



Declaration of legal entity status for US tax purposes



Company _____

Person no. (internal) _____

RM _____ Initials RM _____

1 General information

Several words in this form are in *italics*. Please find an explanation of these terms in the glossary.

Terms used to refer to persons and positions are understood as applying to both male and female, in the singular as well as the plural form.

For US tax purposes, the undersigned *authorised representative* of the *entity* (hereinafter referred to as the "*authorised representative*") hereby discloses to LGT Bank Ltd. (hereinafter referred to as the "*bank*") the following information in order to enable the bank to ascertain the *entity* status

- under US tax law,
- and/or whether *Controlling Persons* are or are not *US persons*,
- and/or to determine whether the *entity* intends to claim the benefits of a double taxation treaty (DTT), if any exists between the *entity's* country of tax residence and the *United States*.

Neither this declaration of status nor any related written or oral explanations constitute tax advice. The bank recommends contacting a qualified tax advisor, if required.

Name of the *entity* (if different from the information provided above) _____

Legal form _____

Country of incorporation¹ _____

2 Classification for QI/Chapter 3 status

2.1 Classification of the entity

If the *entity* is a transparent *entity* not considered for tax purposes (e.g. a non-US grantor or a non-US simple *trust*, a partnership or another transparent company in accordance with US tax law), then, instead of this form, the *authorised representative* of the *entity* must submit the valid IRS forms W-8IMY for the *entity* and, for every beneficial owner of the non-US *entity*, either a form W-9 or W-8BEN and an authenticated passport copy.

¹ If the *entity* is a partnership or corporation established in the *USA* under the laws of the *USA* or one of its states, or a *trust* for which a court within the *United States* would have authority under applicable law to render orders or judgements concerning substantially all issues regarding administration of the *trust*, and
 If one or more *US persons* have the authority to control all substantial decisions of the *trust*, or an estate of a decedent who was a citizen or resident of the *United States*, please additionally provide a duly completed form W-9.

All other *entities* (which are not considered to be flow-through entities), please tick the applicable box:

The *entity* is

- a *non-US company*, a *non-US partnership* or a collective non-US investment vehicle, whereby the *entity*
 - under US tax law, is a “per se” corporation (such as a Swiss AG, see the “per se” list);
 - has made a “check-the-box” election to be treated as a corporation for US income tax purposes; or
 - has not made a “check-the-box” election but nonetheless is treated as a corporation for US income tax purposes.
- a *non-US complex trust* (i.e. is neither a “grantor” nor a “simple” trust for tax purposes)

If the authorised representative has ticked one of the boxes listed above, please continue with the following sections of this status representation.

If applicable, the bank may request the *entity* to provide additional client representations, US tax opinions from US tax counsel and/or additional forms such as form W-8BEN, W-8BEN-E, W-9 or W-8IMY.

2.2 Beneficial ownership confirmation and double taxation treaty (DTT) benefit claim

If the *entity* elects to be treated neither as a flow-through *entity* nor as a transparent *entity* for US tax purposes, it hereby declares that, according to US tax law, it is the beneficial owner of all assets and income deposited in the above banking relationship.

2.2.1 “No Effectively Connected Income” declaration

The *entity* hereby declares that the income from the above banking relationship is not effectively connected with the conducting of a trade or other business in the USA.

2.2.2 Application of tax relief based on a DTT

By completing this section, the *entity* declares that it wishes to claim the benefits of the applicable DTT concluded between the USA and the following country:

(please specify name of country) and declares (please tick A and C or B and C)

Yes A that the *entity* is a resident of the above country of domicile within the meaning of the DTT between the USA and this country, or

Yes B that the *entity* is not a resident of the above country of domicile within the meaning of the DTT with the USA but otherwise falls within the scope of this DTT for the following reasons:

Yes C that the *entity* meets all the conditions of the DTT necessary to claim the benefits of the DTT including any clauses contained in the DTT that pertain to any limitation on DTT benefits, and that it derives the income within the meaning of Section 894 of the US Tax Code and the regulations thereunder as the beneficial owner. Therefore, it is fully entitled to claim the corresponding reduced withholding tax rates on all the assets and income to which this declaration of status relates. The *entity* also confirms that it has taken note of the DTT text available on the website of the Swiss Bankers Association www.swissbanking.org relating to any applicable restriction in DTT benefits, including all clauses pertaining to the restriction of DTT benefits.

