



ASSOCIATION OF MUTUAL FUNDS IN INDIA

135/BP/ 63 /2015-16

September 18, 2015

Dear Members,

AMFI BEST PRACTICES GUIDELINES CIRCULAR NO. 63 / 2015-16

UNIFORM IMPLEMENTATION OF FATCA/CRS REQUIREMENTS

Foreign Accounts Tax Compliance Act (FATCA)

Foreign Account Tax Compliance Act ("FATCA") is a United States (US) law aimed at prevention of tax evasion by US citizens and residents ("US Persons") through use of offshore accounts.

FATCA obligates foreign financial institutions (FFIs), including Indian financial institutions to provide the US Internal Revenue Service (IRS) with information on the accounts of to report accounts held by specified US Persons. The term FFI is defined widely to cover a large number of non-US based financial service providers, such as mutual funds, depository participants, brokers, custodians, as well as banks. FATCA requires enhanced due diligence processes by the FFI so as to identify US reportable accounts. The idea is to capture the details of US taxpayers' unreported foreign financial accounts, stock, securities, mutual funds and insurance or annuity schemes with a cash value above \$50,000.

With respect to individuals, the US reportable accounts would cover those with US citizenship or US residency. One may note that in the US, both US citizens and residents are taxed on their worldwide income. With respect to entities, FATCA requires reporting in relation to specified US persons (e.g. US partnerships, private corporations) as well as passive NFFEs in which controlling interest is held by specified US person.

The identification of US person will be based on one or more of following "*US indicia*" –

- ✓ Identification of the Account Holder as a US citizen or resident;
- ✓ Unambiguous indication of a US place of birth;
- ✓ Current US mailing or residence address (including a US post office box);
- ✓ Current US telephone number;
- ✓ Standing instructions to transfer funds to an account maintained in USA;



- ✓ Current effective power of attorney or signing authority granted to a person with a US address; or
- ✓ An “in-care of” or “hold mail” address that is the sole address that the Indian Financial Institution has on the file for the Account Holder.

Since domestic laws of sovereign countries, (including India) may not permit sharing of confidential client information by FFIs directly with US IRS, the U.S. has entered into Inter-Governmental Agreement (IGA) with various countries. The IGA between India and USA was signed on 9th July, 2015, which provides that the Indian FIs will provide the necessary information to Indian tax authorities, which will then be transmitted to USA automatically. The text of the IGA signed between India and USA is available at:

http://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/375/india_iga_final- india_english.pdf

The impact of FATCA is relevant not only at the point of ‘on-boarding’ of investors, but also throughout the life cycle of the investor account or folio. Events such as closure of an account or folio, addition of a new holder to the folio or address change or any other change in circumstances is likely to trigger impact under FATCA. Further, FATCA due diligence is to be directed at each investor (including joint investor). Once a given investor is identified as a reportable person/ specified US person, all his folios will have to be reported – including those where he may be a joint holder. Notably, in case of folios with joint investors, the entire account value of the investment portfolio will be attributable under each such reportable person.

Common Reporting Standard – The New Global Standard for Automatic Exchange of Information

On similar lines as FATCA, the Organization of Economic Development (OECD), along with the G20 countries, of which India is a member, has released a “Standard for Automatic Exchange of Financial Account Information in Tax Matters”, in order to combat the problem of offshore tax evasion and avoidance and stashing of unaccounted money abroad, requiring cooperation amongst tax authorities. The G20 and OECD countries have together developed a Common Reporting Standard (CRS) on Automatic Exchange of Information (AEOI). The CRS on AEOI was presented to G20 Leaders in Brisbane on 16th November, 2014. On June 3, 2015, India has joined the Multilateral Competent Authority Agreement (MCAA) on AEOI.

The CRS on AEOI requires the financial institutions of the “source” jurisdiction to collect and report information to their tax authorities about account holders “resident” in other countries, such information having to be transmitted “automatically” annually. The information to be exchanged relates not only to individuals, but also to shell companies and trusts having beneficial ownership or interest in the “resident” countries.

