

## WHAT IS THE PURPOSE OF THIS FORM ?

**From an Anti-money laundering & Counter terrorism financing (AML/ CTF) perspective, the request for a Beneficial Owner Form is based on a dual legal obligation:**

- \* **Banks** must identify their customers' Beneficial Owner(s) (see *Glossary*) and take appropriate risk-based measures to verify their identity.
- \* **Companies, other legal entities and legal constructions** are obliged to communicate the identity of their Beneficial Owner(s) to the banks they wish to enter in a business relationship with. They are also obliged to inform the banks of any changes. Without this information, a bank may not enter into or maintain a business relationship with a customer.

**In the context of the Automatic Exchange of Financial Account Information (FATCA and CRS), Account Holders (hereinafter referred to as the "Client") are also requested to complete this FATCA-CRS Self Certification.** If the Client or any of its Beneficial Owner(s) has a tax residence outside Luxembourg, the personal and financial information may be reported to the Luxembourg tax authorities and the corresponding foreign tax authorities.

**Failure to complete this self-certification form or filling it out in an erroneous or incomplete manner may lead to an inaccurate exchange of information.**

If the Client is acting as an **intermediary** or is **holding US securities**, please also fill in a **W8 or W9 Form**.

### How will the information provided in this document be used by the Bank?

- **Identifying the Beneficial Owner is a legal obligation that helps to prevent money laundering and combat the financing of terrorism;**
- **Depending of the FATCA-CRS self-certified status**, the information provided in this form **can also be used for the reporting obligations** the Bank must fulfill;
- For this reason, it is of the utmost importance to complete this **Beneficial Owner Form** accurately and keep the bank informed in case of any change related to the data required in this document.

### What are the main points of attention when filling in the form?

- Complete all the requested sections of the form and enclose a certified copy of both sides of a valid identity document of each person mentioned and enclose a structure chart of your Beneficial Owner(s) as defined in the hereafter;
- When identifying the Beneficial Owner(s), it is necessary to continue the chain of ownership: identification should only cease when the **Beneficial Owner is identified as a private individual**.
- Please note that there may be one or more Beneficial Owner(s);
- As a financial institution, **we are not allowed to give tax advice**. Your tax advisor may assist you in completing this form or in determining your tax residence.

- **For more detailed information please refer to the Glossary.**
- **Please contact your relationship manager should you have any questions.**

Entity name: \_\_\_\_\_ (Ref.) Client number: \_\_\_\_\_

**I. IDENTIFICATION OF THE CLIENT**

A. Legal name

B. Country of incorporation

C. Permanent registered address

Number, Street	<input style="width: 90%; height: 20px;" type="text"/>	<input style="width: 98%; height: 20px;" type="text"/>
Postal code, City	<input style="width: 90%; height: 20px;" type="text"/>	<input style="width: 6%; height: 20px;" type="text"/>
Country	<input style="width: 98%; height: 20px;" type="text"/>	

**D. Tax Residence**

Please provide below **ALL** countries in which the entity is a resident for tax purposes and the associated Taxpayer Identification Number.

Country of Tax Residence	Taxpayer Identification Number (TIN)*
<input style="width: 98%; height: 100%;" type="text"/>	<input style="width: 98%; height: 100%;" type="text"/>
<input style="width: 98%; height: 100%;" type="text"/>	<input style="width: 98%; height: 100%;" type="text"/>

*\*In case a TIN is 'Applied For', it must be provided within 90 days.*

**E. US Person**

The Client is a U.S. Person according to the FATCA Agreement.

Please indicate the U.S. TIN :   -

The Client is not a U.S. Person according to the FATCA Agreement.

**II. FATCA AND CRS STATUSES (one box per column)**

**FATCA    CRS**

Reporting Financial Institution. For FATCA -   
Global Intermediary Identification Number(GIIN\*):

Non-Reporting Financial Institution - Please specify

If you are a FATCA Sponsored Entity, please indicate your own GIIN; if you not have one then indicate the GIIN of the Sponsoring Entity

- Investment entity resident in a non-CRS jurisdiction and managed by another FI
- Active NFE/NFFE - Operating company (definition: « Active NFE/NFFE » point (a) in Glossary)
- Active NFE/NFFE - Non-financial group entity (definition: « Active NFE/NFFE » point (b) in Glossary)
- Active NFE/NFFE - Other. (definition: « Active NFE/NFFE » points (c), (d), (e) and (f) in Glossary)

Please specify :

- Passive NFE/NFFE
- Governmental Entity or International Organisation or Central Bank
- Corporation that is regularly traded or its related entity

Name of the traded company :

In any other case, please also complete a W8 or W9 form.