3 Classification for FATCA/Chapter 4 status

The *authorised representative* shall state whether the *entity* qualifies as a *Foreign Financial Institution (FFI)*. The term FFI means an *entity* that is treated as such according to an applicable *Intergovernmental Agreement (IGA)* (and the respective domestic regulations and guidelines, if any) or the US Treasury regulations (if not, the *IGA* definition applies). Although the respective definitions differ slightly, they intend to cover financial institutions in a wider sense; they therefore include banks, custodians, brokers, asset managers, collective investment vehicles, life insurance companies and certain holding companies and treasury centres. Additionally, the definition includes *professionally managed* investment entities such as certain personal investment companies, foundations or *trusts*.

If the *entity* qualifies as an FFI, continue with the self-certification for FFIs in Section 4, otherwise please go to Section 5.

4 Foreign Financial Institutions (FFI)

The *authorised representative* shall mark/complete only one of the options in this Section 4 (that which is applicable). Then continue to Section 6 please and date and sign this declaration of status. If your FFI status is not listed on this form, the *authorised representative* shall please provide us with the appropriate IRS form (W-9, W-8BEN-E, W-8IMY, W-8EXP, etc.).

4.1 Reporting/Participating FFIs with GIIN²

GIIN of the *entity* _____

4.2 Sponsored FFI/Trustee-Documented Trusts

An *entity* is assigned a *GIIN* if it is registered as a Financial Institution or *Sponsored Entity* with the US Internal Revenue Service (IRS). In the case of *Sponsored Entities* that do not, or do not yet, have a *GIIN*, as well as Sponsored Closely Held Investment Vehicles and *Trustee-Documented Trusts*, the *Sponsoring Entity's GIIN* or the *GIIN* of the *trustee* acting as sponsor can be disclosed instead. After the *authorised representative* has provided the *GIIN(s)* and the name of the *Sponsoring Entity* or *trustee* acting as sponsor below, please tick the applicable box (only one) as to what type of *Sponsored Entity* the *entity* is and complete the corresponding information.

GIIN of the *Sponsoring Entity/trustee*: _____

Name of the *Sponsoring Entity/trustee*: _____

GIIN of the *Sponsored Entity* (if available): _____

*Trustee-Documented Trust*³

The *authorised representative* confirms:

– that the *trust* was established under the laws of the following *FATCA IGA* partner jurisdiction
_____ (country); and

– that the *trustee* reports all information required to be reported with respect to all US reportable accounts of the *trust*.

Underlying Company of a *Trustee-Documented Trust* (under Liechtenstein law, only applicable for *trusts* resident or organised in Liechtenstein)

The *authorised representative* confirms that the underlying *entity*:

– is a related *entity* managed and/or controlled in Liechtenstein and is controlled by the *trustee* or the *Trustee-Documented Trust*, which has direct or indirect ownership of more than 50 percent of the votes or value in that related *entity*, and that the *trustee* or the *Trustee-Documented Trust* reports all information required to be reported with respect to all US reportable accounts of that related *entity*.

Name of the *Trustee-Documented Trust* _____

² Do not select this category if you are a Registered Deemed Compliant FFI under an applicable *IGA*. Instead, please continue to Section 4.3 (*Non-Reporting FFIs*).

³ Only available as an option for *trusts* in countries with an *IGA* that in Annex 2 provides for the status of *Trustee-Documented Trust*.

Sponsored Investment Entity

The *authorised representative* confirms that the *Sponsored Investment Entity*:

- is an FFI solely because it is an investment *entity*;
- is not a *Qualified Intermediary (QI)*, *Withholding Foreign Partnership* or *Withholding Foreign Trust*;
- has a contractual relationship with the above *Sponsoring Entity* that agrees to fulfil all due diligence, withholding and reporting responsibilities of a *Participating FFI* on behalf of this *entity*.

