

## FILLING INSTRUCTION FOR CUSTOMERS

Self-Certification FATCA and CRS (Legal Entities)

Dear customer,

With the enclosed filling instructions, the UniCredit Bank GmbH intends to inform you about the reasons for additional information required by the Foreign Account Tax Compliance Act (FATCA) and the Common Reporting Standard (CRS).

### Background

**FATCA** is a US tax law aimed at encouraging tax compliance by US taxable persons outside the US. The law requires foreign financial institutions to collect tax relevant information regarding US persons and report this information to the US tax authority to facilitate the determination of the correct taxation. UniCredit Bank GmbH is located in a jurisdiction, which has signed an inter-governmental agreement for FATCA with the US. Consequently, UniCredit Bank GmbH is required to collect and report information on US taxable persons to the tax authorities.

**CRS** is a global standard for automatic exchange of financial account information issued by the OECD (Organisation for Economic Cooperation and Development) with the purpose to detect, deter and discourage international tax evasion.

Germany has also adopted the CRS legislation that applies since 1st January 2016. Therefore, financial institutions, like the UniCredit Bank GmbH, are required to report certain financial information of account holders, who are resident in other CRS jurisdictions to the local tax authority. These information will then be submitted to the respective tax authorities of the other countries involved in the multilateral exchange of information.

As specified in the regulation, UniCredit Bank GmbH may use the self-certification provided to you in order to obtain all required FATCA and CRS information. In the following, you will find supporting information for filling out the self-certification.

### Filling instruction

All fields in the self-certification must be filled out **by you personally**, since UniCredit Bank GmbH is not allowed to provide tax advice. In case of uncertainty, please contact your tax advisor.

**If you do not provide the self-certification correctly or completely, or if you do not provide notification of the newly applicable information in the event of a change in circumstances or do not provide it correctly, incompletely or not in good time, this may be punished with a fine of up to ten thousand euros in accordance with Section 28 (1a) FKAustG.**

This self-certification is designed for all entity clients that do not meet the definition of an »Individual« (natural person) in terms of the common definition for »Individuals« within the IGA (Inter-governmental Agreement). This definition also applies under CRS.

The filling instruction consists of three parts: **non-financial entities, financial institutions and controlling persons**. The definition of a financial institution is included on the following page.

This filling instruction **solely** serves as supporting material for the FATCA/CRS self-certification and may not be used for documentation purposes.

### Definition of Non-Financial Entities and Financial Institutions for FATCA and CRS purposes

**Financial Institutions** for FATCA and CRS purposes are as follows:

#### Custodial Institution

The term »Custodial Institution« means any entity that holds, as a substantial portion of its business, financial assets for the account of others. An entity holds financial assets for the account of others as a substantial portion of its business if the entity's gross income attributable to the holding of financial assets and related financial services equals or exceeds 20 percent of the entity's gross income during the shorter of: (i) the three-year period that ends on December 31 (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or (ii) the period during which the entity has been in existence.

#### Depository Institution

The term »Depository Institution« means any entity that accepts deposits in the ordinary course of a banking or similar business.

#### Investment Entity

The term »Investment Entity« means any entity that conducts as a business (or is managed by an entity 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.

#### Specified Insurance Company

The term »Specified Insurance Company« means any entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to a cash value insurance contract or an annuity contract.

All entities, which do not fall under at least one of these **financial institution** definitions, are considered as **non-financial entities** for FATCA and CRS purposes.

#### Information on tax residence and TIN:

**TIN** is the Taxpayer Identification Number or a functional equivalent in the absence of a TIN. If a TIN is not available, please provide a valid reason such as Reason A or B in the self-certification.

If the account holder / controlling person/s is/are tax resident in more than three countries/jurisdictions, it is important that all of the tax residences are provided. Please use a separate sheet to provide this additional information.

## 1. Non-Financial Entities

**NFE** stands for Non-Financial Entity, which is a non-financial institution. This classification also includes the classification NFFE (Non-Financial Foreign Entity) according to FATCA.

**NFFE** stands for Non-Financial Foreign Entity. »Foreign« means not resident in the USA.

– An **active NFE** generates the major part of the gross earnings (>50%) from active income, such as revenues from sales of manufactured goods. The main earnings of a brick manufacturer, for example, are made through the sale of bricks and not via their financial assets.

