

## ENTITY TAX DECLARATION

In terms of the Income Tax Act (the Act), we are obliged to collect information related to each investor's tax arrangements to meet the requirements of the Inter-Government Agreement between the Government of the Republic of South Africa (the SA Government) and the Government of the United States of America (the IGA), aimed at improving International Tax Compliance and implementing the Financial Account Tax Compliance Act (FATCA). In addition, the SA Government has committed itself to the an initiative to implement automatic exchange of financial account information on a global basis, which will be undertaken with reference to what is commonly referred to as the OECD Common Reporting Standard. To meet current and future obligations we require that the sections below be completed as directed.

In line with the requirements of the Act from time to time, we may be obligated to report this information, other information collected via the investment application form completed, subsequent updates to such information and information about your accounts/policies to SARS who, in terms of the IGA and any subsequent Inter-government agreements entered into, may share this information with relevant tax authorities.

Terms identified in italics are as defined in the IGA. Where considered appropriate, either the IGA definitions or abbreviated definitions are provided in Appendix A and referred to, or else descriptors for the terms have been included below. For the full IGA definitions refer to the IGA which is available on the South African Revenue Services website at <http://www.sars.gov.za>.

Should any information provided change, please ensure that that we are advised of such change or changes promptly. Should you have any questions about how to complete this form, please contact your tax advisor.

### SECTION 1: INVESTOR

1.1 Investor name: \_\_\_\_\_ (the "Entity")

1.2 Client number: \_\_\_\_\_

### SECTION 2: INVESTOR'S DEMOGRAPHIC DATA AND SPECIFIED US PERSON DECLARATION

2.1 Country of incorporation or organization: \_\_\_\_\_

2.2 Specified U.S. Person: *Please tick either (i) or (ii) below and complete as appropriate.*

- i.  The Entity is a Specified U.S. Person (Refer appendix A) and the Entity's U.S. Federal Taxpayer Identifying number (U.S. TIN) is as follows: *(Complete 2.3 and Section 4).*

U.S. TIN: \_\_\_\_\_

- ii.  The Entity is not a Specified U.S. Person: *(Please complete sections 2.3 onwards as appropriate).*

2.1 Country of Tax Residence:

Please indicate the Entity's country of tax residence or residence's if resident in more than one country, and the associated tax identification numbers (Note: if section 2.2 has been answered in the affirmative that information need not be duplicated here).

Country of tax residence	Tax identification number
_____	_____
_____	_____

**SECTION 3: FATCA CLASSIFICATION FOR ENTITIES THAT ARE NOT A SPECIFIED U.S. PERSON**

**3.1 Is the entity a Financial Institution (FI) (Refer appendix A):**

**Yes** – please complete the section below

**No** – please proceed to section 3.3

If the entity is a FI please tick the appropriate entity classification. For items with a \* provide the entity's *Global Intermediary Identification Number (GIIN)* \* or provide the reason the entity does not have a *GIIN* (Section 3.2). After completion please proceed to Section 4.

A Reporting FI operating in a jurisdiction, including South Africa, that has in effect either a Model 1 or Model 2 IGA agreement with the U.S. to facilitate the implementation of FATCA regulations\*

A Participating FI in a country without an IGA with the U.S. (The FI has entered into an agreement with the US Internal Revenue Services (IRS) to comply with the FATCA regulations)\*

A Registered *Deemed Compliant Financial Institution*  
(The entity has registered in accordance with the FATCA regulations to declare its status)\*

A Certified *Deemed Compliant Financial Institution*  
- an FI not required to register in terms of an IGA or the FATCA regulations

An *Exempt Beneficial Owner* – please specify

A South African Retirement Fund (Registered in terms of Pension Funds Act or established by law)

Any other Retirement Fund / Pension scheme that is an Exempt Beneficial Owner and non-reporting FI in terms of the FATCA regulations or another countries Inter-Government Agreement with the U.S.

A South African *Government Entity* (refer Appendix A)

A South African *International Organisation* (refer Appendix A)

The South African *Central Bank*

An *Investment Entity* wholly owned by one of the above

The FI is a *Non-Participating Foreign Financial Institution*

The Entity is a U.S. person but not a Specified U.S. person - Please specify reason not a specified U.S. Person

(refer Appendix A): \_\_\_\_\_

*GIIN*: \_\_\_\_\_

**3.1 If the Entity is a Financial Institution but cannot provide a GIIN, please indicate reason below and then proceed to section 4:**

i.

(a) Entity has not yet obtained a GIIN but is required to and has applied

(b) Entity has not obtained a GIIN but will be applying for one

Please advise us of the GIIN as soon as you have been issued with one

ii.