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The Standard and its Commentary are available at -

<http://www.oecd.org/cip/exchange-of-tax-information/standard-for-automatic-exchange-of-financial-information-in-tax-matters.htm>.

Appropriate rules have been notified to implement CRS and FATCA

In view of India's commitment to implement the CRS on AEOI and also the IGA with USA, and with a view to provide information to other countries, necessary legislative changes have been made through Finance (No. 2) Act, 2014, by amending section 285BA of the Income-tax Act, 1961. Income-tax Rules, 1962 were amended vide Notification No. 62 of 2015 dated 7th August, 2015 by inserting Rules 114F to 114H and Form 61B to provide a legal basis for the Reporting Financial Institutions (RFIs) for maintaining and reporting information about the Reportable Accounts. A copy of the Notification No. 62 of 2015 modifying the Income-tax Rules, 1962, is available at:

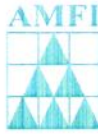
<http://www.incometaxindia.gov.in/communications/notification/notification%20no.%2062%20dated%2007-08-2015.pdf>

SEBI has issued a circular dated 26th August 2015 instructing Mutual Funds to implement FATCA and CRS as per abovementioned notification. AMFI has been working with SEBI and appropriate government authorities to understand the impact of this requirement and to support smooth and effective implementation. AMFI had also issued a detailed guidance note on FATCA, vide our communication no. 35P/MEM-COR/15/14-15 dated July 10, 2014. With all the statutory rules and regulations in place now, we would like to advise all our members to familiarise themselves with the rules notified and create internal assessment to implement the requirements.

New Accounts Opened from September 1, 2015

The IGA between India and USA has become operational effective August 31, 2015. Therefore, for all new accounts opened on or after September 1, 2015, Mutual Funds need to obtain relevant FATCA/CRS declarations. However, in view of short timelines for implementation, Members are advised to refer and be guided by clause 5.7.7 of the Guidance Notes issued by the Government, which states that in case of accounts other than depository or cash value contract accounts, the financial institutions should make reasonable efforts to obtain the self-certification by 31.12.2015, particularly in those cases where, after indicia search, a positive match is found with any of the US-indicia. If a self-certification is not provided by an account holder or the reasonableness of a self-certification cannot be confirmed, the account is to be treated as reportable. We advise all Members to create awareness among their distributors and investors, and implement final changes in systems and the application forms.

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Members are advised to ensure that effective November 1, 2015, FATCA/CRS declaration is obtained for all new accounts opened. In other words, where FATCA/CRS information is not provided should not be accepted or entertained with effect from November 1, 2015. (As regards accounts opened between September 1, 2015 till October 31, 2015, please refer to the preceding paragraph).

To minimize inconvenience to investors, Members are advised seek standard information as given in the attached sample forms in Annexure 1. This information could be incorporated in the AMC's application forms or obtained separately. Members may choose to seek additional information as deemed necessary as per their internal rules, after reviewing the revised Income Tax requirements in this regard.

Alternate Procedure for Accounts opened between July 1, 2014 August 31, 2015

There is an option for Mutual funds to adopt alternate procedure (clause 5.7 of Guidance Notes) for new accounts opened from 1st July 2014 till 31st August 2015. As per clause 5.7.6, in case of accounts other than depository or cash value accounts, the financial institutions should make reasonable efforts to obtain the self-certification, particularly in those cases where after indicia search a positive match is found with any of the U.S. indicia. If a self-certification is not provided by an account holder or the reasonableness of a self-certification cannot be confirmed, the account is reportable. Guidance notes are also provided in Annexure 2.

Members are requested to confirm having noted the contents of this circular for due compliance and also to place the circular before their Trustees for information at the next meeting of the Trustees.

