in the US (resident alien).
- A person who is holding a Green Card or who held one in the previous calendar year.
- Certain persons who are physically present in the US for at least 31 days during the current year 183 days during the three-year period that includes the current year and the two years immediately before that, counting: all the days you were present in the current year, and 1/3 of

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the days you were present in the first year before the current year, and 1/6 of the days you were present in the second year before the current year.

- A partnership organised in the US or under the laws of the US or any state thereof.
- A corporation organised in the US or under the laws of the US or any state thereof.
- Any estate where the deceased was a citizen or resident of the US, other than a foreign estate.
- Any trust, if:
  - a court in the US is able to exercise primary supervision over the administration of the trust and
  - one or more US persons\* have the authority to control all substantial decisions of the trust.

## 5 What is the impact of Foreign Account Tax Compliance Act (FATCA) on banks and other financial institutions?

On a regular basis, banks and other financial institutions will be required to report information on financial accounts held directly or indirectly by US persons\*. Nedbank is required to be fully FATCA-compliant in all countries in which the Bank operates.

\*For any defined terms please see the Table of terms and definitions.

## 6 How do I know if I am affected by, and/or reportable under the Foreign Account Tax Compliance Act (FATCA)?

Every client is affected by FATCA and must provide a Nedbank FATCA and CRS Self-certification form.

FATCA will only result in the reporting of individual and entity clients who meet the definition of a US person\* for US\* tax purposes. In addition, a non-US entity\* (US person\*) with one or more controlling persons\* that meet the definition of a US person\* will also be reported to the US\* Internal Revenue Service (IRS).

The term 'US person' includes, but is not limited to, the following:

- A citizen of the US\*, including an individual born in the US\*, but resident in another country (who has not given up his/her US citizenship\*).
- A person residing in the US\*, including US Green Cardholders.
- Certain persons who spend a significant number of days in the US each year.
- US corporations, US partnerships, US estates and US trusts.

For more information visit the IRS website [www.irs.gov](http://www.irs.gov) or contact your professional tax advisor.

\*For any defined terms please see the Table of terms and definitions.

## 7 When did the Foreign Account Tax Compliance Act (FATCA) legislation become effective?

FATCA legislation became effective on 1 March 2010.

## 8 What is an intergovernmental agreement?

An intergovernmental agreement\* (IGA) provides for a partnership agreement between the US and a FATCA partnership jurisdiction, such as South Africa, as well as other countries such as France, Germany, the United Kingdom, India, and Spain.

An IGA enables countries to build FATCA compliance into their legal framework so that they can implement FATCA. IGAs also enable foreign financial institutions\* (FFIs) in the designated jurisdictions to comply with FATCA, especially where there are privacy laws. There are currently two types of IGAs, Model 1 and Model 2.

A Model 1 agreement allows FFIs in a country to report to their local tax authority who will then provide the information to the US Internal Revenue Service (IRS) through the automatic exchange of the information. Each country's tax authority has a separate Model I agreement with the IRS, which includes country-specific provisions in addition to simplified due diligence and withholding requirements.

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Under a Model 2 agreement, the FFI would report information directly to the IRS. South Africa has signed a Model 1 agreement with the IRS.

\*For any defined terms please see the Table of terms and definitions.

## **9 My country has not signed an intergovernmental agreement (IGA) with the US. Why must I then adhere to the Foreign Account Tax Compliance Act (FATCA) requirements?**

Even though the Nedbank Africa Region (NAR) subsidiaries have not signed an IGA with the US\*, the subsidiaries are part of the Nedbank Group and therefore they become, what is called, “participating foreign financial institutions\* (participating FFIs)”.

This means that for Nedbank Group as a whole to remain compliant with FATCA, the NAR subsidiaries must provide all the relevant data required to comply with this legislation because they form part of the “expanded affiliated group”\* called Nedbank Group.

\*For any defined terms please see the Table of terms and definitions.

## **10 Who is exempt from the Foreign Account Tax Compliance Act (FATCA)?**

Certain categories of foreign financial institutions\* (FFIs) and other entities may be exempt from the FATCA legislation.

Those FFIs that are exempt from the FATCA legislation do not have to register with the US\* Internal Revenue Service (IRS) and nor do they need to obtain a Global Intermediate Identification Number\* (GIIN). These exempted FFIs will also not be required to do any reporting.

However, although exempted from registration and reporting, they may still be required to complete the relevant IRS documentation depending on the circumstances and the type of FFI they are.

The following other types of entities may also be exempt from FATCA legislation:

- Most government entities.
- Most non-profit organisations exempt from taxation.
- Certain small, local financial institutions.
- Certain retirement funds.

\*For any defined terms please see the Table of terms and definitions.

## **11 What products are affected by the Foreign Account Tax Compliance Act (FATCA)?**

The following products will be impacted by FATCA:

- Depository accounts\*, such as ordinary cheque accounts, savings accounts, money market accounts and fixed-deposit accounts.
- Endowment policies.
- Voluntary-purchased annuities.
- Other similar voluntary investment products such as units in collective investment schemes or units held in a product provided by a linked-investment service provider.
- Custodial accounts\*.

\*For any defined terms please see the Table of terms and definitions.

## **12 What products are not affected by the Foreign Account Tax Compliance Act (FATCA)?**

Products not affected by FATCA generally include, but are not limited, to the following:

- Certain retirement funds, i.e., preservation and retirement annuity funds.
- Annuities (except voluntary purchased annuities that are in scope).
- Life insurance policies that are pure risk policies with no cash value.

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### 13 What does Nedbank have to do to comply with the Foreign Account Tax Compliance Act (FATCA)?

To comply with the intergovernmental agreement\* (IGA), Nedbank, along with all registered financial institutions, must identify and classify their account holders, and report on affected accounts directly or indirectly owned by US persons\* as well as passive non-financial [foreign] entities\* (passive NFFEs) with controlling US persons\*. Nedbank will also need to report on all payments made to non-participating foreign financial institutions\* (non-participating FFIs), as well as non-compliant account holders\*.

For financial institutions in countries that have signed an IGA to comply with FATCA, such as Nedbank, the following steps will have to be taken:

- Conduct a review of new and existing clients to identify those that are reportable under FATCA. entity clients will be classified according to the FATCA legislation (for example, as US persons\*, FFIs\* or NFFEs\*).
- Report information to the local tax authority or to the US\* Internal Revenue Service on all accounts held directly or indirectly by US persons\*.
- Report information about clients who do not provide the required documentation to Nedbank where that information may indicate that the client has some US 'indicia' (indicators).
- In certain circumstances deduct and withhold a 30% tax on pass-through payments paid to account holders\* who:
  - do not supply the required information (non-compliant account holders\*); or
  - make payments to a non-participating FFIs\*.

\*For any defined terms please see the Table of terms and definitions.

### 14 What are the withholding requirements for non-compliance?

In general, for a country that has not signed an intergovernmental agreement\* with the US\*, a withholding agent\* is required to withhold 30% on a withholdable payment made to a foreign financial institution\* (FFI) or to a non-financial foreign entity\* (NFFE), unless the FFI or NFFE meets certain requirements. Withholdable payments under FATCA are payments of interest, dividends, rents, and certain other specified items of income from U.S. sources.

In addition, an FFI\* must withhold 30% on any pass-through payment it makes to a non-compliant account holder, as well as on payments it makes to another FFI, unless that FFI meets certain requirements. An example of a pass-through payment is where a dividend is paid by a US company to the account holder via a FFI.

Even though the Nedbank Africa Region (NAR) subsidiaries have not signed an IGA with the US, the subsidiaries are part of the Nedbank Group and therefore they become, what is called, "participating foreign financial institutions\* (participating FFIs)".

The NAR subsidiaries must provide all the relevant data required to comply with the FATCA legislation because they form part of the "expanded affiliated group"\* called Nedbank Group.

Furthermore, they are not currently required to withhold on any payments of a US source to account holders, provided they supply the necessary information regarding the account holder to the upstream withholding agent.

\*For any defined terms please see the Table of terms and definitions.

### 15 What is a non-compliant account holder?

A non-compliant account holder\* refers to any account holder who:

- Fails to comply with Nedbank's request for a Nedbank FATCA and CRS Self-certification form to determine if the account holder is a US person\*.
- Fails to provide Nedbank with any additional information and documentation that may be required based on the Nedbank FATCA and CRS Self-certification form such as the Tax Identification Number\* (TIN), the Global Intermediary Identification Number (GIIN), and any other IRS form as may be required.

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- Fails to comply with Nedbank's request for a Nedbank FATCA and CRS Individual and Controlling Person Self-certification form for each US controlling person\* or owner of a US-owned entity, or a passive non-financial [foreign] entity\* (passive NFFE).
- Fails to provide a waiver of any foreign law that would prevent a foreign financial institution (FFI) from reporting the information required under FATCA.

Non-compliant account holders\* will be reported as part of the FATCA reporting to the US Internal Revenue Service\* (IRS).

\*For any defined terms please see the Table of terms and definitions.

## 16 What type of payments does the Foreign Account Tax Compliance Act (FATCA) apply to?

FATCA generally applies to two defined payment types, namely:

- Withholdable payments.
- Pass-through payments.

Withholdable payments under FATCA are payments of interest, dividends, rents, and certain other specified items of income from US sources.

Pass-through payments under FATCA are certain payments that would originate from a debtor payment, which passes through a foreign financial institution\* (FFI) to a non-compliant account holder\* at such FFI that are "attributable to" withholdable payments that would be subject to withholding under FATCA.

An example of a pass-through payment is where a dividend is paid by a US company to the account holder\* via a FFI.

In addition, an FFI must withhold 30% on any pass-through payment it makes to a non-compliant account holder, as well as on payments it makes to another FFI, unless that FFI meets certain requirements.

\*For any defined terms please see the Table of terms and definitions.

## 17 What is a withholdable payment?

A withholdable payment is a payment of:

- A US\* source of income that is fixed or determinable, such as dividends or interest, and which is annual or periodical income; or
- Deposit interest paid by foreign branches of US banks.

\*For any defined terms please see the Table of terms and definitions.

## 18 Where do I find the IRS W-forms?

The following links\* provide access to IRS W-forms\*:

- For W-8BEN form - <https://www.irs.gov/pub/irs-pdf/fw8ben.pdf>
- For W-8BEN-E form - <https://www.irs.gov/pub/irs-pdf/fw8bene.pdf>
- For W-8ECI form - <https://www.irs.gov/pub/irs-pdf/fw8eci.pdf>
- For W-9 forms - <https://www.irs.gov/pub/irs-pdf/fw9.pdf>

\* If you do not want to click on a link, please type the address in your browser.

\*For any defined terms please see the Table of terms and definitions.

## 19 What is a Certificate of Loss of Nationality and how do I apply for one?

A former United States (US) citizen must provide a Certificate of Loss of Nationality (CLN) to prove they are no longer a US person or select a reason as to why they do not have a CLN. This is a specific requirement both under the FATCA legislations and a provision that has been adopted into the FATCA intergovernmental agreements.

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Renouncing US citizenship is a complete renunciation of all the rights and privileges of US citizenship. It is also an irrevocable action and cannot be cancelled or appealed under most circumstances.

The Certificate of Loss of Nationality of the United States (CLN) is form DS-4083 of the Bureau of Consular Affairs of the United States Department of State. This form must be completed by a consular official of the United States documenting relinquishment of United States nationality.

This process may take several months to complete and is a costly process.

\*For any defined terms please see the Table of terms and definitions.

## Common Reporting Standard (CRS) Overview

### 1 What is CRS?

'CRS' is the abbreviation for the 'Common Reporting Standard'. The CRS is an initiative by the Organisation of Economic Co-Operation and Development\* (OECD) that encourages the exchange of information on a global scale between revenue authorities. This initiative seeks to identify clients who appear to have tax obligations, tax liabilities or tax residencies outside the country of onboarding.

Ultimately Common Reporting Standard (CRS) was designed with the intention to help fight against tax evasion and protect the integrity of tax systems.

\*For any defined terms please see the Table of terms and definitions.

### 2 What is the automatic exchange of information (AEOI)?

Automatic Exchange of Information (AEOI) is the exchange of information between countries without having to request it. It involves the systematic and periodic transmission of "bulk" taxpayer information between countries that have signed up to the AEOI. AEOI exists to reduce global tax evasion.

### 3 What is the relationship between Common Reporting Standard (CRS) and the Foreign Account Tax Compliance Act (FATCA)?

CRS is the global equivalent of FATCA and therefore does not replace FATCA but works with FATCA to combat tax evasion and achieve global tax transparency. The CRS seeks to establish the tax residency of clients and identify jurisdictions in which the client has tax obligations. While FATCA requires tax reporting on US persons\* only.

