



# Definitions for the purposes of OECD CRS status

(The list below is not exhaustive and provides general explanation of the basic terms. XNT LTD. is not authorized to provide any tax, legal or other advice. Therefore, in case of any doubts about the status, the respondent is strongly recommended to seek a professional tax advice and/or contact Tax Authorities in a jurisdiction of respondent's domicile. For detailed information on the OECD CRS please visit [www.oecd.org](http://www.oecd.org))

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## Active Non-Financial Entity

means any Non-Financial Entity that meets any of the following criteria:

- a. Active by reason of income and assets: less than 50% of the Entity's gross income for the preceding calendar year or other appropriate reporting period is passive income 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;
- b. Publicly traded non-financial entity or its wholly owned entity: the stock of the Entity is regularly traded on an established securities market or the Entity is a related entity of an entity the stock of which is regularly traded on an established securities market;
- c. Governmental Entity or its wholly owned entity: the government, any political subdivision (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of any jurisdiction or of any one or more of the foregoing. This category is comprised of the integral parts, controlled entities, and political subdivisions of a jurisdiction.

For the purpose of this definition:

- an "integral part" of the jurisdiction means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of the jurisdiction;
- the net earnings of the governing authority must be credited to its own account or to other accounts of the jurisdiction, 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;
- a "controlled entity" means an entity which is separate in form from the jurisdiction or which otherwise constitutes a separate juridical entity, provided that:
    - I. the entity is wholly owned and controlled by one or more Governmental entities directly or through one or more controlled entities;
    - II. 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
    - III. the entity's assets vest in one or more Governmental Entities upon dissolution;
  - income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental programme, and the programme 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;
- d.** International Organisation or its wholly owned entity: any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation (including a supranational organisation):
- I. that is comprised primarily of governments;
  - II. that has in effect a headquarters or substantially similar agreement with the Member State; and
  - III. the income of which does not inure to the benefit of private persons;
- e.** Central Bank or its wholly owned entity: an institution that is by law or government sanction the principal authority, other than the government of the jurisdiction itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the



- government, whether or not owned in whole or in part by the jurisdiction;
- f.** Holding non-financial entity, that is a member of a non-financial group: substantially all of the activities of the Entity 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;
  - g.** Start-up non-financial entity: the Entity 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 Entity does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the Entity;
  - h.** Non-financial entity that is liquidating or emerging from bankruptcy: the Entity was not a Financial Institution in the past 5 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;
  - i.** Treasury center that is a member of a non-financial group: the Entity 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; or
  - j.** Non-profit non-financial entity: the Entity 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 its jurisdiction of residence or its 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 Entity's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the Entity has purchased; and
- the applicable laws of the Entity's jurisdiction of residence or the Entity'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 organisation, or escheat to the government of the Entity's jurisdiction of residence or any political subdivision.

In determining what is meant by "passive income", reference must be made to each jurisdiction's particular rules. Passive income would generally be considered to include the portion of gross income that consists of:

- a.** dividends;
- b.** interest;
- c.** income equivalent to interest;
- d.** rents and royalties, other than rents and royalties derived in the active conduct of a business conducted, at least in part, by employees of the Non-Financial Entity;
- e.** annuities;
- f.** the excess of gains over losses from the sale or exchange of financial assets that gives rise to the passive income described previously;
- g.** the excess of gains over losses from transactions (including futures, forwards, options, and similar transactions) in any financial assets;
- h.** the excess of foreign currency gains over foreign currency losses;
- i.** net income from swaps; or
- j.** amounts received under Cash Value Insurance Contracts.

Notwithstanding the foregoing, passive income will not include, in the case of a Non-Financial Entity 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.