With regards,


H. N. Sinor
Chief Executive

Your
logo here

FATCA & CRS Annexure for Individual Accounts

(Including Sole Proprietor) (Refer to instructions)
(Please consult your professional tax advisor for further guidance on your tax residency, if required)

First / Sole Applicant / Guardian

Name															
Gender	M	F	O	PAN						Occupation Type	Service	Business	Others		
Father's Name															
Cust ID / Folio No.															
Address of tax residence would be taken as available in KRA database. In case of any change please approach KRA & notify the changes															
Type of address given at KRA	<input checked="" type="checkbox"/>	Residential or Business	<input checked="" type="checkbox"/>	Residential	<input checked="" type="checkbox"/>	Business	<input checked="" type="checkbox"/>	Registered Office							
Permissible documents are	<input type="radio"/> Passport <input type="radio"/> Election ID Card <input type="radio"/> PAN Card <input type="radio"/> Govt. ID Card <input type="radio"/> Driving License <input type="radio"/> UIDAI Card <input type="radio"/> NREGA Job Card <input type="radio"/> Others														
Date of Birth				Place of Birth											
Country of Birth															
Nationality															
Are you a tax resident of any country other than India? <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No															

If yes, please indicate all countries in which you are resident for tax purposes and the associated Tax ID Numbers below.

Country*	Tax Identification Number*	Identification Type (TIN or Other, please specify)

*To also include USA, where the individual is a citizen / green card holder of The USA

*In case Tax Identification Number is not available, kindly provide its functional equivalent \$

Second applicant

Name															
Gender	M	F	O	PAN						Occupation Type	Service	Business	Others		
Father's Name															
Cust ID / Folio No.															
Address of tax residence would be taken as available in KRA database. In case of any change please approach KRA & notify the changes															
Type of address given at KRA	<input checked="" type="checkbox"/>	Residential or Business	<input checked="" type="checkbox"/>	Residential	<input checked="" type="checkbox"/>	Business	<input checked="" type="checkbox"/>	Registered Office							
Permissible documents are	<input type="radio"/> Passport <input type="radio"/> Election ID Card <input type="radio"/> PAN Card <input type="radio"/> Govt. ID Card <input type="radio"/> Driving License <input type="radio"/> UIDAI Card <input type="radio"/> NREGA Job Card <input type="radio"/> Others														
Date of Birth				Place of Birth											
Country of Birth															
Nationality															
Are you a tax resident of any country other than India? <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No															

If yes, please indicate all countries in which you are resident for tax purposes and the associated Tax ID Numbers below.

Country*	Tax Identification Number*	Identification Type (TIN or Other, please specify)

*To also include USA, where the individual is a citizen / green card holder of The USA

*In case Tax Identification Number is not available, kindly provide its functional equivalent \$

Third applicant

Name																				
Gender	M	F	O	PAN						Occupation Type	Service	Business	Others							
Father's Name																				
Cust ID / Folio No.																				
Address of tax residence would be taken as available in KRA database. In case of any change please approach KRA & notify the changes																				
Type of address given at KRA	<input checked="" type="checkbox"/>	Residential or Business				<input checked="" type="checkbox"/>	Residential				<input checked="" type="checkbox"/>	Business				<input checked="" type="checkbox"/>	Registered Office			
Permissible documents are	<input type="radio"/> Passport <input type="radio"/> Election ID Card <input type="radio"/> PAN Card <input type="radio"/> Govt. ID Card <input type="radio"/> Driving License <input type="radio"/> UIDAI Card <input type="radio"/> NREGA Job Card <input type="radio"/> Others																			
Date of Birth					Place of Birth															
Country of Birth																				
Nationality																				
Are you a tax resident of any country other than India? <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No																				

If yes, please indicate all countries in which you are resident for tax purposes and the associated Tax ID Numbers below.

Country*	Tax Identification Number*	Identification Type (TIN or Other, please specify)

*To also include USA, where the individual is a citizen / green card holder of The USA

*In case Tax Identification Number is not available, kindly provide its functional equivalent \$

Certification

I / We have understood the information requirements of this Form (read along with the FATCA & CRS Instructions) and hereby confirm that the information provided by me/us on this Form is true, correct, and complete. I / We also confirm that I / We have read and understood the FATCA & CRS Terms and Conditions below and hereby accept the same.

