



## HSBC Declaration to confirm your tax status under FATCA

Bank use only

Entity's name (full legal name)		Customer Number	
Country of registration			
Registered address (full address – PO Box is not acceptable)			
Principal place of business address (if different from registered address)  <i>Principal place of business address is the address of where you are treated as resident for tax purposes, or, if not applicable, the address of your principal office</i>			
Tax residency address  <i>Please provide an address in each country where you are considered resident for Tax purposes</i>		Same as  <input type="checkbox"/> Registered address <input type="checkbox"/> Principal place of business <input type="checkbox"/> Others, please advise	

### FATCA ENTITY CLASSIFICATION STATUS

In relation to chapter 4, subtitle A (sections 1471 through 1474) of the United States Internal Revenue Code of 1986 (the provisions commonly referred to as the "Foreign Account Tax Compliance Act" or "FATCA") and regulations made thereunder or any intergovernmental agreements to facilitate compliance with FATCA with the United States, we make the following certifications:

- I/We hereby certify that we are NOT:
  - A corporation incorporated, created or organised in the United States of America or under the law of the United States of America or of any of the States of the United States of America, including the District of Columbia;
  - A partnership created or organised in the United States of America or under the law of the United States of America or of any of the States of the United States of America, including the District of Columbia;
  - A trust in respect of which a court within the United States of America is able to exercise primary supervision over the administration of the trust, and one or more United States persons have the authority to control all substantial decisions of the trust; or
  - An estate (other than an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A of the United States Internal Revenue Code of 1986).
- I/We hereby certify that we are acting on our own behalf and not as agent, intermediary or nominee of another person.

### ENTITY TYPE CLASSIFICATION UNDER FATCA

Please read the following information carefully and select one of the entity types to provide confirmation of your status under FATCA. Once you have made your selection, please complete the box and sign on page 5 of this form. You will find more information on some of the terms used within this declaration in the associated HSBC declaration notes.

<sup>1</sup> "We" mentioned throughout this form represents the undersigned legal entity and its authorised representatives.

**Trading Entity (also known as Active Non-Financial Foreign Entity as per FATCA)**

We hereby certify that we satisfy the following criteria:

- Less than 50% of our gross income for the preceding calendar year or other appropriate reporting period is passive income (see *HSBC declaration notes*). **AND**
- Less than 50% of our assets held by us during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income. **AND**
- We are engaged in the following active trade or business other than that of a financial institution (see *HSBC declaration notes*):

**Start Up Trading Entity**

We hereby certify that we satisfy the following criteria:

- We are not yet operating a business and have no prior operating history, but we are investing capital into assets with the intent to operate a business other than that of a financial institution. **AND**
- We acknowledge that this certification will expire 24 months from the date that is 24 months after the date of the initial organisation of the Non-Financial Foreign Entity (see *HSBC declaration notes*).

- The Entity was formed on:

*Please state day, month and year*

**Publicly Listed Entity**

We hereby certify that we satisfy the following criteria:

- We are a non-financial foreign entity and our stock is regularly traded on an established securities market (within the meaning of New Zealand Inter-Governmental Agreement and guidance). **OR**
- The Non-Financial Foreign Entity is a Related Entity (see *HSBC declaration notes*) of an entity the stock of which is traded on an established securities market (within the meaning of New Zealand Inter-Governmental Agreement and guidance).

Please list all relevant securities markets that apply:

**Non-US Government Entity**

We hereby certify that we satisfy the following criteria:

- We are a non-US government entity, a political subdivision of such government (which, includes a state, province, county, or municipality), or a public body performing a function of such government or a political subdivision thereof, a government entity of a US Territory, an international organisation, a non-U.S. central bank of issue, or an entity wholly owned by one or more of the foregoing.

**Non Financial Holding Group Service Company**

We hereby certify that we satisfy the following criteria:

- Substantially all of our activities consist of holding (in whole or in part) the outstanding stock of, and providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution (see *HSBC declaration notes*). **AND**
- We do not operate 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.

**Group Financing Companies**

We hereby certify that we satisfy the following criteria:

- We engage primarily in financing and hedging transactions with or for Related Entities (see *HSBC declaration notes*) that are not Financial Institutions, and do 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 (see *HSBC declaration notes*).