\*For any defined terms please see the Table of terms and definitions.

### 4 Who is reportable?

Under the Common Reporting Standard (CRS), financial institutions\* (FI) are required to identify clients, being individuals or entities, who appear to either have tax obligations, tax liabilities or tax residencies outside the country of onboarding where they hold their accounts and products. An entity such as a partnership, limited liability partnership or similar legal arrangement that has no tax residence, shall be treated as tax resident in the jurisdiction in which its place of effective management\* is situated.

Financial institutions\* (FI) then report certain information to the relevant tax authority. The relevant tax authority may then share that information with the tax authority(ies) where the account holder\* has tax obligations, tax liabilities or tax residencies.

\*For any defined terms please see the Table of terms and definitions.

### 5 Why are you asking me for my jurisdiction(s) of tax residency/tax obligations?

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Under the Common Reporting Standard (CRS), tax authorities require financial institutions\* (FI) such as Nedbank to collect and report certain information relating to their client's foreign tax obligation, tax liabilities or tax residencies. If you open a new bank account, invest in new financial products, or change your circumstances in some way, we will ask you to certify a number of details about yourself. This process is called 'self-certification' and we are required to collect this information under CRS.

It is important to remember that, although it is your responsibility to prove whether or not you have tax obligations, tax liabilities or tax residencies outside the country of onboarding; Nedbank is legislated to apply background reasonability tests to the self-certification that you have provided.

\*For any defined terms please see the Table of terms and definitions.

## 6 What does tax obligations mean?

Tax obligations mean that you have current tax expenses. An example of a tax obligation would be that you must pay tax on your salary as and when the salary is earned.

## 7 What does tax liabilities mean?

Tax liabilities mean that you may have a future tax expense that could result in your having to pay more money to the revenue authority than what you have anticipated. An example of a tax liability is when you earn rental income and must pay tax on that rental income to the revenue authority in future.

## 8 What does tax residencies mean?

Tax residencies look at whether you have been a resident of or have been physically present in a country for a certain amount of time, but the meaning of tax residency can differ from one country to the next. For individuals, physical presence in a country or jurisdiction is the main test for tax residency. Some countries also determine the tax residency of individuals by looking at factors like homeownership if you have long-term rented accommodation or if you have certain financial interests in that country.

## 9 How is my tax residence defined?

Your tax residency looks at whether you have been a resident of or have been physically present in a country for a certain amount of time, but the meaning of tax residency can differ from one country to the next. For individuals, physical presence in a country or jurisdiction is the main test for tax residency. Some countries also determine the tax residency of individuals by looking at factors like homeownership, if you have long-term rented accommodation, or if you have certain financial interests in that country.

Nedbank will try to assist you as much as possible, however, we are not able to provide tax advice. For this you may wish to consult an independent tax advisor as Nedbank employees are not tax advisors.

For more information, please visit the Organisation of Economic Co-Operation and Development\* (OECD) website at <https://www.oecd.org> on how to determine your tax residency.

\*For any defined terms please see the Table of terms and definitions.

## 10 I live in the same country/jurisdiction as I pay tax so why do I need to give you these details?

Under the Common Reporting Standard (CRS), Nedbank is legally required to establish whether any our clients, have tax obligations, tax liabilities or tax residency outside the country of onboarding, or not.

Even if you live in the same country/jurisdiction as where you pay tax, Nedbank is required by law to confirm whether, or not, you have tax obligations, tax liabilities or tax residency outside the country of onboarding.

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**11 Am I allowed to determine which Common Reporting Standard (CRS) data is going to be reported by Nedbank?**

No. What needs to be reported to the local tax authorities is determined by law.

**12 Why is Nedbank providing the tax authorities with my tax details?**

Nedbank is legally required to establish whether any of our clients, have tax obligations, tax liabilities or tax residency outside the country of onboarding, or not.

Nedbank will only provide tax authorities with your tax details where you have confirmed that you have tax obligations, tax liabilities or tax residency outside the country of onboarding.

**13 I have provided you with my details. Why are you asking me for supporting documents?**

Nedbank is required by law to perform a reasonability test to verify the details that you have provided in your Nedbank FATCA and CRS Self-certification form. We might ask you for a copy of your passport to verify your identity or for some other evidence of your tax residency / tax obligation declared in your self-certification form.

## **What is self-certification?**

**1 What do I need to do as an individual to self-certify?**

To self-certify is to confirm in writing, through the completion, dating and signing of a Nedbank FATCA and CRS Individual and Controlling Person Self-certification form, whether or not, you as the account holder, are either a US person\*, and/or have tax obligations, tax liabilities or tax residencies outside the country of onboarding.

You may also be required to complete an IRS W-form in certain circumstances.

\*For any defined terms please see the Table of terms and definitions.

**2 Will Nedbank supply me with all the forms I need to complete for Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS)?**

Yes. Nedbank will provide you with the FATCA and CRS Self-certification form(s) and where required, an applicable IRS W-form. The IRS W-forms\* can also be downloaded from the Nedbank website for completion and submission.

\*For any defined terms please see the Table of terms and definitions.

**3 What information are you asking individual clients to provide and verify on the Nedbank FATCA and CRS Individual and Controlling person Self-certification form?**

Both the Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) provide that Nedbank must obtain a valid Nedbank FATCA and CRS Self-certification form at account opening, or where there is a change in circumstances, that allows Nedbank to determine whether you are a US Person\* or have tax obligations, tax liabilities or tax residencies outside the country of onboarding.

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For the Nedbank FATCA and CRS Self-certification form to be valid it must be signed (or otherwise positively affirmed, i.e., involving some level of active input or confirmation) by the account holder\*.

It MUST be dated, and must include the following information relating to the account holder:

- Name of the account holder.
- Identification number of the account holder.
- Physical address of the account holder.
- Postal address of the account holder.
- Date of birth of the account holder.
- Country of birth of the account holder.
- Place of birth of the account holder, if outside the country of onboarding.
- Answers to Nedbank's two FATCA and CRS questions:
  - Do you hold US citizenship, or are you a US person\* or a US national, and/or
  - Do you have tax obligations, tax liabilities or tax residencies outside the country of onboarding?
- Country(ies) of tax residence.
- Tax Identification Number (TIN)\* for each country(ies) of tax residence OR reasons for not providing TIN(s) [predetermined reasons].

\*For any defined terms please see the Table of terms and definitions.

#### **4 Who is permitted to sign a Nedbank FATCA and CRS Individual and Controlling Person Self-certification form?**

For account holders who are individuals:

- The Nedbank FATCA and CRS Individual and Controlling Person Self-certification form must be signed by you, as the account holder\* when opening your account at Nedbank.
- The Nedbank FATCA and CRS Individual and Controlling Person Self-certification form can also be signed by an agent with legal authority to act on your behalf.
  - If the self-certification form is completed by an agent acting under a duly authorised power of attorney for you, the actual owner or account holder, the form must be accompanied by the power of attorney in a proper form or a copy thereof specifically authorising the agent to represent you, the account holder, in making, executing, and presenting the form.
- The self-certification form cannot be signed by a client's financial advisor unless the financial advisor has the necessary power of attorney.

#### **5 What do I need to do as an entity to self-certify?**

To self-certify is to confirm in writing through the completion, dating and signing of a Nedbank FATCA and CRS Entity Self-certification form, whether or not the entity, as the account holder\*:

- Is incorporated or has a place of effective management\* outside the country of onboarding;
- Is a US person\* or has tax obligations, tax liabilities or tax residencies outside the country of onboarding; or
- Has controlling persons\* that are either US citizens, or US persons\* or US nationals and/or that have tax obligations, tax liabilities or tax residencies outside the country of onboarding; or
- Is a [foreign] financial institution\*.

It is important to note that a Nedbank FATCA and CRS Individual and Controlling Person Self-certification form will also be needed for each individual defined as a controlling person\* of the entity that is a US person\* and/or has tax obligations, tax liabilities or tax residencies outside the country of onboarding; AND where the entity is one of the following FATCA and CRS entity classification types:

- Passive non-financial [foreign] entity\* (Passive NFE); or
- Trustee-Documented-Trust; or
- Investment entity\* that is resident in a non-participating jurisdiction and is managed by another financial institution in a participating jurisdiction.

The entity may also be required to complete an US Internal Revenue Service (IRS) W-form\* in certain circumstances.

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\*For any defined terms please see the Table of terms and definitions.

## 6 What information are you asking entities to provide and verify on the Nedbank FATCA and CRS Entity Self-certification form?

Both Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) provide that Nedbank must obtain a valid Nedbank FATCA and CRS Self-certification form at account opening, or where there is a change in circumstances, that allows Nedbank to determine whether the entity is incorporated or organised, or has a place of effective management\* outside the country of onboarding, and/or has tax obligations, tax liabilities or tax residencies outside the country of onboarding.

For the Nedbank FATCA and CRS Entity Self-certification to be valid it must be signed (or otherwise positively affirmed, i.e., involving some level of active input or confirmation) by a person authorised to sign on behalf of the entity.

It MUST be dated, and must include the following information relating to the account holder\*:

- Name of entity.
- Registration number of entity, where applicable. (It is noted that not all entities have registration numbers.)
- Place of effective management. (When asked to provide the 'place of effective management' it is important to indicate the country, and not a city / town or suburb.)
- Physical address of entity. (According to the CRS commentaries they refer to the address where the entity is incorporated or organised.)
- Postal address of the account holder.
- Nedbank's four entity questions:
  - Is the entity incorporated or organised or has a place of effective management\* outside the country of onboarding?
  - Does the entity have tax obligations, tax liabilities or tax residencies outside the country of onboarding?
  - Do any of the controlling persons\* of the entity:
    - hold US citizenship, or are they a US person\* or a US national? and/or
    - have tax obligations, tax liabilities or tax residencies outside the country of onboarding?
  - Is the entity a financial institution\*?
- Country(ies) of tax residence.
- Tax Identification Numbers (TIN(s))\* for each country(ies) of tax residence OR reasons for not providing TIN(s) [predetermined reasons].
- Entity classification type. (Includes stock exchange name, GIIN number OR reasons for not providing GIIN\*, depending on the type of the entity classification.)

\*For any defined terms please see the Table of terms and definitions.

## 7 Who is permitted to sign the Nedbank FATCA and CRS Entity Self-certification form?

For account holders\* who are entities:

- The Nedbank FATCA and CRS Entity Self-certification form must be signed and dated by an authorised representative or officer of the account holder when opening the account at Nedbank.
- An authorised representative must have the legal capacity to sign for the entity that is the actual owner of the income.

## 8 Are only original copies of the Nedbank FATCA and CRS Entity Self-certification forms accepted by Nedbank?

No. Completed and signed self-certification forms that are scanned and attached to an email sent to Nedbank will be accepted.

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### **9 Why is the information I have been asked to provide on the Nedbank FATCA and CRS Self-certification form, different to the information I have been asked for when completing an US Internal Revenue Service (IRS) W-form?**

Even if you have already provided information under Foreign Account Tax Compliance Act (FATCA), you may still need to provide additional information that is required under Common Reporting Standard (CRS) as each of these are different pieces of legislation with different requirements. This is why Nedbank requires the Nedbank FATCA and CRS self-certification form.

### **10 Where/how should I send my Nedbank FATCA and CRS Self-certification form(s) and any applicable US Internal Revenue Service (IRS) W-form?**

Clients should provide the Nedbank FATCA and CRS Self-certification forms(s), and any applicable IRS W-form\*, to the banker in the branch or the respective relationship manager, or the forms can be emailed to the contact centre.

## **Individual clients**

### **1 Are only US citizens affected by the Foreign Account Tax Compliance Act (FATCA)?**

No. If you are an individual and your account indicates any of the below, Nedbank may request further information/documentation to determine whether you are deemed to be a US person\* under FATCA:

- US citizenship or US residence.
- US place of birth.
- US address, including US postal boxes.
- US telephone number.
- Repeating payment instructions to pay amounts to a US address or an account maintained in the US.
- Current power of attorney or signatory authority granted to a person with a US address.
- In-care-of\* or hold-mail address, which is the sole address for the account holder\*.

\*For any defined terms please see the Table of terms and definitions.

### **2 What does the Foreign Account Tax Compliance Act (FATCA) mean for me if I am a US person?**

If you are deemed a US person\*, you may be requested to supply Nedbank with additional information or documentation. You can visit the US Internal Revenue Service\* (IRS) website [www.irs.gov](http://www.irs.gov) to obtain additional information.