Signatures

<div></div>	<div></div>	<div></div>
First / Sole Applicant / Guardian	Second Applicant	Third Applicant
Date <input type="text" value="dd"/> <input type="text" value="dd"/> <input type="text" value="mm"/> <input type="text" value="mm"/> <input type="text" value="yy"/> <input type="text" value="yy"/> <input type="text" value="yy"/> <input type="text" value="yy"/>	Place <input type="text"/>	

FATCA & CRS Terms & Conditions

Details under FATCA & CRS: The Central Board of Direct Taxes has notified Rules 114F to 114H, as part of the Income-tax Rules, 1962, which Rules require Indian financial institutions such as the Bank to seek additional personal, tax and beneficial owner information and certain certifications and documentation from all our account holders. In relevant cases, information will have to be reported to tax authorities / appointed agencies. Towards compliance, we may also be required to provide information to any institutions such as withholding agents for the purpose of ensuring appropriate withholding from the account or any proceeds in relation thereto.

Should there be any change in any information provided by you, please ensure you advise us promptly, i.e., within 30 days.

Please note that you may receive more than one request for information if you have multiple relationships with (Insert FI's name) or its group entities. Therefore, it is important that you respond to our request, even if you believe you have already supplied any previously requested information.

FATCA & CRS Instructions

If you have any questions about your tax residency, please contact your tax advisor. If you are a US citizen or resident or greencard holder, please include United States in the foreign country information field along with your US Tax Identification Number.

It is mandatory to supply a TIN or functional equivalent if the country in which you are tax resident issues such identifiers. If no TIN is yet available or has not yet been issued, please provide an explanation and attach this to the form.

In case customer has the following Indicia pertaining to a foreign country and yet declares self to be non-tax resident in the respective country, customer to provide relevant Curing Documents as mentioned below:

FATCA & CRS Indicia observed (ticked)	Documentation required for Cure of FATCA/ CRS indicia
U.S. place of birth	<ol style="list-style-type: none"> Self-certification that the account holder is neither a citizen of United States of America nor a resident for tax purposes; Non-US passport or any non-US government issued document evidencing nationality or citizenship (refer list below); AND Any one of the following documents: Certified Copy of "Certificate of Loss of Nationality or Reasonable explanation of why the customer does not have such a certificate despite renouncing US citizenship; or Reason the customer did not obtain U.S. citizenship at birth
Residence/mailling address in a country other than India	<ol style="list-style-type: none"> Self-certification that the account holder is neither a citizen of United States of America nor a tax resident of any country other than India; and Documentary evidence (refer list below)
Telephone number in a country other than India	<p>If no Indian telephone number is provided</p> <ol style="list-style-type: none"> Self-certification that the account holder is neither a citizen of United States of America nor a tax resident of any country other than India; and Documentary evidence (refer list below) <p>If Indian telephone number is provided along with a foreign country telephone number</p> <ol style="list-style-type: none"> Self-certification that the account holder is neither a citizen of United States of America nor a tax resident for tax purposes of any country other than India; OR Documentary evidence (refer list below)
Telephone number in a country other than India	<ol style="list-style-type: none"> Self-certification that the account holder is neither a citizen of United States of America nor a tax resident of any country other than India; and Documentary evidence (refer list below)

List of acceptable documentary evidence needed to establish the residence(s) for tax purposes:

- Certificate of residence issued by an authorized government body*
- Valid identification issued by an authorized government body* (e.g. Passport, National Identity card, etc.)

*** Government or agency thereof or a municipality of the country or territory in which the payee claims to be a resident.**

AMC contact address & call center details.

Blank space for your branch or any other details.

