

BANQUE PRIVÉE
ESPÍRITO SANTO



Banking relationship : _____

U.S. Tax Status Declaration and Confirmation of Residence for Tax Purposes (Controlling Person)

The regulations applicable under United States (U.S.) tax law relating to withholding as well as the *Agreement Between Switzerland and the United States of America for Cooperation to Facilitate the Implementation of FATCA* require Banque Privée Espírito Santo SA en liquidation (hereinafter "the Bank") to determine whether the accounts related with the banking relationship above are U.S. or non-U.S. accounts for U.S. tax purposes. Further, the Swiss legislation implementing the *OECD Common Reporting Standard (CRS)*, including the *Swiss Federal Act on the International Automatic Exchange of Information in Tax Matters (Swiss AEOI Act)*, and the AEOI Agreements between Switzerland and its partner jurisdictions require the Bank to collect information relating to a Controlling Person's residence for tax purposes. In accordance with the above-mentioned regulations, the undersigned Account Holder or Controlling Person hereby declares and confirms the below certifications to the Bank.

Information about Controlling Persons is only required if the Account Holder (entity) is:

- A passive NFFE for FATCA purposes,
- A passive NFE for AEOI/CRS purposes, or
- A Professionally Managed Investment Entity (PMIE) in a Non-Participating Jurisdiction for AEOI/CRS purposes.

Key terms are defined in the Glossary. Neither this document nor any related written or oral explanations constitute tax advice. The Bank recommends contacting a qualified tax advisor or the relevant tax authorities, if required.

Part 1 - Identification of Account Holder (entity)¹

Name of the entity

The Account Holder (entity) submitted the appropriate/relevant forms to declare its status to the Bank. The certification at hand is only intending to determine the U.S. Tax Status and the country(ies)/jurisdiction(s) of residence for tax purposes of each of its Controlling Persons.

Part 2 - Identification of Controlling Person (individual/natural person) (a separate form must be completed for each Controlling Person)

Last name

First name

Residence address (street, house or building no. etc.) **Please do not use any P.O. box or in-care-of address**

Town/city, state or province

Postal code

Country

U.S. tax identification number (SSN or ITIN), if needed

Date of birth (DD-MM-YYYY)

Part 3 - U.S. Tax Status Declaration of Controlling Person (individual/natural person)

Please tick the appropriate boxes with regard to the Controlling Person of the above-mentioned Account Holder (entity).

a) **Is the Controlling Person a U.S. citizen?** Yes No
(If the Controlling Person holds multiple citizenships, tick "Yes" if one of them is U.S.)

aa) **Is the Controlling Person born in the U.S. (or a U.S. territory)?** Yes No

¹ The singular form includes the plural, and all masculine terms referring to persons refer to both genders.



Is the Controlling Person a resident of the U.S. for U.S. tax purposes because

ba) he/she is in possession of a U.S. Green Card (irrespective of expiry date)? Yes No

bb) he/she meets the substantial presence test? Yes No

If he/she meets the substantial presence test, but he/she left the U.S. during this calendar year, is the residence of the Controlling Person still temporarily or permanently in the U.S.?² Yes No

bc) **Of any other reason?** Yes No

Please state the reason : _____

I HEREBY CERTIFY THAT :

THE CONTROLLING PERSON IDENTIFIED ON THIS FORM IS NOT A U.S. PERSON FOR U.S. TAX PURPOSES

THE CONTROLLING PERSON IDENTIFIED ON THIS FORM IS A U.S. PERSON FOR U.S. TAX PURPOSES AND WILL PROVIDE AN IRS FORM W-9

Part 4 - Country(ies)/Jurisdiction(s) of Residence for Tax Purposes and related Taxpayer Identification Numbers or functional equivalents (TINs)

Please complete the following table indicating:

- All countries/jurisdictions where the Controlling Person is resident for tax purposes (other than the U.S.), and
- The Controlling Person’s TIN for each country/jurisdiction indicated.