If you are deemed a US person\*, Nedbank will be required to report information about you and your account to the local tax authority or the IRS on an annual basis.

It is important to remember that, although the responsibility to prove your tax status rests with you, the account holder; Nedbank must apply a reasonability test on the Nedbank FATCA and CRS Individual and Controlling Person Self-certification form. This may result in you being reported to the local tax authority or the IRS if the answers to the FATCA questions do not correspond to your "Know your client" (KYC)\* information.

\*For any defined terms please see the Table of terms and definitions.

### **3 What does the Foreign Account Tax Compliance Act (FATCA) mean for me if I am not a US person?**

If you are not a US person\* as defined then FATCA will have a minimal impact on you. Nedbank will, however, still need you to complete a Nedbank FATCA and CRS Individual and Controlling Person Self-certification form.

Nedbank may also have to request additional documentation if we have reason to believe that your circumstances have changed.

\*For any defined terms please see the Table of terms and definitions.

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#### **4 Does the Foreign Account Tax Compliance Act (FATCA) replace existing US tax rules that I already follow?**

FATCA does not replace the existing US tax regimes. It may, however, add additional requirements and complexity to the existing tax rules you may already follow. We recommend that you contact a professional tax advisor to discuss your personal tax situation.

#### **5 What information will Nedbank report to the US Internal Revenue Service (IRS) and the relevant tax authority#?**

Nedbank will report the required information to the IRS\* and to the relevant tax authorities to comply with the Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) reporting standards for all accounts held by US persons\*, or account holders\* that have tax obligations, tax liabilities or tax residencies outside the country of onboarding.

This information will be the same information provided by you in the Nedbank FATCA and CRS Individual and Controlling Person Self-certification form:

- Your name.
- Your address.
- Your identification number.
- Your account number.
- Each country of tax residence that you have tax obligations in.
- Every taxpayer identification number\* (TIN) that you have provided, or the reason why you do not have a TIN.
- The aggregated year-end balance for all your accounts.
- The gross proceeds on any disposal, income flows, gross withdrawals, or payments from your stockbroking and/or unit trust accounts.
- All payments made to your accounts, where you have failed to become FATCA compliant.

#When your country adopts the automatic exchange of information under CRS.

\*For any defined terms please see the Table of terms and definitions.

#### **6 What is a TIN?**

The term 'TIN' means taxpayer identification number\*. A TIN is a unique combination of letters or numbers assigned by a jurisdiction to an individual or an entity to identify the individual or entity for the purposes of administering the tax laws of such jurisdiction.

In some jurisdictions TINs are not issued. In such cases, instead of the TIN, a functional equivalent can be used, such as a high-integrity number with an equivalent level of identification. Examples of that type of number include, for entities, a business/company registration code/number.

Please note:

- In the US for individuals, their TIN would be referred to as their Social Security Number
- For a US entity\* (US person\*), it's TIN is referred to as their Employer Identification Number.
- In the UK for individuals their TIN would either be tax number, OR their National Insurance Number is also used as a TIN.

#### **7 I am a citizen and resident in a country in which Nedbank has a subsidiary (Eswatini, Lesotho, Namibia, Zimbabwe). I have no connections to the US whatsoever and neither do I have foreign tax obligations, but I do have an account with Nedbank. Am I subject to the Foreign Account Tax Compliance Act (FATCA) and/or Common Reporting Standard (CRS)?**

Even though you have no connections to the US, or have no foreign tax obligations, you will still need to confirm whether or not, you are a US Person\* and/or have tax obligations, tax liabilities or tax residencies outside of your country of onboarding.

Nedbank will request you to provide us with a Nedbank FATCA and CRS Individual and Controlling Person Self-certification form.

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Nedbank may also have to request additional documentation if we have reason to believe that your circumstances have changed.

\*For any defined terms please see the Table of terms and definitions.

**8 I am a citizen and resident in a country in which Nedbank has a subsidiary (Eswatini, Lesotho, Namibia, Zimbabwe). I hold a US Green Card and I have an account with Nedbank. Am I subject to the Foreign Account Tax Compliance Act (FATCA)?**

Yes, your account will be subject to the rules of FATCA due to the definition of what a US Person\* is.

\*For any defined terms please see the Table of terms and definitions.

**9 What happens if a joint account is held by a US person and a non-US person?**

A joint account that has one US owner is treated as a US account and the entire account is subject to the FATCA legislation. For example, if an account with a balance of \$500 000 is held by a local citizen and a US person\*, Nedbank will report the US person\* and the entire account balance of \$500 000 to the IRS\*.

\*For any defined terms please see the Table of terms and definitions.

**10 What happens if indicia (indicators) is found on a joint account?**

If an account is regarded as an equally held joint account, such as a joint bond, each person is regarded as a controlling person\* of that account.

Where an account is jointly held the balance or value in the account will be attributed in full to each controlling person of the joint account should that those persons be Foreign Account Tax Compliance Act (FATCA) or Common Reporting Standard (CRS) reportable.

Where one of the controlling persons of this joint account is a US person\*, or has tax obligations, tax liabilities, or tax residencies outside the country of onboarding (reportable person), the full balance of the joint account will be reported under the name of the reportable person\* to the relevant tax authority.

If an account is jointly held by an individual and an entity, the financial institution\* (FI) that maintains the account will need to apply the due diligence requirements separately to both the individual and the entity in relation to that account. The FI would need to identify the controlling person of the entity that is the joint account holder\*.

\*For any defined terms please see the Table of terms and definitions.

**11 What happens if indicia (indicators) is found on a person that has general power of attorney over an account holders' account?**

If a person has a general power of attorney over an account, and that person is either a US person\*, and/or has tax obligations, tax liabilities or tax residencies outside the country of onboarding (reportable person); and both the account holder\* and the person with said power of attorney, transact on the account, then the full balance of the account will be reported under the name of the general power of attorney holder to his/her relevant tax authority. [Please note that the account holder does not have any indicia (indicators)].

A reportable person\* is any person that is a US person\*, or has tax obligations, tax liabilities or tax residencies outside the country of onboarding.

\*For any defined terms please see the Table of terms and definitions.

**12 What is the treatment of diplomats, asylum seekers or refugees for the Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) purposes?**

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The FATCA intergovernmental agreement\* (IGA) and the CRS legislation do not differentiate between individual account holders based on their status. Thus, diplomats or asylum seekers or refugees and other individuals must be treated in the same way as any other individual under FATCA and CRS.

The fact that an asylum seeker or refugee has a valid permit or identity number issued by the country of onboarding, it is not an indication that that person is necessarily tax resident in the country that issued the permit. He/she may still have tax obligations or tax liabilities or tax residencies outside the country of onboarding.

It is important that all diplomats, asylum seekers and refugees understand that client information is protected by a strict code of secrecy and security which all members of the Nedbank Group, their staff and third parties are subject to. This includes the use, retention, disposal, safeguarding and disclosure of personal information to third parties.

Furthermore, all data transmitted to the relevant tax authority is encrypted.

\*For any defined terms please see the Table of terms and definitions.

## Entity clients

### 1 What is an entity?

The term 'entity'\* for the purposes of the Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) means any person other than a natural person.

Included in the definition of 'entity' in the FATCA intergovernmental agreement\* and the CRS legislation, is any legal person or a legal arrangement such as a trust, partnership, or association.

For these purposes 'entity' includes, but is not limited to, the following juristic persons:

- A private company, being a (Pty) Ltd company.
- A public company, being a Ltd company (this company type could be listed or unlisted).
- A state-owned company (SOC) Ltd.
- An external or foreign company.
- A personal-liability company (Inc).
- A non-profit company (NPC).
- A close corporation (CC).
- A partnership.
- A trust.
- An association.
- A stokvel.

\*For any defined terms please see the Table of terms and definitions.

### 2 When is an entity a US person?

For persons other than individuals a US person\* includes, amongst others, a company, corporation, trust, or association incorporated/organised in the US\* or governed under the laws of the US.

\*For any defined terms please see the Table of terms and definitions.

### 3 What entity clients are impacted by both Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS)?

All new entity clients are required, as part of the account opening procedures, to complete a Nedbank FATCA and CRS Nedbank Entity Self-certification form.

Existing entities may be asked to provide a Nedbank FATCA and CRS Entity Self-certification form if a client's account information has a change in circumstances or contains certain indicia (indicators).

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For entity clients the indicia (indicators) usually includes:

- Place of incorporation outside the country of onboarding.
- Place of effective management\* outside the country of onboarding.
- Current physical address outside the country of onboarding.
- Current postal address outside the country of onboarding.
- Indication that the controlling persons\* maybe tax resident in the US\* or in a jurisdiction outside the country of onboarding, in relation to certain entity types for example:
  - Passive non-financial [foreign] entities\* (passive NFEs).
  - Trustee documented trusts.
  - Investment entities\* that are resident in a non-participating jurisdiction\* and are managed by another financial institution in a participating jurisdiction.

Having these indicia (indicators) does not mean that the entity is either FATCA or CRS reportable, only that the client needs closer scrutiny, so Nedbank may request additional information.

\*For any defined terms please see the Table of terms and definitions.

#### **4 Are only US entities affected by the Foreign Account Tax Compliance Act (FATCA)?**

No. The impact of FATCA is wider than just US entity\* (US person\*). FATCA also affects financial institutions\* globally as well as certain non-US businesses with US controlling persons\*.

If your entity is a financial institution with a bank account at Nedbank, you will need to identify the entity's financial institution classification type and provide a Global Intermediate Identification number\* (GIIN), or a reason why you cannot provide a GIIN.

If the entity has US controlling persons and the entity classification type is one of the following:

- Passive non-financial entities\* (passive NFEs).
- Trustee documented trusts\*.
- Investment entities\* that are resident in a non-participating jurisdiction and are managed by another financial institution in a participating jurisdiction.

then the entity will be FATCA impacted.

\*For any defined terms please see the Table of terms and definitions.

#### **5 Why is correct entity classification so important?**

The classification of an entity\* under the Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) is very important because it will determine whether information relating to the entity's controlling person(s) needs to be collected and disclosed to the relevant tax authorities.

An example of this is if the entity has either US controlling persons, and/or controlling persons that have tax obligations, tax liabilities or tax residencies outside the county of onboarding, AND the entity classification type is one of the following:

- Passive non-financial [foreign] entities\* (passive NFEs )
- Trustee documented trusts\* or
- Investment entities\* that are resident in a non-participating jurisdiction and are managed by another financial institution in a participating jurisdiction

then the entity will be FATCA and/or CRS impacted.

\*For any defined terms please see the Table of terms and definitions.

#### **6 What should a client do if they are unsure of what their entity classification is under the Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS)?**

Where possible, Nedbank will endeavour to provide guidance on your FATCA and CRS entity classification type based on the entity's legal type, however, for more detailed advice you would need to seek tax advice from your local tax authority or your tax practitioner.

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## 7 What is the definition of a controlling person in terms of the Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS)?

A controlling person(s)\* is/are the **natural person(s)** who exercise(s) control over an entity\*. Where the entity is treated as a passive non-financial [foreign] entity\* (passive NFE), a financial institution\* must determine whether or not the controlling person(s)\* is/are a reportable person(s)\*.

All beneficial owners are controlling persons, but not all controlling persons are beneficial owners, because the Financial Intelligence Centre Amendment Act (FICA)\* South Africa does not regard a trust, or partnership, or association as a legal person.

A controlling ownership interest depends on the ownership structure of the company. It may be based on a threshold, e.g., any person owning more than a certain percentage of the company (e.g., 20% for Namibia and Zimbabwe, 25% for Eswatini and Lesotho), or on who exercises ultimate effective control over the entity.

Under FATCA, in the case of a trust the controlling person(s) may be the settlor(s), trustee(s), protector(s) (if any), beneficiary/beneficiaries 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), trustee(s), protector(s) (if any), and the beneficiary/beneficiaries or class(es) of beneficiaries is/are always treated as a controlling person(s) of a trust, regardless of whether or not he/she/they exercise(s) control over the activities of the trust.

Where the settlor(s) of a trust is/are an entity/entities, financial institutions must also identify the controlling person(s) of the settlor(s) and, when required, report such controlling person(s) as a controlling person(s) of the trust. In the case of a legal arrangement other than a trust, such term means a person(s) in an equivalent or similar position(s).

In the case of a partnership, information must be obtained for the following controlling persons:

- Every partner, including every member of a partnership *en commandite*, being a partnership whose partners' names are not disclosed.
- The person who exercises executive control over the partnership.
- Each natural person who purports to be authorised to establish a business relationship or who can enter into a transaction with the accountable institution on behalf of the partnership.

