



FATCA Glossary of Terms

Valid from 1 January 2017

Note: although for purposes of readability the masculine gender form is used to reference persons in the relevant sections, this is, of course, always deemed to include members of both genders. The same applies to the plural form.

United States (USA)

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

US Person

The term US Person means a US citizen or an individual resident in the United States or an entity domiciled in the United States.

An individual is a US Person if he:

- is a resident of the US (including the following US Territories: Puerto Rico, Guam and the US Virgin Islands);
- is a US citizen.

The term “US resident” means an individual who

- is in possession of a US Green Card (irrespective of expiry date); please consult a tax advisor regarding which type of US Green Card would qualify an individual as a US Person or go to www.irs.gov for more information;
- meets the substantial presence test; or
- is a US resident because of any other reason (e.g. dual residency or relinquishing US citizenship or long-term permanent residency in the US).

As a basic principle, US citizenship is acquired by birth in the United States of America.

US citizenship can, inter alia, also be acquired

1. by birth in certain (former) US Territories (including Puerto Rico, Guam and the US Virgin Islands);
2. by birth outside the geographical limits of the US and its Territories if at least one of the parents was a US citizen then; in this case, other requirements must also be met, to be considered a United States citizen. Please refer to www.irs.gov for these requirements;
3. through naturalization.v

An individual or Controlling Person qualifies as a resident of the US and therefore as a US Person if the individual 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 in the last year; and
- 1/6 of the days in the United States in the year before the last year.

Bank Frick & Co. AG
Landstrasse 14
9496 Balzers
Liechtenstein

T +423 388 21 21
F +423 388 21 22
bank@bankfrick.li
www.bankfrick.li

ID no. FL-0001.548.501-4
VAT no. 53884





An entity is a US Person if one of the following situations is applicable:

- The entity is a corporation or partnership created or organised in the US or under the law of the US or of any state (excluding US Territories).
- The entity is a trust (or a similar legal arrangement) and meets both of the following requirements:
 - a court within 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.
- The entity is an estate that is treated as a US Person.

This subparagraph is to 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.

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 that have received permission from the entity.

Controlling Persons

The term “Controlling Persons” means the natural persons who exercise control over an entity. To determine 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 term means the founder, the settlor, 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 term denotes the persons in an equivalent or similar position. The term “Controlling Persons” must be interpreted in compliance with the recommendations of the Financial Action Task Force. For the purposes of identifying the Controlling Person with a bank account in Liechtenstein, we recommend consulting both the FATCA Q&A and the AIE Q&A from the Liechtenstein tax authorities, which, as the competent authority, publishes up-to-date additional guidance regarding the definition of Controlling Persons under FATCA and AIE (see www.llv.li).

Entity

An entity is a legal person or a legal arrangement. A trust or a similar arrangement is also considered an entity.



FATCA

FATCA is the abbreviation of Foreign Account Tax Compliance Act. This US tax legislation is aimed at identifying US Persons that have an account or financial assets outside of the United States.

Foreign Financial Institution (FFI)

FATCA:

Pursuant to the Intergovernmental Agreement (IGA) between the United States and Liechtenstein, the following types of entities qualify as FFIs (legal entities domiciled in jurisdictions other than Liechtenstein are advised to consult the final regulations or any Intergovernmental Agreement with the United States, as applicable in each case):

- **Depository Institution:** accepts deposits in the ordinary course of a banking or similar business
- **Custodial Institution:** at least 20 per cent of the entity's gross income is attributable to the holding of financial assets and related financial services for the account of other persons
- **Investment Entity:** conducts as a business (or is managed by an entity that conducts as a business) one or more of the following activities or operations for or on behalf of a customer:
 1. trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
 2. individual and collective portfolio management; or
 3. otherwise investing, administering, or managing funds or money on behalf of other persons.
- **Specified Insurance Company:** insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to cash value insurance or annuity contracts

Please note that certain entities such as private investment companies, family trusts, family foundations and similar arrangements may qualify as FFIs if they are professionally managed investment entities.