Your
logo here

Details of ultimate beneficial owner including additional FATCA & CRS information

Name of the entity

Type of address given at KRA



Residential or Business



Residential



Business



Registered Office

"Address of tax residence would be taken as available in KRA database. In case of any change, please approach KRA & notify the changes"

Customer ID / Folio Number

PAN

Date of incorporation

DD / MM / YYYY

City of incorporation

Country of incorporation

Entity Constitution Type

Please tick as appropriate

☐ Partnership Firm ☐ HUF ☐ Private Limited Company ☐ Public Limited Company ☐ Society ☐ AOP/BOI

☐ Trust ☐ H Liquidator ☐ Limited Liability Partnership ☐ Artificial Juridical Person ☐ Others specify _____

Please tick the applicable tax resident declaration -

1. Is "Entity" a tax resident of any country other than India

Yes

No

(If yes, please provide country/ies in which the entity is a resident for tax purposes and the associated Tax ID number below.)

Country

Tax Identification Number*

Identification Type
(TIN or Other*, please specify)

In case Tax Identification Number is not available, kindly provide its functional equivalent

In case TIN or its functional equivalent is not available, please provide Company Identification number or Global Entity Identification Number or GIIN, etc.

In case the Entity's Country of Incorporation / Tax residence is U.S. but Entity is not a Specified U.S. Person, mention Entity's exemption code here

FATCA & CRS Declaration

(Please consult your professional tax advisor for further guidance on FATCA & CRS classification)

PART A (to be filled by Financial Institutions or Direct Reporting NFEs)

1. We are a,

Financial institution⁶



or

Direct reporting NFE⁷



(please tick as appropriate)

GIIN

Note: If you do not have a GIIN but you are sponsored by another entity, please provide your sponsor's GIIN above and indicate your sponsor's name below

Name of sponsoring entity

GIIN not available (please tick as applicable) ☒ Applied for

If the entity is a financial institution, ☒ Not required to apply for - please specify 2 digits sub-category¹⁰

☒ Not obtained - Non-participating FI

PART B (please fill any one as appropriate "to be filled by NFEs other than Direct Reporting NFEs")

1. Is the Entity a publicly traded company¹ (that is, a company whose shares are regularly traded on an established securities market)

Yes

(If yes, please specify any one stock exchange on which the stock is regularly traded)

Name of stock exchange

2. Is the Entity a related entity² of a publicly traded company (a company whose shares are regularly traded on an established securities market)

Yes

(If yes, please specify name of the listed company and one stock exchange on which the stock is regularly traded)

Name of listed company

Nature of relation:

☒ Subsidiary of the Listed Company or ☒ Controlled by a Listed Company

Name of stock exchange

3. Is the Entity an active³ NFE

Yes

(If yes, please fill UBO declaration in the next section.)

Nature of Business

Please specify the sub-category of Active NFE

(Mention code - refer 2c of Part D)

4. Is the Entity a passive⁴ NFE

Yes

(If yes, please fill UBO declaration in the next section.)

Nature of Business

UBO Declaration

☒ Unlisted Company ☒ Partnership Firm ☒ Limited Liability Partnership Company

☒ Others (please specify _____)

Owner-documented FFI's⁵ should provide FFI Owner Reporting Statement and Auditor's Letter with required details as mentioned in Form W8 BEN E

Name - Beneficial owner / Controlling person		Tax ID Type - TIN or Other, please specify		Address - Include State, Country, PIN / ZIP Code & Contact Details	
Country - Tax Residency*		Beneficial Interest - in percentage		Address Type -	
Tax ID No. - Or functional equivalent for each country**		Type Code** - of Controlling person			
1. Name		Tax ID Type		Address	
Country		Type Code			
Tax ID No.		AddressType	<input type="radio"/> Residence <input type="radio"/> Business <input type="radio"/> Registered office	ZIP	State: Country:
2. Name		Tax ID Type		Address	
Country		Type Code			
Tax ID No.		AddressType	<input type="radio"/> Residence <input type="radio"/> Business <input type="radio"/> Registered office	ZIP	State: Country:
3. Name		Tax ID Type		Address	
Country		Type Code			
Tax ID No.		AddressType	<input type="radio"/> Residence <input type="radio"/> Business <input type="radio"/> Registered office	ZIP	State: Country:

(Please attach additional sheets if necessary)