Each country/jurisdiction has its own rules for defining tax residence and countries/jurisdictions provided information on how to determine whether an individual is resident for tax purposes in the jurisdiction for inclusion on the OECD AEOI Portal (<http://www.oecd.org/tax/automatic-exchange/>).

Country/jurisdiction of residence for tax purposes ³	TIN	If no TIN available enter reason A, B, C, D, E or F
1.		
2.		
3.		

If the Controlling Person is unable to provide a TIN for a specific country/jurisdiction of residence for tax purposes, please include the appropriate reason A, B, C, D, E or F in the right column of the table above:

Reason A: The Controlling Person’s country/jurisdiction of residence for tax purposes does not assign TINs to its residents.

Reason B: The Controlling Person is a new resident and his/her TIN is not issued yet (please note that the TIN must be _____)

² If the answer is “No”, a current certificate of residence issued by an authorized government body (for example, a government or agency thereof, or a municipality) of the country in which the Controlling Person claims to be a resident or an IRS Form W-8BEN is required.

³ If the Controlling Person is resident for tax purposes in more than three countries/jurisdictions, please use a separate sheet.



submitted within 90 days).

Reason C: Despite the country/jurisdiction of residence for tax purposes generally issuing TINs, the Controlling Person is not required to obtain a TIN.

Reason D: The country/jurisdiction of residence for tax purposes stated above is Switzerland.

Reason E: The country/jurisdiction of residence for tax purposes stated above is not a Reportable Jurisdiction. A list of all Reportable Jurisdictions can be found on <https://www.sif.admin.ch/sif/de/home/themen/internationalesteuerpolitik/automatischer-informationsaustausch.html>.

Reason F: The Controlling Person is otherwise unable to provide a TIN. Please specify the reason below:

BY SIGNING THIS FORM I CERTIFY THAT THE CONTROLLING PERSON IDENTIFIED ON THIS FORM IS RESIDENT FOR TAX PURPOSES ONLY IN THE COUNTRY(IES)/JURISDICTION(S) LISTED ABOVE.

Part 5 - Type of Controlling Person

Please tick the appropriate box to indicate the type of Controlling Person.

- Controlling Person of a legal person - control by ownership
- Controlling Person of a legal person - control by other means
- Controlling Person of a legal person - senior managing official
- Controlling Person of a trust - settlor
- Controlling Person of a trust - trustee
- Controlling Person of a trust - protector
- Controlling Person of a trust - beneficiary
- Controlling Person of a trust - other
- Controlling Person of a legal arrangement (non-trust)⁴ - settlor-equivalent
- Controlling Person of a legal arrangement (non-trust)⁴ - trustee-equivalent
- Controlling Person of a legal arrangement (non-trust)⁴ - protector-equivalent
- Controlling Person of a legal arrangement (non-trust)⁴ - beneficiary-equivalent
- Controlling Person of a legal arrangement (non-trust)⁴ - other-equivalent

Part 6 - Change in Circumstances

For the duration of the contractual relationship with the Bank, I hereby confirm that I undertake to notify the Bank within 30 days on my own initiative, if the Controlling Person's status for U.S. tax purposes and/or his/her country(ies)/jurisdiction(s) of residence for tax purposes changes. If any certification made on this form becomes incorrect, I agree that I will submit a new form and/or further necessary forms and documentation within 90 days after such change in circumstances.

In case of any change in circumstances, I further affirm that I am aware that the above-mentioned relationship with the Bank may be terminated, if one of the Controlling Persons fails to comply with the obligation to submit the relevant documentation required to determine whether the account is a U.S. or non-U.S. account for U.S. tax purposes and/or his/her country(ies)/jurisdiction(s) of residence for tax purposes.

⁴ Other legal arrangements that are not trusts include, for example, a foundation or fideicomiso.



Part 7 - Declaration and Signature

By signing this form below, I declare that all statements made in this form are, to the best of my knowledge and belief, true, correct and complete.

If you are not the Controlling Person identified in the relevant part of this form but you file this form as an authorized signatory of the Account Holder, by signing this form you hereby confirm that the Controlling Person identified in this form has been informed about the content of this form and the Bank's obligation to exchange information with the relevant tax authorities as explained in this form and agrees with the content of this form.