AIE:

According to the AIE Law (law regarding Automatic Information Exchange), the following entities are to be classified as FIs (legal persons residing in jurisdictions other than Liechtenstein are advised to refer to the final regulations in the respective country, to the extent applicable):

- **Depository Institution:** accepts deposits in the ordinary course of a banking or similar business
- **Custodial Institution:** at least 20 per cent of the entity's gross income is attributable to the holding of financial assets and related financial services for the account of other persons
- **Investment Entity:** conducts as a business (or is managed by an entity that conducts as a business) one or more of the following activities or operations for or on behalf of a customer:
 1. trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
 2. individual and collective portfolio management; or
 3. otherwise investing, administering, or managing funds or money on behalf of other persons.
- **Specified Insurance Company:** insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to cash value insurance or annuity contracts



Please note that certain entities such as private investment companies, family trusts, family foundations and similar arrangements may qualify as FIs if either the criteria of managed-by tests or gross-income tests are met. There is also an option for voluntary qualification as FI.

GIIN

"Global Intermediary Identification Number" means a number assigned to a Reporting IGA FFI, Participating FFI or Registered Deemed-Compliant FFI. A separate GIIN will be issued to the FI to identify each jurisdiction, including the FI's jurisdiction of residence, 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 GIIN may be used by an FI to identify itself to withholding agents and tax administrations for FATCA reporting. A GIIN 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 between the US and a foreign government to improve international tax compliance and implement FATCA through reporting by Financial Institutions

1. to such foreign government or agency thereof (e.g. local tax authority), 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 other than

- Financial Institution that is participating according to FATCA regulations;
- a Deemed-Compliant FFI; or
- an exempt beneficial owner (exempted organisation).

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

Non-Reporting FFI

An entity that is established in a jurisdiction that has in effect a model 1 or 2 IGA and that is treated as a Non-Reporting FFI in Annex 2 of the applicable model 1 or 2 IGA or that is otherwise treated as a Deemed-Compliant FFI or an exempt beneficial owner under Treas. Reg. Section 1.1471-5 or Section 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 certifying that it will comply with the terms of an FFI Agreement, as modified by the terms of the applicable model 2 IGA, or (3) is a foreign branch of a US FI that has in effect a QI Agreement and that also agrees to 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. Generally, the term “passive assets” is defined more broadly than the term “financial assets”. For example, the term “passive assets” also captures direct investment in real property, provided such investment generates rental income.

Passive income

The term “passive income” means the portion of gross income that consists of¹:

- (1) Dividends, including substitute dividend amounts; [section 1.1472-1(c)(1)(iv)(A)(1)]
- (2) Interest; [section 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 part upon the performance of the pool; [section 1.1472-1(c)(1)(iv)(A)(3)]
- (4) 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 NFFE; [section 1.1472-1(c)(1)(iv)(A)(4)]
- (5) Annuities; [section 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; [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 [section 1.1472-1(c)(1)(iv)(A)(7)], but not including:
 - (i) Any commodity hedging transaction described in section 954(c)(5)(A), determined by treating the entity as a controlled foreign corporation [section 1.1472-1(c)(1)(iv)(A)(7)(i)]; or
 - (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); [section 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; [section 1.1472-1(c)(1)(iv)(A)(8)]
- (9) Net income from notional principal contracts as defined in section 1.446-3(c)(1); [section 1.1472-1(c)(1)(iv)(A)(9)]
- (10) Amounts received under cash value insurance contracts [section 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. [section 1.1472-1(c)(1)(iv)(A)(11)]

Active NFFE/active NFE

FATCA:

There are several types of active NFFEs. The following are probably the most common examples of active NFFEs:

- An entity that generates less than 50 per cent of its gross income from passive income (see above) in the preceding calendar year or other appropriate reporting period and less than 50 per cent of the assets held by such entity during the preceding calendar year or other appropriate reporting period are assets that generate passive income or are held to generate passive income.

¹ US Treasury Regulations [section 1.1472-1(c)(1)(IV)(A)]



Further categories of active NFFEs cover the following entities (for details regarding the specific requirements, please consult Annex I of the IGA between the US and the FATCA IGA partner jurisdiction or contact your qualified tax advisor):

- certain corporations that are regularly traded on an established securities market and their affiliates;
- certain NFFEs that are organised in a US Territory;
- certain holding companies and treasury centres that are in a group with mostly non-financial entities;
- certain NFFEs that are in liquidation;
- certain non-financial start-up companies;
- exempt NFFEs according to the US Treasury Regulations, including (Sponsored) Direct Reporting NFFEs.