Sponsored Closely Held Investment Vehicle

The *authorised representative* confirms that the *Sponsored Closely Held Investment Vehicle*:

- is an FFI solely because it is an investment *entity*;
- is not a *Qualified Intermediary (QI)*, *Withholding Foreign Partnership* or *Withholding Foreign Trust*;
- has a contractual relationship with the above *Sponsoring Entity* that agrees to fulfil all due diligence, withholding and reporting responsibilities of a *Participating FFI* on behalf of this *entity*;
- does not hold itself out as an investment vehicle for unrelated parties; and
- twenty or fewer natural persons own all of the debt and equity interests in the *entity*.

4.3 FFIs that qualify as Non-Reporting IGA FFIs (which are not covered above)

The *authorised representative* confirms that the *entity* was established under the laws of the following

- *FATCA IGA* partner jurisdiction _____ (country); and
- qualifies as a _____
(applicable status as a *Non-Reporting FFI*) according to the applicable *FATCA IGA* (Annex 2); and
- the *GIIN* will be provided if the *entity* is a Registered Deemed Compliant FFI _____ (if available)

5 Non-Financial Foreign Entity (NFFE)

(do not fill in if you have completed Section 4)

The *authorised representative* will complete this section if you are a non-US *entity* not active in finance (hereinafter referred to as a “Non-Financial Foreign *Entity*” [NFFE]). Please tick only one box in this Section 5 (that which is applicable). Then continue to Section 6 and date and sign this form. *If your status is not listed on this form, the authorised representative shall please provide us with the appropriate IRS form (W-9, W-8BEN-E, W-8IMY, W-8EXP, etc.).*

5.1 Active NFFE

The *authorised representative* confirms by ticking this box that the *entity* qualifies as an *Active NFFE* in accordance with the *Intergovernmental Agreement (IGA)* between the *United States* and Liechtenstein.

5.2 Passive NFFE

The *authorised representative* confirms that the *entity* is *not professionally managed* by an FFI or controlled by one or more *Controlling Persons* who is or are a *US person* or *US persons*.

If the *passive NFFE* is a complex *trust* for US federal income tax purposes and its organisational documents contain a fully discretionary beneficiary clause, the *authorised representative* hereby certifies that either:

- no *controlling person* of the *entity* is a *US person* (this includes the settlor, the *trustee(s)*, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control of the *entity*); or
- the *entity* is a complex *trust* for purposes of US federal income tax law because the settlor is a *US person* and
 - the *trust* terms specifically identify the entire class of beneficiaries (or potential beneficiaries) and none are *US persons*; or
 - the *trust* terms include language that is irrevocable, which provides that under the terms of the *trust*, (a) no part of the income or corpus of the *trust* may be paid or accumulated to or for the benefit of a *US person*, and (b) if the *trust* terminates at any time during the taxable year, no part of the income or corpus of such *trust* shall be paid to or for the benefit of a *US person*

Furthermore, the *authorised representative* of the *passive NFFE* hereby certifies that no distribution has been paid in the preceding or current year or will be paid to a *US person* or to an *entity* with a *US controlling person*. To the extent that any *controlling person* of the *passive NFFE* (e.g., settlor, beneficiary, trustee, protector etc.) becomes a *US person* or is an *entity* where the *controlling persons* become *US persons*, the *entity* shall within 30 days notify the bank and provide the bank with a complete and validly signed W-9 IRS form for such *controlling person(s)*, a complete and validly signed W-8BEN-E IRS form, for the *entity* with *US controlling persons* and W-9 IRS form for this/these *controlling person(s)*, and validly signed W-8BEN-E IRS form for the *passive NFFE* that reflects this change in circumstances. Moreover, to the extent that the status of the *passive NFFE* changes from that of a complex *trust* to that of a grantor *trust* for US federal income tax purposes, the *entity* shall within 30 days notify the bank and provide the bank with such other information as the bank shall request that reflects this change in circumstances.

