

Tax residency

Entity classification and controlling person customer guide

We need you to determine what classification your entity falls under. Refer over page for more information. If you're still unsure, please contact your tax adviser before proceeding.

Is the entity classified as a:

Passive Non-Financial Entity (NFE)

Financial Institution

Active Non-Financial Entity (NFE)

If the entity is a Passive Non-Financial Entity, or a Financial Institution (which is a Managed Investment Entity in a non-participating jurisdiction), the entity will need to:

- provide self-certification, and
- supply additional self-certification for each controlling person.

For a list of participating jurisdictions please visit www.oecd.org and search CRS.

If the entity is an Active Non-Financial Entity, or another type of Financial Institution (which isn't a Managed Investment Entity in a non-participating jurisdiction), the entity will need to:

- provide self-certification, and
- confirm what type of entity based on our classifications.

Under FATCA, if the entity is a financial institution, a Global Intermediary Identification Number (GIIN) must be provided.

Controlling persons

Under the Common Reporting Standard (CRS) and the Foreign Account Tax Compliance Act (FATCA) a controlling person is considered a natural person who exercises control over the entity. This is generally a person who:

- Has a controlling ownership interest (25% or more); or
- If there is no natural person who has a controlling interest (25% or more), then any natural person who exercises control over the entity through other means; or
- If there is no natural person who is identified as exercising control of the entity (as set out above), then any natural person who holds the position of a senior managing official of the entity.

For a Passive Non-Financial Entity that is a trust, the controlling persons are the settlor(s), the trustee(s), the protector(s), the beneficiaries, or classes of beneficiaries, irrespective of whether they actually exercise control over the trust, and any other natural person exercising ultimate effective control over the trust.

The FATCA legislation requires the identification of all entities which are controlled by US persons. A US person is generally considered a tax resident or citizen of the US. You can refer to the Intergovernmental agreement (IGA) or Inland Revenue's 'Due Diligence' Guidance Notes for a more complete definition.

For more detailed definitions and information

If you're unsure about the controlling persons required to complete a self-certification, or have any specific questions, contact your tax adviser. BNZ is unable to give tax advice. You may also want to visit Inland Revenue's website and search Common Reporting Standard or FATCA for further information.

Definitions

Passive Non-Financial Entities (NFE) – A Passive NFE can be defined as any:

NFE that is not an Active NFE (see definition below). A NFE will generally be a Passive NFE if, for example, 50% or more of its gross income for the preceding calendar year (or appropriate reporting period) is passive income, or 50% or more of the assets held by the NFE during the same period are assets that produce, or are held for, the production of passive income.

Financial Institution (FI): A Financial Institution can be defined as any of the following:

Financial Institution – Managed Investment Entity	An Investment Entity because it is managed by a Financial Institution and derives income primarily from investing or trading in Financial Assets.
Financial Institution – Other	There are four other types of Financial Institution: A Custodial Institution, Depository Institution, Investment Entity, or Specified Insurance Company. Apart from more obvious entities such as banks, this can also include non-bank deposit takers, collective investment entities, mutual funds, private equity funds, hedge funds, investment managers and advisors, and certain brokers and trusts.
Financial Institution – FATCA	A Financial Institution (or Foreign Financial Institution) under FATCA is defined in the IGA as a non-US Entity that meets one or more of the following four definitions: A Custodial Institution, Depository Institution, Investment Entity, Specified Insurance Company. A Global Intermediary Identification Number (GIIN) must also be provided along with meeting all or any of the above definitions. This is issued by the IRS to each registering Financial Institution. The GIIN is a 19-character identification number and can be looked up on the IRS website. If applicable to your Entity, please provide your Entity's GIIN on the self-certificate.

Active Non-Financial Entities (NFE) – An Active NFE can be defined as an entity that is not a Financial Institution and that meets any of the following criteria.

Active NFE – Other	<p>The NFE should be classified as 'Active NFE – Other' if:</p> <ul style="list-style-type: none"> less than 50% of the NFE's gross income for the preceding calendar year, or other appropriate reporting period, is passive income and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income; substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an Entity does not qualify for this status if the Entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes; the NFE 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 NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE; the NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganising with the intent to continue or recommence operations in a business other than that of a Financial Institution;
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Active Non-Financial Entities (NFE) – An Active NFE can be defined as an entity that is not a Financial Institution and that meets any of the following criteria.

<p>Active NFE – Other</p>	<ul style="list-style-type: none"> • the NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution; or • the NFE meets all of the following requirements: <ol style="list-style-type: none"> 1) 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; 2) it is exempt from income tax in its jurisdiction of residence; 3) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets; 4) the applicable laws of the NFE’s jurisdiction of residence or the NFE’s formation documents do not permit any income or assets of the NFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFE’s charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and 5) the applicable laws of the NFE’s jurisdiction of residence or the NFE’s formation documents require that, upon the NFE’s liquidation or dissolution, all of its assets be distributed to a Governmental Entity or other non-profit organisation, or escheat to the government of the NFE’s jurisdiction of residence or any political subdivision thereof.
<p>Publicly Traded NFE</p>	<p>The stock of the NFE is regularly traded on an established securities market or the NFE is a related entity of an Entity the stock of which is regularly traded on an established securities market;</p>
<p>Central Bank</p>	<p>An institution that is by law or government sanction the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the jurisdiction, whether or not owned in whole or in part by the jurisdiction.</p>
<p>Government Entity</p>	<p>The government of a jurisdiction, any political subdivision of a jurisdiction, or any wholly owned agency or instrumentality of a jurisdiction or of any one or more of the foregoing (each, a “Governmental Entity”). This category is comprised of the integral parts, controlled entities, and political subdivisions of a jurisdiction.</p>
<p>International Organisation</p>	<p>Any International Organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation (including a supranational organisation).</p>