

CHAPTER
15

DEFINITIONS/GLOSSARY
with guidance and examples

15. DEFINITIONS/GLOSSARY – with guidance and examples

15.A Entities

15.A.1 Qatari Financial Institutions (Qatari FIs)

The Agreement applies to Qatari Financial Institutions. Under the Agreement, a Qatari Financial Institution is any Financial Institution organized under the laws of or resident in Qatar, as well as any branch of a non-resident Financial Institution located in Qatar, including a Qatari branch of a US Financial Institution.

For these purposes, resident for tax purposes in Qatar means the following:

For a corporate entity:

- If the corporate entity is incorporated in the State of Qatar; or
- If the corporate entity's head office is in the State of Qatar; or
- If the corporate entity's place of effective management is in the State of Qatar.



If an entity is dual resident, such that it is resident in Qatar and also in another country, it will still need to apply the Qatari IGA in respect of any Reportable Accounts maintained in Qatar unless it has actual knowledge that it is undertaking the appropriate reporting in the other jurisdiction. A Financial Institution will have actual knowledge where it holds written confirmation that the Reportable Accounts have been reported for FATCA purposes.

There may be other situations involving related or unrelated entities where the reporting requirements are being met elsewhere and duplication of reporting can be avoided. In these circumstances responsibility rests with a Financial Institution to satisfy itself that the reporting requirements are being met. Entity Classification Elections (known as check the box elections), made to the IRS, are irrelevant for determining whether an entity is in scope for the Agreement.

Under the Agreement, Qatari entities are regarded as Qatari Financial Institutions if they fall within any of, or more than one of, the following categories:

- Depository Institution
- Custodial Institution
- Investment Entity
- Specified Insurance Company

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The extended definition of Financial Institution (which includes the concept of “relevant holding companies” and “treasury centres of financial groups”) included in the US Regulations published in January 2013 does not apply to Qatari entities as the definition in the Agreement take priority over those in the US Regulations unless doing so puts Qatari Financial Institutions in a less advantageous position. That is not considered to be the case here. However, a Qatari Financial Institution may request QCB if they can choose to use the definition in the US Regulations if they believe this to be more advantageous.

15.A.2 Subsidiaries and Branches

A subsidiary or branch of a non-Qatari entity (including a US entity) carrying on a business, as a Custodial Institution, a Depository Institution, an Investment Entity or a Specified Insurance Company in Qatar, will be a Reporting Qatari Financial Institution.

Subsidiaries and branches of Qatari tax resident Financial Institutions that are not located in Qatar are excluded from the scope of the Agreement and will not be regarded as Qatari Financial Institutions. These entities will be covered by the relevant rules in the jurisdiction in which they are located. Those rules will either be the US Treasury Regulations or the legislation introduced to bring effect to an Agreement between that jurisdiction and the US.

However, where such subsidiaries and branches act as introducers with regard to a Financial Account and the relevant account is held and maintained in Qatar by a Qatari Financial Institution, the account will be within the scope of the Qatari IGA. The Qatari Financial Institution maintaining the account(s) will be required to undertake the appropriate due diligence processes and report the appropriate details to QCB FATCA Unit.



Where a Qatari Specified Insurance Company has an overseas branch, it may not be immediately apparent whether the policies in respect of the branch are reportable under the Agreement or not, due to the fact that the assets backing all policies form part of the Long Term Business Fund of the Qatari Specified Insurance Company. Whether they are reportable will be dependent on factors such as:

- Whether the branch issues the policy or merely acts as an introducing agent or marketing entity;
- Where the risk is accepted;
- The governing law of the policy;
- Whether the insurer has registered the overseas branch as a Financial Institution.

Where the policies are issued by the overseas branch and where the branch is registered as a Financial Institution, those policies would not form part of the Agreement, but would be subject to the reporting requirements (if any) of the jurisdiction in which the branch is situated.

Where the branch acts as an introducer to policies that are issued in Qatar, then those policies will be governed by the Agreement.



Example 1 - Bank located in Qatar

ABC Bank, located in Qatar, has within its group the following entities:

- its parent (P), located in KSA;
- a subsidiary (S) located in Doha;
- a foreign subsidiary (D) located in Model 1 Partner Jurisdiction;
- a foreign branch (F) located in Model 2 Partner Jurisdiction;
- a foreign subsidiary (Z) located in a non-IGA jurisdiction;
- a foreign branch (B) in a Model 1 Partner Jurisdiction;
- a foreign branch (X) located in a non-IGA jurisdiction and there are no legal or other impediments to compliance with FATCA requirements.

Under the terms of the Agreement:

- ABC Bank in Qatar and its subsidiary S will be Qatari Financial Institutions and report on Specified US Persons for whom it holds Financial Accounts to QCB;
- Parent entity P will report on Specified US Persons for whom it holds Financial Accounts to the Competent Authority in KSA;
- Foreign subsidiary D will be classified under the Agreement as a Partner Jurisdiction Financial Institution and will report to its respective jurisdiction's competent authority;
- Foreign branch F will report directly to the IRS;
- Foreign Subsidiary Z will be a Participating FFI if it has registered as such and entered into an FFI agreement directly with the IRS and will be required to report directly with the IRS;
- Foreign branch B will report to its respective jurisdiction's competent authority;

Foreign branch X will be a Non-Participating Financial Institution if its country of residence does not have an agreement with the US and does not comply with its' obligations under the US Treasury Regulations.



Example 2 - Where an overseas bank has a branch located in Qatar

WXY Bank of Ireland has a branch Z, which is a permanent establishment for tax purposes, located in Qatar.

As Z is a permanent establishment for Qatari tax purposes, it will be a Qatari Financial Institution and will therefore fall under the Qatari IGA and will need to report information

on any reportable Financial Accounts to QCB.

15.A.3 Depository Institution

A Depository Institution is an institution that accepts deposits in the ordinary course of a banking or similar business and regularly engaged in one or more of the following activities:

- Provision of credit through personal, mortgage, industrial or other loans or other extensions of credit;
- Purchases, sells, discounts or negotiates of accounts receivable, instalment obligations, notes, drafts, cheques, bills of exchange, acceptances, or other evidence of indebtedness;
- Issues letters of credit and negotiates drafts drawn thereunder;
- Provides trust or fiduciary services;
- Finances foreign exchange transactions; or
- Enters into, purchases, or disposes of finance leases or leased assets.



This will include all entities licensed under the Qatar Central Bank provided they also undertake one of the activities listed above. This is not an exhaustive list and whether or not an entity is a Depository Institution will depend on the actual activities that the entity carries out.



The following would not be expected to fall within the definition of depository institution:

- Insurance brokers;
- Attorneys at law;
- Factoring or invoice discounting businesses;
- Entities that complete money transfers by instructing agents to transmit funds;
- Entities that solely provide asset based finance services or that accept deposits solely from persons as collateral or security pursuant to; a sale or lease of property; a loan secured by property; or similar financing arrangements, between that entity and the person making the deposit.



Entities that issue payment cards that can be pre-loaded with funds in excess of \$50,000 to be spent at a later date, such as a pre-paid credit card or "e-money" will also be considered to be Depository Institutions for the purposes of the Agreement unless such entities qualify as Qualified Credit Card Issuers (Section 15.A.11.5).



Example - An entity regulated and licensed by QCB to offer retail and wholesale banking services to Qatari resident and non-Qatari resident individuals and entities is likely to be considered a Depository Institution due

to the fact that it accepts deposits from customers in the ordinary course of a banking or similar business.

15.A.4 Custodial Institution

A Custodial Institution is any entity that earns a substantial portion (at least 20%) of its gross income from the holding of financial assets for the accounts of others and from related financial services. This test applies to the last three accounting periods or the period since commencement, if shorter. An entity with no operating history as of the date of the determination is considered to hold financial assets for the account of others as a substantial portion of its business if the entity expects to meet the gross income threshold based on its anticipated functions, assets, and employees, with due consideration given to any purpose or functions for which the entity is licensed or regulated (including those of any predecessor).

Related financial services are any ancillary service directly related to the holding of assets by the institution on behalf of others and includes

- custody, account maintenance and transfer fees;
- execution and pricing commission and fees from securities transactions;
- income earned from extending credit to customers;
- income earned from contracts for differences and on the bid-ask spread of financial assets; and
- fees for providing financial advice, clearance and settlement services.



Such institutions could include brokers, custodial banks, clearing organizations and nominees. Insurance brokers do not hold assets on behalf of clients and thus should not fall within the scope of this provision.



An execution only broker that simply executes trading instructions, or receives and transmit such instructions to another executing broker will not hold assets for the account of others should not fall to be custodial institutions (although it is possible that they could be an investment entity – see Section 14.1.2).

15.A.5 Investment Entity

An entity falls within this category if it “conducts as a business” (see below), or is managed by an entity that conducts as a business one or more of the following activities, for or on behalf of a customer (for example an account holder):

- trading in money market instruments (cheques, bills, certificates of deposit, derivatives etc.);

- foreign exchange;
- interest rate and index instruments;
- transferable securities and commodity futures trading;
- individual and collective portfolio management;
- otherwise investing, administering or managing funds or money on behalf of other persons.

This definition should be interpreted in a manner consistent with similar language set forth in the definition of ‘financial institution’ in the Financial Action Task Force Recommendations.

In practice, when applying this definition, an entity that is professionally managed will generally be an Investment Entity, by virtue of the managing entity being an Investment Entity. This is referred to in these Guidance Notes as the “managed by” test.

For the purposes of the “managed by” test, a distinction should be made between one entity ‘managing’ another and one entity ‘administering’ another. For instance the following services provided by an entity to another will not constitute the latter entity being “managed by” the former:

- provision of co-secretary and/or company secretarial services
- provision of registered office
- preparation of final financial statements (from company books and records)
- preparation of tax returns
- provision of bookkeeping services



Where an entity is managed by an individual the managed entity will not be an Investment Entity because an individual cannot be an Investment Entity.

15.A.5.1 Exemption for Investment Entities



Investment Entities which have received seed capital from a member of a group to which the Investment Entity belongs will not be considered a Related Entity for the purposes of the Agreement.