For the declaration in this section 5.2 the *authorised representatives* of the *passive NFFE* herewith expressly agree and confirm that they are exclusively liable for and expressly agree to indemnify and defend the bank against all claims, causes of action, damages, judgments, costs or expenses, including legal fees and all other litigation costs, which may in any way arise from any misrepresentation relating to information provided on this form, any incomplete information provided to the bank relating to *controlling persons* of the *passive NFFE* (or the *controlling persons* of the *passive NFFE's controlling persons*), or the failure to provide information in good time regarding the change in circumstances relating to any *controlling person* of the *passive NFFE* (or the *controlling persons* of the *passive NFFE's controlling persons*).

The *authorised representative* confirms that the *entity* is not professionally managed by an FFI but is controlled by one or more *Controlling Persons*⁴ who are *US persons*, and has provided the name, address and *US TIN* of each *Controlling Person* who is a *US person* below. The *authorised representative* also confirms that each *Controlling Person* who is a *US person* will provide or has provided a form W-9.

List of *US persons* who are *controlling Persons* of the *passive NFFE*:

No.	Name	Address	US TIN

Please continue to Section 6 and date and sign this form.

6 Declaration, change in circumstances and signature

As *authorised representative* of the *entity*, you agree that you will inform the bank without delay, at the latest within 30 days, and on your own initiative, of any change in circumstances which makes any information in this declaration of status incorrect. In particular, this involves changes which under the applicable US tax provisions either – modify the status of the *entity* as a non-US *person* and lead to its acquiring the status of a *US person*, or – modify its qualification as an *entity* for the purposes of FATCA (if, for example, its status is amended from a corporation to a partnership as a result).

The *authorised representative* also acknowledges that withholding and reporting/disclosure consequences may occur if the *authorised representative* fails to comply with his obligations to submit the necessary forms and/or documentation following a change in circumstances. Additionally, the *authorised representative* confirms that he is aware that the above business relationship with the bank may be terminated if that were to happen.

⁴ See the applicable IGA, form W-8BEN-E and instructions on the IRS website (www.irs.gov).

If a reporting obligation under FATCA exists (e.g. under an FFI Agreement or local act implementing a FATCA *Inter-governmental Agreement (IGA)*), for instance if the *entity* is classified as a US account (e.g. in the event of a *passive NFFE with controlling US persons*) or as a *non-participating financial institution ("NPFPI")* and/or if a reporting obligation exists under a QI Agreement, the bank must report the *entity* and/or certain parties involved (e.g. *controlling persons, partners/grantors/beneficiaries*) directly or indirectly through local authorities to the US Internal Revenue Service ("IRS"). The *entity* therefore agrees to the following release from secrecy obligations, with the consent as granted below as applicable to all the *entity's* current and future banking relationships with the bank.

By signing this declaration of status, the *authorised representative* also agrees that the bank is permitted to report or forward, using any available means of communication (including electronic data transmission), all IRS forms (such as forms W-9, W-8BEN, W-8IMY, etc.) and/or a part or all of the data contained therein, any withholding tax certificates associated therewith which you have sent to the bank or submitted to the bank, your name and your address, information on the beneficial ownership, the *US TIN*, account statements, the amount of the assets held with the bank, the amount of income as well as additional information on the *entity's* banking relationship and in connection with the account or custody account which is held or maintained by the bank (together the "data"), to the IRS or custodian banks involved, including US custodian banks, irrespective of whether this is done directly or, if necessary, indirectly through the local authorities or in response to a justified request by the IRS or another official US government authority, and that you expressly waive banking secrecy and other non-disclosure regulations in this respect and consent to such a report. The *entity* declares that it will not hold the bank responsible for possible consequences that may result from the fact that the bank reports information in connection with the *entity* and the banking relationship to the custodian banks involved, including US custodian banks, and the IRS and shall release and indemnify the bank from any liability and any claims that may arise from such a report in this connection. The *entity* explicitly waives banking secrecy and other duties of non-disclosure in this respect (in as much as such a waiver is required) and agrees to disclosure of this kind.