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## Broad Participation Retirement Fund

means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries who are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that the fund:

- a. does not have a single beneficiary with a right to more than 5% of the fund's assets;
- b. is subject to government regulation and provides information reporting to the tax authorities; and
- c. satisfies at least one of the following requirements:
  - I. the fund is generally exempt from tax on investment income, or taxation of such income is deferred or taxed at a reduced rate, due to its status as a retirement or pension plan;
  - II. the fund receives at least 50% of its total contributions (other than transfers of assets from other plans described in definitions of Broad Participation Retirement Fund, Narrow participation retirement fund or Pension fund of a Governmental Entity, International Organization or Central Bank or from retirement and pension accounts described in the definition of Excluded account (as per [OECD CRS definition](#))) from the sponsoring employers;
  - III. distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death (except roll-over distributions to other retirement funds described in definitions of Broad Participation Retirement Fund, Narrow participation retirement fund or Pension fund of a Governmental Entity, International Organization or Central Bank or retirement and pension accounts described in the definition of Excluded account (as per [OECD CRS definition](#))), or penalties apply to distributions or withdrawals made before such specified events; or
  - IV. contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed, annually, an amount denominated in Euro that corresponds to USD 50 000.



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### **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% of the Entity's gross income during the shorter of:

- I. the three-year period that ends on 31 December (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.

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### **Depository Institution**

means any Entity that accepts deposits in the ordinary course of a banking or similar business.

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### **Exempt Collective Vehicle**

means 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 under the OECD CRS, except a Passive Non-Financial Entity with controlling persons who are reportable persons under the OECD CRS. An Investment Entity that is regulated as a collective investment vehicle does not fail to qualify as such, solely because the collective investment vehicle has issued physical shares in bearer form, provided that:

- a. the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after 31 December 2015;
- b. the collective investment vehicle retires all such shares upon surrender;
- c. the collective investment vehicle performs the due diligence procedures in accordance with the OECD CRS and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and
- d. the collective investment vehicle has redeemed or immobilised all such shares prior to 1 January 2018.



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## Financial Institution

means:

- a Custodial Institution,
- a Depository Institution,
- an Investment Entity, or
- a Specified Insurance Company.

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## Holding Company or Treasury Centre of a Financial Group

means an Investment Entity, that is a holding company or a treasury center that is a part of a group of related entities (that are Financial Institutions), and that is:

- a company (a holding company), whose primary activity consists of the holding, directly or indirectly, of all or part of the outstanding stocks of one or more related entities, or
- an entity (a treasury center), whose primary activity consists of entering into hedging and financing transactions with or for related entities, or
- a holding company or a treasury center that is formed in connection with or used by a collective investment scheme, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leveraged buy-out fund, or any similar investment vehicle that is established with the aim of investing, reinvesting, or trading in financial assets.

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## Investment Entity

means any Entity, which primarily conducts as a business 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; 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.

An Entity is treated as primarily conducting the above business, 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.

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### **Managed Investment Company**

means an Investment Entity, the gross income of which is primarily attributable to investing, reinvesting, or trading in financial assets, and if the Entity is managed by another entity that is:

- a Depository Institution,
- a Custodial Institution,
- a Specified Insurance Company, or
- an Investment Entity, which:
  - primarily conducts as a business 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; 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.

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.

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### **Narrow participation retirement fund**

means a fund established to provide retirement, disability, or death benefits to beneficiaries who are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that:

- a. the fund has fewer than 50 participants;





- b. the fund is sponsored by one or more employers that are not Investment Entities or Passive Non-Financial Entities;
- c. the employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described in the definition of Excluded account (as per [OECD CRS definition](#))) are limited by reference to earned income and compensation of the employee, respectively;
- d. participants that are not residents of the EU in which the fund is established are not entitled to more than 20% of the fund's assets; and
- e. the fund is subject to government regulation and provides information reporting to the tax authorities.

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**Non-Financial Entity** means an Entity, that is not a Financial Institution.

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**OECD CRS** means the Common Reporting Standard, developed by the Organization for Economic Co-operation and Development (OECD) and setting common rules for participating jurisdictions for obtaining information from their financial institutions on financial accounts and automatically exchange of that information with other participating jurisdictions on an annual basis. The OECD CRS is based on the FATCA principles and its aim is to combat tax evasion. The OECD CRS sets out the financial account information to be exchanged, the financial institutions required to report, the different types of accounts and taxpayers covered, as well as common due diligence procedures to be followed by financial institutions of the participating jurisdictions.

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**OECD CRS Status** means classification of the Client pursuant to the requirements of the OECD CRS in order to determine whether Client's accounts to be reported to tax authorities pursuant to the Applicable Regulations.