I am aware that based on Article 35 of the Swiss AEOI Act, wilfully providing incorrect information on a self-certification, not notifying the Bank about any change in circumstances or providing incorrect information about any change in circumstances is subject to penalty.

Place, date (DD-MM-YYYY)

Signature of the Account Holder or Controlling Person



Part 8 - Glossary

Account Holder (FATCA and AEOI/CRS)

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. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of FATCA and AEOI/CRS, and such other person is treated as holding the account. In the case of a banking relationship of a trust, the trust is the Account Holder for AEOI/CRS purposes and not the trustee.

Active NFE/NFFE (FATCA and AEOI/CRS)

An NFE is an *Active NFE* for purposes of AEOI/CRS if it meets the criteria for any of the sub-categories listed below (the requirements are applied analogously to *Active NFFEs* under FATCA):

- **Active NFE by reason of income and assets:**
Less than 50% of the NFE's gross income for the preceding calendar year or other appropriate reporting period is passive income (e.g. dividends, interest, rents, royalties, annuities) and less than 50% of the assets held by the NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income.
- **Publicly traded NFE:**
The stock of the NFE is regularly traded on an established securities market.
- **Related Entity of a publicly traded corporation:**
The NFE is a Related Entity of a corporation the stock of which is regularly traded on an established securities market.
- **Governmental Entity, International Organisation, or Central Bank:**
The NFE is a Governmental Entity, an International Organisation, a Central Bank, or an entity wholly owned by one or more of the foregoing.
- **Holding NFE that is a member of a nonfinancial group:**
Substantially all of the activities of the NFE 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, except that an entity does not qualify for this status if the entity functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes.
- **Start-up NFE:**
The NFE 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 NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE.
- **NFE that is liquidating or emerging from bankruptcy:**
The NFE 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.
- **Treasury center that is a member of a nonfinancial group:**
The NFE 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.
- **Non-profit NFEs:**
The NFE 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 jurisdiction 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 NFE's jurisdiction of residence or the NFE's formation documents do not permit any income or assets of the NFE 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 NFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFE has purchased; and
 - The applicable laws of the NFE's jurisdiction of residence or the NFE's formation documents require that, upon the NFE'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 NFE's jurisdiction of residence or any political subdivision.

Any other reason (for being a resident of the U.S. for U.S. tax purposes) (FATCA only)

Other reasons for being treated as a U.S. resident for U.S. tax purposes are e.g. dual residency, being a non-U.S. spouse filing jointly a U.S. tax return with a U.S. spouse or relinquishing U.S. citizenship or long-term permanent residency in the U.S. Please note that



owning real estate in the U.S. or equity and debt interest in U.S. entities (e.g. in a U.S. partnership) does not by itself result in being a resident of the U.S.

Controlling Persons (FATCA and AEOI/CRS)

The term *Controlling Persons* means the natural persons who exercise control over an entity. In the case of a trust, such term means the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) 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 must be interpreted in a manner consistent with the Swiss implementation of the Financial Action Task Force Recommendations, i.e. for banking relationships in Switzerland the *Agreement on the Swiss banks' code of conduct with regard to the exercise of due diligence* (CDB 16).

Country/jurisdiction of residence for tax purposes (AEOI/CRS only)

Generally, an individual is resident for tax purposes in a country/jurisdiction if, under the laws of that country/jurisdiction (including tax conventions), he/she pays or should be paying tax therein by reason of his/her domicile, residence, or any other criterion of a similar nature (i.e. full tax liability), and not only from sources in that jurisdiction. Dual resident individuals may rely on the tiebreaker rules contained in taxconventions (if applicable) to solve cases of double residence for determining their residence for tax purposes.

Passive NFE/NFFE (FATCA and AEOI/CRS)

The term Passive NFE/NFFE means any NFE/NFFE that is not an Active NFE/NFFE. Additionally, an Account Holder PMIE located in a Non-Participating Jurisdiction from the perspective of Switzerland is also treated as a Passive NFE Account Holder for purposes of AEOI/CRS.