In full knowledge of the penalties of perjury laid down by US tax legislation, the *authorised representative* of the *entity*/beneficial owners confirms on behalf of the *entity*:

- a that, if necessary, the *entity* has sought appropriate tax advice in the *United States* and in its country of domicile on the issues covered herein, in particular to confirm that it meets the conditions allowing it to claim DTT benefits, and
- b that the information contained herein is true, correct and complete and therefore the bank cannot be held responsible for incomplete, incorrect or misleading information, and
- c that no contrary information has, directly or indirectly, been provided to the bank or to any of its officers, employees, agents or intermediaries.

Place/Date

Signature of the *authorised representative* of the *entity*

Place/Date

Signature of the *authorised representative* of the *entity*

7 Glossary of terms

Active NFFE

There are several types of *active NFFE*. The following are probably the most frequent examples of *active NFFEs*:

- Entities that generated less than 50 percent of their gross income from *passive income* (see below) in the preceding calendar year or another suitable reporting period *and* less than 50 percent of the assets which were held by the *entity* during the preceding calendar year or another suitable reporting period are assets that generate *passive income* or are held to generate passive income.
- A vehicle that is not aimed at generating a profit and that fulfils the following requirements:
 - The *entity* was established in its country of domicile exclusively for religious, charitable, scientific, art, cultural or educational purposes and continues to be operated as such;
 - It is exempt from income tax in its country of domicile;
 - It has no shareholders or members holding ownership or usage rights to its income or assets;
 - The applicable laws of the state in which the *entity* is domiciled or the foundation documents of the *entity* prohibit its income or assets from being assigned to private persons or to non-charitable entities or from being used in their favour in any way, unless this relates to the charitable activities of the *entity* or to the payment of an appropriate remuneration for services provided or payment of a standard market price for goods bought by the *entity*; *and*
 - The applicable laws of the state in which the *entity* is domiciled or the foundation documents of the *entity* specify that, if the *entity* is liquidated or wound up, all its assets are to be distributed to a government agency or to another charitable organisation or passed to the government of the state in which the *entity* is domiciled or to one of its political subunits.

Further categories of *active NFFEs* include the following entities (details on the specific requirements can be found in Annex I to the IGA between the USA and the FATCA-IGA partner jurisdiction or from your tax advisor):

- certain corporations that are regularly traded on an established securities exchange as well as their affiliates;
- certain NFFEs that are established in a US territory;
- certain holding companies and treasury centres that form a group together with largely non-financial companies;
- certain NFFEs that are in liquidation;
- certain start-up non-financial companies;
- NFFEs exempt in accordance with the implementing provisions of the US Department of Treasury, including (sponsored) directly reporting NFFEs.

Authorised representative

An *authorised representative* is authorised to sign declarations or conclude contracts on behalf of the *entity*. The *authorised representative* is determined by the legal form of the *entity* or depends on the persons who have received permission by the *entity*.

Controlling Persons (of a Passive NFFE)

The expression "*Controlling Persons*" denotes natural persons who exercise control over an *entity*. For determining the *entity's Controlling Persons*, a reporting financial institution in an IGA country may rely on information obtained and held as part of AML/KYC processes for existing accounts and must do so for new accounts. In the case of a *trust*, this expression denotes the founder, the *trustee*, any possible monitoring body, the beneficiaries or the group of beneficiaries as well as any other natural person who ultimately exercises actual control over the *trust*. In the case of another legal *entity*, this expression denotes the persons in an equivalent or similar position. The expression "*Controlling Persons*" must be interpreted in compliance with the recommendations of the Financial Action Task Force.

EIN (Employer Identification Number)

An *EIN* is used by the US tax authority (IRS) as a tax identification number for employers. This number is also known as the *US federal taxpayer identification number (US TIN)*. You can request this number via www.irs.gov (form SS-4).

Entity

An *entity* is a legal person or legal arrangement. A *trust* is also considered to be an *entity*.