The following are deemed to be controlling persons:

- 1 For a company
  - Each natural person who directly owns the required % as per local legislation, e.g., 20% for Namibia, 20% for Zimbabwe, 25% for Eswatini and Lesotho of the company's shares.
  - Where the company's shares are owned directly by an entity each natural person who is the ultimate beneficial holder and indirectly owns the required % as per local legislation e.g., 20% for Namibia and Zimbabwe, 25% for Eswatini and Lesotho of the company's shares.
  - Each natural person who exercises control (the ability to influence materially the outcome of a vote at a general meeting or appointor veto the appointment of the directors of the entity) through other means such as personal connections or contractual relationships.
  - If, despite reasonable effort, the information required in the above bullet points cannot be obtained, then each natural person who holds a senior management position and exercises executive control over the daily or regular affairs of the company, filling the position of chief executive officer, chairman of the board, chief financial officer, chief operating officer or similar positions.
- 2 For a trust
  - Settlor
  - Founder
  - Donor
  - Trustee
  - Beneficiary/Beneficiaries
- 3 For a partnership of entities
  - Each natural person who is the ultimate beneficial holder of more than the required % as per

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local legislation e.g., 20% for Namibia and Zimbabwe, 25% for Eswatini and Lesotho of the partnership interest.

- Each natural person who exercises control through other means such as personal connections or contractual relationships.
  - Each natural person who controls the business decisions of the partnership, in terms of the partnership agreement.
- 4 For a partnership of natural persons
    - All partners of the partnership.
  - 5 For a social club, stokvel or and associations
    - All natural persons authorised to manage the affairs of the social club, stokvel or association in terms of the constitution.
  - 6 For a cooperative
    - The managing/executive director or person(s) in a similar capacity.
  - 7 For a close corporation
    - All members of the close corporation.

**Note:** The term “controlling person” is relevant when applying due diligence and reporting procedures **only** to passive non-financial [foreign] entities/non-financial entities.

\*For any defined terms please see the Table of terms and definitions.

## 8 What is control?

'Control'\* over an entity\* is generally exercised by the natural person(s) who ultimately has/have a controlling ownership interest in the entity.

A 'controlling ownership interest' depends on the ownership structure of the legal person and is usually identified based on a threshold by applying a risk-based approach [e.g., any person(s) owning more than a certain percentage of the legal person, e.g., 20% for Namibia and Zimbabwe, 25% for Eswatini and Lesotho.]

Where no natural person(s) exercise(s) control through ownership interests, the controlling person(s)\* of the entity will be the natural person(s) who exercise(s) control over the entity through other means such as a majority of a voting right or the right to appoint or remove the majority of the board of the directors.

Where no natural person(s) is/are identified as exercising control over the entity through ownership interests, the reportable person will be deemed to be the natural person holding the position of senior managing official.

\*For any defined terms please see the Table of terms and definitions.

## 9 What is a foreign financial institution?

The definition of a 'foreign financial institution' (FFI) is very broad and is expected to encompass a number of entities, generally not always considered to be financial institutions. The term 'foreign financial institution' means:

- A custodial institution\*, for example a bank/broker holding securities for a client.
- A depository institution\*, for example a bank or mutual bank.
- A specified insurance company, for example a long-term issuer that issues cash value retirement, annuity, or endowment policies.
- An investment entity\*, for example an asset manager, a collective investment scheme or hedge fund.

'Investment entity' includes two types of entities:

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1. An entity\* that primarily conducts itself as a business, performing one or more of the following activities or operations for or on behalf of a client:
  - trading in money market instruments for example cheques, bills, certificates of deposit and derivatives, foreign exchange, exchange, interest rate and index instruments, transferable securities, or commodity futures;
  - individual and collective portfolio management; or
  - investing, administering, or managing financial assets or money on behalf of other persons.

These activities or operations do not include rendering non-binding investment advice to a client.

2. The second type of investment entity (an investment entity managed by another financial institution) is any entity whose gross income is primarily attributable to investing, reinvesting, or trading in financial assets, and where the entity is managed by another entity that is a depository institution, a custodial institution, a specified insurance company or the type of investment entity described in (1) above.

Generally non-US entities such as banks, broker/dealers, insurance companies, hedge funds, securitisation vehicles and private equity funds will be considered FFIs.

\*For any defined terms please see the Table of terms and definitions.

## **10 What does 'managed by' mean in terms of an investment entity being 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 the definition of 'investment entity'\* under the first type of entity\*.

An entity manages another entity only if it has discretionary authority to manage the other entity's assets (either in whole or part).

Where this managed entity is located in a non-participating jurisdiction\* and managed by another financial institution, it is treated as passive non-financial [foreign] entity (passive NFE)\*.

\*For any defined terms please see the Table of terms and definitions.

## **11 What is a participating foreign financial institution (FFI) in terms of the Foreign Account Tax Compliance Act (FATCA)?**

A foreign financial institution\* (FFI) that enters into an FFI agreement\* with the US Internal Revenue Service\* (IRS) is referred to as a 'participating foreign financial institution\*'. An FFI that does not enter into an agreement with the IRS is referred to as a 'non-participating foreign financial institution' and is subject to withholding under FATCA.

\*For any defined terms please see the Table of terms and definitions.

## **12 What is a Global Intermediary Identification Number (GIIN)?**

The Global Intermediary Identification Number\* (GIIN) is a number issued by the US Internal Revenue Service\* (IRS) via the IRS registration portal.

All participating foreign financial institutions\* need to register with the IRS to obtain a GIIN.

It applies to financial institutions that have adopted FATCA either through an intergovernmental agreement\* or as a choice, being a Model 2 foreign financial institution\*.

Certain deemed-compliant or non-reporting financial institutions must also obtain a GIIN.

The GIIN is a unique reference number that has a specific format and is issued to identify each financial institution. Each part of the number has a particular meaning. For example, it tells you whether the financial institution is part of a bigger group or whether the financial institution is a

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sponsoring entity. It also identifies the financial institution jurisdiction of residence in which it maintains a branch that is not treated as a 'limited' branch.

\*For any defined terms please see the Table of terms and definitions.

### 13 What is a non-financial [foreign] entity?

Under the Foreign Account Tax Compliance Act (FATCA) a [foreign] entity\* that is not a financial institution\* is a non-financial [foreign] entity\* (NFFE), and under Common Reporting Standard (CRS) an entity that is not a financial institution\* is a non-financial entity (NFE).

There are two types of NFEs:

- Active non-financial [foreign] entities\* (active NFEs) and
- Passive non-financial [foreign] entities\* (passive NFEs)

An NFE that conducts an active trade (active NFE) and earns income mainly from business activities is an active NFE.

While an NFE that earns income only from investment income, such as dividends, interest, annuities, rental income, or royalties is a passive [foreign] NFE.

If your entity is classified as a passive [foreign] NFE, you have to certify whether or not any of your controlling persons are either US persons\* and/or have tax obligations, tax liabilities or tax residencies outside the country of onboarding.

NFEs include, but are not limited to, the following:

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

\*For any defined terms please see the Table of terms and definitions.

### 14 What is an active non-financial [foreign] entity?

An active non-financial [foreign] entity\* (NFFE) is a category of NFE that only needs to certify that it is an NFE. It doesn't need to report on any substantial US owners, or US persons\* with foreign tax obligations, it may have, and there will not be any withholding on such an entity.

Any non-financial entity can be an active non-financial entity such as:

- Active non-financial entities by reason of income and assets;
- Publicly traded non-financial entities;
- Governmental entities, international organisations, central banks, or their wholly owned entities;
- Holding non-financial entities that are members of a non-financial group;
- Start-up non-financial entities;
- Non-financial entities that are liquidating or emerging from bankruptcy;
- Treasury centres that are members of a non-financial group; or
- Non-profit non-financial entities.

An entity will be classified as an active non-financial entity if it meets any of the following criteria:

- Less than 50% of the non-financial entity'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 non-financial entity during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income.
- The stock of the non-financial entity is regularly traded on an established securities market or the non-financial entity is a related entity of an entity of which the stock is regularly traded on an established securities market.
- The non-financial entity is a governmental entity, an international organisation, a central bank, or an entity that is wholly owned by one or more of the foregoing.
- Substantially all of the activities of the non-financial entity 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

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entity does not qualify for this status if the entity functions as (or holds itself out to be) 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.

- The non-financial 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, provided that the non-financial entity does not qualify for this exception after a date that is 24 months after a date of the initial organisation of the non-financial entity.
- The non-financial entity 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.
- The non-financial entity 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.
- The non-financial entity meets all the following requirements:
  - 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;
  - 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 non-financial entity jurisdiction of residence or the non-financial entity's formation documents do not permit any income or assets of the non-financial 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 non-financial entity's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of the property the non-financial entity has purchased; and
  - the applicable laws of the non-financial entity's jurisdiction of residence or the non-financial entity's formation documents require that, on the non-financial entity's liquidation or dissolution, all its assets be distributed to a governmental entity or other non-profit organisation, or escheat to the government of the non-financial entity's jurisdiction of residence or any political subdivision thereof.

Examples of active non-financial entities are manufacturing companies, law firms, mining companies, estate agents, architect firms and farms.

## 15 What is a passive non-financial [foreign] entity?

A passive non-financial [foreign] entity\* (passive NFE) is a non-financial entity of which 50% of its income is passive, and more than 50% of its assets for the last financial year are in the form of passive investments.

(Passive income is derived from investing in assets rather than from activities carried on in the normal course of a trade or business.)

A passive non-financial entity\* is:

- Any non-financial entity that is not an active non-financial entity.
- An investment entity\* that is resident in a non-participating jurisdiction\* and is managed by a financial institution in a participating jurisdiction\*.

Examples of passive non-financial entities are family trusts, investment clubs, non-profit entities that are registered not for gain, and entities that own a farm and its only income is rental income, not farming income.

However, if this passive NFE is an entity and is part of a group that is listed and frequently traded on a regulated stock exchange, **then it will default to an active non-financial entity.**

\*For any defined terms please see the Table of terms and definitions.

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## 16 What is passive income?

As the term suggests, passive income is derived from investing in assets rather than from activities carried on in the normal course of a trade or business.

Passive income includes the portion of income that consists of:

- Dividends.
- Interest.
- Income equivalent to interest.
- Rental income and royalties, other than rental income and royalties derived in the active conduct of a trade or business conducted, at least in part, by employees of the non-financial entity (NFE)\*
- Annuities.
- The excess of gains over losses from the sale or exchange of property that gives rise to passive income described previously.
- The excess of gains over losses from transactions (including futures, forwards, options, and similar transactions) in any Financial Assets.
- The excess of foreign currency gains over foreign currency losses.
- Net income from swaps.
- Amounts received under Cash Value Insurance Contracts.

The context in which the income described above is received is important. For example, where the NFE is a dealer in financial assets any such income as described above may be income from a trading activity. Where the income described above is received by a NFE and is accounted for, or is taxable, as income from trading activities, it should be included in gross income and not as passive income.

Passive income does not include:

- Any commodity hedging transaction;
- Active business gains or losses from the sale of commodities;
- The excess of foreign currency gains over foreign currency losses;
- Net income from notional principal contracts;
- Amounts received under a cash value insurance contract; or
- Amounts received by insurance companies in connection with its reserves for insurance and annuity contracts\*.

\*For any defined terms please see the Table of terms and definitions.

## 17 Does the Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) replace existing tax rules that my entity already follows?

FATCA and CRS do not replace the existing US or other countries' tax regimes. It may, however, add additional requirements and complexity to the existing tax rules you may already follow. Should you need further advice on whether or not you have foreign tax obligations, or on your FATCA and CRS entity classification type, you should contact a professional tax advisor.

## 18 How frequently will my entity have to provide information regarding the Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS)?

FATCA and CRS compliance is an ongoing process.

For new account holders FATCA and CRS information must be obtained when Nedbank opens your entity\* account; along with a signed certification as to whether or not your entity is a US\* entity (US person\*) and/or has tax obligations, tax liabilities or tax residencies outside the country of onboarding (foreign tax obligations).

If you are an existing client who became a client before the FATCA or CRS effective dates, your certification as to whether or not your entity has foreign tax obligations will be requested, in the form of the Nedbank FATCA and CRS Entity Self-certification form.

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If your entity account information changes, or if US indicia (indicators) are identified by Nedbank, we are required to validate and possibly recertify your entity's details to ensure compliance in terms of the FATCA and CRS legislation.

It is important to remember that a change in circumstance refers to any change that results in the addition or alteration of client information or changes to controlling person(s)\* information linked to that client.