– A **passive NFE** generates the major part of the gross earnings (>50%) from passive income (e.g. interest payments, dividends, annuities, rents). For passive NFEs information on controlling persons (>25% ownership) must be provided on the FATCA self-certification.

**Controlling Person** refers to the individual who exercises directly or indirectly control (>25% ownership in capital shares or voting rights) over an entity.

In the case of legal foundations and legal arrangements with which assets are administered or distributed in trust, or the administration or distribution by third parties, or in the case of comparable legal forms, the beneficial owners include:

1. any natural person acting as trustor, administrator of trusts (trustee) or protector, if any;
2. any natural person who is a member of the Board of the Foundation;
3. any natural person who has been designated as a beneficiary;
4. the group of natural persons for whose benefit the assets are to be managed or distributed, provided that the natural person who will be the beneficiary of the assets under management has not yet been appointed, and
5. any natural person who exercises in a different way direct or indirect control over the management or distribution of income.

– A **NFE** is also regarded as **active**, if it meets all of the following requirements:

1. It is established and maintained in its country of residence exclusively for religious, charitable, scientific, artistic, cultural, or educational purposes;
2. It is exempt from income tax in its country of residence;
3. It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
4. The applicable laws of the Entity's country of residence or the NFE's formation documents do not permit any income or assets of the Entity 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

5. The applicable laws of the Entity's country of residence or the NFE's formation documents require that, upon the Entity'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 NFE's country of residence or any political subdivision thereof.

A **Direct Reporting NFFE** elects to report information about its direct or indirect substantial US owners to the IRS. Direct reporting NFFEs must register with the IRS and receive a GIIN. The **Global Intermediary Identification Number (GIIN)** is allocated to FATCA compliant legal entities who register with the US tax authority (IRS). The GIIN is used to identify FATCA compliant institutions via the IRS GIIN list.

### Exemptions according to FATCA and CRS:

**Governmental organizations** on an international level are entities which fall under the following categories: institutions that are legal entities under public law or that are otherwise wholly owned by any relevant government and which are charged under statutes with performing promotional tasks, which do not act as commercial banks and which are tax exempt under number 2 of paragraph 1 of Sec. 5 of the Corporate Income Tax Act.

For Germany, the entities falling under this category are: the Federal Republic of Germany, its states, or any one of their political subdivisions or local authorities and any legal entity under public law and any other entity wholly owned by any relevant government provided that such entities are not custodial institutions, depository institutions or a specified insurance company.

Examples: the French Republic, the city of London etc.

A **publicly traded organization** is an entity of which the stock is regularly traded on one or more established securities markets. This includes any corporation that is owned by a publicly traded non-financial organization with >50%.

Examples: Deutsche Lufthansa AG, Volkswagen AG, Siemens AG

An **international organization** includes the office of an intergovernmental or supranational organization, including the European Union, recognized by the respective government as entitled to tax exemption under agreements, laws or regulations.

Examples: World Bank, European Community, International Monetary Fund

## 2. Financial Institutions

---

**A Partner FFI with or without a GIIN (Foreign Financial Institution – »Foreign« means not resident in the USA)** is resident in a FATCA Partner country and is FATCA compliant. The FI is registered at the IRS and has therefore obtained a GIIN, has applied for a GIIN or has no GIIN as the FI is exempt from FATCA.

**A Non-Partner FFI (Foreign Financial Institutions – »Foreign« means not resident in the USA)** is not resident in a FATCA Partner country.

The term **FATCA partner country** means any country that entered into an IGA with the US for FATCA purposes. If the FI's country of residence is a FATCA partner country you can check on the following web page: <https://www.treasury.gov/resource-center/tax-policy/treaties/Pages/FATCA.aspx>

**Certified Deemed-compliant FFIs (Foreign Financial Institutions – »Foreign« means not resident in the USA)** do not possess a GIIN but nevertheless are deemed to be FATCA compliant under certain conditions defined by the IRS (US tax authority).

Financial institutions which are not FATCA compliant are called **Non-Participating Foreign Financial Institutions (NPFIs)**. These institutions are non-US financial institutions which do not meet the FATCA requirements.

**A US Financial Institution** is any financial institution located in the US including any US branch of a non-US financial institution.

Branches of US financial institutions located outside the US are not considered as US financial institutions.

The term **CRS partner country** means any country that has joined the CRS regime. If the FI's country of tax residence is a CRS partner country can be checked on the following web page: <http://www.oecd.org/tax/transparency/> (Status of Commitments, pdf)