PAN / Any other Identification Number <small>(PAN, Aadhar, Passport, Election ID, Govt. ID, Driving Licence NREGA Job Card, Others)</small>		Occupation Type - Service, Business, Others Nationality Father's Name - Mandatory if PAN is not available		DOB - Date of Birth Gender - Male, Female, Other	
City of Birth - Country of Birth					
1. PAN		Occupation Type		DOB	DD/MM/YYYY
City of Birth		Nationality		Gender	Male <input checked="" type="checkbox"/> Female <input checked="" type="checkbox"/>
Country of Birth		Father's Name			Others <input checked="" type="checkbox"/>
2. PAN		Occupation Type		DOB	DD/MM/YYYY
City of Birth		Nationality		Gender	Male <input checked="" type="checkbox"/> Female <input checked="" type="checkbox"/>
Country of Birth		Father's Name			Others <input checked="" type="checkbox"/>
3. PAN		Occupation Type		DOB	DD/MM/YYYY
City of Birth		Nationality		Gender	Male <input checked="" type="checkbox"/> Female <input checked="" type="checkbox"/>
Country of Birth		Father's Name			Others <input checked="" type="checkbox"/>

*In case Tax Identification Number is not available, kindly provide functional equivalent

⁴Refer 3(iii) of Part D | ⁵Refer 3(vi) of Part D | ¹¹Refer 3(iv) (A) of Part D

FATCA - CRS Terms and Conditions

Should there be any change in any information provided by you, please ensure you advise us promptly, i.e., within 30 days.

If you have any questions about your tax residency, please contact your tax advisor. If any controlling person of the entity is a US citizen or resident or green card holder, please include United States in the foreign country information field along with the US Tax Identification Number.

Certification _____

I / We have understood the information requirements of this Form (read along with the FATCA & CRS Instructions) and hereby confirm that the information provided by me / us on this Form is true, correct, and complete. I / We also confirm that I / We have read and understood the FATCA & CRS Terms and Conditions below and hereby accept the same.

[illegible]

Signature _____ Place _____
 Signature _____ Date ____/____/____
 Signature _____

PART D FATCA Instructions & Definitions

1 Financial Institution (FI) - The term FI means any financial institution that is a Depository Institution, Custodial Institution, Investment Entity or Specified Insurance company, as defined.

- Depository institution: is an entity that accepts deposits in the ordinary course of banking or similar business.
- Custodial institution is an entity that holds as a substantial portion of its business, holds financial assets for the account of others and where its income attributable to holding financial assets and related financial services equals or exceeds 20 percent of the entity's gross income during the shorter of-

- (i) The three financial years preceding the year in which determination is made; or
- (ii) The period during which the entity has been in existence, whichever is less.

• Investment entity is any entity:

- That primarily conducts a business or operates for or on behalf of a customer for any 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; or
- (ii) Individual and collective portfolio management; or
- (iii) Investing, administering or managing funds, money or financial asset or money on behalf of other persons;

or

- 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 described above.

An entity is treated as primarily conducting as a business one or more of the 3 activities described above, or an entity's gross income is primarily attributable to investing, reinvesting, or trading in financial assets of the entity's gross income attributable to the relevant activities equals or exceeds 50 percent of the entity's gross income during the shorter of :

- (i) The three-year period ending on 31 March of the year preceding the year in which the determination is made; or
- (ii) The period during which the entity has been in existence.

The term "Investment Entity" does not include an entity that is an active non-financial entity as per codes 03, 04, 05 and 06 - refer point 2c.)

- Specified Insurance Company: 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.

