

Self-certification for Trusts: Explanatory Notes

Introduction

1. These Explanatory Notes (together with the forms themselves) have been reproduced by ADMISI with the consent of the Wealth Management Association (WMA) and are no substitute for reading and understanding the self-certification requirements of the US Foreign Account Tax Compliance Act (FATCA) and the OECD's Common Reporting Standard (CRS).
2. The Financial Institution (FI) requesting this form will operate under the regulations applicable to their tax jurisdiction. The self-certification of the Account Holder, however, should reflect the regulations in operation in their own jurisdiction.

Background

3. Globalisation of the financial sector now makes it much easier for individuals and entities to hold money and assets outside of their jurisdiction of tax residence. While the great majority comply with their tax obligations there are some who will use the availability of offshore financial structures to evade tax.
4. Automatic exchange of financial account information is about improving transparency in the fight against tax evasion and in so doing protecting the integrity of the tax systems of the Participating Jurisdictions. The UK is a party to a number of international agreements designed to provide tax administrations with details of financial accounts and assets owned by individuals and entities that are resident for tax purposes in their jurisdiction, but which are held by financial institutions in the other territory.
5. For this to work the UK Government has introduced legislation that imposes obligations on the UK financial sector to review and collect details of accounts held by persons that are tax resident elsewhere and report this to HMRC for onward transmission under the exchange of information articles in the various treaties and conventions to which the UK is party. In return, those jurisdictions supply HMRC with similar information on UK tax resident individuals and entities holding accounts with their financial institutions.
6. The UK now has legislation in place for automatic exchange of financial account information under four different regimes:
 - i. The United States Foreign Account Tax Compliance Act – FATCA
 - ii. The Crown Dependencies and Gibraltar Regulations – CDOT
 - iii. The Common Reporting Standard developed by the OECD – CRS
 - iv. The EU Directive on Administrative Cooperation in Tax Matters – DAC
7. The UK is also party to a number of non-reciprocal automatic exchange of information agreements under which the UK receives information but is not obliged to report to the other jurisdictions.
8. Going forward it is expected that, with the exception of the FATCA agreement, all of the UK's obligations in this area will be under the CRS or the DAC. For ease of administration we will only refer to FATCA and CRS - CRS encompassing the DAC and CDOT – on the self-certification form.
9. A glossary of terms is included as an annex. Please refer to the glossary for a definition of any capitalised terms in the form and in these instructions.



Self-certification Form

10. This form applies to all types of trusts and, therefore, can also apply to certain charities and pension arrangements.
11. The self-certification form for trusts have been produced by ADMISI and the WMA. There are similar separate forms for entities and individuals.
12. The self-certification form has been designed as an example of good practice in meeting the "self-certification" requirements. Firms can use the form in addition to their account-opening process or incorporate the relevant sections within their existing account-opening process as some of the information will already be collected as part of that process.

Purpose of the Self-Certification Form

13. The self-certification is required to establish the trust's tax residence along with additional information under Automatic Exchange of Financial Account Information and determine whether we are obliged to submit certain account information to UK tax authorities who may pass it on to other tax authorities. Information required includes:
 - a. The Trust's Tax Identification Number or a functional equivalent.
 - b. Confirmation whether the Trust is US tax resident.
 - c. Details of Controlling Persons.
14. If there is a relevant Change of Circumstance to indicate that the Trust's status has changed may obtain a new self-certification to establish whether the change affects your tax residency for the purposes of the Automatic Exchange of Financial Account Information.

Key changes to the Self-Certification Form

15. Please note that the key changes to the Self-Certification Form that was previously used to cover FATCA and the UK Agreements with the Crown Dependencies and Overseas Territories (CDOT) are as follows:
 - Financial Institutions will have to report under the CDOT arrangement in 2016 for the years 2014 and 2015. However with the adoption of the CRS in the UK and all of the Crown Dependencies and Overseas Territories from 2016, CDOT reporting will be part of CRS reporting from 2017. Therefore the revised form no longer has a separate section for CDOT but this will be covered by the new Section D covering CRS.
 - CRS introduces the concept of "Managed Investment Entity" (MIE). This is defined in Section D of the Form and further information is available in the Glossary. As an MIE (or indeed any other FI) you may be responsible for reporting any reportable persons to your local tax authority that are tax resident in a Reportable Jurisdiction.

Please note that based on the information you provide we may need to contact you for further clarification.