*\* If a GIIN has been "Applied for", it must be provided within 90 Days.*

Entity name: \_\_\_\_\_

(Ref.) Client number: \_\_\_\_\_

**III. IDENTIFICATION OF THE BENEFICIAL OWNER(S) (as applicable, see Part 1 in the Glossary)**

**III.1. incl. Shareholder(s)/Controlling Person(s)/Senior Managing Official(s) (excl. trusts, foundations or similar legal arrangements in the structure)**

N°	Type of Control (one type per box)	Name, First Name, Date, Place and Country of Birth (private individual)	Complete Legal Residence & Email Address	All Countries of Tax Residence and US Person		Taxpayer Identification Number (TIN) (**)
				Country	Since(*)	
1.	<input type="checkbox"/> Total direct & indirect ownership of _____ % <b>AND/OR</b> <input type="checkbox"/> Control through other means. <i>Nature of the control</i> (e.g. through a voting rights or a nominee shareholder agreement) : _____  <b>If none of the above is applicable, then please fill in hereunder</b> <input type="checkbox"/> Senior Managing Officials. <i>Function in the Company</i> : _____				<input type="checkbox"/> >2years <input type="checkbox"/> <2 years	
				<input type="checkbox"/> >2years <input type="checkbox"/> <2 years		
2.	<input type="checkbox"/> Total direct & indirect ownership of _____ % <b>AND/OR</b> <input type="checkbox"/> Control through other means. <i>Nature of the control</i> (e.g. through a voting rights or a nominee shareholder agreement) : _____  <b>If none of the above is applicable, then please fill in hereunder</b> <input type="checkbox"/> Senior Managing Officials. <i>Function in the Company</i> : _____				<input type="checkbox"/> >2years <input type="checkbox"/> <2 years	
				<input type="checkbox"/> >2years <input type="checkbox"/> <2 years		
3.	<input type="checkbox"/> Total direct & indirect ownership of _____ % <b>AND/OR</b> <input type="checkbox"/> Control through other means. <i>Nature of the control</i> (e.g. through a voting rights or a nominee shareholder agreement) : _____  <b>If none of the above is applicable, then please fill in hereunder</b> <input type="checkbox"/> Senior Managing Officials. <i>Function in the Company</i> : _____				<input type="checkbox"/> >2years <input type="checkbox"/> <2 years	
				<input type="checkbox"/> >2years <input type="checkbox"/> <2 years		

**In my capacity as Beneficial Owner (including the 3 categories as defined in the "Type of control")**, by signing this form, I expressly confirm having read and approved the data protection provisions provided in **section VI** of this form and I undertake to promptly inform the Bank within 30 days of any change that might occur to the information contained in this form.

**In my capacity as Beneficial Owner**, and with regard to my personal tax obligations, I acknowledge that I am the only person responsible for the analysis of the reporting requirements in terms of disclosure made or to be made to the tax authorities in my country(ies) of tax residence and in any other jurisdiction (as may be applicable in my case), i.e. with regard to the income attributable to me by the Client from, or assets invested by me in, the Client's accounts known in the bank's books. In order to determine the scope of my obligations, it is therefore my responsibility to obtain any assistance from a qualified advisor if I believe this to be necessary. I hereby certify to be fully compliant with those reporting requirements. I understand that in accordance with the General Terms and Conditions of the Bank, any failure in the reporting requirements relating to the abovementioned assets or income can result in the bank unilaterally terminating the present business relationship.

**The personal data provided to the Bank will be processed in accordance with the Bank's applicable General Terms and Conditions and the Privacy Statement of the Bank available on its website.**

(\*) Only to be filled in if the Beneficial Owner is a tax resident in Luxembourg. (\*\*) Please indicate "N/A" if your country of tax residence does not issue a TIN or "Applied for" if you have applied for a TIN and provide it within 90 days.

Signature n° 1	Signature n° 2	Signature n° 3
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Entity name: \_\_\_\_\_ (Ref.) Client number: \_\_\_\_\_

