

CHAPTER
8

Due diligence

(Pre-existing Entity Accounts)

8. Due diligence (Pre-existing Entity Accounts)

Highlights

- A Pre-existing entity account is an account maintained by a Reporting Qatari FI as of 30th June 2014.
- Following is a summary of the due diligence requirements of Pre-existing Entity Accounts:

Category	Accounts not to be reviewed	Accounts subject to review
Depository Account	\$250,000 or less* • Exempted	> \$250,000 • Review required**

* Balance as per 30 June 2014 where the Financial Institution elects to apply the de minimis threshold exemption.

** A Pre-existing Entity Account that does not exceed \$250,000 as of 30 June 2014 but the account balance or value of which exceeds \$1,000,000 as of the last day of 2015 or any subsequent calendar year must be reviewed.

ICON KEY

 Practical Guidance

 Example

 Timing

 Key facts

 Reporting

8.1 Reportable Pre-Existing Entity Accounts

An account holder of a Pre-existing Entity Account must be classified as either:

- A Specified US Person;
- A US Person other than a Specified US Person;
- A Qatari Financial Institution or other Partner Jurisdiction Financial Institution;
- A Participating FFI, a Deemed Compliant FFI, an Exempt Beneficial Owner;
- An Active NFFE or Passive NFFE;
- A Non-Participating Financial Institution.

A Pre-existing Entity Account is only reportable where there is an account holder who is:

- A Specified US Person;
- A Passive NFFE with one or more Controlling Persons who are US citizens or residents; or

- If the account holder is a Non-Participating Financial Institution, only aggregate payments made to the NPFI will be reportable (see Section 11.3).

Where a Pre-existing Entity Account closes prior to the Reporting Qatari Financial Institution carrying out its due diligence procedures, then the account is still required to be reviewed. Following the due diligence procedures, if the account is found to be reportable, the Reporting Qatari Financial Institution must report the information as required under Section 11.1. This should only apply to accounts that exist at 30 June 2014 and close before 30 June 2016 as all accounts should have been reviewed by that date. This will not apply to accounts that are closed on or before 30 June 2014.

An entity account will also be reportable where a self-certification (which may be on an IRS Form W-8 or W-9 or a similar agreed form) is not provided or the entity's status cannot be determined from information held or that is publically available. In this situation the account should continue to be reported until such time that the entity's status is correctly identified.

8.2 Threshold Exemptions that apply to Pre-existing Entity Accounts

The Agreement allows for Reporting Qatari Financial Institutions to apply the threshold exemptions (unless the Reporting Qatari Financial Institution elects otherwise) when reviewing and identifying Pre-existing Entity Accounts.

The threshold exemption applies to Pre-existing Entity Accounts with an account balance or value that does not exceed \$250,000 at 30 June 2014. Such accounts will only become reportable if the account balance or value exceeds \$1,000,000, at 31 December 2015 or 31 December of any subsequent calendar year.

The election can apply to all Financial Accounts or to a clearly identified group of accounts, such as accounts held by a line of business.

If a Reporting Qatari Financial Institution makes an election under the Agreement to disregard threshold exemptions, it will need to notify QCB and will need to review and identify all Pre-existing Entity Accounts.

8.3 Pre-existing Entity Account Classification Process

8.3.1 Identification of an Entity as a Specified US Person

A Reporting Qatari Financial Institution shall review the information maintained for regulatory or customer relationship purposes (including information pursuant to AML/KYC procedures) to determine if the information indicates that the Account Holder is a Specified US Person.

For this purpose, a US place of incorporation or organization, US address would be examples of information indicating that an entity is a Specified US Person.

If the account holder is found to be a Specified US Person then the account should be treated as reportable unless a self-certification (which may be on an IRS Form W-8 or W-9, or a similar agreed form) is obtained from the account holder which shows that the account holder is not a Specified US Person or it can be reasonably determined from information held or publicly available, that the account holder is not a Specified US Person.

Article 1(bb) of the Agreement includes a list of exceptions for Specified US Persons. Where insufficient information is held by the Reporting Qatari Financial Institution to allow it to correctly determine if the entity falls within any of the exceptions for Specified US Persons, a self-certification may be obtained from the entity to allow the Reporting Qatari Financial Institution to make a correct determination.

8.3.2 Identification of an Entity as a Financial Institution

A Reporting Qatari Financial Institution shall review the information maintained for regulatory or customer relationship purposes (including information collected as part of any AML/KYC procedure) or shall verify the Global Intermediary Identification Number on the published IRS list to determine if information/GIIN indicates the Account Holder is a Financial Institution.