FATCA

FATCA stands for Foreign Account Tax Compliance Act. This US tax legislation is aimed at identifying *US persons* who have an account or financial assets outside the *United States*.

Foreign Financial Institution

There may be minor differences in the definition and interpretation of the term *Foreign Financial Institution*, depending on whether a *FATCA Intergovernmental Agreement* is applicable. Generally, an *entity* is considered as a *Foreign Financial Institution* if it falls into at least one of the following categories:

- Depository institution: any *entity* which accepts deposits in the ordinary course of a banking or similar business.
- Custodial institution: any *entity* whose business activities consist to a large extent of holding financial assets for third parties. An *entity's* business activities consist to a large extent of holding financial assets for third parties if its gross income from the holding of financial assets and the financial services associated therewith amounts to at least 20 percent of its total gross income during a specific period. The shorter of the two following periods is decisive:
 - I the three-year period which ends on 31 December (or on the last day of a financial year that does not coincide with the calendar year) before the year in which the calculation is carried out, or
 - II the period during which the *entity* has existed.
- Investment entity:
 - Any *entity* which provides certain financial services (e.g. trading, portfolio management, investing, managing or administering funds, money or financial assets) for third parties, if at least 50 percent of the *entity's* gross income during the last three years is attributable to this kind of activities (or since the *entity* has been in existence if this period is shorter);
 - any *professionally managed* (see below) *entity* if at least 50 percent of the *entity's* gross income is attributable to investing and reinvesting in or trading in financial assets during the last three years (or since the *entity* has been in existence if this period is shorter); or
 - any *entity* which presents itself as a collective investment vehicle, investment fund, exchange traded fund, equity fund, hedge fund, venture capital fund, leverage buyout fund or any similar vehicle with an investment strategy of investing, reinvesting or which trades in financial assets.
- Specified insurance company: any *entity* which is an insurance company (or the holding company of an insurance company) that concludes redeemable insurance contracts or annuity contracts or is obliged to make payments on the basis of such contracts.
- Specific holding companies or treasury centres: certain holding companies or treasury centres, which belong to a group which contains a *Foreign Financial Institution*, or which were established in connection with a collective investment vehicle or similar (this category is not relevant for all *entities*, its relevance depends on whether this status is provided for in the applicable *FATCA Intergovernmental Agreement* and the applicable national legislation.)

GIIIN

The global identification number of a financial institution (*GIIIN*, Global Intermediary Identification Number) is a number assigned to a *PFFI (Participating FFI)* or a Registered Deemed Compliant FFI. The FI will be issued a separate *GIIIN* for each jurisdiction, including the jurisdiction in which the registered office of the FI is located and in which the FI maintains a branch that is not treated as a limited branch. It is anticipated that the IRS FFI list will be updated on a monthly basis to add or remove FIs (or their branches). The *GIIIN* may be used by an FI to identify itself to withholding agents and tax administrations for *FATCA* reporting. A *GIIIN* will be issued to only those FIs that are not limited FFIs, limited branches or US branches of an FFI, and will be issued after an FI's *FATCA* registration is submitted and approved.

Intergovernmental Agreement (IGA)

An agreement or arrangement between the *United States* or the US Treasury Department and a foreign government or one or more agencies to implement *FATCA* through reporting by Financial Institutions

1 to such foreign government or agency thereof, followed by automatic exchange of the reported information with the IRS (Model 1) or

2 directly to the IRS (in accordance with the requirements of an FFI Agreement), supplemented by the exchange of information between such foreign government or agency thereof and the IRS (Model 2).

For a list of jurisdictions treated as having in effect an *IGA*, see www.irs.gov/fatca.

Non-Participating FFI

The term *Non-Participating FFI* means a financial institution that:

- is not a financial institution that is participating according to *FATCA* regulations;
- is not a deemed-compliant FFI; or
- is not an exempt beneficial owner (not an exempt organisation).

If you are uncertain whether an *entity* is a *Non-Participating FFI*, please consult a tax advisor or visit www.irs.gov.