III. IDENTIFICATION OF THE BENEFICIAL OWNER(S) (as applicable, see Part 1 in the Glossary)						
III.2. If the Client is a trust or a similar legal arrangement OR if a trust or a similar legal arrangement is part of the direct or indirect ownership structure						
N°	Type of Control (one type per box)	Name, First Name, Date, Place and Country of Birth (private individual)	Complete Legal Residence & Email Address	All Countries of Tax Residence and US Person		Taxpayer Identification Number (TIN) (**)
				Country	Since (*)	
1.	<input type="checkbox"/> Settlor or Founder (or equivalent) <input type="checkbox"/> Trustee(s) or Foundation board (or equivalent) represented by : _____				<input type="checkbox"/> >2years <input type="checkbox"/> <2 years	
	<input type="checkbox"/> Protector (or equivalent) <input type="checkbox"/> Beneficiary (or equivalent) <input type="checkbox"/> Other. <i>Nature of the control</i> : _____				<input type="checkbox"/> >2years <input type="checkbox"/> <2 years	
2.	<input type="checkbox"/> Settlor or Founder (or equivalent) <input type="checkbox"/> Trustee(s) or Foundation board (or equivalent) represented by : _____				<input type="checkbox"/> >2years <input type="checkbox"/> <2 years	
	<input type="checkbox"/> Protector (or equivalent) <input type="checkbox"/> Beneficiary (or equivalent) <input type="checkbox"/> Other. <i>Nature of the control</i> : _____				<input type="checkbox"/> >2years <input type="checkbox"/> <2 years	
3.	<input type="checkbox"/> Settlor or Founder (or equivalent) <input type="checkbox"/> Trustee(s) or Foundation board (or equivalent) represented by : _____				<input type="checkbox"/> >2years <input type="checkbox"/> <2 years	
	<input type="checkbox"/> Protector (or equivalent) <input type="checkbox"/> Beneficiary (or equivalent) <input type="checkbox"/> Other. <i>Nature of the control</i> : _____				<input type="checkbox"/> >2years <input type="checkbox"/> <2 years	

**In my capacity as Beneficial Owner (including the 5 categories as defined in the "Type of control"),** by signing this form, I expressly confirm having read and approved the data protection provisions provided in **section VI** of this form and I undertake to promptly inform the Bank within 30 days of any change that might occur to the information contained in this form.

**In my capacity as Beneficial Owner,** and with regard to my personal tax obligations, I acknowledge that I am the only person responsible for the analysis of the reporting requirements in terms of disclosure made or to be made to the tax authorities in my country(ies) of tax residence and in any other jurisdiction (as may be applicable in my case), i.e. with regard to the income attributable to me by the Client from, or assets invested by me in, the Client's accounts known in the bank's books. In order to determine the scope of my obligations, it is therefore my responsibility to obtain any assistance from a qualified advisor if I believe this to be necessary. I hereby certify to be fully compliant with those reporting requirements. I understand that in accordance with the General Terms and Conditions of the Bank, any failure in the reporting requirements relating to the abovementioned assets or income can result in the bank unilaterally terminating the present business relationship.

**The personal data provided to the Bank will be processed in accordance with the Bank's applicable General Terms and Conditions and the Privacy Statement of the Bank available on its website.**

(\*) Only to be filled in if the Beneficial owner is a tax resident in Luxembourg. (\*\*) Please indicate "N/A" if your country of tax residence does not issue a TIN or "Applied for" if you have applied for a TIN and provide it within 90 days.

Signature n° 1	Signature n° 2	Signature n° 3
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Entity name: \_\_\_\_\_ (Ref.) Client number: \_\_\_\_\_

**IV. IDENTIFICATION OF THE POLITICALLY EXPOSED PERSON(S) (“PEP”)\***

Tick this box if at least one of the people mentioned in this form (i.e. the Client, the Beneficial Owner, authorized representative(s) of the Client, contact person who is familiar with the beneficial owners) and their family member(s) is a “Politically Exposed Person” (PEP) (for more details: Part 1 point 3 of the Glossary).

Name and first name	Status <i>(refer to “a-b-c” categories as described in the Glossary)</i>	Mandate

**V. CONTACT PERSON WHO IS FAMILIAR WITH THE BENEFICIAL OWNER(S)**

Depending on the answers provided on this form, an ING employee may contact you for further information concerning your Beneficial Owner(s)

Name and first name, function of the Contact Person	Telephone number	E-mail Address

**VI. DECLARATION & SIGNATURES**

**Data protection provisions**

All signatories on this form declare and warrant to the Bank to consent and/or to have obtained the prior consent from each individual mentioned in this form to have their personal data mentioned in this form.

The signatories, acting on their behalf and for the account of the other individuals mentioned in the form, declare to be informed by the Bank that pursuant to FATCA<sup>1</sup> and/or the CRS (AEFAI)<sup>2</sup> laws:

<sup>1</sup> FATCA law dated 24 July 2015, published in the Mémorial A - N° 145 on July 29, 2015, as amended from time to time  
<sup>2</sup> Automatic Exchange of Financial Account Information in Tax Matters law dated 18 December 2015, published in the Mémorial A - N° 244 on December 24, 2015, as amended from time to time, known as well as CRS (Common Reporting Standard)

Entity name: \_\_\_\_\_ (Ref.) Client number: \_\_\_\_\_

- the Bank is responsible for collecting the personal data provided in this form; the signatories are therefore required to fill this form correctly and completely, and to answer any additional related questions; an incomplete or incorrect answer might trigger an unnecessary or incorrect reporting to the competent foreign tax authorities of a country to which a declaration is mandatory;
- this information and data will be processed in accordance with these laws and for the appropriate period of time applicable under these laws and under the relevant data protection legislation in force in Luxembourg;
- this data and financial information are likely to be disclosed by the Bank to the Luxembourg tax authorities which may in their turn transfer this data and financial information to the competent foreign tax authorities of a country to which a declaration is mandatory, including the relevant US tax authorities; and
- each individual has a right of access and rectification of the data transmitted to the Luxembourg tax authorities.