If the entity is a non-US Financial Institution, including Non-Reporting Financial Institutions listed in Annex II of the Agreement (both Exempt Beneficial Owners and Deemed Compliant Financial Institutions), then that account is not a 'Reportable Account', however there may still be reporting obligations if the entity is a Non-Participating Financial Institution.

If the entity is a US Financial Institution, then that account will be a 'Reportable Account' unless it is included in the list of exceptions for Specified US Persons as defined in the Qatar Agreement definition under Article 1(bb).

8.3.3 Identification of an Entity as a Non-Participating Financial Institution (NPFI)

An account holder should be treated as a Non-Participating Financial Institution, in case that the account holder is a Financial Institution, but not a Qatari Financial Institution, a Financial Institution in another Partner Jurisdiction or a Participating Financial Institution.

A Non-Participating Financial Institution will be treated as such unless the entity provides a self-certification stating that it is a Certified Deemed Compliant Financial

Institution or an Exempt Beneficial Owner; or the Reporting Qatari Financial Institution is able to verify that the entity is a Participating Financial Institution or Registered Deemed Compliant Financial Institution for instance from its Global Intermediary Identification Number.

A Financial Institution may become a Non-Participating Financial Institution where following significant non-compliance it is regarded as such by the IRS (see Section 13.4).

The Reporting Qatari Financial Institution will need to report payments made to an account holder that is a Non-Participating Financial Institution (see Section 11.3).

8.3.4 Identification of an entity as a Non-Financial Foreign Entity

Where the entity account holder is not identified as either a US Person or a Financial Institution, the Reporting Qatari Financial Institution shall consider whether the entity is a Passive NFFE and if any of the Controlling Persons of that entity are US citizens or residents.

To determine whether the entity is a Passive NFFE, the Reporting Qatari Financial Institution must obtain a self-certification (which may be an IRS Form W-8 or W-9 or on a similar agreed form) from the account holder establishing its status unless it has information in its ownership or that is publicly available that enables the Reporting Qatari Financial Institution to reasonably determine whether or not the entity is an Active NFFE.

To identify the Controlling Persons of an entity, the Reporting Qatari Financial Institution may rely on information collected and maintained pursuant to AML/KYC procedures.

To identify whether a Controlling Person of a Passive NFFE is a US citizen or resident for tax purposes, the Reporting Qatari Financial Institution may rely on:

- Information collected and maintained pursuant to AML/KYC procedures, in the case of a Pre-existing Entity Account held by one or more NFFEs with an account balance or value that does not exceed \$ 1,000,000; or
- A self-certification from the account holder or such Controlling Person in the case of a Pre-existing entity account held by one or more Passive NFFEs with an account balance or value that exceeds \$1,000,000.

If any Controlling Person of a Passive NFFE is a US citizen or resident, the account shall be treated as a US Reportable Account.

8.4 US indicia for Entities with Pre-existing Accounts

8.4.1 US indicia for Entities with Pre-existing Accounts

Where a Reporting Qatari Financial Institution is reviewing information maintained

for regulatory or customer purposes to determine if the information indicates that the account holder is a Specified US person, then the Reporting Qatari Financial Institution should review or search for any of the following US indicia:

- Classification of an account holder as a US resident in the current customer files;
- A current US residence address or US mailing address;
- As regards an offshore obligation, standing instructions to pay amounts to a US address or an account maintained in the US;
- A current telephone number for the entity in the US, but no telephone number for the entity outside of the US;
- A current telephone number for the entity in the US in addition to a telephone number for the entity outside of the US;
- A power of attorney or signatory authority granted to a person with a US address;
- An “in-care-of” address or “hold mail” address that is the sole address provided for the entity.

8.5 Data to be reviewed

For pre-existing accounts being reviewed the data being considered should be that which is held at the date of the review. However, if the Financial Institution has archived data from the point when the account is identified as reportable then this may also be used, provided that any subsequent changes in circumstance are included in the review process.

Electronic searches may be sufficient provided all of the Qatari AML/KYC information is stored electronically and can be searched to identify the relevant information. If this is not the case, the search must include a paper review.

8.6 Timing of Reviews for Pre-Existing Entity Accounts



The review of Pre-existing Entity Accounts with an account balance or value that exceeds \$250,000 at 30 June 2014 must be completed by 30 June 2016.

The review of Pre-existing Entity Accounts with a balance or value that does not exceed \$250,000 at 30 June 2014, but exceeds \$1,000,000 at 31 December 2015 or 31 December of any subsequent calendar year, must be completed by 30 June of the following year.

Pre-existing Entity Accounts that are identified as reportable are only reportable from the year in which they are identified as such.