Examples of changes in circumstance include the following:

- The entity's country of incorporation changes to another country.
- The entity's place of effective management\* changes to another country.
- The status of the entity changed from an active non-financial entity ("NFE") to a passive NFE\* or vice versa.
- The entity changed from being a non-financial entity to a financial institution or vice versa
- The entity's controlling persons\* change either through:
  - adding more controlling persons;
  - substituting controlling person;
  - or any other changes relating to controlling persons\* such as a change in the tax residency; or physical address of an existing controlling person.

Where your entity is required to provide Nedbank with one of the US Internal Revenue Service (IRS) W-forms\*, it is important to note that the IRS W-8BEN, W-8BEN-E and W8 ECI forms (required under FATCA) are valid for three years. However, if there is a change in circumstance, then these forms would become automatically invalid and would need to be renewed. Nedbank will notify you when this is needed.

However, the W-9 form remains valid unless there is a change in circumstances.

\*For any defined terms please see the Table of terms and definitions.

## 19 Under what circumstances would Nedbank need to report the Common Reporting Standard (CRS) information about my entity's account to the relevant tax authority?

Nedbank is required to report CRS information to the relevant tax authority in respect of all accounts held by:

- Entities\* who are resident for tax purposes in a country outside the country of onboarding due to their country of incorporation and /or place of effective management\*; or
- Certain entities with controlling persons\* who are resident for tax purposes outside the country of onboarding. These entity types include passive non-financial [foreign] entities\* (passive NFEs), trustee documented trusts, and investment entities\* that are resident in a non-participating jurisdiction\* and is managed by another financial institution\* in a participating jurisdiction.

In addition, Nedbank will also need to report account information relating to those entities who do not provide Nedbank with the required Nedbank FACTA and CRS Entity Self-certification form and any IRS W-form\* as the case may be.

\*For any defined terms please see the Table of terms and definitions.

## 20 What entities are US reportable accounts?

An entity\* will be a US\* reportable account\* if:

- The entity itself was incorporated or organised in the US;
- The entity is a passive non-financial [foreign] entity (passive NFE) with one or more controlling US persons\*;
- The entity is a non-participating FFI\*; or
- The entity is non-compliant with US *indicia*.

\*For any defined terms please see the Table of terms and definitions.

## 21 What information will Nedbank report to the US Internal Revenue Service (IRS) and the relevant tax authority#?

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Nedbank is required to report all mandatory information as set out in both the IRS and Organisation of Economic and Cooperative Development (OECD) reporting schemas, either to the IRS or the relevant tax authority in order to comply with the FATCA and CRS legislation. All accounts held by US entities (US persons\*) will be reported to the IRS and all accounts that have tax obligations, tax liabilities or tax residencies outside the country of onboarding will be reported to the relevant tax authority#.

The information is entity-specific and will relate to the accounts held by entities that are defined as US Persons\*, or entities that have tax obligations, tax liabilities or tax residencies outside the country of onboarding.

Furthermore, certain entity types that are not US persons\* or that do not have tax obligations, tax liabilities or tax residencies outside the country of onboarding, may also be reportable where the entity has controlling persons\* that are either defined as US Persons\* and/or have tax obligations, tax liabilities or tax residencies outside the country of onboarding.

These entity types that could be reportable due to their controlling persons are:

- Passive non-financial [foreign] entities (passive NFEs).
- Trustee documented trusts.
- Investment entities\* that are resident in a non-participating jurisdiction and are managed by another financial institution in a participating jurisdiction\*.

The following information will be reported:

- The name of the entity\*.
- The address of the entity\*.
- The entity's registration number, if applicable.
- A place of incorporation outside the country of onboarding.
- A place of effective management\* outside the country of onboarding.
- The entity's account number.
- Each country of tax residence where the entity has tax obligations in.
- Every taxpayer identification number\* (TIN) that the entity has provided, or the reason why the entity does not have a TIN.
- For selected entity classification types, we also would need to report additional information on the controlling persons\* that are defined as either a US Person\* and/or have tax obligations, tax liabilities or tax residencies outside the country of onboarding.
- The aggregated year-end balance for all the entity's accounts.
- The gross proceeds on any disposal, income flows, gross withdrawals, or payments from the entity's stockbroking and/or unit trust accounts.
- All payments made to, and from, the entity's account, where the entity has been classified as a non-participating [foreign] financial institution\* under FATCA.

#When the automatic exchange of information becomes available.

\*For any defined terms please see the Table of terms and definitions.

## **22 Is a local entity with only a Nedbank account, and that is 100% owned by local citizens, all of whom are non-US persons and do not have foreign tax obligations, subject to either the Foreign Account Tax Compliance Act (FATCA) or the Common Reporting Standard (CRS)?**

Yes, every account holder\* must self-certify by confirming in writing, through the completion, dating and signing of a Nedbank FATCA and CRS Entity Self-certification form, that the entity, as the account holder, is not a US\* entity\* (US Person\*) and/or does not have tax obligations, tax liabilities or tax residencies outside the country of onboarding.

\*For any defined terms please see the Table of terms and definitions.

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### **23 Is a shareholder of an entity who is a ~~South African~~ local citizen and resident in the country of onboarding, and who has a US Green Card, but owns less than 10% of the entity that has an account with Nedbank, subject to the Foreign Account Tax Compliance Act (FATCA)?**

No, because a controlling person\* in terms of local legislation means each natural person who directly owns the required % (e.g., 20% for Namibia, 25% for Eswatini 20% for Zimbabwe and 25% for Lesotho) or more of the company's shares.

If the shareholder was a controlling person of a passive non-financial [foreign] entity\* (passive NFE), the entity and the controlling person will be subject to FATCA. Additional information will be required, and the account will be reportable\*

\*For any defined terms please see the Table of terms and definitions.

### **24 Is a “stokvel” viewed as an entity or group of individuals?**

A “stokvel” is described as members of a specific group which:

- Is a formal or informal rotating credit scheme with entertainment, social and economic functions.
- Fundamentally consists of members who have pledged mutual support to each other towards the attainment of specific objectives.
- Establishes a continuous pool of capital by raising funds by means of the subscriptions of members.
- Grants credit to and on behalf of members.
- Provides for members to share in profits and to nominate management; and
- Relies on self-imposed regulation to protect the interest of its members.

Nedbank considers a stokvel as an entity\*; and as such the account is regarded as an entity account. The authorised signatories, being the mandated individual members, of the “stokvel” account are each regarded as controlling persons because the stokvel is classified as a passive non-financial [foreign] entity\* (passive NFE).

\*For any defined terms please see the Table of terms and definitions.

## **What do I need to do?**

### **1 Will Nedbank supply me with all the forms I need to complete?**

Yes. Nedbank will always provide you with the relevant Nedbank FATCA and CRS Self-certification form that you need to complete.

Where an US Internal Revenue Service (IRS) W-form\* is required, based on the notes set out in the Nedbank FATCA and CRS Self-certification form, Nedbank will direct you to the Nedbank website where you can download the forms.

\*For any defined terms please see the Table of terms and definitions.

### **2 Where can I find the Glossary of terms, as well as the IRS W-forms?**

Clients can access the Glossary of terms and the US Internal Revenue Service (IRS) W-forms\* from the relevant Nedbank Africa Regions websites:

- Nedbank Lesotho: [www.nedbank.co.ls](http://www.nedbank.co.ls)
- Nedbank Namibia: [www.nedbank.com.na](http://www.nedbank.com.na)
- Nedbank Eswatini: [www.nedbank.co.sz](http://www.nedbank.co.sz)
- Nedbank Zimbabwe: [www.nedbank.co.zw](http://www.nedbank.co.zw)

\*For any defined terms please see the Table of terms and definitions.

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### **3 Where can I find the Nedbank Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) Self-certification forms?**

Clients can obtain the Nedbank FATCA and CRS Individual and Controlling Person Self-certification form, as well as the Nedbank FATCA and CRS Entity Self-certification form, from the relevant relationship manager/banker, or at the nearest Nedbank branch.

### **4 Will Nedbank respect my data privacy?**

Yes, Nedbank will respect your data privacy. We will only disclose your information to the relevant tax authority if we are legally required to do so.

### **5 Is my information safe?**

Client information is protected by a strict code of secrecy and security which all members of the Nedbank Group, their staff and third parties are subject to. This includes the use, retention, disposal, safeguarding and disclosure of personal information to third parties.

Furthermore, all data transmitted to the relevant tax authority is encrypted.

### **6 I'm not sure how to complete the documentation requested by Nedbank. What should I do?**

Where permitted Nedbank employees will endeavour to assist you, although they are not tax advisors and will not be able to provide tax advice. For this you may wish to consult an independent tax advisor.

### **7 Why has my other bank asked for different documentation when compared to Nedbank and are all banks doing this?**

The way in which banks and financial institutions\* collect information from their clients in order to confirm whether or not they have foreign tax obligations, tax liabilities or tax residencies under Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) may vary. This means that, in some instances, Nedbank may ask you for different documentation when compared to another bank.

All financial institutions\* – that includes banks, insurers, and asset management businesses – in participating countries/jurisdictions\* are required to be compliant with both FATCA and CRS legislations.

\*For any defined terms please see the Table of terms and definitions.

### **8 What will Nedbank do if I do not provide the information required under the Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS)?**

Nedbank is committed to being fully compliant with FATCA and CRS.

Nedbank may not open new accounts or offer additional products and services to clients who choose not to comply with requests for information and/or documentation to establish their FATCA and CRS status.

For existing clients who do not provide the required FATCA and CRS information and/or documentation, Nedbank will be forced to restrict the account and may be required to report these existing clients to the relevant tax authority, based on the information and documentation we hold in our possession currently.

We therefore ask our clients to respond to any requests to provide us with the required FATCA and CRS information and/or documentation so that we can ensure that you are FATCA and CRS compliant. This is also an opportunity for our clients to update their personal information.

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In summary, any client, whether new or existing, who chooses not to comply with Nedbank's requests for information and/or documentation to establish their FATCA and CRS status will have their accounts restricted and be reported as non-compliant to the relevant tax authority. In addition, withholding tax may be imposed on certain US source payments coming into your account.

**9 As an existing client, what would happen if I fail to complete and return the Nedbank FATCA and CRS Self-certification form to Nedbank by the cut-off date and provide it at a later date?**

You have 30 days within which to provide Nedbank with the Nedbank FATCA and CRS Self-certification form, whereafter your account will be restricted. As soon as your self-certification form has been received, then Nedbank will remove the restrictions on your account.

Furthermore, due to the fact that Nedbank does not have sufficient information to determine whether you are a US person\* or have tax obligations, tax liabilities or tax residencies outside the country of onboarding, Nedbank will have to report you to the relevant tax authority.

\*For any defined terms please see the Table of terms and definitions.

**10 I no longer have an account with Nedbank; do I still need to provide the Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) information?**

If you have closed your account during the current year, Nedbank will be required to confirm whether your account is reportable for FATCA and CRS purposes.

If a reportable account\* is closed during a reporting period, its details need to be included in Nedbank's FATCA and CRS return for that period. It is important that you respond to all requests for FATCA and CRS information even if you believe you have already supplied it, or the account has been closed within the year.

\*For any defined terms please see the Table of terms and definitions.

**11 My Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) information has changed, or I previously submitted incorrect details - can I change these?**

If your previously submitted FATCA and/or CRS information is now incorrect or out of date, you must notify Nedbank by submitting a revised Nedbank FATCA and CRS Self-certification form.

**12 Are there any penalties for non-compliance?**

As with Anti-money laundering (AML) legislation any account holder\* that does not submit the correct Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) information and/or documentation, including the Nedbank FATCA and CRS Self-certification form, will result in their accounts being restricted. Furthermore, financial penalties in the form of administrative fines from the relevant tax authority may be imposed.

\*For any defined terms please see the Table of terms and definitions.

**13 Where can I find further information and advice on Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS)?**

We will try to assist you as much as possible, however, we are not able to provide tax advice. For this you may wish to consult an independent tax advisor as Nedbank employees are not tax advisors.

- More information about FATCA is available at [www.irs.gov](http://www.irs.gov).
- More information about CRS is available on OECD\* Automatic Exchange of Information portal at [www.oecd.org](http://www.oecd.org).

If you do not want to click on a link, please type the address in your browser.

\*For any defined terms please see the Table of terms and definitions.