In addition, the personal data provided to the Bank will be processed in accordance with the Bank's applicable General Terms and Conditions. Individuals have a right of access, rectification, and blocking that may be used as provided therein and in the Privacy Statement of the Bank available on its website.

**As a representative(s) authorized to sign on behalf of the Client, I/we declare:**

- that to the best of (my)(our) knowledge and belief, the information on this form is correct and complete. In particular, (I)(we) confirm that the Client is not a tax resident in any other country than the one(s) listed in this form.
- to undertake, vis-à-vis the Bank, to respect all declarative tax obligations to the relevant authorities in the country(countries) in which the Client is tax resident, and, where required, commit(s) to paying all taxes and fees relating to all and any assets and incomes deposited at and/or held at and/or managed by the Bank.
  - if and when applicable, to undertake to comply with the Client's obligations relative to the Register of Beneficial Owners regulation in force.
  - if and when applicable, that the information on this form is consistent with the one registered with the Register of Beneficial Owners, pursuant to the Register of Beneficial Owners regulation in force in the country in which the Client has its registered address.
- to undertake to notify the Bank in writing within 30 days of any change of circumstances occurring, which may cause any of the declarations in this form to be inaccurate or incomplete. Failing to do so, the undersigned may be held liable for any and every consequence of such changes.

**Signature(s) of authorized representative(s)**

If the representative authorized to sign is jointly authorized, please have this form signed by at least two of the jointly authorized representatives.

Place  Date :

First name and last name :  -

Signatures: \_\_\_\_\_

# Glossary

## Part I Anti-money laundering & Counter terrorism financing (AML/ CTF) : Definitions

### 1. **Beneficial Owner**

**Beneficial Owner** means any natural person(s) who ultimately owns and/or controls the Client or any natural person(s) on whose behalf a transaction or an activity is being conducted and includes at least:

**If the Client is a company, a legal entity or a legal construction (excluding trust and similar legal arrangements)**

→ please complete Part III.1. of this document

#### a) **Direct & Indirect Ownership (Examples 1 & 2 in the Glossary)**

Any natural person(s) who ultimately owns a legal entity through direct or indirect ownership of more than 25 % of the shares or through an ownership interest of more than 25 % in that entity including through bearer shareholdings.

#### b) **Control through other means (Examples 3 & 4 in the Glossary)**

Any natural person(s) who ultimately control(s) the legal entity through sufficient percentage of the shares or voting rights or ownership interest. Control through other means also includes the notion of indirect control which may extend beyond legal ownership or could be through a chain of corporate vehicles and/or through intermediaries and/ or nominee shareholders. This indirect control can be identified through various means, such as shareholders' agreement, exercise of dominant influence or power to appoint senior management, as well as participation in the financing of the legal entity (especially if a company defaults on certain payments and this results in transfer of control), or because of close and intimate family relationships, historical or contractual associations. Control may be presumed even if control is never actually exercised (such as using, enjoying or benefiting from the assets owned by the legal person). For the avoidance of doubt, it shall be noted that in the particular case of nominee shareholders, who appear as the registered owner of a legal entity but who are holding the shares on behalf of another person (pursuant to a custodial or nominee shareholder agreement or more informally due to a close family or other relationship) such other person qualifies as beneficial owner by control through other means and has to be identified as such. As a consequence, the actual shareholders who directly or indirectly own the nominee shareholder being a legal entity do not qualify as beneficial owners in that particular case.

**There may be cases where no natural person is identifiable who ultimately owns and/or exerts control over a legal entity. In such exceptional cases, the Client, having exhausted all other means of identification, and provided there are no grounds for suspicion, may consider the Senior Managing Official(s) to be the Beneficial Owner(s).**

#### c) **Senior Managing Officials (Example 5 in the Glossary)**

Any natural person(s) responsible for strategic decisions that fundamentally affect the business practices or general direction of the legal entity and any natural person(s) who exercises executive control over the daily and regular business of the legal entity through a senior management position, such as Director, Chief Executive Officer (CEO), Chief Financial Officer (CFO), managing or executive director, or president.