AIA:

There are also several types of active NFEs. Perhaps the most frequent examples of active NFEs are identical with those under FATCA. Further categories of active NFEs cover the following entities (for details regarding specific requirements, please refer to the AIE Law and appropriate documentation [regulation, common reporting standard] or consult with your tax adviser):

- certain investment companies regularly traded on an established securities exchange and their affiliated companies;
- public entities, international organisations, central banks or entities owned by one or several of the aforementioned institutions;
- certain holding companies whose essential activity consists of holding shares of subsidiaries and to provide services to the latter if the business activities of the subsidiaries are different from those of a Financial Institution;
- certain non-financial start-up companies;
- certain entities not qualified as Financial Institutions during the past five years and which are in liquidation or planning on taking up a new business activity not qualified as a Financial Institution;
- certain Non-Profit Organisations if exempt from income tax in their country of residence.

Passive NFFE/ Passive NFE

FATCA:

A passive NFFE is a non-financial entity that earns 50 per cent or more of its gross income from passive income or 50 per cent or more of its assets produce, or are held for the production of, passive income (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 a withholding foreign trust pursuant to relevant US Treasury Regulations.

AIA:

Under AIE Law, a passive NFFE is also a non-financial entity (not a Financial Institution); its definition is practically identical to that under FATCA. The term "passive NFE" refers to any NFE that is neither an active NFE nor a Financial Institution.



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).

The Liechtenstein tax authorities publishing additional guidance regarding the determination of when an entity must be considered to be professionally managed, for example by reason of a fully discretionary asset management mandate (see www.llv.li). Please note that this guidance is only applicable to Liechtenstein entities (and not to entities in other jurisdictions holding bank accounts in Liechtenstein). For further guidance regarding entities in other jurisdictions, please refer to the applicable IGA and guidance notes or the relevant US Treasury Regulations.

Qualified Intermediary (QI)

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

Reporting IGA FFI

An FI that is treated as a Reporting FFI under the terms of a model 1 or model 2 IGA currently 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 beneficiaries.

Simple Trust

A trust is considered a Simple Trust when the applicable provisions demand that the entire trust income is to be distributed annually to the beneficiary or beneficiaries. In addition, disbursements for non-profit purposes are not allowed.

Grantor Trust

Grantor Trusts are trusts primarily established for the benefit of the beneficiary, or beneficiaries, and the grantor/settlor reserved certain ownership rights to the trust property.

Complex Trust

All trusts not qualifying as a Grantor Trust or Simple Trust are defined as Complex Trusts. Trusts with a deceased settlor in particular (also discretionary structures) are generally considered Complex Trusts.



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.

US TIN (US federal taxpayer identification number)

The taxpayer identification number (TIN), which is also known as “US federal taxpayer identification number”, is used by the IRS as an identification number for tax administration purposes. 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 via IRS form SS-5 or www.irs.gov.
- Non-US individuals who are United States taxpayers can request an Individual Tax Identification Number (ITIN) via IRS form W-7 or www.irs.gov.
- For organisations and employers the US TIN is the Employer Identification Number (EIN). This number may be requested via IRS form SS-4 or www.irs.gov

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

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 “US federal taxpayer identification number” (US TIN). You can request this number via IRS form SS-4 or www.irs.gov.

(Reporting) US Financial Institution (US FI)

The term “Reporting US Financial Institution” means (1) any Financial Institution that is domiciled in the United States, but excluding any branch of such Financial Institution that is located outside the United States, and (2) any branch of a Financial Institution not domiciled in the United States, if such branch is located in the United States, provided additional requirements are met.

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.

Trustee-documented trust

A trust which is documented by a trustee.

AIE Law

Law regarding the Automatic Exchange of Information (AIE Law), approved in autumn 2015, effective as of 1 January 2016.



Entity

An entity is a legal person or legal arrangement. A trust or comparable arrangement is considered an entity as well.

Managed-by test

An entity is considered professionally managed if another Financial Institution performs certain financial services in the name of the entity (e.g. trading activities, portfolio management, investments, administration or management of funds, money or financial investments) and the gross income from these activities amounts to more than 50 per cent of the total sales of the other Financial Institution.

If this criterion is met, the entity is deemed a Financial Institution.

Gross-income test

More than 50 per cent of gross income consists of investment or reinvestment of financial assets or trading in them. If this criterion is met, the entity is deemed a Financial Institution.

TIN

TIN refers to the individual tax identification number assigned to natural and legal persons in their country of residence. This allows unmistakable identification of the respective persons. The TIN is different from country to country and as a result will appear in different formats.