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## Table of terms and definitions

In this document the following terms and acronyms are referred to:

Term/Acronym	Meaning
<b>Account holder</b>	<p>An 'account holder' is the person listed or identified as the holder of a financial account by the financial institution that maintains the account.</p> <p>A person, other than a financial institution, holding a financial account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor or intermediary.</p> <p>In this regard the term 'financial institution' does not include a financial institution organised or incorporated in a US territory. In the case of a cash value insurance contract or an annuity contract, the account holder is any person entitled to access the cash value or change the beneficiary of the contract.</p> <p>If no person can access the cash value or change the beneficiary, the account holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract.</p> <p>On the 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 account holder.</p>
<b>AML/KYC Procedures</b>	<p>The term 'AML/KYC Procedures' means the client due diligence procedures of a Reporting Financial Institution pursuant to the anti-money laundering or similar requirements to which such Reporting Financial Institution is subject.</p>
<b>Active non-financial [foreign] entity (NFFE)</b>	<p>Any 'non-financial entity' can be an active non-financial entity, provided that it meets any of the criteria listed below. In summary, those criteria refer to:</p> <ul style="list-style-type: none"> <li>• active non-financial entities by reason of income and assets;</li> <li>• publicly traded non-financial entities;</li> <li>• governmental entities, international organisations, central banks or their wholly owned entities;</li> <li>• holding non-financial entities that are members of a non-financial group;</li> <li>• start-up non-financial entities;</li> <li>• non-financial entities that are liquidating or emerging from bankruptcy;</li> <li>• treasury centres that are members of a non-financial group; or</li> <li>• non-profit non-financial entities.</li> </ul> <p>An entity will be classified as an 'active non-financial entity' if it meets any of the following criteria:</p> <ul style="list-style-type: none"> <li>• Less than 50% of the non-financial entity'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 non-financial entity during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income.</li> <li>• The stock of the non-financial entity is regularly traded on an established securities market or the non-financial entity is a related entity of an entity of which the stock is regularly traded on an established securities market.</li> <li>• The non-financial entity is a governmental entity, an international organisation, a central bank or an entity that is wholly owned by one or more of the foregoing.</li> <li>• Substantially all of the activities of the non-financial entity 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</li> </ul>

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	<p>other than the business of a financial institution, except that an entity does not qualify for this status if the entity functions as (or holds itself out to be) 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.</p> <ul style="list-style-type: none"> <li>• The non-financial 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, provided that the non-financial entity does not qualify for this exception after a date that is 24 months after a date of the initial organisation of the non-financial entity.</li> <li>• The non-financial entity 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.</li> <li>• The non-financial entity 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.</li> <li>• The non-financial entity meets all of the following requirements: <ul style="list-style-type: none"> <li>– 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;</li> <li>– it is exempt from income tax in its jurisdiction of residence;</li> <li>– it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;</li> <li>– the applicable laws of the non-financial entity jurisdiction of residence or the non-financial entity's formation documents do not permit any income or assets of the non-financial 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 non-financial entity's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of the property the non-financial entity has purchased; and</li> <li>– the applicable laws of the non-financial entity's jurisdiction of residence or the non-financial entity's formation documents require that, on the non-financial entity'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 non-financial entity's jurisdiction of residence or any political subdivision thereof.</li> </ul> </li> <li>• Examples of active non-financial entities are farms, manufacturing companies, management consulting companies and architect offices.</li> </ul>
<b>AEOI</b>	This stands for the automatic exchange of information.
<b>Affiliated group</b>	<p>The term 'affiliated group' means:</p> <p><b>1 In general</b></p> <p>(a) One or more chains of includible corporations connected through share ownership with a common parent corporation that is an includible corporation, but only if –</p> <p>(i) the common parent corporation owns shares directly, meeting the requirements of paragraph 2 below in at least one of the other includible corporations; and</p>

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- (ii) shares that meet the requirements of paragraph 2 below in each of the includible corporations (except the common parent) are owned directly by one or more of the other includible corporations.

**2 80 percent voting and value test**

The ownership of shares of any corporation meets the requirements of this paragraph if it –

- (a) possesses at least 80 percent of the total voting power of the shares of such corporation; and
- (b) has a value equal to at least 80 percent of the total value of the shares of such corporation.

**3 Five years must elapse before reconsolidation**

- (a) In general

If –

- (i) a corporation is included (or required to be included) in a consolidated return filed by an affiliated group, and

- (ii) such corporation ceases to be a member of such group,

in respect of periods after such cessation, the corporation (and any successor of the corporation) may not be included in any consolidated return filed by the affiliated group (or by another affiliated group with the same common parent or a successor of the common parent) before the 61st month beginning after its first taxable year in which it ceased to be a member of such affiliated group.

- (b) Secretary may waive application of subparagraph (a)

The secretary may waive the application of subparagraph (a) to any corporation for any period, subject to such conditions as the secretary may prescribe.

**4 Shares not to include certain preferred shares**

For purposes of this subsection the term 'shares' does not include any shares that –

- (a) are not entitled to vote;
- (b) are limited and preferred as to dividends and do not participate in corporate growth to any significant extent;
- (c) have redemption and liquidation rights that do not exceed the issue price of such shares (except for a reasonable redemption or liquidation premium); and
- (d) are not convertible into another class of shares.

**5 Legislation**

The secretary shall prescribe such legislation as may be necessary or appropriate to carry out the purposes of this definition, including, but not limited to, legislation –

- (a) that treat warrants, obligations convertible into shares, and other similar interests as shares, and shares not as shares;
- (b) that treat options to acquire or sell shares as having been exercised;
- (c) that provide that the requirements of paragraph (2)(b) must be treated as met if the affiliated group, in reliance on a good faith determination of value, treated such requirements as met;
- (d) that disregard an inadvertent ceasing to meet the requirements of paragraph (2)(b) by reason of changes in relative values of different classes of shares;
- (e) that provide that transfers of shares within the group must not be taken into account in determining whether a corporation ceases to be a member of an affiliated group; and



	(f) that disregard changes in voting power to the extent that such changes are disproportionate to related changes in value.
<b>Agreement (i.e., IGA)</b>	The 'intergovernmental agreement' between the Republic of South Africa and the United States of America to improve international tax compliance and to implement FATCA (signed 9 June 2014).
<b>Annuity contract</b>	<p>This is a contract under which the issuer agrees to make payments for a period determined in whole or in part by reference to the life expectancy of one or more individuals.</p> <p>The term also includes a contract that is considered to be an annuity contract in accordance with the law, regulation or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.</p>
<b>Cash value</b>	<p>The term 'cash value' means the greater of:</p> <ul style="list-style-type: none"> <li>• the amount that the policyholder is entitled to receive on surrender or termination of the contract (determined without reduction for any surrender charge or policy loan); and</li> <li>• the amount the policyholder can borrow under or with regard to the contract.</li> </ul> <p>Notwithstanding the foregoing, the term 'cash value' does not include an amount payable under an insurance contract as:</p> <ul style="list-style-type: none"> <li>• a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred on the occurrence of the event insured against;</li> <li>• a refund to the policyholder of a previously paid premium under an insurance contract (other than under a life insurance contract) due to policy cancellation or termination, decrease in risk exposure during the effective period of the insurance contract, or arising from a redetermination of the premium due to correction of posting or other similar error; or</li> <li>• a policyholder dividend based on the underwriting experience of the contract or group involved.</li> </ul>
<b>Cash value insurance contract</b>	An insurance contract (other than an indemnity reinsurance contract between two insurance companies) that has a cash value greater than \$50 000.
<b>Control</b>	<p>'Control' over an entity is generally exercised by the natural person(s) who ultimately has/have a controlling ownership interest in the entity.</p> <p>Where no natural person(s) exercise(s) control through ownership interests, the controlling person(s) of the entity will be the natural person(s) who exercise(s) control over the entity through other means.</p> <p>Where no natural person(s) is/are identified as exercising control of the entity through ownership interests, the reportable person will be deemed to be the natural person holding the position of senior managing official.</p> <p>'Senior managing official' refers to the natural person(s) who hold(s) the position of senior managing director in a company or trustee(s) of a trust.</p>
<b>Controlling persons</b>	<p>The following are deemed to be controlling persons:</p> <p><b>1 For a company</b></p> <ul style="list-style-type: none"> <li>• Each natural person who directly owns the required percentage of the company's shares per country e.g., 20% for Namibia, 25% for Eswatini, 20% for Zimbabwe and 25% for Lesotho.</li> <li>• Where the company's shares are owned directly by a juristic person(s), each natural person who is the ultimate beneficial holder and indirectly</li> </ul>

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	<p>owns more than the required % of the company's shares, as above.</p> <ul style="list-style-type: none"> <li>• Each natural person who exercises control (the ability to influence materially the outcome of a vote at a general meeting or appoint or veto the appointment of the directors of the entity) through other means such as personal connections or contractual relationships.</li> <li>• If, despite reasonable effort, the information required in the above bullet points cannot be determined, then each natural person who holds a senior management position and exercises executive control over the daily or regular affairs of the company, filling the position of chief executive officer, chairman of the board, chief financial officer, chief operating officer or similar positions.</li> </ul> <p><b>2 For a trust</b></p> <ul style="list-style-type: none"> <li>• Settlor</li> <li>• Founder</li> <li>• Donor</li> <li>• Trustee</li> <li>• Beneficiary/Beneficiaries</li> </ul> <p><b>3 For a partnership of juristic persons</b></p> <ul style="list-style-type: none"> <li>• Each natural person who is the ultimate beneficial holder of the required percentage, or more of the partnership interest</li> <li>• Each natural person who exercises control through other means for example personal connections or contractual relationships</li> <li>• Each natural person who controls the business decisions of the partnership in terms of the partnership agreement</li> </ul> <p><b>4 For a partnership of natural persons</b> All partners of the partnership</p> <p><b>5 For a social club, stokvel or an association</b> All natural persons authorised to manage the affairs of the social club, stokvel or association in terms of the constitution</p> <p><b>6 For a cooperative</b> The managing/executive director or person(s) in a similar capacity</p> <p><b>7 For a close corporation</b> All members of the close corporation</p>
<b>CRS</b>	This stands for Common Reporting and Due Diligence Standards developed by the Organisation for Economic Cooperation and Development (OECD).
<b>Custodial account</b>	<p>This is an account (other than an insurance contract or annuity contract) for the benefit of another person that holds a financial instrument or contract for investment, including, but not limited to:</p> <ul style="list-style-type: none"> <li>• a share or stock in a corporation;</li> <li>• a note, bond, debenture, or other evidence of indebtedness;</li> <li>• a currency or commodity transaction;</li> <li>• a credit default swap;</li> <li>• a swap based on a non-financial index;</li> <li>• a notional principal contract;</li> <li>• an insurance contract or annuity contract; and</li> <li>• any option or other derivative instrument.</li> </ul>
<b>Custodial institution</b>	<p>An entity that holds, as a substantial portion of its business, financial assets for the account of others.</p> <p>An entity will be regarded as holding financial assets for the account of others as a substantial portion of its business if its gross income attributable to the holding</p>

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	<p>of financial assets and related financial services equals or exceeds 20% of the entity's gross income during the shorter of:</p> <ul style="list-style-type: none"> <li>• The three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) before the year in which the determination is being made; or</li> <li>• The period during which the entity has been in existence.</li> </ul> <p>Examples of income from the following related financial services that should be included in calculating the percentage of the entity's gross income so attributable:</p> <ul style="list-style-type: none"> <li>• Custody, account maintenance and transfer fees</li> <li>• Commissions and fees earned from executing and pricing securities transactions</li> <li>• Income earned from extending credit to clients with respect to financial assets held in custody (or acquired through such extension of credit)</li> <li>• Income earned on the bid-offer spread of financial assets</li> <li>• Fees for providing advice on financial assets held in (or to be held in) custody by the entity and for clearance and settlement services</li> </ul> <p>Certain brokers and trust companies, custodial banks and clearing organisations that hold assets on behalf of others are likely to fall under the definition of custodial institution.</p>
<b>Depository account</b>	<p>A 'depository account' includes any commercial, cheque, savings, time or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a financial institution in the ordinary course of a banking or similar business. A depository account also includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon.</p>
<b>Depository institution</b>	<p>This is any entity that accepts deposits in the ordinary course of a banking or similar business.</p>
<b>Entity</b>	<p>For the purposes of FATCA and CRS, 'entity' means any person other than a natural person.</p> <p>Included in the definition of 'entity' in the intergovernmental agreement is any legal person or legal arrangement, for example a trust, partnership, or association. For the purpose of this form 'entity' includes, but is not limited to, the following juristic persons:</p> <ul style="list-style-type: none"> <li>• Private company, being a (Pty) Ltd company</li> <li>• Public company, being a Ltd company (this company type could be listed or unlisted)</li> <li>• State-owned company (SOC) Ltd</li> <li>• External or foreign company</li> <li>• Personal-liability company (Inc)</li> <li>• Non-profit company (NPC)</li> <li>• Close corporation (CC)</li> <li>• Partnerships</li> <li>• Trust</li> <li>• Association</li> <li>• Stokvel</li> </ul>
<b>Equity interest</b>	<p>'Equity interest' means:</p> <ul style="list-style-type: none"> <li>• in the case of a partnership that is a financial institution, either a capital or profit interest in the partnership; and</li> <li>• in the case of a trust that is a financial institution, the interest of any person treated as a settlor or beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust.</li> </ul>