In general a seed capital investment is an initial capital contribution (that is intended as a temporary investment), made to an Investment Entity. This will generally be for the purposes of establishing a performance record before selling interests in the entity to unrelated investors, or for purposes otherwise deemed appropriate by the manager.

Specifically, an Investment Entity will not be considered a Related Entity as a result of a contribution of seed capital by a member of the group if:

- the member of the group that provides the seed capital is in the business of providing seed capital to Investment Entities that it intends to sell to unrelated investors;
- the Investment Entity is created in the course of its business;
- any equity interest in excess of 50% of the total value of stock of the Investment Entity is intended to be held for no more than three years from the date of acquisition; and
- in the case of an equity interest that has been held for over three years, its value is less than 50% of the total value of the stock of the Investment Entity.

15.A.6 Specified Insurance Company

An Insurance Company will be treated as a Specified Insurance Company only when the products written are classified as Cash Value Insurance or Annuity Contracts, or if payments are made with respect to such contracts.



Therefore Insurance Companies that only provide General Insurance or Term Life Insurance should not be Financial Institutions and neither will reinsurance companies that only provide indemnity reinsurance contracts.

A Specified Insurance Company can include both Insurance Companies and the holding companies of insurance companies. However, a holding company itself will only be a Specified Insurance Company if it issues or is obligated to make payments with respect to Cash Value Insurance Contracts or Annuity Contracts.



As only certain persons are permitted to provide Insurance Contracts or Annuity Contracts, it is unlikely that an insurance holding company will in itself issue, or will be obligated to make payments with respect to Cash Value Insurance or Annuity Contracts.



Insurance brokers are normally part of the payment chain and therefore should not be classified as a Specified Insurance Company because they are not obligated to make payments under the terms of the Insurance or Annuity Contract.

15.A.7 Non Reporting Qatari Financial Institutions

A Non-Reporting Qatari Financial Institution is any Financial Institution specifically identified as such in Annex II of the Agreement; or one which otherwise qualifies under Article 1(1)(o) of the Agreement as:

- a Deemed Compliant Financial Institution;
- an Exempt Beneficial Owner

In addition, there are certain categories of Deemed Compliant Financial Institutions separately recognized under the US Regulations and these exemptions have been

specifically imported into these Guidance Notes.

15.A.8 Reporting Qatari Financial Institution

Any Qatari Financial Institution that is not a Non-Reporting Qatari Financial Institution will be a Reporting Qatari Financial Institution.

15.A.9 Exempt Beneficial Owners

Entities regarded as Exempt Beneficial Owners (and therefore Non-Reporting Financial Institutions) are set out in Annex II of the Agreement.

Exempt Beneficial Owners are entities that fall within the following categories:

- Foreign Governments and any political sub divisions of a Foreign Government or any wholly owned agency or instrumentality of such. This category is comprised of the integral parts, controlled entities, and political subdivisions of Qatar (see Section 15.A.9.1 for how this applies to Qatar);
- Foreign Central Bank of Issue (see Section 15.A.9.2 for how this applies to Qatar);
- International Organisations or any wholly owned agency or Instrumentality of such (see Section 15.A.9.3 for how this applies to Qatar);
- Certain Retirement Funds (see Section 15.A.9.5 for how this applies to Qatar);
- Entities Wholly Owned by Exempt Beneficial Owners.

15.A.9.1 Qatari Government and Qatari Governmental Organizations

This category includes any Qatari Governmental Entity including integral parts, controlled entities and political subdivisions of Qatar as defined in the Agreement.

- An integral part of Qatar means any person, organization, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of Qatar. The net earnings of the governing authority must be credited to its own account or to other accounts of Qatar, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity.
- A controlled entity means an Entity that is separate in form from Qatar or that otherwise constitutes a separate juridical entity, provided that:
 - The Entity is wholly owned and controlled by one or more Qatari Governmental Entities directly or through one or more controlled entities;
 - The Entity's net earnings are credited to its own account or to the accounts of one or more Qatari Governmental Entities, with no portion of its income inuring to the benefit of any private person; and

- The Entity's assets vest in one or more Qatari Governmental Entities upon dissolution.
- Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental program, and the program activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of government. Notwithstanding the foregoing, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a governmental entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons.

In addition the following entities shall be treated as Exempt Beneficial Owners:

- The Qatari Minors Authority;
- State-owned SPVs that are controlled entities of the government authority issuing bonds or sukuk in relation to the administration or management of a State agency or entity;
- Qatar Development Bank

15.A.9.2 Central Bank

The Qatar Central Bank is a Non-Reporting Financial Institution and will be treated as an Exempt Beneficial Owner.

15.A.9.3 International Organisations

This category includes any intergovernmental organisation (including a supranational organisation):

- that is comprised primarily of non-US governments;
- that has in effect a headquarters agreement with Qatar; and
- the income of which does not inure to the benefit of private persons.

15.A.9.4 Qatar Foundation for Education, Science and Community Development ('QF')

The Qatar Foundation for Education, Science and Community Development shall be treated as an Exempt Beneficial Owner. However, any subsidiaries or affiliates of QF should make their own determination based on their own characteristics.

15.A.9.5 Retirement/pension fund

The following types of Funds that meet the criteria set out in Annex II of the Qatari IGA will be classified as Non-Reporting Qatari Financial Institutions for the purpose of the Agreement:

- Broad Participation Retirement Funds;

- Narrow Participation Retirement Funds;
- Pension Funds of an Exempt Beneficial Owner

Pension funds that are Exempt Beneficial Owners under other IGAs or under the US Treasury Regulations are also treated as Exempt Beneficial Owners by the State of Qatar.

15.A.10 Deemed Compliant Financial Institutions

Deemed Compliant Financial Institutions are Qatari Financial Institutions within this category in Annex II or ones which otherwise qualify under the US Regulations as:

- Registered Deemed Compliant Financial Institution
- Certified Deemed Compliant Financial Institution,
- Owner Documented Financial Institutions.

15.A.11 Registered Deemed Compliant Financial Institutions

15.A.11.1 Financial Institution with a Local Client Base

There are 10 criteria that must all be met before a Financial Institution can be treated as a Financial Institution with a Local Client Base. A Financial Institution should self-assess whether it meets these criteria and maintain appropriate records to support its self-assessment. The criteria are listed below:

- a. The Financial Institution must be licensed and regulated under the laws of Qatar.
- b. The Financial Institution must have no fixed place of business outside Qatar other than where the location outside of Qatar houses solely administrative functions and is not publically advertised to customers. This applies even if the fixed place of business is within a jurisdiction that has entered into an Agreement with the US with regard to FATCA.
- c. The Financial Institution must not solicit potential Financial Account holders outside Qatar. For this purpose, a Financial Institution shall not be considered to have solicited such customers outside Qatar merely because it operates a website, provided that the website does not specifically indicate that the Financial Institution provides accounts or services to non-Qatari residents or otherwise target or solicit US customers.

A Financial Institution will also not be considered to have solicited potential Financial Account holders outside Qatar if it advertises in either print media or on a radio or television station and the advertisement is distributed or aired outside Qatar, as long as the advertisement does not specifically indicate that the Financial Institution provides services to non-residents. Also a Financial Institution issuing a prospectus will not, in itself, amount to soliciting Financial Account holders, even when it is available to US Persons in Qatar. Likewise, publishing information such as Reports and Accounts

to comply with the Listing Rules of the Qatar Exchange to support a public listing or quotation of shares will not amount to soliciting customers outside Qatar.

- d. The Financial Institution is:
- i. required under the laws of Qatar to perform information reporting, or the withholding of tax with respect to accounts held by residents of Qatar; or
 - ii. is required to identify whether account holders are resident in Qatar as part of the AML/KYC procedures.
- e. At least 98 per cent of the Accounts by value, provided by the Financial Institution must be held by people who reside in Qatar.

The 98 per cent threshold can include the Accounts of US Persons if they are resident in Qatar. It applies to both Individual and Entity Accounts.

A Financial Institution will need to assess whether it meets this criteria annually. The measurement can be taken at any point of the preceding calendar year for it to apply to the following year, as long as the measurement date remains the same from year to year.

- f. Subject to subparagraph (g) below, beginning on 1 July 2014, the Financial Institution does not provide Financial Accounts to:
- i. any Specified US Person who is not a resident of Qatar (including a US Person that was a resident of Qatar when the account was opened, but subsequently ceases to be a resident of Qatar),
 - ii. a Non-Participating Financial Institution, or
 - iii. any Passive NFFE with Controlling Persons who are US citizens or resident for tax purposes who are not resident in Qatar.

Where a Financial Institution with a Local Client Base provides Financial Accounts to US citizens who are resident in Qatar, these Financial Accounts do not need to be reported to QCB unless the account holder subsequently ceases to be a resident of Qatar.

- g. On or before 1 July 2014, the Financial Institution must implement policies and procedures to establish and monitor whether it provides (meaning opens and maintains) Financial Accounts to the persons described in subparagraph (f) above. If any such Financial Account is discovered, the Financial Institution must either report that account as though the Financial Institution were a Reporting Qatari Financial Institution, or close the account, or transfer the account to a Participating Foreign Financial Institution, Reporting Model 1 Foreign Financial Institution or a US Financial Institution.

This means that even if Financial Accounts have been provided to Specified US Persons,

a Non-Participating Financial Institution or any Passive NFFE with Controlling Persons who are US citizens or residents prior to the 1 July 2014, the Financial Institution can still be a Financial Institution with a Local Client Base provided that the appropriate reporting is carried out.

- h. With respect to each Financial Account that is held by an individual who is not a resident of Qatar or by an entity, and that is opened prior to the date that the Financial Institution implements the policies and procedures described in subparagraph (g) above, the Financial Institution must review those accounts in accordance with the procedures applicable to Pre-existing Accounts, described in Annex I of the Agreement, to identify any US Reportable Account or Financial Account held by a Non-Participating Financial Institution. Where such accounts are identified, they must be closed, or transferred to a Participating Foreign Financial Institution, Reporting Model 1 Foreign Financial Institution or a US Financial Institution or the Financial Institution must report those accounts as if it were a Reporting Qatari Financial Institution.