Non-Reporting FFI

An *entity* that is resident in a country in which Model 1 or 2 of the *IGA* is applied and that is treated as a *Non-Reporting FFI* in Annex 2 of the applicable Model 1 or Model 2 *IGA* or that is otherwise regarded as a deemed-compliant FFI or as an exempt beneficial owner under the US Treasury regulations §1.1471-5 or §1.1471-6.

Participating Financial Institution (PFFI)

An FFI that (1) is registering to enter into an FFI Agreement, (2) is treated as a Reporting FI under a Model 2 *IGA* and that is confirming that it will comply with the terms of an FFI Agreement (taking account of changes based on the provisions of the applicable Model 2 *IGA*) or (3) is a foreign branch of a *USFI* that has in effect a QI Agreement and that is also agreeing to comply with the terms of an FFI Agreement, unless such branch is treated as a Reporting FI under a Model 1 *IGA*.

Passive assets

Passive assets are assets that produce or are held for the production of *passive income*.

Passive income

The term *passive income* means the portion of gross income that consists of

- 1 Dividends, including substitute dividend amounts; [§1.1472-1(c)(1)(IV)(A)(1)]
- 2 Interest; [§1.1472-1(c)(1)(IV)(A)(2)]
- 3 Income equivalent to interest, including substitute interest and amounts received from or with respect to a pool of insurance contracts if the amounts received depend in whole or in part on the performance of the pool; [§1.1472-1(c)(1)(IV)(A)(3)]
- 4 Rents and royalties, other than rents and royalties derived from the active conducting of a trade or business conducted, at least in part, by employees of the NFFE; [§1.1472-1(c)(1)(IV)(A)(4)]
- 5 Annuities; [§1.1472-1(c)(1)(IV)(A)(5)]
- 6 The excess of gains over losses from the sale or exchange of property that gives rise to *passive income* described in paragraphs (c)(1)(IV)(A)(1) through (5) of this Section; [§1.1472-1(c)(1)(IV)(A)(6)]
- 7 The excess of gains over losses from transactions (including futures, forwards and similar transactions) in any commodities, but not including [§1.1472-1(c)(1)(IV)(A)(7)]
 - I Any commodity hedging transaction described in Section 954(c)(5)(A), determined by treating the *entity* as a controlled foreign corporation; or [§1.1472-1(c)(1)(IV)(A)(7)(I)]
 - II Active business gains or losses from the sale of commodities, but only if substantially all the foreign *entity's* commodities are property described in paragraph (1), (2) or (8) of Section 1221(a); [§1.1472-1(c)(1)(IV)(A)(7)(II)]
- 8 The excess of foreign currency gains over foreign currency losses (as defined in Section 988(b)) attributable to any Section 988 transaction; [§1.1472-1(c)(1)(IV)(A)(8)]
- 9 Net income from notional principal contracts as defined in §1.446-3(c)(1); [§1.1472-1(c)(1)(IV)(A)(9)]
- 10 Amounts received under cash value insurance contracts; or [§1.1472-1(c)(1)(IV)(A)(10)]
- 11 Amounts earned by an insurance company in connection with its reserves for insurance and annuity contracts. [§1.1472-1(c)(1)(IV)(A)(11)]⁵

Passive NFFE

A *Passive NFFE* is a non-financial *entity* that earns more than 50 percent of its gross income from *passive income* and more than 50 percent of its assets produce or are held for the production of *passive income* (i.e. securities, rental property held as investments, etc.).

The term *Passive NFFE* means any NFFE that is neither an *Active NFFE* nor a *Withholding Foreign Partnership* or *Withholding Foreign Trust* pursuant to the relevant US Treasury regulations.

Professionally managed

An *entity* is considered *professionally managed* if another financial institution provides certain financial services on behalf of the *entity* (e.g. trading, portfolio management, investing, administering or managing funds, money or financial assets).

Qualified Intermediary (QI)

A *Foreign Financial Institution* (or foreign branch of a *USFI*) that has entered into a *qualified intermediary* withholding agreement (QI Agreement) with the IRS.