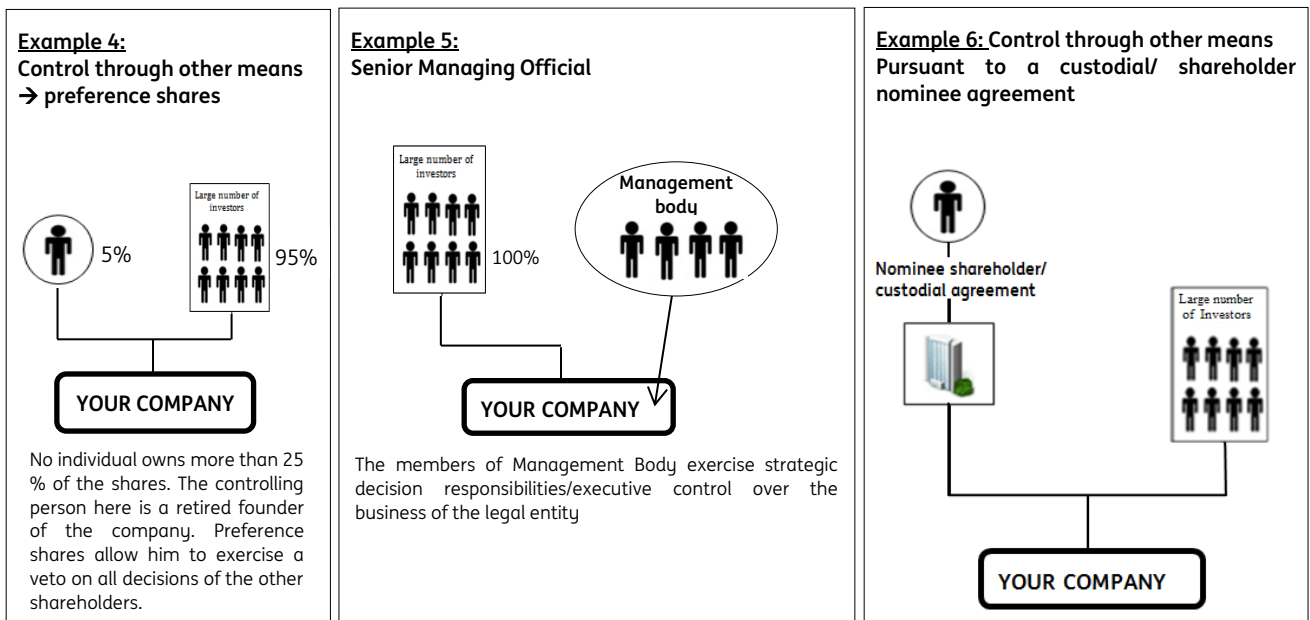
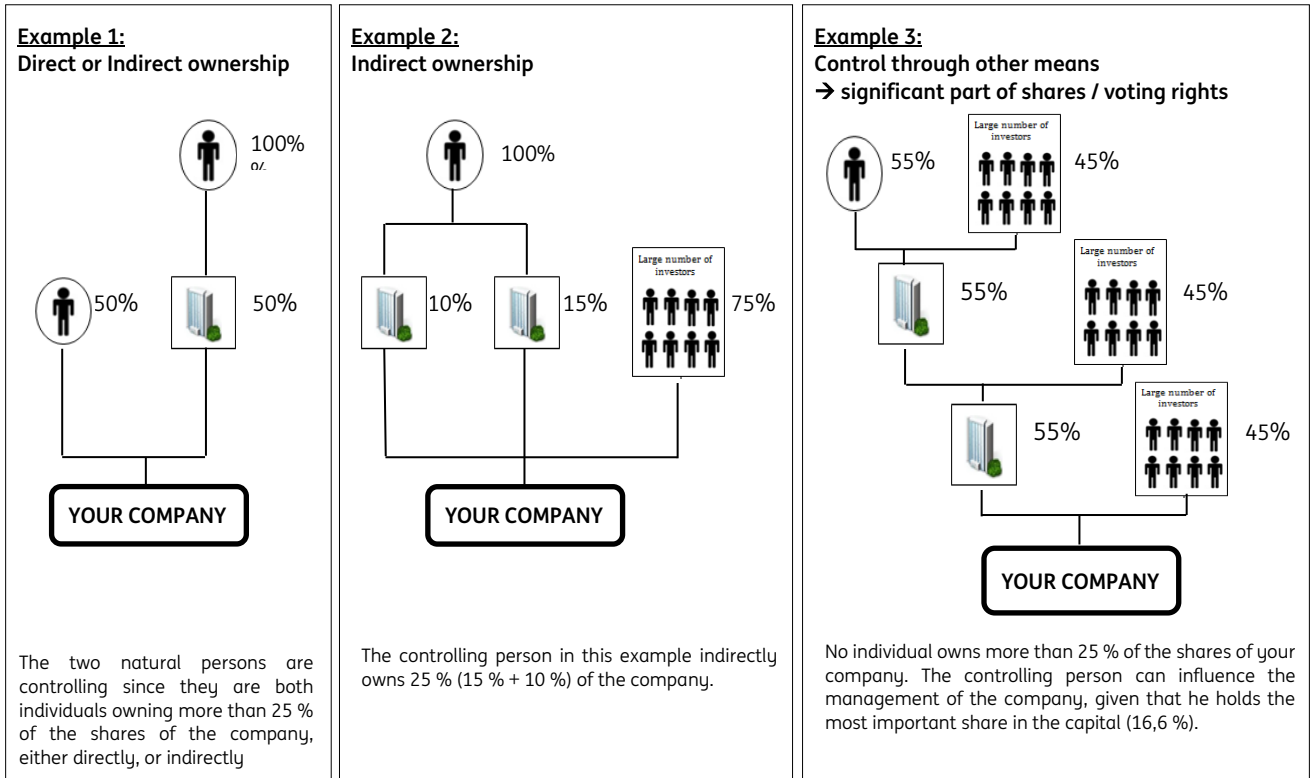
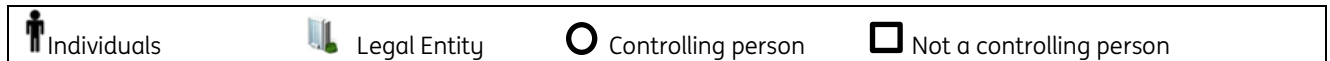
**If the Client is a trust or a similar legal arrangement OR if a trust or a similar legal arrangement is part of the direct or indirect ownership structure**