This allows a Financial Institution with a Local Client Base to maintain its status whilst reporting on relevant Financial Accounts that were opened prior to the adoption of the requirements set out in this section. This means that where a Financial Institution with a Local Client Base has a reportable account then it is required to report (or close) the account.

- i. Each Related Entity of the Financial Institution, where the Related Entity is itself a Financial Institution must be incorporated or organised in Qatar and must also meet the requirements for a Financial Institution with a Local Client Base with the exception of a retirement plan classified as an Exempt Beneficial Owner.
- j. The Financial Institution must not have policies or practices that discriminate against opening or maintaining accounts for individuals who are Specified US Persons and who are residents of Qatar.



Example:

Facts:

- Bank X is an entity regulated and licensed by QCB as a bank that offers retail banking services to individual customers.
- Bank X only has one entity based in Qatar and does not solicit customers outside Qatar (nor does not have a website that indicates non-Qatari residents may open accounts and does not conduct advertising that is primarily targeted outside the State of Qatar).

- Under QCB law Bank X is required to comply with QCB's AML requirements.
- All of Bank X financial accounts (by value) are held by Qatari residents.
- Bank X does not have policies and procedures to prevent it from providing a Financial Account to Nonparticipating FIs. Nor does Bank X monitor whether or not it opens or maintains a Financial Account for any Specified US person who is not resident in Qatar or any Passive NFFEs with Controlling Persons who are US residents or US citizens that are not Qatari residents. Further Bank X does not have policies and procedures to report such accounts or to close them.
- Bank X has confirmed that it does not have any pre-existing accounts that are held by US persons.
- Bank X does not have any policies or practices that discriminate against opening or maintaining Financial Accounts for individuals who are Specified US persons and residents of Qatar.

Analysis:

Bank X fulfils 8 of the 10 criteria to be classified as a Financial Institution with a Local Client Base. As Bank X does not fulfil all the requirements it will have to be classified as a Depository Institution that is a Reporting Qatari FI. If however on or before 1 July 2014 Bank X had introduced policies and procedures:

- to prevent it from providing a Financial Account to Nonparticipating FIs; and
- to monitor whether or not it opens or maintains a Financial Account for any Specified US person who is not resident in Qatar or any Passive NFFEs with Controlling Persons who are US residents or US citizens that are not Qatari residents; and
- to report or close such accounts opened or maintained by Specified US Persons who is not resident in Qatar or any Passive NFFEs with Controlling Persons who are US residents or US citizens that are not Qatari residents.

then Bank X may have been able to classify itself as a Financial Institution with a Local Client Base.

15.A.11.2 Non-reporting members of Participating FFI groups (1471-5 (f) (1) (i) (B))

This category applies to a non-reporting Financial Institution that is a member of a group of entities which includes at least one Participating Financial Institution. It allows that Non-Reporting Financial Institution to be Registered Deemed-Compliant, and so not have any reporting obligations, if certain criteria are met. This might apply for example where a member of a group of Financial Institutions has no Reportable Accounts but

subsequently opens a Reportable Account.

Essentially the non-reporting member must review accounts and where such accounts are identified as Reportable Accounts or Accounts held by NPFIs, they are required to either close the account, transfer the account to a Reporting Financial Institution or become a Participating, and hence Reporting, Financial Institution in its own right.

Such a Financial Institution that meets the following requirements can be treated as Registered Deemed Compliant:

- By the later of 30 June 2014 or the date it obtains a GIIN, the Financial Institution implements policies and procedures to allow for the identification and reporting of:
 - Pre-existing US Reportable Accounts
 - US Reportable Accounts opened on or after 1 July 2014
 - Accounts that become US Reportable Accounts as a result of a change of circumstance
 - Accounts held by NPFIs
- After the Financial Institution has carried out the required review of accounts opened prior to implementing the appropriate policies and procedures, the Financial Institution
 - identifies the account as a US Reportable Account; or
 - becomes aware of a change in circumstance of the account holder's status such that the account becomes a US Reportable Account, then within six months of either of the above events, the Financial Institution closes the account or transfers it to a Model 1 Financial Institution, Participating Financial Institution or US Financial Institution or reports the account to QCB.

15.A.11.2.1 Participating FFI group

A Participating FFI group is

- an expanded affiliated group that includes one or more Participating FFIs; or
- an expanded affiliated group in which one or more members of the group is a reporting Model 1 FFI and each member of the group that is an FFI is a Registered Deemed-Compliant FFI, non-reporting IGA FFI, limited FFI, or retirement fund described in §1.1471-6(f) of the US Treasury Regulations (these are the Exempt Beneficial Owner categories of retirement fund).

15.A.11.2.2 Participating FFI

A Participating FFI is an FFI that has agreed to comply with the requirements of an FFI agreement, including an FFI described in a Model 2 IGA that has agreed to comply with the requirements of an FFI agreement. The term Participating FFI also includes a QI branch of a US Financial Institution, as long as the branch is not a reporting Model 1 FFI.

15.A.11.3 Qualified Collective Investment Vehicles (1471-5 (f) (1) (i) (C))

The Qualified Collective Investment Vehicles (“QCIV”) is intended to provide relief for Investment Entities that are owned solely through Participating Foreign Financial Institutions or directly by large institutional investors (e.g. pension funds) not typically subject to FATCA withholding or reporting obligations, such as retirement funds and non-profit organisations.

A Qualified Collective Investment Vehicle must satisfy the following criteria:

- A QCIV must itself be an Investment Entity and must be regulated as an Investment Entity in Qatar and every other country in which it operates. A Fund is considered to be regulated if its manager is regulated with respect to the fund in all of the countries in which the investment fund is registered and in all of the countries in which the investment fund operates.
- All of the QCIV’s investors are limited to:
 - equity investors;
 - direct debt investors with an interest greater than \$50,000; and
 - any other Financial Account holder;
- All of which are either:
 - Participating Foreign Financial Institutions;
 - Registered Deemed Compliant Foreign Financial Institutions;
 - retirement plans classified as Exempt Beneficial Owners under Annex II (see Section 15.A.9);
 - Persons who are not Specified Persons;
 - Non-Reporting IGA Foreign Financial Institutions; or
 - other Exempt Beneficial Owners under Annex II;
 - Those with other types of investors may still be Registered Deemed Compliant if they qualify as a Restricted Fund (see Section 15.A.11.4).
- If it is part of a group of Related Entities, all Foreign Financial Institutions in that group must be:
 - a Participating Foreign Financial Institution;
 - a Registered Deemed Compliant Foreign Financial Institutions;
 - a Sponsored Foreign Financial Institution;
 - a Non-Reporting IGA Foreign Financial Institutions; or
 - an Exempt Beneficial Owner under Annex II.

15.A.11.4 Restricted Funds (1471-5 (f) (1) (i) (D))

Investment Entities are eligible for Restricted Fund status where they impose prohibitions on the sale of units in the fund to Specified US Persons, Non-Participating Financial Institutions and Passive NFFEs with Controlling US Persons and where the fund meets the following requirements:

- The Financial Institution is a Financial Institution solely because it is an Investment Entity, and it is regulated as an investment fund in Qatar and in all of the countries in which it is registered and in all of the countries in which it operates. A fund will be considered to be regulated as an investment fund for purposes of this paragraph if its manager is regulated with respect to the fund in all of the countries in which the investment fund is registered and in all of the countries in which the investment fund operates.
- Interests issued directly by the fund are redeemed by or transferred by the fund rather than sold by investors on any secondary market.
- Interests that are not issued directly by the fund are sold only through distributors that are:
 - Participating Financial Institutions;
 - Registered Deemed Compliant Financial Institutions;
 - Non-registering local banks; or
 - Restricted distributors. A distributor includes an underwriter, broker, dealer, or other person who participates, pursuant to a contractual arrangement with the Financial Institution, in the distribution of securities and holds interests in the Financial Institution as a nominee.
- The Financial Institution ensures that by the later of 30 June 2014 or six months after the date it registers as a Deemed Compliant Financial Institution, the Financial Institution:
 - ensures that each agreement that governs the distribution of its Debt or Equity interests, all prospectuses and marketing materials prohibits sales or transfer to Specified US Persons, Non-Participating Financial Institutions, or Passive NFFEs with one or more substantial US owners, other than interests that are distributed by and held through a Participating Financial Institution.
 - ensures each agreement entered into by the Financial Institution that governs the distribution of its Debt or Equity Interests requires the distributor to notify the Financial Institution of a change in the distributor's Chapter 4 status within 90 days of the change.
- The Financial Institution must certify to QCB with respect to any distributor that ceases to qualify as a distributor, that the Financial Institution will terminate its distribution agreement with the distributor, or cause the distribution agreement to be terminated, within 90 days of notification of the distributor's change in status. In addition, within six months of the distributors change in status, with respect to all Debt and Equity Interests of the Financial Institution issued through that distributor, the Financial

Institution will redeem those interests, convert those interests to direct holdings in the fund, or cause those interests to be transferred to another compliant distributor.

- With respect to any of the Financial Institution’s Pre-existing Direct Accounts that are held by the Beneficial Owner of the interest in the Financial Institution, the Financial Institution reviews those accounts in accordance with the procedures (and time frames) applicable to Pre-existing Accounts to identify any US Reportable Account or account held by a Non-Participating Financial Institution. Notwithstanding the previous sentence, the Financial Institution will not be required to review the account of any individual investor that purchased its interest at a time when all of the Financial Institution’s distribution agreements and its prospectus contained an explicit prohibition of the issuance and/or sale of shares to US entities and US resident individuals. A Financial Institution will not be required to review the account of any investor that purchased its interest in bearer form until the time of payment, but at such time will be required to document the account. However, note that the purchase of interests in bearer form is prohibited in Qatar.
- By the later of 30 June 2014, or six months after the date the Financial Institution registers as a Deemed Compliant Financial Institution, the Financial Institution will be required to certify to QCB either that it did not identify any US Reportable Account or account held by a Non-Participating Financial Institution as a result of its review or, if any such accounts were identified, that the Financial Institution will either redeem such accounts, transfer such accounts to an affiliate or other Financial Institution that is a Participating Financial Institution, Reporting Model 1 Financial Institution, or US Financial Institution.
- By the later of 30 June 2014 or the date that it registers as a Deemed Compliant Foreign Financial Institution, the Foreign Financial Institution implements policies and procedures to ensure that it either:
 - does not open or maintain an account for, or make a withholdable payment to, any Specified US Person, Non-Participating Financial Institution, or Passive NFFE with one or more controlling persons who are citizen or resident in the US and, if it discovers any such accounts, closes all accounts for any such person within six months of the date that the Financial Institution had reason to know the account holder became such a person; or
 - reports on any account held by, or any withholdable payment made to, any Specified US Person, Non-Participating Financial Institution, or Passive NFFE with one or more controlling persons who are citizen or resident in the US to the extent and in the manner that would be required if the Financial Institution were a Participating Financial Institution.