The Entity has not yet obtained a GIIN but is sponsored by another entity which does have a GIIN  
Please provide the sponsor's name and sponsor's GIIN:

Sponsor's Name: \_\_\_\_\_ Sponsor's GIIN: \_\_\_\_\_

### 3.3 Non-Financial Institutions

If the Entity is not a Financial Institution, please confirm the Entity's FATCA status below:

- The Entity is an Active Non-Financial Foreign Entity (Active NFFE)  
(Refer Appendix A)
- The Entity is a Passive Non-Financial Foreign Entity (Passive NFFE)\*\*  
(Refer Appendix A)
- The Entity is a U.S. Person that is not a Specified U.S. Person (U.S. Person)  
Please specify reason not a Specified U.S. Person

\_\_\_\_\_ (refer Appendix A):

\*\* - If the Entity is a Passive NFFE, read section 3.4 and complete Appendix B for all controlling persons.

### 3.4 Controlling Persons

Please complete Appendix B for each entity Controlling Person.

The IGA does allow for the term Controlling Person to be interpreted in a manner consistent with the Financial Action Task Force Recommendations", and thus South African Financial Institutions need only look at controlling persons in terms of our FICA regulations. Thus for the purposes of this document they are the following parties:

- i. Companies or entities that would be considered companies if registered in the Republic of South Africa: Any individual or entity that holds an equity interest or voting rights of 25% or more
- ii. A closed corporation: Any member with a 25% interest in the closed corporation
- iii. A partnership: every partner, including every member of a partnership en commandite, an anonymous partnership or any similar partnership as well as:
  - a. the person who exercises executive control over the partnership; and
  - b. each natural person who purports to be authorised to establish a business relationship or to enter into a transaction with the accountable institution on behalf of the partnership.
- iv. A trust: The Trustees, the settlor, the protector (if any) and the beneficiaries

If the entity you represent does not fall into the above categories, you are requested to refer to the definition on Appendix A, and if still unsure you are requested to phone (021) 671 1650 during office hours.

## SECTION 4: DECLARATIONS AND UNDERTAKINGS

I/We declare (as an authorised signatory / signatories of the Entity) that the information provided in this Tax Declaration and in relation to controlling persons if required is, to the best of my/our knowledge and belief, accurate and that the statements made by me / us are true and complete. I/We undertake to advise the recipient promptly, and provide an updated Tax Declaration, where any information contained in this Tax Declaration changes.

Authorised Signature(s):

\_\_\_\_\_

Capacity in which declaration is made:

\_\_\_\_\_

Date: \_\_\_\_\_

## APPENDIX A – DEFINITIONS / SUMMARY DEFINITIONS

*Terms in italics – term per the IGA*

**Controlling Person** – “the natural persons who exercise control over an Entity. In the case of a trust, such term 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”

**Entity** – legal person or legal arrangement (e.g. a trust or partnership)

**Financial Institution** – includes

- *Custodial Institutions*
- Depository Institutions - entities that accept deposits in their normal course of business such as banks
- Any “*Specified Insurance Company*” – “Insurance Company that issues, or is contractually obligated to make payments with respect to, a *Cash Value Insurance Contract* or an *Annuity Contract*,” or the holding company of one.
- “*Investment Entity*” – “any Entity that conducts as a business” or that is managed by a business that conducts as a business) one or more of the following activities or operations for or on behalf of a customer:
  - (1) 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;
  - (2) individual and collective portfolio management; or
  - (3) otherwise investing, administering, or managing funds or money on behalf of other persons”

**FFI** – Foreign (Non U.S.) *Financial Institution*

**South African Governmental Entity.** “The government of South Africa, any political subdivision of South Africa (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of South Africa or any one or more of the foregoing (each, a “South African Governmental Entity”). This category is comprised of the integral parts, controlled entities, and political subdivisions of South Africa.

1. An integral part of South Africa means any person, organization, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of South Africa. The net earnings of the governing authority must be credited to its own account or to other accounts of South Africa, 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.
2. A controlled entity means an Entity that is separate in form from South Africa or that otherwise constitutes a separate juridical entity, provided that:
  - a) The Entity is wholly owned and controlled by one or more South African Governmental Entities directly or through one or more controlled entities;
  - b) The Entity's net earnings are credited to its own account or to the accounts of one or more South African Governmental Entities, with no portion of its income inuring to the benefit of any private person; and
  - c) The Entity's assets vest in one or more South African Governmental Entities upon dissolution.
3. 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.”

**South African International Organization** – “Any international organization or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organization (including a supranational organization) (1) that is comprised primarily of non-U.S. governments; (2) that has in effect a headquarters agreement with South Africa; and (3) the income of which does not inure to the benefit of private persons”.

**NFFE** – “An “NFFE” means any Non-U.S. Entity that is not an FFI as defined in relevant U.S. Treasury Regulations or is an Entity described in” subparagraph (j) of the Active NFFE definition below, “and also includes any Non-U.S. Entity that is established in South Africa or another Partner Jurisdiction and that is not a Financial Institution.”