Participating Jurisdiction (AEOI/CRS only)

The term Participating Jurisdiction means a jurisdiction (i) with which Switzerland has an agreement in place pursuant to which such other jurisdiction will provide information about Swiss residents and their accounts, and (ii) which is identified in the following list: <https://www.sif.admin.ch/sif/fr/home/themen/internationale-steuerpolitik/automatischer-informationsaustausch.html>

Professionally Managed Investment Entity (PMIE) (AEOI/CRS only)

The term PMIE means any entity the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the entity is managed by another entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or a Managing Investment Entity.

An entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the entity's gross income attributable to the relevant activities equals or exceeds 50% of the entity's gross income during the shorter of: (i) the three-year period ending on 31 December of the year preceding the year in which the determination is made; or (ii) the period during which the entity has been in existence.

An entity is "managed by" another entity if the managing entity performs, either directly or through another service provider, any of the following activities or operations on behalf of the managed entity:

- Trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
- Individual and collective portfolio management; or
- Otherwise investing, administering, or managing Financial Assets or money on behalf of other persons.

However, an entity does not manage another entity if it does not have discretionary authority to manage the entity's assets (in whole or in part). Where an entity is managed by a mix of Financial Institutions, NFEs or individuals, the entity is considered to be managed by another entity that is a Financial Institution.

Reportable Account (AEOI/CRS only)

The term *Reportable Account* means an account held by one or more Reportable Persons or by a Passive NFE (or a Professionally Managed Investment Entity in a Non-Participating Jurisdiction) with one or more Controlling Persons that is a Reportable Person, provided it has been identified as such pursuant to the applicable AEOI/CRS due diligence procedures.

Reportable Person (AEOI/CRS only)

The term *Reportable Person* means a person that is resident for tax purposes in a Reportable Jurisdiction under the tax laws of such jurisdiction other than: (i) a corporation the stock of which is regularly traded on one or more established securities markets; (ii) any corporation that is a Related Entity of a corporation described in clause (i); (iii) a Governmental Entity; (iv) an International Organisation; (v) a Central Bank; or (vi) a Financial Institution.

Reportable Jurisdiction (AEOI/CRS only)

The term *Reportable Jurisdiction* means a country/jurisdiction (i) with which Switzerland has an agreement in place pursuant to which Switzerland is obliged to provide the information about the residents of that country/jurisdiction and their accounts (Reportable Accounts), and (ii) which is identified in the following list: <https://www.sif.admin.ch/sif/de/home/themen/internationale-steuerpolitik/automatischerinformationsaustausch.html>.

Substantial presence test (FATCA only)

To meet the substantial presence test, an individual must have been physically present in the U.S. on at least:



- 31 days during the current year, and
- 183 days during the 3 year period that includes the current year and the 2 years immediately before. To satisfy the 183 days requirement, count:
 - All of the days you were present in the current year, and
 - One-third of the days you were present in the first year before the current year, and
 - One-sixth of the days you were present in the second year before the current year.

TIN (FATCA and AEOI/CRS)

The term TIN means Taxpayer Identification Number or a functional equivalent in the absence of a TIN. A TIN is a unique combination of letters or numbers assigned by a jurisdiction to an individual or an entity and used to identify the individual or entity for the purposes of administering the tax laws of such jurisdiction. Further details of acceptable TINs can be found on the OECD AEOI Portal (<http://www.oecd.org/tax/automatic-exchange/>).

U.S. territory (FATCA only)

The term *U.S. territory* includes amongst others the Commonwealth of the Northern Mariana Islands, Guam, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

U.S. Green Card (FATCA only)

A U.S. *Green Card* means a U.S. alien registration card as a lawful permanent resident issued by the U.S. Citizenship and Immigration Service (USCIS). An individual who, at any time during the calendar year, has been admitted to the U.S. as a lawful permanent resident is a resident alien for that year. An individual ceases to be a lawful permanent resident if the status was revoked or determined to have been abandoned.