→ please complete III.2. of this document

- a) **In case of trust**, Beneficial Owner(s) mean the **settlor**, the **trustee(s)**, the **protector (if any)**, the **Beneficiaries** regardless of whether or not any of them exercises control over the Trust, **or** where the individuals benefiting from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates, and **any other natural person** exercising ultimate control over the trust by means of direct or indirect ownership or by other means.
- b) **In case of similar legal arrangement** such as foundation, etc., Beneficial Owner(s) means each natural person(s) holding equivalent or similar positions to those referred here above.
- c) **If the above mentioned counterparties are entities**, the Beneficial Owner(s) means any individual having a control over them.

## 2. Non exhaustive examples of Beneficial Owner(s) definition

Non-exhaustive examples of the Beneficial Owner(s) / Controlling Person (s) definition





### 3. **Politically Exposed Person (“PEP”)**

#### a) **Politically Exposed Person (“PEP”)**

PEP means a natural person who is or who has been entrusted with prominent public functions in the course of the past year, Family Members of a PEP (cf. (b) below) or Persons known to be close associates of PEP (cf. (c) below). Prominent public functions : *Heads of State, heads of government, ministers and deputy or assistant ministers / members of parliament or of similar legislative bodies / members of the governing bodies of political parties / members of supreme courts, of constitutional courts or of other high-level judicial bodies, the decisions of which are not subject to further appeal, except in exceptional circumstances / members of courts of auditors or of the boards of central banks / ambassadors, “Chargés d'affaires” and high-ranking officers in the armed forces / members of the administrative, management or supervisory bodies of State-owned enterprises / directors, deputy directors and members of the board or equivalent function of an international organisation.* No public function referred to the previous categories shall be understood as covering middle-ranking or more junior officials.

#### b) **Family Members of a “PEP”**

With the reference to the AML Law in Luxembourg of 12 November 2004, as amended, the following persons may be viewed as family members (the list is non-exhaustive): the spouse, or a person considered to be equivalent to a spouse, of a politically exposed person / the children and their spouses, or persons considered to be equivalent to a spouse, of a politically exposed person/ the parents of a politically exposed person, brothers and sisters of a politically exposed person.

#### c) **Persons known to be close associates of “PEP”**

Any natural persons who are known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a Politically Exposed Person / Any natural persons who have sole beneficial ownership of a legal entity or legal arrangement which is known to have been, de facto, set up for the benefit of a politically exposed person.

## Part II FATCA-CRS : Definitions

These definitions are based on the OECD Common Reporting Standard for the Automatic Exchange of Financial Account Information (“The Common Reporting Standard” or “CRS”) and the FATCA Intergovernmental Agreement concluded between Luxembourg and the United States for FATCA purposes.