**Passive NFFE** – “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 NFFE** – “An “Active NFFE” means any NFFE that meets any of the following criteria:

- a) Less than 50 percent of the NFFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50 percent 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;
- b) 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 regularly traded on an established securities market;
- c) The NFFE is organized in a U.S. Territory and all of the owners of the payee are bona fide residents of that U.S. Territory;
- d) The NFFE is a government (other than the U.S. government), a political subdivision of such government (which, for the avoidance of doubt, includes a state, province, county, or municipality), or a public body performing a function of such government or a political subdivision thereof, a government of a U.S. Territory, an international organization, a non-U.S. central bank of issue, or an Entity wholly owned by one or more of the foregoing;
- e) 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, except that an NFFE shall not qualify for this status if the NFFE 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;
- f) 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 organization of the NFFE;

## APPENDIX A – DEFINITIONS / SUMMARY DEFINITIONS (CONTINUED)

- g) The NFFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganizing with the intent to continue or recommence operations in a business other than that of a Financial Institution;
- h) 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;
- i) The NFFE is an "excepted NFFE" as described in relevant U.S. Treasury Regulations; or
- j) The NFFE meets all of the following requirements:
  - i. 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 organization, business league, chamber of commerce, labor organization, agricultural or horticultural organization, civic league or an organization operated exclusively for the promotion of social welfare;
  - ii. It is exempt from income tax in its jurisdiction of residence;
  - iii. It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
  - iv. The applicable laws of the NFFE's jurisdiction of residence or the NFFE's formation documents do not permit any income or assets of the NFFE 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 NFFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFFE has purchased; and
  - v. The applicable laws of the NFFE's jurisdiction of residence or the NFFE's formation documents require that, upon the NFFE's liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organization, or escheat to the government of the NFFE's jurisdiction of residence or any political subdivision thereof.
- k) 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, except that an NFFE shall not qualify for this status if the NFFE 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;
- l) 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 organization of the NFFE;
- m) The NFFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganizing with the intent to continue or recommence operations in a business other than that of a Financial Institution;
- n) 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;
- o) The NFFE is an "excepted NFFE" as described in relevant U.S. Treasury Regulations; or
- p) The NFFE meets all of the following requirements:
  - i. 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 organization, business league, chamber of commerce, labor organization, agricultural or horticultural organization, civic league or an organization operated exclusively for the promotion of social welfare;
  - ii. It is exempt from income tax in its jurisdiction of residence;
  - iii. It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
  - iv. The applicable laws of the NFFE's jurisdiction of residence or the NFFE's formation documents do not permit any income or assets of the NFFE 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 NFFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFFE has purchased; and
  - v. The applicable laws of the NFFE's jurisdiction of residence or the NFFE's formation documents require that, upon the NFFE's liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organization, or escheat to the government of the NFFE's jurisdiction of residence or any political subdivision thereof."

**U.S. Person** – "a U.S. citizen or resident individual, a partnership or corporation organized in the United States or under the laws of the United States or any State thereof, a trust if (i) a court within the United States would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust, and (ii) one or more U.S. persons have the authority to control all substantial decisions of the trust, or an estate of a decedent that is a citizen or resident of the United States."

**Specified U.S. Person** – "a U.S. Person, 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 member of the same expanded affiliated group, as defined in section 1471(e)(2) of the U.S. Internal Revenue Code, as a corporation described in clause (i); (iii) the United States or any wholly owned agency or instrumentality thereof; (iv) any State of the United States, any U.S. Territory, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing; (v) any organization exempt from taxation under section 501(a) of the U.S. Internal Revenue Code or an individual retirement plan as defined in section 7701(a)(37) of the U.S. Internal Revenue Code; (vi) any bank as defined in section 581 of the U.S. Internal Revenue Code; (vii) any real estate investment trust as defined in section 856 of the U.S. Internal Revenue Code; (viii) any regulated investment company as defined in section 851 of the U.S."

## APPENDIX B – CONTROLLING PERSON INFORMATION

Nature of controlling relationship: Settlor  Trustee  Member of Closed Corporation  Beneficiary or included in a class of beneficiaries

Partner  Protector  Shareholder

Holding interest (optional): Closed Corporation  Shareholder

Surname or name of partnership: \_\_\_\_\_

Registered name of entity: \_\_\_\_\_

Initials of individual: \_\_\_\_\_ Individuals first two names: \_\_\_\_\_

Identification number: \_\_\_\_\_

Type of identification: SA Identity Number (bar coded)  Foreign Identity Number  Foreign Passport Number

SA Closed Corporation or Company Registration Number  South African Trust Registration Number  Foreign Trust Identification Number  Foreign Company Registration Number

Country of issue if foreign identification type: \_\_\_\_\_

Date of birth (individual): \_\_\_\_\_

Postal address same as physical address: YES  NO

Physical address: \_\_\_\_\_

\_\_\_\_\_ Postal code: \_\_\_\_\_

Postal address: \_\_\_\_\_

\_\_\_\_\_ Postal code: \_\_\_\_\_

Nationality (individual): \_\_\_\_\_

Country of registration/organisation (entity): \_\_\_\_\_ Country of tax residence: \_\_\_\_\_

Tax identification number: \_\_\_\_\_

## OFFICES



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