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## OBJECTIVE

These Instructions have been designed as a support tool for the Business Area in the process of customer linkage, in order to comply with the provisions of the Foreign Tax Account Compliance Act ("FATCA") and Common Reporting Standard ("CRS").

Collect all the necessary information for the proper identification of American taxpayers for FATCA purposes and the corresponding verification of the data and documentation provided by the client in the linkage process.

Have available all necessary customer information and documentation to identify U.S. taxpayers.

### Person who must complete and sign the FATCA/CRS/AEIO Questionnaire Legal Entity


- The Legal Representative or the person authorized for such purpose.
  - How is the Legal Representative identified?

#### 1. Companies:

**1.1 Panama:** President of the corporation, unless the Articles of Incorporation provide otherwise; if the Legal Representative is not present at that time, the attorney-in-fact signs it, provided he/she is authorized to that effect by a power of attorney granted by the Board of Directors of the Legal Entity.

**1.2 Venezuela:** Legal Representative, President, Director or Attorney-in-Fact (request General Power of Attorney) according to what is stated in the Articles of Incorporation.

**1.3 Companies Other Jurisdictions:** (British Virgin Islands "BVI", Caribbean Islands, United States of America "USA", Asia); Legal Representative, President, Director or Power of Attorney designated in the Articles of Association or Memorandum of Understanding (USA, BVI and other Caribbean islands belonging to the British Commonwealth); for the other jurisdictions in the constitutive document, Board of Directors or power of attorney as the case may be.

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## 2. Private Interest Foundations\*):

**2.1 Panama:** President of the founding council or a member thereof according to the founding charter.

**2.2 Venezuela:** Founder, according to the registration act of the foundation.

**2.3 Other Jurisdictions:** Founder or member of the foundation designated in the foundation's articles of incorporation.

**\*It is not common but the Legal Representative of the Foundation can be the protector.**

**3. Trust:** The Trustee as the Legal Representative of the Trust regardless of the jurisdiction of the Trust.

### Instructions for Completing the FATCA/CRS/AEIO PJ Questionnaire:

- Legal Entity Data (Fields 1 and 2):**


|   |  |   |
|---|--|---|
| 1 | Provide the legal name of the account holder ( <b>Do not abbreviate</b> ).   |   |
| 2 | Type of account holder:<br>Private Foundation                      Corporation Private Foundation<br>Trust type _____                      Unrelated Entity<br>Tax Exempt Organization                      Governmental Entity<br>Civil Society:                      Other Specify:<br>_____ | Primary activity of the account holder? |

✓ **Field 1:** Account Holder means Name or Company Name of the Legal Entity.

✓ **Field 2:** Only one option should be checked or specify if there is another option and a brief description of the company's purpose.

- Supporting documentation (Corporate).**

- Articles of Incorporation with the seal of registration in the Public Registry and its main amendments for foreign companies the equivalent documents such as: For foreign companies the equivalent documents. Example for foreign companies: Articles

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of Incorporation or Registration "Articles of Association or Memorandum of understanding and Certificate of Good Standing" the Articles of Incorporation and its updates (Venezuela).


- Certificate of Public Registry (For foreign companies the equivalent documents).

- **Personal Identification Document**

- **Copy of the complete Passport of the following persons:** a) Of those shareholders who have 10% or more of shareholding; b) of the beneficial owners who have participation in the company of the Account Holder through upstream companies and who represent 10% or more of control over the account holder; and c) Legal representative, Directors, President and/or attorney-in-fact who have significant influence in the management of the assets that make up the trading account.
- **For Trusts:** Copy of the complete Passport of the Settlor if it is beneficiary of the Trust and any other Beneficiary of the Trust. Also copy of the complete passport of the officers and shareholders of the Trustor or beneficiary of the Trust if it is a Legal Entity.
- **For Foundations (including Private Interest Foundations):** copy of the complete passport of the following persons: a) Founder, b) Beneficiaries of the Foundation; c) Members of the Foundation Council and d) Protector if appointed (Person who normally administers and controls the assets of the Foundation by express mandate contained in the Foundation Charter).

#### **Bearer Shares Company**

- Minutes of the Board of Directors of the Company authorizing that the company is under the custody regime, with its due registration in the Public Registry; and
- Custodian's Affidavit listing all shareholders with more than 10% shareholding (Full name; ID number, Nationality, Position, Percentage of shareholding).

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- Complete copy of the passport, if foreign, of the shareholders with more than 10% of the shares, Legal Representative, Directors with significant influence, President, Attorneys-in-fact, Beneficial Owner, Signatories, and the natural person or persons exercising control or significant influence over the company.