For a Financial Institution that is part of a group of Related Entities, all other Financial Institutions in the group of related entities are Participating Financial Institutions, Registered Deemed Compliant Financial Institutions, sponsored Financial Institutions, Non-Reporting IGA Financial Institutions, or Exempt Beneficial Owners.

15.A.11.5 Qualified credit card issuers

A qualified credit card issuer is an entity that:

- is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when the customer makes a payment in excess of the outstanding balance on the card due and does not immediately return the overpayment to the customer; and
- implements policies and procedures (by the later of 30 June 2014 or the date it registers as a Deemed Compliant Financial Institution) either to prevent a customer deposit in excess of \$50,000 or to ensure that any customer deposit in excess of \$50,000 is refunded to the customer within 60 days. (Note: A customer deposit does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.)

The terms applying to qualified credit card issuers also apply to other card and Electronic Money Issuers.

15.A.11.6 Sponsored Investment Entities

A Financial Institution is a sponsored investment entity if:

- it is an Investment Entity established in Qatar that is not a qualified intermediary, withholding foreign partnership, or withholding foreign trust pursuant to relevant US Treasury Regulations; and
- an Entity has agreed with the Financial Institution to act as a sponsoring entity for the Financial Institution.



This category can assist in consolidating the due diligence, reporting and withholding for a group of Financial Institutions under or through, for example a fund manager, fund administrator, general partner, corporate director, transfer agent, company service provider, authorized third party, being the Sponsoring Entity.

A sponsored investment entity is an entity that has a contractual arrangement for its due diligence and reporting responsibilities to be carried out by a sponsoring entity.

A sponsoring entity (typically a fund manager) is an entity that is authorised to manage the sponsored Financial Institution (typically a fund, or a sub-fund that is an Investment Entity but is not a US Qualified Intermediary, Withholding Foreign Partnership or Withholding Foreign Trust and to enter into contracts on behalf of the sponsored Financial Institution. A sponsor must register with the IRS as a sponsoring entity, and must, where a sponsored entity has reportable accounts, register each of the funds or sub-funds it manages (or a

subset of these) with the IRS as “Sponsored Entities”.

A sponsor must undertake all FATCA compliance on behalf of the sponsored funds (and, where appropriate, outsource FATCA compliance obligations to third party service providers). This will include, for example, account identification and documentation. A sponsor will need to ensure that new investors in the funds it manages are appropriately documented for FATCA purposes (and this will typically be done by a transfer agent, acting as a third party service provider).

Where there is a sponsor/sponsored entity relationship the legal responsibility for undertaking the required due diligence and reporting remains that of the sponsored entity.

Where a sponsor acts on behalf of a range of funds, the classification of an account as a New Account or a Pre-existing Account can be done by reference to whether the account is new to the sponsor (fund manager) and not the fund (but see comment below in relation to offshore funds and multiple service providers). This prevents a fund manager from having to seek FATCA documentation from the same account holder repeatedly, where that account holder is invested in more than one of the sponsored funds. Where a sponsor is able to link accounts in this manner, the accounts will need to be aggregated for the purpose of determining whether the accounts exceed the de minimis for reporting.

Subject to the design of the final reporting schema, a sponsor will then report to QCB on all the account holders of the funds it manages.



Reporting of sponsored offshore funds

In practice a fund manager will act for funds located in a number of jurisdictions. When acting as sponsor, the fund manager will need to act on behalf of the sponsored fund ranges independently, with respect to each tax authority in which the funds are domiciled.



Example 1: A Qatari fund manager manages fund ranges in Qatar and IGA Country 1. The Qatari manager can register as sponsor for all or some of the funds in each of these jurisdictions. The sponsor would;

- report to QCB on behalf of the Qatari fund range, and
- would report to the tax authorities in IGA Country 1 on behalf of the funds domiciled there.



Example 2: As above, but in addition the Qatari fund manager manages funds in a non-IGA country. Additionally the fund manager will need to report to the US on behalf of funds domiciled in non-IGA countries.

Multiple service providers

Similarly, a fund manager may use different transfer agents for different fund ranges within the same country. In such cases the fund manager itself cannot know whether an existing account holder in one of the fund ranges opens a New Account in the other fund range. This in itself should not preclude the same fund manager from acting as a sponsor for both fund ranges. It does mean that the full benefits of sponsoring (such as not re-documenting existing account holders when they make new investments) might not be realised where different service providers are used.

15.A.12 Certified Deemed Compliant Financial Institutions

15.A.12.1 Non-Registering local bank

Non-registering local banks are generally small regulated local banks, credit unions and similar entities that are primarily Depository Institutions; they may operate without a profit.

They must not have a fixed place of business outside of Qatar; this does not include a location that is not advertised to the public and from which the Financial Institution performs solely administrative support functions.

Non-registering local banks must have policies and procedures prohibiting the solicitation of customers outside Qatar.

Total assets held by the Financial Institution cannot exceed \$175,000,000 for a single entity and \$500,000,000 for a group of Related Entities.

Any Related Entities of the non-registering local bank must also satisfy these requirements. In that case, reference to “fixed place of business” relates to the jurisdiction in which the Related Entity operates other than by way of administrative support functions.

15.A.12.2 Financial Institutions with only Low Value Accounts

To fall within this category, the Financial Institution must not:

- be an Investment Entity;
- have any Financial Accounts exceeding \$50,000;
- have more than \$50,000,000 in assets on its balance sheet at the end of its most recent accounting year; and
- have more than \$50,000,000 in assets on its consolidated or combined balance sheet where it is in a group with related entities.

15.A.12.3 Certain Other Financial Institutions – Islamic Finance

An additional category of Deemed Compliant FIs was created to mirror the criteria of the Financial Institution with Low Value Accounts category in order for this to be applicable to Sharia Compliant Financial Institutions offering Sharia Compliant products and Islamic Finance.

Depository Institutions governed by Division 3 of Chapter 4 of the Law of Qatar Central Bank and the Regulation of Financial Institutions issued by way of Law 13 of 2012 may qualify as Deemed Compliant FFIs, if such Depository Institutions satisfy the following requirements:

- the Depository Institution must not have any Financial Accounts exceeding \$50,000;
- the Depository Institution must not have more than \$50,000,000 in assets on its balance sheet at the end of its most recent accounting year; and the Depository Institution must not have more than \$50,000,000 in assets on its consolidated or combined balance sheet where it is in a group with related entities.

15.A.12.4 Sponsored closely held Investment Vehicles

This category of Deemed Compliant is very similar to a Sponsored Investment Entity under the Registered Deemed Compliant Financial Institution category. The requirements to qualify are as follows:

- The Financial Institution must be an Investment Entity that is not a US Qualified Intermediary, Withholding Foreign Partnership or Withholding Foreign Trust, that has authorised another entity, the Sponsoring Entity, to act on its behalf.
- The Financial Institution is required to have a contractual arrangement with a sponsoring entity that is a Participating Financial Institution, Reporting Model 1 Financial Institution or US Financial Institution that is authorised to manage the Financial Institution and enter into contracts on its behalf under which the sponsoring entity agrees to all due diligence, withholding and reporting responsibilities that the Financial Institution would have if it were a Reporting Financial Institution. Therefore although the Sponsored Investment Vehicle does not report on its own behalf, the Reportable Accounts maintained by the Sponsored Investment Vehicle are reported by the Sponsoring Entity. The Sponsoring Entity must also retain all documentation for a period of six years even after it has ceased to be a Sponsoring Entity for the Financial Institution.
- The sponsored vehicle does not hold itself out as an investment vehicle for unrelated parties; and the sponsored vehicle has 20 or fewer individuals that own its Debt and Equity Interests (disregarding interests owned by Participating Financial Institution, Deemed Compliant Financial Institutions and an equity interest owned by an entity

that is 100% owner and itself a sponsored closely held investment vehicle).

- The sponsoring entity will have to register with the IRS as a sponsoring entity (it does not need to register the sponsored entities) and perform the duties of a Participating or Model 1 Reporting Financial Institution with respect to the sponsored entity.

15.A.12.5 Limited Life Debt Investment Entities (“LLDIE”)

The requirements to qualify as a Limited Life Debt Investment Entity are as follows:

- a. The Financial Institution is an Investment Entity that issued one or more classes of debt or equity interests to investors pursuant to a trust indenture, trust deed or similar agreement and all of such interests were issued on or before 17 January 2013;
- b. The Financial Institution is the beneficial owner of the payment or the payments with respect to the accounts;
- c. The Financial Institution was in existence as of 17 January 2013, and has entered into a trust indenture, trust deed or similar agreement that requires the Financial Institution to pay to investors holding substantially all of the interests in the Financial Institution, no later than a set date or period following the maturity of the last asset held by the Financial Institution, all amounts that such investors are entitled to receive from the Financial Institution;
- d. The Financial Institution was formed and operated for the purpose of purchasing or acquiring specific types of debt instruments or interests therein and holding those assets subject to reinvestment only under prescribed circumstances to maturity; and
- e. Substantially all of the assets of the Financial Institution consist of debt instruments or interests therein.

The term "substantially all" means 80% or more of all the assets by value.

The term "debt instruments" includes notes, bonds, loans, promissory notes, certificates of deposit, loan stock, debentures and any other instrument creating or acknowledging indebtedness. Cash held by the Financial Institution should also be treated as being a debt instrument for this purpose.

The term "interests therein" includes (a) equity interests in wholly owned subsidiaries that own debt instruments; (b) any equity interests in an entity which invests substantially all of its assets in debt instruments such as a money market fund; (c) credit default or total return swaps which reference debt instruments.