**If you have any questions about these definitions or require further details, please contact your tax advisor.**

#### **“CRS”**

The Common Reporting Standard (CRS) is a standard proposed by the OECD with the objective of developing a system for the automatic exchange of information in order to guarantee greater fiscal transparency. The CRS was adopted by the European Union through the Directive regarding the mandatory automatic exchange of information in the field of taxation (Directive 2014/107/EU), also known as “DAC 2”. The Directive has been transposed into Luxembourg law (law voted on 9 December 2015).

#### **“CRS Jurisdiction”**

A CRS jurisdiction is a jurisdiction that signed a Competent Authority Agreement. It includes all European Union Member States (by application of Directive 2014/107/UE).

#### **“Non-Participating CRS Jurisdiction”**

This term refers to a Jurisdiction that is not a EU Member State and that has not concluded an agreement on the automatic exchange of financial information.

#### **“Financial Institution”**

The term “Financial Institution” means a “Depository Institution”, a “Custodial Institution”, an “Investment Entity”, or a “Specified Insurance Company”, as defined below:

- The term **“Depository Institution”** means any Entity that accepts deposits in the ordinary course of a banking or similar business.

- The term “Custodial Institution” means any Entity that holds, as a substantial portion of its business, Financial Assets on behalf of others.
- The term “Investment Entity” means any Entity:
  - a) which primarily conducts one or more of the following activities or operations for or on behalf of a customer:
    - i) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; foreign exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
    - ii) individual and collective portfolio management; or
    - iii) otherwise investing, administering, or managing Financial Assets or money on behalf of other persons;
  - b) 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 an Investment Entity.

An investment entity includes an entity that functions as an investment fund, such as private equity fund, venture capital fund, leverage 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 investments purposes.

- The term “Specified Insurance Company” means any Entity that is an insurance company (or the holding company of an insurance company) which issues a Cash Value Insurance Contract or an Annuity Contract.

#### “Reporting Financial Institution”

Under FATCA, this term refers to an institution that has registered with the US Internal Revenue Service (IRS). Every Reporting Financial Institution obtains a Global Intermediary Identification Number (“GIIN”).

Under CRS, it corresponds to a FI that does not qualify as a Non-Reporting FI.

#### “Non-Reporting Financial Institution”

Under FATCA, it means a Financial Institution, or other Entity resident in a jurisdiction having signed an Inter-Governmental Agreement (IGA) with the US which is described in the Annex II of the IGA as a Non-Reporting Financial Institution or referred to as Deemed-Compliant FFI (Foreign Financial Institution) under the US Treasury Regulations.

Under CRS, the term “Non-Reporting Financial Institution” means any Financial Institution which is:

- a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; a Pension Fund of a Public Entity, International Organisation or Central Bank; or a Qualified Credit Card Issuer;
- any other Entity that presents a low risk of being used to evade tax, included in the list of Non-Reporting Financial Institutions published in the Official Journal of the European Union (OJ);
- an Exempt Collective Investment Vehicle which generally refers to an Investment Entity that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle are held by or through individuals or Entities that are not Reportable Persons, except a Passive NFE/NFFE with Reportable Controlling Persons; or
- a trust to the extent that the trustee of the trust is a Reporting Financial Institution and reports all information required to be reported with respect to all Reportable Accounts of the trust.

#### “Investment entity resident in a non-CRS jurisdiction and managed by another Financial Institution”

This term refers to an Investment entity that is not a participating Jurisdiction Financial Institution, whose gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets. The Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or another Investment Entity.

#### “NFE” or “NFFE”

Means “Non-Financial Entity” under CRS or “Non-Financial Foreign Entity” under FATCA and corresponds to any Entity that is not a Financial Institution nor a US person.

#### “Active NFE” or “Active NFFE”

The term “Active NFE” or “Active NFFE” means, notably, any NFE/NFFE that meets any of the following criteria:

- a) Active operating company:

A company that generates 50% or more of its gross income from active operations (as opposed to investments), and less than 50% of the assets held by the entity during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income. A Financial Institution is not an active operating company.

b) Holding or financing company of a non-financial group:

Substantially all of the activities of the NFE/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, except that an Entity does not qualify for this status if the Entity functions 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.

c) Start-up companies:

The NFE/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 NFE/NFFE does not qualify for this exception after 24 months following the date of its incorporation.

d) Entity in liquidation or reorganization:

The NFE/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.

e) Treasury centre of a non-financial group:

The NFE/NFFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution.

f) Non-profit NFE/NFFE.

If the NFE/NFFE does not fulfil any of the above requirements, the entity is considered a Passive NFE/NFFE.

### **“Passive NFE” / “Passive NFFE”**

Under the CRS a “Passive NFE” means any: (i) NFE that is not an Active NFE; or (ii) an Investment Entity in a non CRS Jurisdiction.