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	<p>A US person will be treated as a beneficiary of a foreign trust if such US person has the right to receive directly or indirectly (for example through a nominee) a mandatory distribution or may receive directly or indirectly a discretionary distribution from the trust.</p>
<p><b>Expanded affiliated group</b></p>	<p>'Expanded affiliated group' means an affiliated group as defined above, determined:</p> <ul style="list-style-type: none"> <li>• by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears in the Affiliated group definition; and</li> <li>• without regard to paragraphs (2) and (3) of section 1504(b) of the US Internal Revenue Code.</li> </ul> <p>A partnership or any other entity (other than a corporation) will be treated as a member of an expanded affiliated group if such entity is controlled [within the meaning of section 954(d)(3) of the US Internal Revenue Code] by members of such group (including any entity treated as a member of such group because of this sentence). For purposes of the preceding sentence under section 954(d)(3), control means, with respect to a corporation, the ownership, directly or indirectly, of shares possessing more than 50 percent of the total voting power of all classes of shares entitled to vote or of the total value of shares of such corporation. In the case of a partnership, trust, or estate, control means the ownership, directly or indirectly, of more than 50 percent (by value) of the beneficial interests in such partnership, trust, or estate.</p> <p>'Affiliated group' means:</p> <p><b>1 In general</b></p> <p>(a) One or more chains of includible corporations connected through share ownership with a common parent corporation that is an includible corporation, but only if –</p> <p>(b)</p> <p>(i) the common parent corporation owns shares directly, meeting the requirements of paragraph 2 below in at least one of the other includible corporations; and</p> <p>(ii) shares that meet the requirements of paragraph 2 below in each of the includible corporations (except the common parent) are owned directly by one or more of the other includible corporations.</p> <p><b>2 80 percent voting and value test</b></p> <p>The ownership of shares of any corporation meets the requirements of this paragraph if it –</p> <p>(a) possesses at least 80 percent of the total voting power of the shares of such corporation; and</p> <p>(b) has a value equal to at least 80 percent of the total value of the shares of such corporation.</p> <p><b>3 Five years must elapse before reconsolidation</b></p> <p>(a) In general</p> <p>If –</p> <p>(i) a corporation is included (or required to be included) in a consolidated return filed by an affiliated group, and</p> <p>(ii) such corporation ceases to be a member of such group;</p> <p>in respect of periods after such cessation, the corporation (and any successor of the corporation) may not be included in any consolidated return filed by the affiliated group (or by another affiliated group with the same common parent or a successor of the common parent) before the</p>

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	<p>61st month beginning after its first taxable year in which it ceased to be a member of such affiliated group.</p> <p>(b) Secretary may waive application of subparagraph (a) The secretary may waive the application of subparagraph (a) to any corporation for any period, subject to such conditions as the secretary may prescribe.</p> <p><b>4 Shares not to include certain preferred shares</b> For purposes of this subsection the term 'shares' does not include any shares that –</p> <p>(a) are not entitled to vote; (b) are limited and preferred as to dividends and do not participate in corporate growth to any significant extent; (c) have redemption and liquidation rights that do not exceed the issue price of such shares (except for a reasonable redemption or liquidation premium); and (d) are not convertible into another class of shares.</p> <p><b>5 Legislation</b> The secretary shall prescribe such legislation as may be necessary or appropriate to carry out the purposes of this definition, including, but not limited to, legislation –</p> <p>(a) that treat warrants, obligations convertible into shares, and other similar interests as shares, and shares not as shares; (b) that treat options to acquire or sell shares as having been exercised; (c) that provide that the requirements of paragraph (2)(b) must be treated as met if the affiliated group, in reliance on a good faith determination of value, treated such requirements as met; (d) that disregard an inadvertent ceasing to meet the requirements of paragraph (2)(b) by reason of changes in relative values of different classes of shares; (e) that provide that transfers of shares within the group must not be taken into account in determining whether a corporation ceases to be a member of an affiliated group; and (f) that disregard changes in voting power to the extent that such changes are disproportionate to related changes in value.</p>
<b>FATCA</b>	'FATCA' stands for Foreign Account Tax Compliance Act. This act was enacted as part of the Hiring Incentives to Restore Employment (HIRE) Act on 18 March 2010. FATCA created a new information reporting and withholding regime for payments made to certain foreign financial institutions and other foreign entities.
<b>FFI</b>	'FFI' stands for foreign financial institution.
<b>Financial account</b>	<p>This is an account maintained by a financial institution, and includes:</p> <ul style="list-style-type: none"> <li>• in the case of an entity that is a financial institution solely because it is an investment entity, any equity or debt interest (other than interests that are regularly traded on an established securities market) in the financial institution;</li> <li>• in the case of a financial institution not described in subparagraph 1(s)(1) of the intergovernmental agreement (IGA), any equity or debt interest in the financial institution (other than interests that are regularly traded on an established securities market), if – <ul style="list-style-type: none"> <li>– the value of the equity or debt interest is determined, directly or indirectly, primarily by reference to assets that give rise to US source withholdable payments; and</li> <li>– the class of interests was established with a purpose of avoiding reporting in accordance with the intergovernmental agreement; and</li> </ul> </li> <li>• any cash value insurance contract and any annuity contract issued or</li> </ul>

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	<p>maintained by a financial institution, other than a non-investment-linked, non-transferable immediate life annuity that is issued to an individual and monetises a pension or disability benefit provided under an account that is excluded from the definition of 'financial account' in Annex II of the IGA.</p> <p>Notwithstanding the foregoing, the term 'financial account' does not include any account that is excluded from the definition of 'financial account' in Annex II of the IGA.</p> <p>For purposes of the IGA, interests are regularly traded if there is a meaningful volume of trading with respect to the interests on an ongoing basis, and an 'established securities market' means an exchange that is officially recognised and supervised by a governmental authority in which the market is located and that has a meaningful annual value of shares traded on the exchange.</p> <p>For purposes of subparagraph 1(s) of the IGA, an interest in a financial institution is not 'regularly traded' and must be treated as a financial account if the holder of the interest (other than a financial institution acting as an intermediary) is registered on the books of such financial institution. This provision will not apply to interests first registered on the books of such financial institution prior to 1 July 2014, and for interests first registered on the books of such financial institution on or after 1 July 2014, this is only applicable with effect from 1 January 2016.</p>
<b>Financial institution</b>	A custodial institution, a depository institution, an investment entity or a specified insurance company.
<b>GIIN</b>	<p>This stands for Global Intermediary Identification Number and is a number that the US Internal Revenue Service (IRS) issues via the IRS registration portal.</p> <p>All participating foreign financial institutions need to register with the IRS to obtain a GIIN.</p> <p>It applies to financial institutions that have adopted FATCA either through an intergovernmental agreement or as a choice, through the signing of a Model 2 foreign financial institution agreement. Certain deemed-compliant or non-reporting financial institutions must also obtain a GIIN.</p> <p>The GIIN is a unique reference number that has a specific format and is issued to identify each financial institution. Each part has a particular meaning, for example, it tells you whether the financial institution is part of a bigger group or whether the financial institution is a sponsoring entity. It also identifies the financial institution jurisdiction of residence in which it maintains a branch that is not treated as a limited branch.</p> <p>More information is available at <a href="http://www.irs.gov/PUP/businesses/corporations/giincomposition.pdf">www.irs.gov/PUP/businesses/corporations/giincomposition.pdf</a>.</p>
<b>in-care-of address</b>	The address of individuals or entities other than that of the intended recipients where post for the intended recipients must be delivered.
<b>Insurance contract</b>	A contract (other than an annuity contract) under which the issuer agrees to pay an amount on the occurrence of a specified contingency involving mortality, morbidity, an accident, liability, or property risk.
<b>Investment entity</b>	<p>'Investment entity' includes two types of entities:</p> <ol style="list-style-type: none"> <li>1. An entity that primarily conducts itself as a business, performing one or more of the following activities or operations for or on behalf of a client: <ul style="list-style-type: none"> <li>• trading in money market instruments for example cheques, bills, certificates of deposit and derivatives, foreign exchange, exchange, interest rate and index instruments, transferable securities or commodity</li> </ul> </li> </ol>

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	<p>futures;</p> <ul style="list-style-type: none"> <li>individual and collective portfolio management; or investing, administering, or managing financial assets or money on behalf of other persons.</li> </ul> <p>These activities or operations do not include rendering non-binding investment advice to a client.</p> <p>2. The second type of investment entity (an investment entity managed by another financial institution) is any entity whose gross income is primarily attributable to investing, reinvesting or trading in financial assets, and where the entity is managed by another entity that is a depository institution, a custodial institution, a specified insurance company or the type of investment entity described in (16.1) above.</p> <p>Where an Investment Entity is located in a non-participating jurisdiction and managed by another financial institution, it is treated as a <b>passive non-financial entity</b>.</p>
<b>Investment entity managed by another financial institution</b>	<p>An entity is 'managed by' another entity if the managing entity performs (either directly or through another service provider) the activities or operations described in 16.1 of the definition of 'investment entity' on behalf of the managed entity.</p> <p>An entity manages another entity only if it has discretionary authority to manage the other entity's assets (either in whole or part).</p> <p>Where an entity is managed by a mix of financial institutions, non-financial entities or individuals, the entity is considered to be managed by the financial institution, being the entity that is a depository institution, a custodial institution, a specified insurance company or an entity described in (16.1) of the definition of 'investment entity', as the case may be.</p>
<b>Internal Revenue Service (IRS)</b>	<p>The United States 'Internal Revenue Service' is the US government agency responsible for tax collection and tax law enforcement.</p>
<b>IRS forms</b>	<p>Withholding certificates, also referred to as W-forms, are US IRS tax forms. Form W-9 is a Request for Taxpayer Identification Number and Certification. This form is provided by an account holder to confirm and certify his/her US status.</p> <p>The W-8 forms are currently used by foreign persons (including entity) to certify their non-US status. The form establishes that the individual or entity is a non-resident alien or foreign corporation to avoid or reduce tax withholding from US source income. These forms will permit a non-US client to self-certify his/her status under FATCA.</p> <p>More information is available at <a href="http://www.irs.gov/forms">www.irs.gov/forms</a>.</p>
<b>Know your Client (KYC)</b>	<p>'Know Your Client' entails legislation that require financial institutions to implement due diligence policies to check the identity, background and source of wealth of their potential and existing clients.</p>
<b>Non-financial [foreign] entity (NFFE)</b>	<p>A non-US entity that is not a foreign financial institution as defined in relevant US Treasury Legislation or is an entity described in subparagraph B(4)(j) of the intergovernmental agreement. This includes any non-US entity that is established outside the country of onboarding or another partner jurisdiction that is not a financial institution.</p>