A Financial Institution should apply this test when the proceeds of the debt or equity interests issued to investors have been fully invested and not during any ramp up or winding down period.

- f. All payments made to the investors of the Financial Institution (other than holders of a de minimis interest) are either cleared through a clearing organization or custodial institution that is a participating Financial Institution, Reporting Model 1 FI, or US Financial Institution or made through a transfer agent that is a Participating FFI, Reporting Model 1 FI, or US Financial Institution;
- g. The Financial Institution's trustee or fiduciary is not authorised under the applicable trust indenture, trust deed or similar agreement through a fiduciary duty or otherwise to fulfil the obligations of a Participating FI under §1.1471-4 of the US Treasury Regulations and no other person under that agreement has the authority to fulfil the obligations of a Participating FI under §1.1471-4 of the US Treasury Regulations on behalf of the Financial Institution.

The reference to the Financial Institution's fiduciary does not include the Financial Institution's board of directors or, in the case of an exempted limited partnership, the general partner.

Where a Financial Institution has issued all of its debt or equity interests to investors on or before 1 March 2010, the requirement in (g) will be deemed to have been met and therefore assuming all other requirements in (a) to (f) are met, the Financial Institution can be treated as a LLDIE.

For Financial Institutions which have issued debt or equity interests to investors after 1 March 2010 - In determining whether or not the Financial Institution's trustee or fiduciary is authorised as contemplated by (f), the ability of the Financial Institution and/or the trustee or fiduciary to make amendments to the trust indenture, trust deed or similar agreement to give the trustee or fiduciary the necessary authority without investor consent shall be treated as the trustee or fiduciary being so authorised for the purposes of (g) (and therefore the Financial Institution should not be treated as an LLDIE).

Any wholly owned subsidiary formed by an LLDIE for the purpose of holding assets for the benefit of the LLDIE shall also be deemed to be an LLDIE for these purposes.

15.A.12.6 Investment Advisers and Investment Managers

Under the terms of the Qatari IGA, Investment Advisers and Investment Managers may qualify to be a Financial Institution solely because they render investment advice to, or on behalf of a customer for the purposes of investing, managing or administering funds deposited in the name of the customer.

An Investment Entity established in Qatar that is a Financial Institution solely because it;

- renders investment advice to, and acts on behalf of, or

- manages portfolios for, and acts on behalf of,

a customer for the purposes of investing, managing, or administering funds deposited in the name of the customer with a Financial Institution other than a Nonparticipating Financial Institution will be treated as a Certified Deemed Compliant Financial Institution.



In the case of investment advisers who solely render investment advice to customers and do not otherwise undertake investment services or maintain financial accounts. These are likely to be NFFEs, as they are service providers and will not meet the financial assets test.



An entity that also conducts other businesses that are auxiliary to rendering investment advice or manages portfolios (for example, acts as a general partner to a Limited Partnership) will not jeopardise its status as a Non-Reporting FI.

15.A.13 Owner Documented Foreign Financial Institutions

In general, this category is intended to reduce the burden of meeting obligations under the Agreement for closely held Passive Investment Vehicles that fall within the definition of an Investment Entities, where meeting the obligations under the Agreement would be onerous given the size of the entity.

The Owner Documented Financial Institution must provide the required documentation and agree to notify the other Financial Institution which is undertaking the reporting on behalf of the Owner Documented Financial Institution if there is a change in circumstances.

- An Owner Documented Financial Institution must satisfy the following requirements:
- The Financial Institution must not maintain a Financial Account for any Non-Participating Financial Institution;
- The Financial Institution must not be owned by, nor be a member of a group of Related Entities with any Financial Institution that is a Depository Institution, Custodial Institution or Specified Insurance Company.

The Financial Institution undertaking obligations on behalf of the Investment Entity must agree to report the information required on any Specified US Persons but will not need to report on any indirect owner of the owner documented entity that holds its interest through a Participating Foreign Financial Institution, Model 1 Financial Institution, a Deemed Compliant Foreign Financial Institution (other than an Owner Documented Foreign Financial Institution), an entity that is a US Person, an Exempt Beneficial Owner, or an Excepted NFFE.

15.A.14 Related Entities

The term “related entity” is defined in Article 1(1)(ff) of the Agreement. An entity is regarded as being related to another entity if either entity controls the other or the two entities are under common control. This can also be referred to as the related entity group.

For this purpose control is taken as including the direct or indirect ownership of more than 50 per cent of the vote or value in an entity.

However, Qatar may treat an Entity as not a Related Entity of another Entity if the two Entities are not members of the same expanded affiliated group as defined in section 1471(e)(2) of the US Internal Revenue Code.

An entity that is a member of a related entity group will not be a Financial Institution if:

- The entity does not maintain Financial Accounts (other than accounts maintained for members of its related entity group)
- The entity does not hold an account with or receive US source withholdable payments from any withholding agent other than a member of its related entity group;
- The entity does not make US source withholdable payments to any person other than to members of its related entity group that are not limited FIs or limited branches; and
- The entity has not agreed to undertake reporting as a Sponsoring Entity or otherwise act as an agent regarding the Agreement on behalf of any Financial Institution, including a member of its related entity group.

15.A.15 Expanded Affiliated Group (EAG)

Broadly an Expanded Affiliated Group refers to one or more chains of includible corporations and certain other entities connected through the requisite ownership level under a common parent corporation. With the common parent owning directly the requisite ownership level in at least one includible corporation.

A corporation under the parent generally is a member of the EAG if the parent, or one or more other members of the EAG, owns more than 50% of the vote and value of the corporation.

For a full definition of an EAG refer to section 1471(e)(2) of the US Internal Revenue Code.

15.A.16 Non-Participating Financial Institutions (NPFIs)

A Non-Participating Financial Institution is a Financial Institution that is not FATCA compliant. This non-compliance arises either where:

- the Financial Institution is located in a jurisdiction that does not have an

Intergovernmental Agreement with the US and the Financial Institution has not entered into a FFI Agreement with the IRS; or

- the Financial Institution is classified by the IRS as being a NPFI following the conclusion of the procedures for significant non-compliance being undertaken. In this case a Reporting Qatari Financial Institution will only be classed as a NPFI where there is significant non-compliance with the Qatari IGA and, after a period of enquiry, that non-compliance has not been addressed to QCB/MOF's satisfaction.

15.A.17 Non-Financial Foreign Entities (NFFEs)

An NFFE is any non-US entity that is not treated as a Financial Institution. An NFFE will either be an Active NFFE or a Passive NFFE.

15.A.17.1 Active NFFE

An Active NFFE is defined as any NFFE that meets ONE of the following criteria:

- Less than 50 per cent of the NFFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50 per cent of the assets held by the NFFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income.
- The stock of the NFFE is regularly traded on an established securities market or the NFFE is a Related Entity of an Entity, the stock of which is traded on an established securities market. See Section 15.B.4.2. for how this should be applied under the Agreement.
- The NFFE is organised in a US Territory and all of the owners of the payee are bona fide residents of that US Territory. The definition of US Territory is set out at Article 1(1) (b) of the Agreement.
- The NFFE is a non-US Government, a political subdivision of such non-US Government (which, for the avoidance of doubt, includes a state, province, county, or municipality), or a public body performing a function of such non-US Government or a political subdivision thereof, a government of a US Territory, an international organisation, a non-US central bank of issue, or an entity wholly owned by one or more of the foregoing.
- Substantially all of the activities of the NFFE 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. However the entity will not qualify as an Active NFFE if it functions (or holds itself out to be) 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 NFFE 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 NFFE shall not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFFE.

- The NFFE 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.
- The NFFE 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.
- The NFFE is an “Excepted NFFE” as described in relevant US Treasury Regulations; or
- The NFFE meets all of the following requirements:
 - 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;
 - It is exempt from income tax in its country of residence;
 - It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
 - The applicable laws of the entity’s country of residence or the entity’s formation documents do not permit any income or assets of the entity 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 entity’s charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the entity has purchased; and
 - The applicable laws of the entity’s country of residence or the entity’s formation documents require that, upon the entity’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 entity’s country of residence or any political subdivision thereof.

15.A.17.1.1 Passive Income

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

- a. Dividends, including substitute dividend amounts;
- b. Interest;
- c. 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;
- d. 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;
 - e. Annuities;
 - f. The excess of gains over losses from the sale or exchange of property that gives rise to passive income described in items (a) to (e);
 - g. The excess of gains over losses from transactions (including futures, forwards, and similar transactions) in any commodities, but not including:
 - i. Any commodity hedging transaction described in section 954(c)(5)(A) of the US Revenue Code, determined by treating the entity as a controlled foreign corporation; 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) of the US Revenue Code;
 - h. The excess of foreign currency gains over foreign currency losses;
 - i. Net income from "notional principle contracts". These are financial instruments that provide for the payment of amounts by one party to another at specified intervals calculated by reference to a specified index upon a notional principal amount in exchange for specified consideration or a promise to pay similar amounts;
 - j. Amounts received under cash value insurance contracts; or
 - k. Amounts earned by an insurance company in connection with its reserves for insurance and annuity contracts.

However, the following amounts are excluded from any calculation of Passive Income:

- a. 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.
- b. For purposes of this section, a person is a related person with respect to the NFFE if:
 - i. such person is an individual, corporation, partnership, trust, or estate which controls, or is controlled by, the NFFE, or
 - ii. such person is a corporation, partnership, trust, or estate which is controlled by the same person or persons which control the NFFE.
- c. In the case of an NFFE that regularly acts as a dealer in property described in item (f) above of this section (referring to the sale or exchange of property that gives rise to passive income), forward contracts, option contracts, or similar financial instruments (including notional principal contracts and all instruments referenced to commodities)
 - i. Any item of income or gain (other than any dividends or interest) from any transaction

- (including hedging transactions and transactions involving physical settlement) entered into in the ordinary course of such dealer's trade or business as such a dealer; and
- ii. If such dealer is a dealer in securities, any income from any transaction entered into in the ordinary course of such trade or business as a dealer in securities.

15.A.17.2 Passive NFFE

A "Passive NFFE" means any NFFE that is not an Active NFFE.