• FI not required to apply for GIIN:	
A. Reasons why FI not required to apply for GIIN:	
Code	Sub-category
01	Governmental Entity, International Organization or Central Bank
02	Treaty Qualified Retirement Fund; a Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; or a Pension Fund of a Governmental Entity, International Organization or Central Bank
03	Non-public fund of the armed forces, an employees' state insurance fund, a gratuity fund or a provident fund
04	Entity is an Indian FI solely because it is an investment entity
05	Qualified credit card issuer
06	Investment Advisors, Investment Managers & Executing Brokers
07	Exempt collective investment vehicle
08	Trustee of an Indian Trust
09	FI with a local client base
10	Non-registering local banks
11	FFI with only Low-Value Accounts
12	Sponsored investment entity and controlled foreign corporation
13	Sponsored, Closely Held Investment Vehicle
14	Owner Documented FFI

2. Non-financial entity (NFE) - Foreign entity that is not a financial institution

Types of NFEs that are regarded as excluded NFE are:

a. Publicly traded company (listed company) A company is publicly traded if its stock are regularly traded on one or more established securities markets (Established securities market means an exchange that is officially recognized and supervised by a governmental authority in which the securities market is located and that has a meaningful annual value of shares traded on the exchange)
b. Related entity of a publicly traded company The NFE is a related entity of an entity of which is regularly traded on an established securities market;

C. Active NFE : (is any one of the following):

Code	Sub-category
01	Less than 50 percent of the NFE's gross income for the preceding financial year is passive income and less than 50 percent of the assets held by the NFE during the preceding financial year are assets that produce or are held for the production of passive income;
02	The NFE is a Governmental Entity, an International Organization, a Central Bank, or an entity wholly owned by one or more of the foregoing;
03	Substantially all of the activities of the NFE 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 shall 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;
04	The NFE 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 shall not qualify for this exception after the date that is 24 months after the date of the initial organization of the NFE;
05	The NFE 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;
06	The NFE 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;
07	<p>Any NFE that fulfills all of the following requirements:</p> <ul style="list-style-type: none"> It is established and operated in India exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in India 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; It is exempt from income tax in India; It has no shareholders or members who have a proprietary or beneficial interest in its income or assets; <p>The applicable laws of the NFE's country or territory of residence or the NFE's formation documents do not permit any income or assets of the NFE 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</p> <p>The applicable laws of the NFE's country or territory of residence or the NFE's formation documents require that, upon the NFE'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 or territory of residence or any political subdivision thereof.</p> <p>Explanation:- For the purpose of this sub-clause, the following shall be treated as fulfilling the criteria provided in the said sub-clause, namely:-</p> <p>(I) an Investor Protection Fund referred to in clause (23EA);</p> <p>(II) a Credit Guarantee Fund Trust for Small Industries referred to in clause 23EB; and</p> <p>(III) an Investor Protection Fund referred to in clause (23EC), of section 10 of the Act;</p>

3. Other definitions

(i) Related entity

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

(ii) Passive NFE

The term passive NFE means

- (i) any non-financial entity which is not an active non-financial entity including a publicly traded corporation or related entity of a publicly traded company; or
- (ii) an investment entity defined in clause (b) of these instructions
- (iii) a withholding foreign partnership or withholding foreign trust;
- (Note: Foreign persons having controlling interest in a passive NFE are liable to be reported for tax information compliance purposes)

(iii) Passive income

The term passive income includes income by way of:

- (1) Dividends,
- (2) Interest
- (3) Income equivalent to interest,
- (4) 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 NFE
- (5) Annuities
- (6) The excess of gains over losses from the sale or exchange of financial assets that gives rise to passive income
- (7) The excess of gains over losses from transactions (including futures, forwards, options and similar transactions) in any financial assets,
- (8) The excess of foreign currency gains over foreign currency losses
- (9) Net income from swaps
- (10) Amounts received under cash value insurance contracts

But passive income will not include, in 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.

(iv) Controlling persons

Controlling persons are natural persons who exercise control over an entity and includes a beneficial owner under sub-rule (3) of rule 9 of the Prevention of Money-Laundering (Maintenance of Records) Rules, 2005. In the case of a trust, the controlling person 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. In the case of a legal arrangement other than a trust, controlling person means persons in equivalent or similar positions.

