

Common Reporting Standard

Glossary for entities

Active NFE - Non-Financial Entity (NFE)

A Non-Financial Entity is any entity other than a financial institution. Entities who are not a financial institution can be classified as Active NFE or Passive NFE. Whether the entity is an Active NFE or Passive NFE can be determined based on the categories below. If the entity can fulfill the requirements set forth in any of the below six categories, the entity is an Active NFE. Please note that international organisations, central banks and listed entities (and related entities of listed entities) can also be an Active NFE, however these entities need to tick the relevant box under 3b.

1. The entity is an active entity if the entity during the last year:
 - a. More than 50% of the entity's gross income consisted of active income; and
 - b. Less than 50% of the **assets** held by the entity was used to produce passive income.
2. The entity is a holding company¹ or financing company if the entity either:
 - a. Primarily performs activities that consist of holding one or more subsidiaries, or providing financing services to one or more subsidiaries, or a combination of both; and
 - b. The activities mentioned under (a) are provided to one or more subsidiaries that are active operating companies (i.e. operating company - not being a financial institution - which generates 50% or more of its gross income from active operations); or the entity fulfills the criteria under (c);
 - c. If the entity does not primarily fulfill activities under a, but the entity has apart from the income from the subsidiaries other income, then that income should meet the definition of active entity (see category 1).

Important: Please do not take the equity interests in the active operating companies into account nor the debt claims on such companies to determine other income.

3. The entity is a non-profit organisation.
4. The entity is in liquidation or reorganization if the entity:
 - a. Is currently in liquidation or bankruptcy, or is the entity reorganizing to resume activities and has not been considered a financial institution for the last 5 years;
 - b. In case of a reorganization, the entity is planning to operate a business other than the business of a financial institution.
5. The entity is a Treasury center if:

The entity is a **treasury center** in a group that is primarily engaged in a business other than the business of a financial institution and the entity does not provide treasury services to third parties or to financial institutions (treasury services to financial institutions which are **group** entities is also not allowed).
6. The entity is a startup company if the entity:
 - a. Is established less than 24 months ago and the entity is currently not operating a business and has previously not operated a business; and
 - b. The entity is not planning to operate the business of a financial institution.

If the entity does not fulfill the requirements for any of the six categories, the entity is a Passive NFE. Please note that Passive NFEs need to provide information on their **controlling persons**.

¹ A holding company that 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 is not an Active NFE but a financial institution.

Assets

The total of all possessions of an entity.

Authorised to sign

An authorised representative is mandated to sign statements or conclude contracts on behalf of the entity. The authorised representative is determined by the legal form of the entity or appointed by the entity. Is the entity registered with the Chamber of Commerce? Then the authorised representative will also be registered with the Chamber of Commerce. You will find this information on the Chamber of Commerce extract.

Central bank

An institution that is by law or government sanction the principal authority, other than the government of the country itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of the country, whether or not owned in whole or in part by the country.

Controlling person

“Controlling persons” means the natural person(s) who exercises control over the entity. “control” over an entity is generally exercised by the natural person(s) who ultimately has a controlling ownership interest in the entity. A “control ownership interest” depends on the ownership structure of the legal person and is usually identified on the basis of a threshold applying a risk-based approach (e.g. any person(s) owning more than a certain percentage of the legal person, for example 25%).

Note: Please note that the threshold is country specific and can therefore deviate per country.

Where no natural person(s) exercises control through ownership interests, the controlling person(s) of the entity will be the natural person(s) who exercises control of the entity through other means. Where no natural person(s) is identified as exercising control of the entity, the controlling person(s) of the entity will be the natural person(s) who holds the position of senior managing official. In the case of a trust, the term “controlling persons” means the settlor(s), the trustee(s), the protector(s) (if any), the beneficiary(ies) or class(es) of beneficiaries, and any other natural person(s) exercising ultimate effective control over the trust. The settlor(s), the trustee(s), the protector(s) (if any), and the beneficiary(ies) or class(es) of beneficiaries, must always be treated as controlling persons of a trust, regardless of whether or not any of them exercises control over the trust.

CRS

CRS is the Common Reporting Standard under which countries that have a concluded competent authority agreement agree to exchange financial account information.

Entity

An entity is a legal person or a legal arrangement such as a corporation, partnership, trust or foundation.

Financial institution

There are 4 types of financial institutions:

1. **Custodial institution:** an 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:
 - Three years prior to the current year; or
 - The period since the establishment of the entity.
2. **Depository institution:** an entity that accepts deposits in the ordinary course of a banking or similar business. For example, a bank.

3. **Investment entity** means any entity:

- a. That conducts as a business one or more of the following activities or operations on behalf of a customer:
 - 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
 - Individual and collective portfolio management; or
 - Otherwise investing, administering, or managing funds, money, or financial assets on behalf of other persons.
- b. 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 type 1, 2, 3a, or 4 financial institution.

Note: An investment entity includes an entity that 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.

4. **Specified insurance company:** an 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.

You may want to seek independent professional advice if you are not sure whether the entity is a financial institution.

Governmental entity

The government of a country, any political subdivision of a county (which includes a state, province, county, or municipality) or any wholly owned agency or instrumentality of a county or of any one or more of the foregoing (including integral parts and political subdivisions).