15.A.17.3 Application of NFFE status to certain types of entities:

- An Awqaf fund should not be treated as a Financial Institution under FATCA but will instead be classified as an Active NFFE.
- An Exchange Bureau whose activities consist solely of (on the spot) currency trading and international money transfers should not be treated as a Financial Institution under FATCA but will instead be classified as an NFFE unless it holds Financial Accounts.
- A General Insurance Company and a Takaful Insurance Company should generally not be treated as a Financial Institution under FATCA as they do not issue cash value insurance contracts or annuity contracts. Instead these will be classified as NFFEs unless they have Financial Accounts.
- A Finance Company that does not accept deposits or extend credit and only provides retail finance should generally not be considered a Financial Institution under FATCA but will instead be classified as a NFFE unless it has Financial Accounts.

15.B Accounts

15.B.1 Depository Account

The term "Depository Account" includes the following:

- any commercial, checking, savings, time, or thrift account; or
- an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a Financial Institution in the ordinary course of a banking or similar business.



The term 'Depository Account' would include Sharia-compliant deposit arrangements maintained in accordance with the provisions of Division 3 of Chapter Four of the Law of Qatar Central Bank and the Regulation of Financial Institutions, issued by way of Law 13 of 2012, concerning Islamic Finance.



The account does not have to be an interest bearing account.



A Depository Account will include any credit balance on a credit card issued by a credit card company engaged in banking or similar business. For this purpose,

credit balance referred herein does not include credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.



However, credit cards will not be considered to be Depository Accounts where the issuer of the credit card implements policies and procedures (by the later of 30 June 2014 or the date it registers as an FI) either to prevent a customer deposit in excess of \$50,000 or to ensure that any customer deposit in excess of \$50,000 is refunded to the customer within 60 days.

Where a Reporting Qatari Financial Institution applies the threshold for Depository Accounts, this will mean that a credit card account will only be reportable where, after applying the aggregation rules (See Section 10.2):

- there are no other accounts and the balance exceeds \$50,000; and
- the total balance on all aggregated Depository Accounts (including the credit card balance) exceeds \$50,000.

See Section 15.A.11.5 for information in respect of entities that are credit card issuers.



A Depository Account also includes an amount held by an insurance company pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon. However, amounts held by an Insurance Company awaiting payment in relation to a Cash Value Insurance Contract where the term has ended will not constitute a Depository Account.

15.B.2 Custodial Account

The term “Custodial Account” means an account (other than an Insurance Contract or Annuity Contract) for the benefit of another person that holds any financial instrument or contract held for investment.

Financial instruments/contracts which can be held in such accounts can include, but are not limited to:

- a share or stock in a corporation
- a note, bond, debenture, or other evidence of indebtedness
- a currency or commodity transaction
- a credit default swap
- a credit loan obligation
- a swap based upon a non-financial index
- a notional principal contract (in general, these are contracts that provide for the payment of amounts by one party to another at specified intervals. These are calculated by reference to a specified index upon a notional principal amount in exchange for specified consideration or a promise to pay similar amounts)

- an Insurance Contract or Annuity Contract, and
- any option or other derivative instrument for the benefit of another person.



A Cash Value Insurance Contract or an Annuity Contract is not considered to be a Custodial Account, but these could be assets held in a Custodial Account. Where they are assets in a Custodial Account, the Insurer will only need to provide the Custodian with the cash/surrender value of the Cash Value Insurance Contract.



A Custodial Account does not include financial instruments/contracts (for example, a share or stock in a corporation) held in a nominee sponsored by the issuer of its own shares, which are in every other respect analogous to those held on the issuer's share register.



Where a Reporting Qatari Financial Institution is acting as an execution only broker, and simply executing trading instructions, or receiving and transmitting such instructions to another execution only broker, (either through a recognised exchange, multilateral trading facility or non EU equivalent of such, a clearing organisation or on a bilateral basis) then the Reporting Qatari Financial Institution will not be required to treat the facilities established (i.e. the process/system that has been established to execute the trade) for the purposes of executing a trading instruction, or receiving and transmitting such instructions, as a financial account under the Agreement. In these cases, the Reporting Qatari Financial Institution acting as custodian will be responsible for performing due diligence procedures and reporting where necessary.

It is also possible that a Reporting Qatari Financial Institution acting as an execution only broker may be subject to failed trades and find themselves with the legal ownership of the asset that they intended to broker. In this case, neither the holding of the asset, nor any resultant claims (market claims such as the passing of entitlement on dividend and coupon payments, claims compensated through a clearing house, securities depository etc.) will lead to a financial account being established by the executing broker.



In certain circumstances, "placing agents" will typically acquire shares for a 2-3 day period (maximum 7 days) and hold these as nominee for an underlying investor. The placing agent will also have cash funds deposited by the investor for a similar period. The two would ultimately be matched and the shares delivered to the designated custodian of the investor. To eliminate the creation of a series of custodial accounts which would open and close in a 2-3 day window and therefore be potentially reportable, such funds will not be regarded as Financial Accounts provided that:

- The account is established and used solely to secure the obligation of the parties to the transaction.
- The account only holds the monies appropriate to secure an obligation of one of the

parties directly related to the transaction, or a similar payment, or with a financial asset that is deposited in the account in connection with the transaction.

- The assets of the account, including the income earned thereon, is paid or otherwise distributed for the benefit of the parties when the transaction is completed.



Collateral - Notwithstanding the above, the Custodial Accounts definition includes all accounts which are maintained for the benefit of another, or arrangements pursuant to which an obligation exists to return cash or assets to another.

Transactions which include the collection of margin or collateral on behalf of a counterparty may fall within the definition of Custodial Account. The exact terms of the contractual arrangements will be relevant in applying this interpretation. However any obligations to return equivalent collateral at conclusion of the contract, and potentially make interim payments (such as interest) to counterparties during the contract term or if the collateral is provided on a full title transfer basis (so that the collateral holder becomes the full legal and beneficial owner of the collateral during the term of the contract, this will constitute a Custodial Account for the purposes of the Agreement.



Segregated Accounts - Where an investment manager is appointed to provide direct investment management services by the legal owner of assets, as segregated accounts, then these accounts are not Financial Accounts of the investment manager, but instead are treated as Custodial Accounts of a Custodial Institution (who will need to treat the investors as their account holders as there is no interposing fund).

Note that in cases where an investment manager also holds assets on behalf of clients (by acting as a Custodial Institution), reporting will be required on those accounts by virtue of the investment manager falling within the definition of a Custodial Institution.

There will be situations where an investment manager does not hold custody for its customers (e.g. investment managers who arrange for custody as agent on their customers' behalf or where the custody accounts are pooled nominee accounts) but holds the information required for due diligence and reporting.

The investment manager will be the Reporting Qatari Financial Institution for those accounts by virtue of its status as an Investment Entity where:

- it alone has direct knowledge of its customers and their accounts; and
- it alone carries out the AML/KYC procedures on those accounts.



Fully disclosed clearing and settlement (Model B) - This refers to arrangements designed to facilitate the clearing and settlement of security transactions utilising a third party provider's existing information technology infrastructure 'IT' systems, specifically those that interface with the international securities settlement and clearing systems (clearing firms).

A tri-partite relationship between the underlying customer, the broker/wealth manager and the clearing firm is created, by virtue of the fact that the broker has entered into a fully disclosed clearing relationship with the clearing firm on his own behalf, and, acting as the agent of its underlying client.

For the avoidance of doubt where a broker/wealth manager has opened an account (or sub-accounts) with the clearing firm, in the name of its underlying client and fulfils all verification, due diligence and reporting requirements on its underlying clients, then the Financial Accounts remain the responsibility of the broker/wealth manager and not the clearing firm.

Therefore, reporting and classification in respect of the underlying client required under the Agreement and the relevant legislation is the responsibility of the broker.

The clearing firm however will treat the broker/wealth manager as its client (as it is a Financial Institution) and consequently as the person for which it maintains a Financial Account and will undertake reporting and classification accordingly.

The term broker/wealth manager in respect of fully disclosed clearing and settlement would include any Financial Institution who acts on behalf of the underlying investor in respect of executing, placing or transmitting orders and would therefore include financial advisors if their business is more than simply advisory.



Syndicated Loans - In relation to syndicated loan activities, an Entity acting as a lead manager/fronting bank/agent (“Agent”) of a syndicated Invoice Finance facility would not in itself be sufficient to bring that entity into the Investment Entity or Custodian Institution definition as a Financial Institution, provided no other business activities would bring the entity into that classification.

Where a borrower requires a large or sophisticated facility, or multiple types of facility, this is commonly provided by a group of lenders, known as a syndicate, under a syndicated loan agreement.

To facilitate the process of administering the loan on a daily basis, one bank from the syndicate is typically appointed as Agent. The Agent’s role is to act as the agent for the lenders, (i.e. not of the borrower) and to coordinate and administer all aspects of the loan once the loan agreement has been executed, including acting as a point of contact between the borrower and the lenders in the syndicate and monitoring the compliance of the borrower with certain terms of the facility.

In essence, the Agent performs exclusively operational functions. For example, the borrower makes all payments of interest and repayments of principal and any other payments required under the loan agreement to the Agent and the Agent then passes these monies back to the lenders to which they are due. Similarly, the lenders advance funds to the borrower through the Agent. The terms of a syndicated loan agreement usually entitle the Agent to undertake the roles described above in return for a fee.

In these circumstances the participation of a lender in a syndicated loan, where a Reporting Qatari Financial Institution Agent acts for and on behalf of a syndicate of lenders which includes

that lender, does not lead to the creation of a “Custodial Account” held by the Qatari Agent. The lenders hold their interests in a loan directly rather than through the Agent and, therefore, the participation of a lender does not amount to a “Custodial Account” held by a Qatari Agent.

15.B.3 Insurance Contract

The term “Insurance Contract” means a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.



An insurance contract is not to be considered a Custodial Account but it could be one of the assets held in a Custodial Account.

15.B.3.1 Cash Value Insurance Contract

The term “Cash Value Insurance Contract” means an Insurance Contract where the cash surrender or termination value (determined without reduction for any surrender charge or policy loan) or the amount the policyholder can borrow under (or with regard to) the contract is, greater than \$50,000.

This definition excludes indemnity reinsurance contracts between two insurance companies.