Under FATCA, a “Passive NFFE” means any NFFE that is not (i) an Active NFFE, or (ii) a withholding foreign partnership or withholding foreign trust pursuant to relevant U.S. Treasury Regulations.

### **“Passive income”**

Passive income generally includes a portion of gross income that consists of:

- a) dividends and dividend substitute payments;
- b) interest and income equivalent to interest;
- c) rents, royalties and annuities;
- d) the excess of gains over losses from the sale or exchange of Financial Assets that gives rise to the passive income as described previously;
- e) the excess of gains over losses from transactions (including futures, forwards, options, and similar transactions) in any Financial Assets;
- f) the excess of foreign currency gains over foreign currency losses;
- g) net income from swaps; or
- h) amounts received under Cash Value Insurance Contracts.

Notwithstanding the foregoing, passive income will not include, in the case of a NFE/NFFE that regularly acts as a dealer in Financial Assets, any income from any transaction entered into in the ordinary course of such dealer’s business as such a dealer.

### **“Publicly listed company”**

The stock of the NFE/NFFE is traded on a regulated financial market or the NFE/NFFE is a Related Entity of an entity the stock of which is traded on a regulated financial market.

### **“Related Entity”**

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

## “Governmental Entity”

Any entity that is the government of a jurisdiction, any political subdivision of a jurisdiction (which includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of a jurisdiction or of any one or more of the foregoing. This definition is comprised of the integral parts, controlled entities, and political subdivisions of a jurisdiction. Integral part means any person, organisation, agency, bureau, fund, instrumentality, and other body, however designated, that constitutes a governing authority of a jurisdiction and does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity. Controlled entity means an entity that is separate in form from the jurisdiction or that otherwise constitutes a separate juridical entity, provided that:

- the entity is wholly owned and controlled by one or more 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 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 governmental entities upon dissolution.

## “International Organisation”

Any international organisation or wholly owned agency or instrumentality thereof which includes any intergovernmental organisation (1) that is comprised primarily of governments; (2) that has in effect a headquarters or substantially similar agreement with the jurisdiction; and (3) the income of which does not inure to the benefit of private persons.

## “Disregarded Entity”

A “disregarded entity” is considered by IRS as fiscally transparent and is held 100% by a sole owner.

## “Reportable Person”

Any person that is a tax resident outside Luxembourg or any US person.

## “US Person”

Under FATCA, the term US person means a US citizen or resident individual, a partnership or corporation organized or composed in the United States.

## “Tax resident”

A person is always a tax resident in at least one country.

An entity is a Tax Resident in a jurisdiction when it is considered a resident under a tax law of that jurisdiction and when it pays taxes to said jurisdiction. The concept of tax residency may differ from jurisdiction to jurisdiction.

Common international criteria that may be factored into tax residency include:

- domicile in a jurisdiction; OR
- place of incorporation/organisation; OR
- nationality.

It should be noted that a temporary stay in a jurisdiction can contribute to tax residency. Further, it is possible to be considered a Tax Resident in more than one jurisdiction. Government officials, diplomats and military personnel are generally Tax Residents in their home jurisdiction. The current determination of the tax residency is established on the basis of the local tax legislation.

You can look up the conditions in the local legislation or on the following website:

[www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/](http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/)

Legal arrangements and tax residency:

An entity such as a legal arrangement, that has no residence for tax purposes (transparent entity) is a tax resident for CRS purposes in the jurisdiction in which its place of effective management is located. If there is no central administration, the address of its principal office can serve as a proxy for determining residence.

**We are not allowed to provide tax advice to determine a client’s tax residence.** Please consult a tax advisor if you are not sure about your tax residence.

## “TIN”

The ‘Taxpayer Identification Number’ (TIN) is the taxpayer identification number for tax administration purposes.

If the country of tax residence does not issue a TIN, please indicate a Functional Equivalent.

You can find more information regarding Taxpayer Identification Numbers at [www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/](http://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-identification-numbers/)

## “Functional equivalent”



While many jurisdictions utilize a TIN for taxation purposes, some jurisdictions do not issue a TIN. However, these jurisdictions often utilize some other high-integrity number with an equivalent level of identification (a “functional equivalent”).

Examples of that type of number include, for entities, a business/company registration code/number.

**Further information:**

OECD website dedicated to the automatic exchange of financial information:

<http://www.oecd.org/tax/automatic-exchange/>

FATCA in Luxembourg:

[http://www.impotsdirects.public.lu/echanges\\_electroniques/FATCA](http://www.impotsdirects.public.lu/echanges_electroniques/FATCA)

ING websites:

[www.ing.lu/crs](http://www.ing.lu/crs)

[www.ing.lu/fatca](http://www.ing.lu/fatca)