⁵ US Treasury regulations [§1.1472-1(c)(1)(IV)(A)]

Reporting FFI

An FI that is treated as a *Reporting FFI* under the terms of a Model 1 or Model 2 IGA that is in effect.

Sponsoring Entity

An *entity* that will perform the due diligence, withholding and reporting obligations of one or more *Sponsored Investment Entities* or controlled foreign corporations.

Trust

The term *trust* includes *trusts*, foundations and non-commercial establishments (“Anstalten”) if the foundation or establishment is created for the primary purpose of protecting or conserving the property of the foundation or establishment on behalf of the beneficiaries.

Trustee

The term *trustee* includes the members of the foundation board and the board of directors acting on behalf of a Liechtenstein foundation or establishment.

United States (USA)

The *United States* of America, including the states thereof, but not including the *US territories*. Any reference to a “state” of the *United States* includes the District of Columbia.

US Financial Institution (USFI)

A Financial Institution (FI) that is a resident of the *United States*.

US person

The term *US person* denotes a citizen of the *United States* or a natural person resident in the *United States* or an *entity* domiciled in the *United States*.

A natural person is a *US person* if the natural person:

- is a resident of the *United States* (including the following *US territories*: Puerto Rico, Guam and the US Virgin Islands).
- is a *United States* citizen.
- holds or held a US Green Card. Please consult a tax advisor about which type of US Green Card would qualify a natural person as a *US person*. Or go to www.irs.gov for more information.

A natural person is a *United States* citizen if any of the following situations applies:

- 1 The natural person was born in the *United States*, Puerto Rico, Guam or the US Virgin Islands.
- 2 The natural person is a naturalised *United States* citizen.
- 3 The natural person has at least one parent who is a *United States* citizen. In this case other requirements must also be met to be considered as a *United States* citizen. Please refer to www.irs.gov for these requirements.

A natural person or *Controlling Person* qualifies as a resident of the *United States* and therefore as a *US person* if the natural person has been physically present in the *United States* for at least 183 days during the past three years, including at least 31 days in the current calendar year.

The days are calculated as follows:

- All days in the *United States* in the current year; and
- 1/3 of the days in the *United States* of last year, and
- 1/6 of the days in the *United States* of the year before last.

An *entity* is a *US person* if one of the following situations applies:

- The activities of the *entity* are organised in the *United States* (excluding *US territories*).
- The *entity* is incorporated under the laws of the *United States* or one of its separate states.
- The *entity* is a *trust* and meets the following two requirements:
 - A court within the *United States* would have authority under applicable law to render orders or judgements concerning substantially all issues regarding the administration of the *trust*, and
 - One or more *US persons* have the authority to control all substantial decisions of the *trust*.
- The *entity* is an organisation that manages the estate of one or more *US persons*.

This subparagraph shall be interpreted in accordance with the US Internal Revenue Code.

US territories

American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Commonwealth of Puerto Rico and the US Virgin Islands.

US TIN (US federal taxpayer identification number)

The Taxpayer Identification Number (TIN), which is also known as the *US federal taxpayer identification number*, is used by the IRS as an identification number for tax administration. This number can be requested via www.irs.gov.

- For residents and citizens of the *United States*, this number is the Social Security Number (SSN). You can request a Social Security Number using IRS form SS-5 or via www.irs.gov.
- Non-US natural persons who are *United States* taxpayers can request an Individual Tax Identification Number (ITIN) using IRS form W-7 or via www.irs.gov.
- For organisations and employers, the *US TIN* is the *Employer Identification Number (EIN)*. This number can be requested using IRS form SS-4 or via www.irs.gov.

More information is available about identification numbers and the process to request these numbers on www.irs.gov.

Withholding partnership

A *withholding partnership* is a partnership that has an agreement with the US tax authorities to withhold tax on certain payments.

Withholding trust

A *withholding trust* is a *trust* that has an agreement with the US tax authorities to withhold tax on certain payments.