Pursuant to guidelines on identification of Beneficial Ownership issued vide SEBI circular no. CIR/MIRSD/2/2013 dated January 24, 2013, persons (other than Individuals) are required to provide details of Beneficial Owner(s) ('BO'). Accordingly, the Beneficial Owner means 'Natural Person', who, whether acting alone or together, or through one or more juridical person, exercises control through ownership or who ultimately has a controlling ownership interest of / entitlements to:

- i. More than 25% of shares or capital or profits of the juridical person, where the juridical person is a company;
- ii. More than 15% of the capital or profits of the juridical person, where the juridical person is a partnership; or
- iii. More than 15% of the property or capital or profits of the juridical person, where the juridical person is an unincorporated association or body of individuals.

Where the client is a trust, the financial institutions shall identify the beneficial owners of the client and take reasonable measures to verify the identity of such persons, through the identity of the settler of the trust, the trustee, the protector, the beneficiaries with 15% or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

Where no natural person is identified the identity of the relevant natural person who holds the position of senior managing official.

(A) Controlling Person Type:

Code	Sub-category
01	CP of legal person-ownership
02	CP of legal person-other means
03	CP of legal person-senior managing official
04	CP of legal arrangement-trust-settlor
05	CP of legal arrangement--trust-trustee
06	CP of legal arrangement--trust-protector
07	CP of legal arrangement--trust-beneficiary
08	CP of legal arrangement--trust-other
09	CP of legal arrangement--Other-settlor equivalent
10	CP of legal arrangement--Other-trustee equivalent
11	CP of legal arrangement--Other-protector equivalent
12	CP of legal arrangement--Other-beneficiary equivalent
13	CP of legal arrangement--Other-other equivalent
14	Unknown

(v) Specified U.S. person – A U.S. person other than the following:

- (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. Internal Revenue Code or any entity registered with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-64);
- (ix) any common trust fund as defined in section 584(a) of the U.S. Internal Revenue Code;
- (x) any trust that is exempt from tax under section 664(c) of the U.S. Internal Revenue Code or that is described in section 4947(a)(1) of the U.S. Internal Revenue Code;
- (xi) a dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any State;
- (xii) a broker as defined in section 6045(c) of the U.S. Internal Revenue Code; or
- (xiii) any tax-exempt trust under a plan that is described in section 403(b) or section 457(g) of the U.S. Internal Revenue Code.

(vi) Owner documented FFI

An FFI meets the following requirements:

- (a) The FFI is an FFI solely because it is an investment entity;
- (b) The FFI is not owned by or related to any FFI that is a depository institution, custodial institution, or specified insurance company;
- (c) The FFI does not maintain a financial account for any non participating FFI;
- (d) The FFI provides the designated withholding agent with all of the documentation and agrees to notify the withholding agent if there is a change in circumstances; and
- (e) The designated withholding agent agrees to report to the IRS (or, in the case of a reporting Model 1 IGA, to the relevant foreign government or agency thereof) all of the information described in or (as appropriate) with respect to any specified U.S. persons and (2). Notwithstanding the previous sentence, the designated withholding agent is not required to report information with respect to an indirect owner of the FFI that holds its interest through a participating FFI, a deemed-compliant FFI (other than an owner-documented FFI), an entity that is a U.S. person, an exempt beneficial owner, or an excepted NFE.

(vii) Direct reporting NFE

A direct reporting NFE means a NFE that elects to report information about its direct or indirect substantial U.S. owners to the IRS.

(viii) Exemption code for U.S. persons

Code	Sub-category
A	An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
B	The United States or any of its agencies or instrumentalities
C	A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
D	A corporation the stock of which is regularly traded on one or more established securities markets, as described in Reg. section 1.1472-1(c)(1)(i)
E	A corporation that is a member of the same expanded affiliated group as a corporation described in Reg. section 1.1472-1(c)(1)(i)
F	A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state
G	A real estate investment trust
H	A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940
I	A common trust fund as defined in section 584(a)
J	A bank as defined in section 581
K	A broker
L	A trust exempt from tax under section 664 or described in section 4947(a)(1)
M	A tax exempt trust under a section 403(b) plan or section 457(g) plan