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<b>Non-participating foreign financial institution (NPFFI)</b>	<p>A financial institution that has not agreed to comply with the due diligence requirements of FATCA and, as a result, has not registered on the US Internal Revenue Service portal. Under FATCA a 'non-participating foreign financial institution' will be reported and any US source income that is fixed or determinable, for example dividends or interest, and that is annual or periodic (FDAP), will be subject to 30% withholding.</p>
<b>Non-reporting financial institution</b>	<p>Any financial institution, or other entity, that is described in Annex II of the intergovernmental agreement (IGA) as a non-reporting [foreign] financial institution or that otherwise qualifies as a deemed-compliant [foreign] financial institution or an exempt beneficial owner under relevant US Treasury Legislation in effect on the date of signature of the IGA.</p>
<b>Non-US entity</b>	<p>An entity that is not a US person.</p>
<b>Organisation for Economic Cooperation and Development (OECD)</b>	<p>A unique forum where the governments of 34 democracies with market economies work with each other, as well as with more than 70 non-member economies, to promote economic growth, prosperity, and sustainable development.</p>
<b>Participating foreign financial institution (PFFI)</b>	<p>A 'participating foreign financial institution' is a foreign financial institution (FFI) (including a reporting Model 2 intergovernmental agreement FFI) that has agreed to comply with the terms of an FFI agreement. The term 'participating FFI' also includes a qualified intermediary (QI) branch of a US financial institution unless such branch is a reporting Model 1 intergovernmental agreement FFI.</p> <p>For purposes of this definition:</p> <ul style="list-style-type: none"> <li>• The term 'FFI agreement' means an agreement that sets forth the requirements for a financial institution to be deemed as complying with the requirements of the US Internal Revenue Code;</li> <li>• The term 'Model 2 intergovernmental agreement' means an arrangement between the US or the Treasury Department and a non-US government or one or more agencies thereof to facilitate the implementation of FATCA through reporting by financial institutions directly to the US Internal Revenue Service (IRS) in accordance with the requirements of an FFI agreement, supplemented by the exchange of information between such non-US government or agency thereof and the IRS.</li> </ul>
<b>Participating jurisdiction financial institution</b>	<p>The term 'participating jurisdiction financial institution' means</p> <ul style="list-style-type: none"> <li>• Any financial institution that is resident in a participating jurisdiction, but excludes any branch of that financial institution that is located outside such participating jurisdiction, and</li> <li>• Any branch of a financial institution that is located in a participating jurisdiction, even if that financial institution is not resident in a participating jurisdiction.</li> </ul>
<b>Partner <i>en commandite</i></b>	<p>This term means a financial participant in a partnership who shares in the profits and losses, but whose liability is restricted to a specific contribution or an agreed amount.</p>
<b>Passive non-financial [foreign] entity</b>	<p>A 'passive non-financial [foreign] entity' is a non-financial entity of which 50% of its income is passive and more than 50% of its assets for the last financial year are in the form of passive investments.</p> <p>A 'passive non-financial [foreign] entity' is:</p> <ul style="list-style-type: none"> <li>• Any non-financial [foreign] entity that is not an active non-financial entity; and</li> <li>• An investment entity resident in a non-participating jurisdiction and is managed by a financial institution.</li> </ul> <p>However, if this entity is a corporate and is part of a group that is listed and whose shares are frequently traded on a regulated stock exchange, <b>then it will default to an active non-financial entity.</b></p>

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	<p>'Passive income' means that portion of gross income consisting of:</p> <ul style="list-style-type: none"> <li>• Dividends, including substitute dividend amounts;</li> <li>• Interest;</li> <li>• Income equivalent to interest;</li> <li>• Rents and royalties, other than rents and royalties derived in the active conduct of a trade or business conducted, at least in part, by employees of the non-financial entity;</li> <li>• Annuities;</li> <li>• The excess of gains over losses from the sale or exchange of property that gives rise to passive income as described in this definition;</li> <li>• The excess of gains over losses from transactions (including futures, forwards and similar transactions) but not including: <ul style="list-style-type: none"> <li>– any commodity hedging transaction;</li> <li>– active business gains or losses from the sale of commodities;</li> <li>– the excess of foreign currency gains over foreign currency losses;</li> <li>– net income from notional principal contracts;</li> <li>– amounts received under a cash value insurance contract; or</li> <li>– amounts received by insurance companies in connection with its reserves for insurance and annuity contracts.</li> </ul> </li> </ul> <p>Examples of passive non-financial entities are family trusts, investment clubs, non-profit organisations, investment holding companies, and an entity that owns a farm and its only income is rental income.</p>
<p><b>Place of effective management</b></p>	<p>The 'place of effective management' will ordinarily be the place:</p> <ul style="list-style-type: none"> <li>• where the most senior person or group of persons makes its decisions, being the place where the actions to be taken by the entity as a whole are determined; AND</li> <li>• where the board of directors formally finalises and/or routinely approves key management, commercial and strategic decisions necessary for the conduct of the entity's business.</li> </ul> <p>In determining the place where material decisions are taken, one should consider the place where advice on recommendations or options relating to the decisions are considered and where these decisions are ultimately taken. An entity may have more than one place of management, but it can have only one place of effective management at any one time.</p>
<p><b>Related/Related entity</b></p>	<p>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 the purpose of this definition, control includes direct or indirect ownership of more than 50% of the value in an entity or a holding of more than 50% of the voting shares in an entity.</p> <p>Despite the above, an entity may be treated as not a related entity of another entity if the two entities are not members of the same expanded affiliated group, as defined in section 1471(e)(2) of the US IRS Internal Revenue Code.</p>
<p><b>Reportable account</b></p>	<p>An account held by one or more reportable person(s) or by passive non-financial entities if one or more controlling person(s) is/are a reportable person(s), provided it has been identified as such, based on the required due-diligence procedures within Nedbank.</p> <p>The term 'reportable person(s)' means all individuals or entities that are defined either as a US person(s) or an individual or entity that is resident in a reportable jurisdiction under the tax laws of such jurisdiction, or an estate of a deceased person that was a resident of a reportable jurisdiction.</p>





	Where 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.
<b>Reportable person</b>	<p>The term 'reportable person(s)' means all individuals or entities that are defined either as a US person(s) or an individual or entity that is resident in a reportable jurisdiction under the tax laws of such jurisdiction, or an estate of a deceased person that was a resident of a reportable jurisdiction.</p> <p>Where 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.</p>
<b>Reporting financial institution</b>	A 'reporting financial institution' in the country of onboarding or a reporting US financial institution, as the context requires.
<b>Reporting Model 1 foreign financial institution (FFI)</b>	A financial institution in respect of which a non-US government or agency thereof agrees to obtain and exchange information pursuant to a Model 1 intergovernmental agreement (IGA), other than a financial institution treated as a non-participating financial institution under the Model 1 IGA. For purposes of this definition, the term 'Model 1 IGA' means an arrangement between the US or the Treasury Department and a non-US government, or one or more agencies thereof, to implement FATCA through reporting by financial institutions to such non-US government or agency thereof, followed by automatic exchange of the reported information with the US Internal Revenue Service.
<b>Specified insurance company</b>	<p>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.</p> <p>'Cash value insurance contract' means an insurance contract (other than an indemnity reinsurance contract between two insurance companies and term life insurance) that has an aggregate cash value greater than US\$50 000.</p> <p>The term 'cash value' means the greater of:</p> <ul style="list-style-type: none"> <li>• The amount that the policyholder is entitled to receive on surrender or termination of the contract (determined without reduction for any surrender charge or policy loan); and</li> <li>• The amount the policyholder can borrow under or with regard to the contract.</li> </ul> <p>Despite the above, cash value excludes the following amounts payable under insurance contracts:</p> <ul style="list-style-type: none"> <li>• A personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred on the occurrence of the event insured against;</li> <li>• A refund to the policyholder of a previously paid premium under an insurance contract (other than a life insurance contract) due to policy cancellation or termination, a decrease in risk exposure during the effective period of the insurance contract, or arising from a redetermination of the premium due to the correction of a posting or other similar error; or</li> <li>• A policyholder dividend based on the underwriting experience of the contract or group involved.</li> </ul> <p>'Annuity contract' means the following:</p> <ul style="list-style-type: none"> <li>• A contract under which the issuer agrees to make payments for a period, determined in whole or in part by reference to the life expectancy of one or more individuals; or</li> <li>• A contract that is considered to be an annuity contract in accordance with the law, regulation, or practice of the jurisdiction in which the contract was issued and under which the issuer agrees to make payments for a term consisting of years.</li> </ul>

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	'Investment-linked annuity contract' means an annuity contract under which benefits, or premiums are adjusted to reflect the investment return or market value of assets associated with the contract.
<b>Specified US person</b>	<p>A 'specified US person' means a US person, <b>other than</b>:</p> <ul style="list-style-type: none"> <li>• a corporation of which the stock is regularly traded on one or more established securities markets;</li> <li>• any corporation that is a member of the same expanded affiliated group, as defined in section 1471(e)(2) of the US Internal Revenue Code, as a corporation described above;</li> <li>• the US or any wholly owned agency thereof;</li> <li>• any state of the US, any US territory, any political subdivision of any of the foregoing, or any wholly owned agency of any one or more of the foregoing;</li> <li>• any organisation exempt from taxation under section 501(a) of the US Internal Revenue Code or an individual with a retirement plan as defined in section 7701(a)(37) of the US Internal Revenue Code;</li> <li>• any bank as defined in section 581 of the US Internal Revenue Code;</li> <li>• any real estate investment trust as defined in section 856 of the US Internal Revenue Code;</li> <li>• any regulated investment company as defined in section 851 of the US Internal Revenue Code or any entity registered with the US Securities and Exchange Commission under the Investment Company Act of 1940 (15 USC 80a-64);</li> <li>• any common trust fund as defined in section 584(a) of the US Internal Revenue Code;</li> <li>• any trust that is exempt from tax under section 664(c) of the US Internal Revenue Code or that is described in section 4947(a)(1) of the US Internal Revenue Code;</li> <li>• a dealer in securities, commodities or derivative financial instruments (including notional principal contracts, futures, forwards and options) that is registered as such under the laws of the US or any state;</li> <li>• a broker as defined in section 6045(c) of the US Internal Revenue Code; or</li> <li>• any tax-exempt trust under a plan that is described in section 403(b) or section 457(g) of the US Internal Revenue Code.</li> </ul>
<b>Taxpayer identification number (TIN) (including functional equivalent)</b>	<p>A unique combination of letters or numbers assigned by a jurisdiction to an individual or an entity to identify the individual or entity for the purposes of administering the tax laws of such jurisdiction.</p> <p>In some jurisdictions taxpayer identification numbers are not issued. In such cases, instead of the taxpayer identification number, a functional equivalent can be used, for example a high-integrity number with an equivalent level of identification such as the social security number in the US or the National Insurance number in the United Kingdom.</p>
<b>US/USA</b>	This stands for United States or United States of America and includes US territories.
<b>US person</b>	<p>'United States person' or 'US person' means any of the following:</p> <ul style="list-style-type: none"> <li>• A US citizen (including dual citizen)</li> <li>• A US resident</li> <li>• An individual born in the US but resident in another country and who has not given up his or her US citizenship</li> <li>• A person residing in the US (resident alien*)</li> <li>• A person who is holding a Green Card or who held one in the previous calendar year</li> <li>• Certain persons who are physically present in the US for at least 31 days during the current year; 183 days during the three-year period that includes the current year and the two years immediately before that, counting: all the days you were present in the current year, and 1/3 of the days you were</li> </ul>

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	<p>present in the first year before the current year, and 1/6 of the days you were present in the second year before the current year</p> <ul style="list-style-type: none"> <li>• A partnership organised in the US or under the laws of the US or any state thereof</li> <li>• A corporation organised in the US or under the laws of the US or any state thereof</li> <li>• Any estate where the deceased was a citizen or resident of the US other than a foreign estate</li> <li>• Any trust, if: <ul style="list-style-type: none"> <li>– a court within the US is able to exercise primary supervision over the administration of the trust and</li> <li>– one or more US persons have the authority to control all substantial decisions of the trust</li> </ul> </li> </ul> <p>* A 'resident alien' is a foreign person who is a permanent resident of the country in which he or she resides but does not have citizenship. To fall under this classification in the US, a person needs to have a current 'Green Card' or to have had one in the previous calendar year.</p>
<b>US legislation</b>	The 'US legislation' relating to information reporting by foreign financial institutions and withholding on certain payments to foreign financial institutions and other foreign entities.
<b>US source withholdable payment</b>	Any payment of interest (including any original issue discount), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments and other fixed or determinable annual or periodical gains, profits and income, if such payment is from sources within the US. Notwithstanding the foregoing, a US source withholdable payment does not include any payment that is not treated as a withholdable payment in relevant US Treasury legislation.
<b>US territories</b>	<p>Territories of the US are portions of the US that are not within the limits of any state and have not been admitted as states.</p> <p>The US currently has 16 territories, of which the following are permanently inhabited:</p> <ul style="list-style-type: none"> <li>• Puerto Rico;</li> <li>• Guam;</li> <li>• Northern Mariana Islands;</li> <li>• the US Virgin Islands; and</li> <li>• American Samoa.</li> </ul> <p>Although they are governed by the US, the territories do not have statehood status.</p> <p>Ten territories are small islands, atolls, and reefs, spread across the Caribbean and Pacific, with no native or permanent populations. They are Palmyra Atoll, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Wake Island, Midway Islands, Navassa Island and Serranille Bank. Uninhabited Bajo Nuevo Bank is administered by Colombia but claimed by the US under the Guano Islands Act.</p>
<b>Withholding agent or intermediary</b>	A 'withholding agent or intermediary' is an individual, corporation, partnership, trust, association, or any other entity, including any foreign intermediary, foreign partnership or US branch of certain foreign banks and insurance companies, that have control, receipt, custody, disposal, or payment of any withholdable payment.

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