Next to the government owned agencies and instrumentalities also controlled entities can be considered governmental entities if they fulfill certain criteria:

- The entity should be wholly owned by a government; and
- No portion of the income of the entity should inure to private persons;

To be considered a Governmental entity, the entity should not conduct a business that provides commercial financial services to private persons (e.g. banking businesses which are government owned).

Group

A group is comprised of all the individual companies that are affiliated with other companies in the same group. Entities are affiliated if:

- one of the entities controls the other entity; or
- the entities are all controlled by the same entity.

In this respect an entity is 'controlled' if:

- an individual or legal entity in the group has a direct or indirect majority interest (more than 50%) in the entity;
- an individual or legal entity in the group has a direct or indirect majority vote (more than 50%) in the entity.

International organisation

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 country; and
- (iii) the income of which does not inure to the benefit of private persons.

Note: Please be aware that in order to qualify as an international organization you need to meet all requirements. You may want to seek independent professional advice if you are not sure whether the entity is an international organisation.

Non-profit organisation

Any entity is considered a non-profit organisation if the entity has a religious, charitable, scientific, artistic, cultural, athletic, or educational purpose, or the entity is a professional organisation, business league, chamber of commerce, labour organisation, agricultural or horticultural organization, civic league or an organisation operated exclusively for the promotion of social welfare that was established and is operated in its country of residence.

Additionally the entity must fulfill the following conditions:

- the entity is exempt from income tax in its country of residence;
- the entity has no shareholders or members who have a proprietary or beneficial interest in the income or assets of the entity;
- the applicable laws of the entity's country of residence or the entity'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. An exception is made for income or assets used:
 - pursuant to the conduct of the entity's charitable activities,
 - as payment of reasonable compensation for services rendered, or
 - as payment representing the fair market value of property which the entity has purchased.

The applicable laws of the entity's country 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.

You may want to seek independent professional advice if you are not sure whether the entity is a non-profit organisation.

Participating country

A country that has adopted the Common Reporting Standard and that has concluded a competent authority agreement with the country in which the entity holds the account mentioned in part 1 of this form. For further information we refer to CRS Information Portal.

Passive income

Passive income is the portion of the gross income that consists of:

- dividends and dividend substitute payments (income equivalent to dividend);
- interest and income equivalent to interest;
- rents and royalties, other than rents and royalties derived in the active conduct of a trade or business conducted, at least in part, by employees of the NFE;
- annuities;
- income from swap-contracts;
- rental income of real estate property provided that this income can be obtained by performing little to no activity.

The list above is not exhaustive. A complete overview of passive income can be found on www.oecd.org/tax/automatic-exchange/common-reporting-standard/.

You may want to seek independent professional advice if you are not sure whether income is passive income.

Passive NFE

A Passive NFE is any entity that does not classify as:

- (i) A **financial institution**; and
- (ii) An **Active NFE**; and
- (iii) A **Professionally managed investment entity not tax resident in a participating country**

Professionally managed investment entity

A type 3b **financial institution** that is not tax resident in a **participating country** is a Professionally managed investment entity.

Regularly traded

Securities are considered "regularly traded" if there is a meaningful volume of trading with respect to the stock on an on-going basis.

Established securities market

A securities market/exchange that is officially recognised and supervised by a governmental authority in which the market is located and that has a meaningful annual value of shares traded on the exchange.

Related entity

A related entity is an entity that is part of a **group**.

Subsidiary

A subsidiary is an entity that is directly or indirectly controlled by the holding company (this also includes subsidiaries of subsidiaries).

Tax resident

The concept of tax residency may differ from jurisdiction to jurisdiction. Common international criteria that jurisdictions may factor into the determination of tax residency could include:

With respect to entities:

- Domicile in a jurisdiction;
- Place of effective management or incorporation/organisation of an entity;

With respect to individuals (controlling persons):

- Domicile in a jurisdiction;
- Where an individual lives (i.e. where the individual has his/her personal and economic activities or interests).

It should be noted that a temporary stay in a jurisdiction can contribute to tax residency. Further it is possible that an individual or entity is considered a tax resident in more than one jurisdiction. Government officials, diplomats and military personnel are generally tax resident in their home jurisdiction. The actual determination of tax residency takes place under the local tax regime(s). You can check the conditions with the local government. ING is not allowed to provide tax advice to determine a client's tax residence.

Legal arrangements and tax residency

An entity such as a partnership, limited liability partnership, or similar legal arrangement that has no residence for tax purposes, is tax resident for CRS purposes in the jurisdiction in which it has its place of effective management. If there is no place of effective management, the address of its principal office can serve as a proxy for determining residence. Please note therefore, that the residence for CRS purposes may differ from the residence for other purposes.

You may want to seek independent professional advice if you are not sure about your tax residence. Please refer to the OECD CRS Information Portal for an overview of rules governing tax residency in CRS **participating countries**

TIN

The 'Taxpayer Identification Number' (TIN) is an entity's identification number for tax administration purposes. Please refer to the CRS Information Portal for an overview of domestic rules in CRS participating countries governing the issuance, structure, use and validity of TINs of their functional equivalents.