The term “Cash Value” does not include an amount payable under an insurance contract in the following situations:

- a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against;
- a refund to the policyholder of a previously paid premium under an Insurance Contract (other than under a life insurance contract) due to policy cancellation or termination, decrease in risk exposure during the effective period of the Insurance Contract, or arising from a redetermination of the premium due to correction of posting or other similar error; or
- a policyholder dividend based upon the underwriting experience of the contract or group involved.

When a policy becomes subject to a claim and an amount is payable this does not create a new account, it is still the same policy, if the policy has not altogether terminated.

15.B.3.2 Annuity Contract

The term “Annuity Contract” means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.

An Annuity Contract is not to be considered to be a custodial account but it could be one

of the assets that are held in a custodial account.

The following are not considered to be an Annuity Contract for these purposes.

- Pension annuities
- Immediate needs annuities
- Periodic payment orders
- Reinsurance of Annuity Contracts between two Insurance Companies
- Annuities that are or are held within exempt products under Annex II.

15.B.4 Equity or Debt Interest

15.B.4.1 Equity or debt interest in an Investment Entity

Debt and Equity Interests (other than regularly traded interests) are only Financial Accounts if they are issued in entities that are Investment Entities because:

- the entity's gross income is attributable to investing, reinvesting or trading in financial assets, and they are managed by a Financial Institution including another Investment Entity; or
- the entity functions or holds itself out as a Collective Investment Vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leveraged buyout fund, or any similar investment vehicle established with an investment strategy of investing, reinvesting or trading in financial assets.

The term “**Equity Interest**” means:

- In the case of a partnership that is a Financial Institution, either a capital or profits interest in the partnership.



Where an Investment Entity is an asset manager, investment advisor or other similar entity, then the Debt and Equity Interests in that entity are generally excluded from being a Financial Account. This mirrors the treatment of Debt and Equity interests in entities that are solely Depository or Custodial Institutions.

15.B.4.2 Equity or Debt Interests regularly traded on an established securities market

The Agreement makes clear that with regard to Depository and Custodial Institutions and Specified Insurance Companies, the only debt or equity interests reportable are those where the class of interest has been established for the avoidance of reporting under the Agreement.

The rules differ for Investment Entities that are Financial Institutions solely because they are an Investment Entity. Here, the Agreement excludes those debt and equity interests that are “regularly traded on an established securities market”.

For the purposes of the Agreement, an equity or debt interest is “regularly traded” if

there is a meaningful volume of trading with respect to the interests on an ongoing basis. An interest in a Financial Institution is not “regularly traded” and shall be treated as a Financial Account if the holder of the interest (other than a Financial Institution acting as an intermediary) is registered on the books of such Reporting Qatari Financial Institution. The preceding sentence will not apply to interests first registered on the books of such Financial Institution prior to 1 July 2014, and with respect to interests first registered on the books of such Financial Institution on or after 1 July 2014, a Financial Institution is not required to apply the preceding sentence prior to 1 January 2016.

Provided that the debt or equity interest meets the required conditions for “regularly traded on an established securities market”, there is no need to check annually if any transactions have been undertaken.

15.B.4.2.1 Established Securities Market

An “established securities market” means an exchange that is officially recognized and supervised by a governmental authority in which the market is located and that has a meaningful annual value of shares traded on the exchange. In the State of Qatar, this is the Qatar Exchange (“QE”).

15.B.5 Accounts excluded from the definition of Financial Accounts

Annex II of the Agreement sets out certain accounts/products that have been considered as low risk (in terms of the likelihood of being used for tax evasion) and which are excluded from the definition of a Financial Account. As such, Reporting Qatari Financial Institutions will have no reporting obligations under the Agreement in respect of these accounts or products.

The Agreement also provide the capacity for the respective Annexes to be updated, either to allow for other low risk products to be added or to remove products that are no longer deemed low risk.

The following accounts are excluded from the definition of Financial Accounts:

- Qatari Retirement and Pension Accounts
- Non-Retirement and Savings Accounts
- Certain Term Life Insurance Contracts
- Account Held by an Estate
- Intermediary/Escrow Accounts
- Partner Jurisdiction Accounts

15.B.5.1 Qatari Retirement and Pension Accounts

A retirement or pension account maintained in Qatar is not a Financial Account if it satisfies the following requirements under the laws of Qatar:

- The account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits (including disability or death benefits);
- The account is tax-favoured (i.e., contributions to the account that would otherwise be subject to tax under the laws of Qatar are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
- Annual information reporting is required to the tax authorities in Qatar with respect to the account;
- Withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and
- Either (i) annual contributions are limited to \$50,000 or less, or (ii) there is a maximum lifetime contribution limit to the account of \$1,000,000 or less, in each case applying the rules account aggregation and currency translation (see Sections 10.2 and 10.3).

15.B.5.2 Non-Retirement Savings Accounts

An account maintained in Qatar (other than an Insurance or Annuity Contract) that satisfies the following requirements under the laws of Qatar is not a Financial Account:

- The account is subject to regulation as a savings vehicle for purposes other than for retirement;
- The account is tax-favoured (i.e., contributions to the account that would otherwise be subject to tax under the laws of Qatar are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
- Withdrawals are conditioned on meeting specific criteria related to the purpose of the savings account (for example, the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met; and
- Annual contributions are limited to \$50,000 or less, applying the rules for account aggregation and currency translation (see Sections 10.2 and 10.3).

15.B.5.3 Certain Term Life Insurance Contracts

A life insurance contract maintained in Qatar with a coverage period that will end before the insured individual attains age 90 is not a Financial Account, provided that the contract satisfies the following requirements:

- Periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age 90, whichever is shorter;
- The contract has no contract value that any person can access (by withdrawal, loan, or

otherwise) without terminating the contract;

- The amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and
- The contract is not held by a transferee for value.

15.B.5.4 Account Held by an Estate

An account maintained in Qatar that is held solely by an estate is not a Financial Account if the documentation for such account includes an official replica of the death certificate issued by the Supreme Council of Health in Qatar. Such an account will not be reportable in the year of the account holder's death and in subsequent years.

15.B.5.5 Intermediary/Escrow Accounts

An account maintained in Qatar established in connection with any of the following is not a Financial Account:

- A court order or judgment.
- A sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:
 - The account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a financial asset that is deposited in the account in connection with the sale, exchange, or lease of the property;
 - The account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease;
 - The assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates;
 - The account is not a margin or similar account established in connection with a sale or exchange of a financial asset; and
 - The account is not associated with a credit card account.
- An obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time.
- An obligation of a Financial Institution solely to facilitate the payment of taxes at a

later time.

Accounts provided by a non-Financial Intermediary as an intermediary (such as non-legal Escrow type accounts) that meet the conditions above will also not be Financial Accounts.



Undesignated/Designated Accounts - Where a Financial Account, held by a non-financial intermediary, such as a solicitor, does not meet the conditions set out in Intermediary/Escrow account definition but is an account, holding on a pooled basis, the funds of underlying clients of the non-financial intermediary where:

- the only person listed or identified on the Financial Account with the Financial Institution is the non-Financial Intermediary; and
- the non-Financial Intermediary is not required to disclose or pass their underlying client or clients' information to the Financial Institution for the purposes of AML/KYC or other regulatory requirements.

then, providing both conditions are met, the Financial Institution is only required to undertake the due diligence procedures in respect of the non-Financial Intermediary.

A designated client account is an account held with a Financial Institution, operated by a non-Financial Intermediary but where the underlying client or clients of the intermediary are listed or can be identified by the Financial Institution. In this case, the Financial Institution should, if required report the underlying client Account Holders.

15.B.5.6 Partner Jurisdiction Accounts

An account maintained in Qatar and excluded from the definition of a Financial Account under an agreement between the United States and another Partner Jurisdiction to facilitate the implementation of FATCA is not a Financial Account, provided that such account is subject to the same requirements and oversight under the laws of such other Partner Jurisdiction as if such account were established in that Partner Jurisdiction and maintained by a Partner Jurisdiction Financial Institution in that Partner Jurisdiction.

15.B.6 Account Holders

The term "Account Holder" means the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account.

In order to identify the person or entity that is the account holder under the terms of the Agreement, a Financial Institution may need to consider the type of account and the capacity in which it is held.

15.B.6.1 Estate



Where an Estate is listed as the holder of a Financial Account, then they are to be treated as the account holder, rather than any settlor or beneficiary (although accounts held by the estate of a deceased person are not Financial

Accounts – see Section 15.B.5.4).

However, when an Estate is treated as the account holder of a Financial Account, this does not remove the requirement to identify the Controlling Persons of an Estate, where the Estate is a Passive NFFE.

15.B.6.2 Partnerships



Where a Financial Account is held in the name of the partnership it will be the partnership that is the account holder rather than the partners in the partnership.

15.B.6.3 Accounts held by persons other than a Financial Institution



A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person, as an:

- agent;
- custodian;
- nominee;
- signatory;
- investment adviser; or
- intermediary.

is not treated as an account holder for purposes of this Agreement. Where the Financial Account does not meet the conditions relating to Intermediary Accounts (Section 15.B.5.5) then the person on whose behalf the account is held is the account holder.

Note: If an account is held for the benefit of another person by a Reporting Qatari Financial Institution (including an Exempt Beneficial Owner or a Deemed Compliant Financial Institution) such as a Custodial Institution, then the Reporting Qatari Financial Institution will be the account holder and not the person on whose behalf the account is held. It will be the account that the person maintains with the Reporting Qatari Financial Institution where they are the account holder.

15.B.6.4 Minor Accounts



Example 1 - Where a parent opens an account for a child, the child will be the account holder.

15.B.6.5 Joint Accounts



Where a Financial Account is jointly held, each account holder shall be

attributed the entire balance or value of the jointly held Financial Account. This will apply for the purposes of applying the aggregation and reporting requirements.

If an account is jointly held by an individual and an entity, the Reporting Qatari Financial Institution will need to apply separately both the individual and entity due diligence requirements in relation to that account.

15.B.6.6 Cash Value Insurance Contracts and Annuity Contracts



In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the Cash Value (for example, through a loan, withdrawal, surrender, or otherwise) or change the beneficiary of the contract.

If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder.