**Non Profit or Charitable Organisation**

We hereby certify that we satisfy the following criteria:

We are a Non Profit Organisation  a Charitable Organisation

- We are established and maintained in our country of residence exclusively for religious, charitable, scientific, artistic, cultural, 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. **AND**
- We are exempt from income tax in our country of residence. **AND**
- We have no shareholders or members who have a proprietary or beneficial interest in our income or assets. **AND**
- The applicable laws of our country of residence or our formation documents do not permit any of our income or assets to be distributed to, or applied for the benefit of, a private person or non-charitable entity other than pursuant to the conduct of our charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which we have purchased. **AND**
- The applicable laws of our country of residence or our formation documents require that, upon the entity's liquidation or dissolution, all of our assets be distributed to a governmental entity or other non-profit organisation, or be transferred to the government of our country of residence or any political subdivision thereof.
- The Charity registration number in country of registration is

**U.S. Territory Entity**

We hereby certify that we satisfy the following criteria:

- The entity is organised in a U.S. Territory and all of the owners are bona fide residents of that U.S. Territory.

**In Liquidation**

We hereby certify that we satisfy the following criteria:

- We were not a financial institution in the past five years, and are in the process of liquidating assets or reorganising with the intent to continue or recommence operations in a business other than that of a financial institution (*see HSBC declaration notes*)

**Passive Non-Financial Foreign Entity**

- We confirm that we are not a foreign financial institution and not within any of the other above categories.
- Information on our Controlling Persons that are Specified US Persons (*see HSBC declaration notes*) are listed below:

Full Name	<input type="text"/>
Title	<input type="text"/>
Permanent Residential Address	<input type="text"/>
United States Tax Identification Number	<input type="text"/>

Full Name	<input type="text"/>
Title	<input type="text"/>
Permanent Residential Address	<input type="text"/>
United States Tax Identification Number	<input type="text"/>

Full Name	<input type="text"/>
Title	<input type="text"/>
Permanent Residential Address	<input type="text"/>
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United States Tax Identification Number	<input type="text"/>

Full Name	<input type="text"/>
Title	<input type="text"/>
Permanent Residential Address	<input type="text"/>
United States Tax Identification Number	<input type="text"/>

Please use the Additional Controlling Persons insert if required.

**DECLARATION:**

For and on the behalf of: *(entity name)*

We declare that:

- All statements made in this declaration are, to the best of our knowledge and belief, correct and complete. **AND**
- Should any of the information we have provided in this declaration become incorrect, we will inform HSBC as soon as possible.

Full Name	<input type="text"/>
Title	<input type="text"/>
Signature	<input type="text"/>
Date	<input type="text"/>

Full Name	<input type="text"/>
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Date	<input type="text"/>

Full Name	<input type="text"/>
Title	<input type="text"/>
Signature	<input type="text"/>
Date	<input type="text"/>

(Signed in accordance with the mandate)

Please use the Additional Signature Insert if required.

## **Inter-Governmental Agreement (IGA) under the Foreign Account Tax Compliance Act (FATCA) Notes for signing the HSBC Declaration**

### **Background**

There are a number of substantial changes being made by financial regulators, governments and banks to ensure the protection and long-term safety of both the financial system and our customers' interests. One of these changes is the Foreign Account Tax Compliance Act (FATCA), which has been introduced by the US Government. The New Zealand Government has entered into an Inter-Governmental Agreement (IGA) with the US Government and also amended the Tax Administrative Act 1994 to achieve the objectives of FATCA. The purpose of FATCA is to report financial assets owned by United States persons to the United States tax authorities.

### **How does FATCA affect HSBC and you?**

HSBC has made a commitment to being fully FATCA compliant in all countries where we operate. This means we may have to report affected customer's income and profit details to the US tax authorities. In order to do so, we will need to obtain additional information from our customers to identify US Persons (USPs) and Foreign Financial Institutions (FFIs). There may also be other customers who we have to identify for this purpose.

Every year Banks and other Financial Organisations will be required to report information on financial accounts held directly or indirectly by USPs.

Where we are not able to obtain the required information or documentation from our customers, we may be required to apply US withholding taxes in respect of certain types of US payments we make to our customers or our customers' accounts in the future. We may also be requested to end customer relationships.

In order to identify the customers where reporting under FATCA may apply, we need to match our customer base against certain categories set out in the FATCA legislation.

### **Does this apply to you?**

Whilst most FATCA categories set out in the legislation are not reportable, some may be applicable to our customers. In order to make sure that we are able to match our customers against the FATCA categories, we are asking our customers to provide confirmation of their FATCA status, review the conditions that apply, and confirm that they are satisfied.

You may be able to sign the HSBC Self Declaration to confirm your tax status, in place of one of the US W8 series tax forms. Please read the form carefully to ensure you meet the relevant conditions. If you are not satisfied that you meet the relevant conditions, then please alternatively select from the available US tax forms (W-forms).