✓ **Fields 6-18**

- You must answer all questions 6-18 YES/NO
- Basic concepts, Passive Income: are rents or other income from activities or businesses in which there is no material participation of the taxpayer or account holder.
- NF Account: This would be an account for providing products/services.

✓ **Fields 16-31**

- If the Account Holder answers yes to the question in field 9, he/she must complete fields 16- 31.
- If more than 4 persons control the company, you must print another questionnaire, and fill only the fields 16-31, which must be signed by the Legal Representative.

✓ **Field 32**

- Insert the name of the Legal Representative or whoever is acting on his or her behalf.

✓ **Field 33**


- Include American taxpayers who own 10% or more of the shares of a legal entity.

✓ **Field 34**

- If the Account Holder answered yes to the question in field 33, field 34 must be completed and a certificate of shares or copy of the shareholder's book for legal entities registered in foreign jurisdictions must always be requested.

#### **FATCA/CRS/AEIO Questionnaire Legal Entity**

- ❖ It must always be accompanied by the certification FATCA/CRS/AEIO Questionnaire Legal Entity and signed by the Legal Representative or whoever is acting in his or her stead.

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## GLOSSARY OF TERMS:

➤ **Foreign Account Tax Compliance Act (FATCA)** - the Foreign Account Tax Compliance Act is the new Chapter IV of the Internal Revenue Code (IRC) as amended by Public Law 111-147; its purpose is to identify and report *U.S. taxpayers* who are *beneficial owners* of foreign *financial assets*.

➤ **Common Reporting Standard (CRS)** - is an initiative of the Organization for Economic Cooperation and Development (OECD) that could be translated as the Common Reporting Standard. This standard aims to combat global tax evasion by monitoring and reporting the "tax nationality" of those who control passive entities. The implementation of CRS is based on the signing of bilateral and multilateral agreements.

➤ **U.S. Person** - a natural or juridical person, U.S. or non-U.S., who under U.S. law is considered a U.S. taxpayer and must be taxed in that country on income earned in passive or active transactions carried out inside or outside the U.S.


➤ **Intergovernmental Agreement (IGA)** - the Intergovernmental Agreement is the agreement that is executed between the local government and the U.S. government and establishes how information would flow from the reporting entity to the U.S. authorities (Model 1 or Model 2), the exempt entities and products, and lifts confidentiality for the information to be reported.

➤ **Foreign Financial Institution (FFI)** - a Foreign Financial Institution is primarily one that manages third party financial assets and is subject to FATCA - banks, trust companies, securities firms, pension funds, mutual funds, and insurance companies. Under CRS this concept is known as a Financial Institution (FI).

➤ **Non-Financial Foreign Entity (NFFE)** - a Non-Financial Foreign Entity is any entity that is not a Foreign Financial Institution and is also subject to FATCA. NFFEs that have issued a discretionary power of attorney to a financial professional are classified as FFIs and must meet the same requirements as any other FFI, obtain the services of a FATCA Sponsor that complies with FATCA or obtain Owner Documented Foreign Financial Institution (ODFFI) status from the FFI to which the discretionary power of attorney was issued. Under CRS this concept is known as Non-Financial Entity (NFE).

➤ **Global Intermediary Identification Number (GIIN)** - unique number assigned by the IRS to entities and their affiliates that comply with the registration requirement in the IRS FATCA Portal and are considered as Participating Foreign Financial Institutions (PFFI). FFIs and NFFEs must register and in Economic Groups (EAGs) a lead entity must be designated and the other affiliates would be member entities. The GIIN prefix that will be assigned to each of the entities of the Economic Group will be the same, because it is reported based on the consolidated balances of the client and not the balance held in each entity.

➤ **Non-Participating Foreign Financial Institution (NPFFI)** - a Non-Participating Foreign Financial Institution is a financial institution that is not registered on the IRS FATCA Portal and does not have a GIIN.

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➤ **Recalcitrant** - a natural or legal person who refuses to provide additional information to have his or her status as a U.S. taxpayer corroborated or disregarded.

➤ **Tax Identification Number** - the Taxpayer Identification Number is the generic name used to identify the number assigned to a U.S. taxpayer.

The aforementioned concepts appear in the text of FATCA/CRS, in the FATCA/CRS Explanatory Notes, in this FATCA/CRS Instructions, or in any of the forms that you will have to handle in the FATCA/CRS compliance process.