15.B.6.7 Joint life second death Cash Value Insurance Contracts



Joint life second death Cash Value Insurance Contracts are sometimes taken out by spouses. Such policies insure both parties, but do not pay out on the death of the first person. Instead the policy remains in force until the other person has died or the policy is surrendered.

Where one of the policyholders whose life is insured is a Specified US Person (and the other is not a Specified US Person) this will be a Reportable Account which is reported annually. If the Specified US Person dies during the term of the insurance it will cease to be a Reportable Account.

15.B.6.8 Entity account holders



An entity account may be a US Reportable Account if either the entity is a Specified US Person, or it is a non-US Entity who has Controlling Persons who are Specified US Persons.

The entity itself will be resident where it is tax resident, the general rules for where an NFFE is held to be resident are the same as those for a Financial Institution.

In most circumstances, an entity is tax resident where it is incorporated and/or where it is effectively managed and controlled and/or where its Head Office is located (although this will depend on the domestic legislation).

15.B.6.9 Specified US Persons

A Specified US Person is defined as a US Person, other than:

- A corporation the stock of which is regularly traded on one or more established securities markets;

- Any corporation that is a member of the same expanded affiliated group, as defined in section 1471(e)(2) of the US Internal Revenue Code, as a corporation that is publicly traded (as discussed above);
- The United States or any wholly owned agency or instrumentality thereof;
- Any State of the United States, any US Territory, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing;
- Any organization exempt from taxation under section 501(a) of the US Internal Revenue Code or an individual retirement plan as defined in section 7701(a)(37) of the US Internal Revenue Code;
- Any bank as defined in section 581 of the US Internal Revenue Code;
- Any real estate investment trust as defined in section 856 of the US Internal Revenue Code;
- Certain regulated investment companies;
- Certain any common trust funds ;
- Certain trust that are exempt from tax;
- A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any State;
- A broker as defined in section 6045 (c) of the US Internal Revenue Code;
- Any tax-exempt trust under plan that is described in section 403 (b) or section 457 (g) of the US Internal Revenue Code.

15.C Due Diligence

15.C.1 Acceptable Documentary Evidence

A Reporting Qatari Financial Institution, or the third party service provider acting on behalf of the Reporting Qatari Financial Institution, can accept documentary evidence to support an account holder's status provided the documentation (in original or certified copy form) meets one of the following criteria:

- A Certificate of Residence issued by an authorised government body of the country in which the account holder claims to be resident, for example a Certificate of Residence issued by the Qatar Ministry of Finance.
- For individuals, any valid identification issued by an authorised Government body, that includes the individual's name and is typically used for identification purposes. For example a passport or driving licence. For example any valid identification issued by the Ministry of Interior.
- For entities, any official document issued by an authorised government body that includes the name of the entity and either the principal office address in the country in which the entity claims to be resident or the country in which the entity was

incorporated or formed. For example Commercial Registration, Articles of Association, or Memorandum of Association.

- Any financial statement, third party credit report, bankruptcy filing, or US Securities and Exchange Commission report.

15.C.2 IRS Withholding Certificates

Withholding certificates issued by the IRS such as the W-8 and W-9 series are acceptable in establishing an account holder's status. A Reporting Qatari Financial Institution may rely upon a pre-FATCA W-8 form, where one is required to establish the account holder's status, in lieu of obtaining an updated version of the form until such time that the W-8 is required to be renewed. The IRS' W-series forms can be found on the IRS' website - <http://apps.irs.gov/app/picklist/list/formsPublications.html>

15.C.3 Controlling Persons

Controlling Persons are defined as natural persons who exercise control over an Entity. In case of a Trust this means the settlor, the trustees, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term "Controlling Persons" shall be interpreted in a manner consistent with the Financial Action Task Force Recommendations.

For this purpose, and in relation only to NFFEs, a 10% ownership threshold applies for companies and partnerships.

15.D Reporting

15.D.1 Address

The address to be reported with respect to an account held by a Specified US Person is the residence address recorded by the Reporting Qatari Financial Institution for the account holder or, if no residence address is associated with the account, the address for the account used for mailing or other purposes by the Reporting Qatari Financial Institution.

With respect to each Specified US Person that is a Controlling Person of a Passive NFFE, the address required will be the address of such Specified US Person.

15.D.2 US Taxpayer Identification Numbers (US TIN)

Where it has been established that an account holder is a Specified US Person, a Reporting Qatari Financial Institution is required to obtain a US TIN (from the account holder or a person identified as a Controlling Person). When referred to, a US TIN means a US Federal Taxpayer Identifying Number which includes:

- social security number ("SSN");

- an individual taxpayer identification number (“ITIN”);
- an employer identification number (“EIN”); and

For Pre-existing Individual Accounts that are Reportable Accounts a US TIN need only be provided if held by the Reporting Qatari Financial Institution. In the absence of a record of the US TIN, a date of birth should be provided, but again only where that is held by the Reporting Qatari Financial Institution.

In line with the Agreement, all Reporting Qatari Financial Institutions must obtain the US TIN for relevant Pre-existing Accounts from 1 January 2017.

For all New Individual Accounts that are identified as Reportable Accounts from 1 July 2014 onwards, the Reporting Qatari Financial Institution must ask for a self-certification including a US TIN from account holders identified as resident in the US. This self-certification could be on for example, an IRS Form W-9 or on another similar agreed form.

If an account holder does not have a US TIN, the account holder is required to apply for one and provide the number to the Reporting Qatari Financial Institution. Where for a New Individual Account the account holder fails to provide a US TIN, the account is to be treated as reportable.



There is no requirement for a Reporting Qatari Financial Institution to verify that any US TIN provided is correct. A Reporting Qatari Financial Institution will not be held accountable where information supplied by an individual proves to be inaccurate and the Reporting Qatari Financial Institution had no reason to doubt that the validity and accuracy of the information provided.

15.D.3 Account number or functional equivalent

The account number to be reported with respect to an account is the identifying number assigned to the account or other number that is used to identify the account within the Financial Institution. This will include identifiers such as Bank Account Numbers and Policy Numbers for insurance contracts as well as other non-traditional unique identifiers. The unique identifier should be sufficient to enable the Reporting Qatari Financial Institution to identify the Reportable Account in the future.

If the Reportable Account does not have a unique identifying number or code then any functional equivalent should be reported. This may include non-unique identifiers that relate to a class of interests. A non-unique identifier should be sufficient to enable the Reporting Qatari Financial Institution to identify the Reportable Account held by the named account holder in the future.

Exceptionally, if the Reportable Account does not have any form of identifying number or code then a description sufficient for the Reporting Qatari Financial Institution to identify the Reportable Account held by the named account holder in the future should be reported.

15.D.4 Account balance or value

For Depository Accounts, the balance or value will be that shown on the 31 December, unless the account is closed prior to that date. For example, for a reportable Depository Account the balance or value to be reported will be the balance or value as of the 31 December 2014. This will be reported in 2015.

For other Financial Accounts, the balance or value will either be that shown on 31 December of the year to be reported or where it is not possible to or usual to value an account at 31 December, the normal valuation point for the account that is nearest to 31 December is to be used.

The account balance or value maybe reported in US dollars or in the currency in which the account is denominated.



Example 1 - When a Specified Insurance Company has chosen to use the anniversary date of a policy for valuation purposes, if for example the policy was opened on 3 June 2013, it will be valued on 2 June 2014. If it exceeds the reporting threshold then it is the 2 June 2014 value that will be reported for the year ending 31 December 2014. This will be reported to the QCB FATCA Unit in 2015.

The balance or valuation of a Financial Account is the balance or value calculated by the Financial Institution for purposes of reporting to the Account Holder.

The balance or value of an Equity Interest is the value calculated by the Reporting Qatari Financial Institution for the purpose that requires the most frequent determination of value. The balance or value of a Debt Interest is its principal amount.

The balance or value of the account is not to be reduced by any liabilities or obligations incurred by an account holder with respect to the account or any of the assets held in the account and is not to be reduced by any fees, penalties or other charges for which the account holder may be liable upon terminating, transferring, surrendering, liquidating or withdrawing cash from the account.

15.D.4.1 Joint Accounts



For Joint Accounts the balance or value to be attributed is the entire balance or value of the account. This will be attributable to each holder of the account. The same applies for the Controlling Persons of NFFEs that jointly hold accounts.



Example 1 - Where a jointly held account has a balance or value of \$100,000 and one of the account holders is a Specified US Person then the amount to be attributed to that person would be \$100,000.

If both account holders were Specified US Persons then each would be

attributed the \$100,000 and reports would be made for both.



Example 2 - Where a Specified US Person owns 50% of the shares in a company, the full account balance of the company is reported as being the Financial Account held by that Specified US Person.

15.D.4.2 Account closures

In case a reportable account is closed prior to the reporting period end, the Reporting Qatari Financial Institution is required to report the balance prior to account closure.



The process for closing accounts will differ between institutions and between different products and accounts. For FATCA reporting purposes, the intention is to capture the amount withdrawn from the account in connection with the closure process as opposed to the account balance at the point of closure (as the account balance or value is expected to be reduced prior to the point of closure). For these purposes it is acceptable for the Reporting Qatari Financial Institution to:

- Record the balance or value within 5 business days of when they receive instructions from the Account Holder to close the account; or
- Record the most recently available balance or value that is obtainable following receipt of instructions to close the account. This may include the balance or value that pre-dates the instructions to close the account if this is the balance or value that is most readily available.

The balance which should be reported for accounts that close as a result of transferring of the account to another bank, is the balance calculated as the transferable balance as per standard bank account switching rules.

In the case of a Depository or Custodial Account closed or transferred in its entirety by an account holder during the calendar year or appropriate reporting period the payments made with respect to the account shall be:

- The payments and income paid or credited to the account that are described in Section 11.1 for Custodial, Depository and Other Accounts.
- The amount or value withdrawn or transferred from the account in connection with the closure or transfer of the account (taking into consideration the comments in relation to the closing balance noted above).

In the case of a Cash Value Insurance Contract that has been fully surrendered during the calendar year the Specified Insurance Company will need to report the total amount paid out to the account holder or nominated person at the close of the account. This will include any amount of interest following maturity where the amount is awaiting payment.