### **Who does HSBC need to report under FATCA?**

We are required to report certain information on accounts held by *Specified US Persons*. This includes accounts held by US citizens and US residents, certain corporations or partnerships created or organised in the United States, as well as accounts held by certain passive entities (please see the section on "*Passive Income*" and the section "*What is meant by a Passive Non-Financial Foreign Entity (Passive NFFE) under FATCA?*") with shareholders who are US citizens or US resident persons. We will also be required to report certain information on customers or financial counterparties who do not provide us with documentation to establish a tax status under FATCA.

### **What is meant by an Active Non-Financial Foreign Entity (Active NFFE) under FATCA?**

The term 'Active NFFE' refers to an entity that operates an active trade or business other than that of a financial business. There are several different sub-categories within the Active NFFE definition. These are shown on the declaration for you to review and confirm whether you satisfy the criteria of any of these categories and provide your certification.

HSBC is unable to provide advice about your classification. If you are unable to select any of the classifications, you should seek advice from a tax professional.

HSBC is not required to report information on Active NFFEs or their shareholders under FATCA.

For a detailed definition of Active NFFE, please refer to the New Zealand Inter-Governmental Agreement.

### **What is meant by Passive Income under FATCA?**

'Passive Income' generally includes:

- Dividends including income equivalent to dividends;
- Interest including income equivalent to interest and certain returns from investments in insurance contracts;
- Certain rents and royalties other than those derived from an active trade or business;
- Annuities;
- Net gains from transactions, including forwards and similar transactions relating to certain types of transactions in commodities;
- Certain foreign currency exchange gains;
- Net income from notional principal contracts;
- Amounts received under cash value insurance contracts or amounts earned by an insurance company in connection with its reserves for insurance and annuity contracts, or
- Net gains from the sale of assets that give rise to certain of the above types of income.

'Passive Income' excludes:

- Any income from interest, dividends, rents or royalties that is received or accrued from a related person to the extent such amount is properly allocable to income of such related person that is not passive income; and
- Income generated by certain commodities dealers and securities dealers in the ordinary course of business.

For a detailed definition of passive income, please refer to the New Zealand Inter-Governmental Agreement.

### **What is meant by a Financial Institution under FATCA?**

The term "financial institution" is broadly defined under FATCA and generally includes all banks, building societies, entities with custody of financial assets, certain types of insurance companies, asset management companies and certain investment funds or investment vehicles. An entity which appoints a trustee company or an entity that is a third party asset manager or acts as the holding company to a group of companies carrying on a financial business may also fall within the definition of financial institution, as well as certain types of treasury and group financing companies.

For a detailed definition of financial institution, please refer to the New Zealand Inter-Governmental Agreement.

### **What is meant by a Passive Non-Financial Foreign Entity (Passive NFFE) under FATCA?**

Passive Entities are broadly defined under FATCA as entities, organisations or companies that are in receipt of passive income or hold passive assets and do not fall under any of the other FATCA classifications. These entities do not carry on a business of a financial institution.

HSBC needs to understand the ownership of such entities to determine whether reporting under FATCA applies in respect of owners of a Passive NFFE that are Controlling US Persons.

Controlling Persons will be those that are treated as owning the entity under normal KYC / Money Laundering principles applicable to the entity pursuant to the anti-money laundering or similar requirements of New Zealand. If you are a Passive NFFE and have US Controlling Persons, please provide the relevant details on the declaration in the specified section.

### **What is a United States Person (USP)?**

The term 'United States Person' includes:

- A citizen or resident of the United States
- A corporation or partnership created or organized in the United States of America or under the law of the United States or of any State of the United States of America
- Any estate or trust other than a foreign estate or foreign trust. (See Internal Revenue Code section 7701(a)(31) for the definition of a foreign estate and a foreign trust.)

### **What is a Related Entity?**

An entity is a 'Related Entity' of another if either entity controls the other entity, or the two entities are under common control. For this purpose control includes direct or indirect ownership of more than 50 percent of the vote or value in an entity.

### **DISCLAIMER**

This document is intended solely for the customers of HSBC to whom it is provided and not for any other person. It is a summary for information purposes only and general in nature. It should not be considered as tax or legal advice. The Hongkong and Shanghai Banking Corporation Limited incorporated in the Hong Kong SAR acting through its New Zealand branch, HSBC NZ makes no guarantee of its accuracy and completeness and is not responsible for any errors, nor shall it be liable for any loss that results from reliance upon this information based on FATCA legislation as at 15 December 2014. Customers should seek professional legal and tax advice specific to their own situation. HSBC is not able to provide tax advice in respect of this process or for FATCA classification purposes.