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**Passive Non-Financial Entity**

means any Non-Financial Entity that does not meet any of the criteria of the definition of an Active Non-Financial Entity.

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**Pension fund of a Governmental Entity, International Organization or Central Bank**

means a fund established by a Governmental Entity, International Organisation or Central Bank to provide retirement, disability, or death benefits to beneficiaries or participants who are current or former employees (or persons designated by such employees), or who are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services performed for the Governmental Entity, International Organisation or Central Bank.

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**Qualified credit card issuer**

means a Financial Institution satisfying the following requirements:

- a. the Financial Institution is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer; and
- b. beginning on or before 1 January 2016, the Financial Institution implements policies and procedures either to prevent a customer from making an overpayment in excess of an amount denominated in Euro that corresponds to USD 50 000, or to ensure that any customer overpayment in excess of that amount is refunded to the customer within 60 days. For this purpose, a customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.

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**Specified Investment Company**

means an Entity, that is dedicated to the investment, management or administration of the wealth of a limited number of shareholders or of related shareholders and is managed by a Financial Institution that is duly registered and is obliged to report financial accounts under the OECD CRS in the applicable jurisdiction. It is presumed, that the Entity does not:

- a. operate or present itself as an investment fund in the market, and
- b. raise capital in the market offered to the public.



As a consequence to the above, 'limited number of shareholders' shall be taken to mean not more than 3 shareholders and in the case of a shareholder which is an entity, then such entity must not be owned by more than 3 individuals, with each shareholder having not less than 25% of the entity's share capital. The word 'related' shall be taken to mean an individual and his/her spouse, descendants and ascendants in the direct line and their relative spouses, as well as the brothers and sisters of such individual, but in all cases, shall not be more than 7 individual shareholders.

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### **Specified Insurance Company**

any Entity that is an insurance company (or the holding company of an insurance company) which issues, or is obligated to make payments with respect to Cash Value Insurance Contract (an insurance contract, other than an indemnity reinsurance contract between two insurance companies, that has a cash value) or an Annuity Contract (a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals).

An "insurance company" is an entity:

- I. that is regulated as an insurance business under the laws, regulations, or practices of any jurisdiction in which the entity does business;
- II. the gross income of which (for example, gross premiums and gross investment income) arising from insurance, reinsurance, and Annuity Contracts for the immediately preceding calendar year exceeds 50% of total gross income for such year; or
- III. the aggregate value of the assets of which associated with insurance, reinsurance, and Annuity Contracts at any time during the immediately preceding calendar year exceeds 50% of total assets at any time during such year.

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### **Tax residency**

means residence for tax purposes.

The OECD CRS does not set a standard definition, because different jurisdictions apply different rules to determining a tax residency.

Generally, a person is considered to be a resident for income tax purposes in a jurisdiction if, under the laws of that jurisdiction (including tax conventions), it pays or should be paying tax on worldwide income therein by reason



of domicile, residence, and entities, additionally, by reason of their place of management or incorporation, or any other criterion of a similar nature, and not only from sources in that jurisdiction.

Usually, a person has one jurisdiction of residence. However, there might be situations where a person qualifies as a tax resident under the tax residence rules of more than one jurisdiction, and therefore is a tax resident in more than one jurisdiction. For the purposes of the OECD CRS, the person must disclose all its tax residencies. It is imperative to note that the mere right to reside in a given jurisdiction (on permanent or temporary basis) or the fact of holding citizenship of a given jurisdiction does not automatically mean that the person shall be considered a tax resident in such a jurisdiction or that, upon obtaining residency or citizenship, the tax residency is extinguished in the former jurisdiction(s) of tax residence.

For detailed information on tax residency rules in different jurisdictions please visit a web page of the OECD (<https://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/tax-residency/>).

means classification of the Client pursuant to the requirements of the OECD CRS in order to determine whether Client's accounts to be reported to tax authorities pursuant to the Applicable Regulations.

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**Trustee-documented trust**

means a trust that is a Financial Institution (e.g. because it is an Investment Entity), the trustee of which is a Financial Institution that reports all information required to be reported pursuant the OECD CRS with respect to all accounts of the trust.