

## **INSTRUCTIONS CRS-CP**

*CRS Controlling Persons Self Certification Form  
Please read these instructions before completing this form*

### **Why are we asking you to complete this form?**

To help protect the integrity of tax systems, governments around the world are introducing a new information gathering and reporting requirement for financial institutions, including HSBC Continental Europe (Spółka Akcyjna) Oddział w Polsce ("the Bank"). This is known as the Common Reporting Standard (the CRS).

Under the CRS and the Act of 9 March 2017 on Exchange of Tax Information with Other Countries (Journal of Laws from 2017, pos. 648), we are required to determine where you are 'tax resident' (this will usually be where you are liable to pay income taxes). If you are tax resident outside Poland we will need to give our local tax authority this information, along with information relating to your accounts. That may then be shared by the Polish tax authority between different countries' tax authorities.

Completing this form will ensure that we hold accurate and up to date information about your tax residency. If your circumstances change and any of the information provided in this form becomes incorrect, please let us know immediately and provide an updated Self-Certification Form.

### **Who should complete the CRS Controlling Persons Self Certification Form?**

When an account is held with the Bank on behalf of a Passive Entity (for example certain trusts or investment vehicles) we need those individuals identified as having ultimate control of the entity to complete a form. These individuals are termed "controlling persons".

If you need to self-certify on behalf of an entity (which includes all businesses, trusts and partnerships) complete an 'Entity Tax Residency Self-Certification Form' (CRS-E).

You can find this form at <http://www.crs.hsbc.com/en/cmb/poland>

Even if you have already provided information in relation to the United States Government's Foreign Account Tax Compliance Act ('FATCA'), you may still need to provide additional information for the CRS as this is a separate regulation.

If you are completing this form on behalf of a controlling person, please ensure that you let them know that you have done so and tell us in what capacity you are signing in Part 4. For example you may be a representative of the entity, or completing the form under a power of attorney.

### **Where to go for further information?**

If you have any questions about this form or these instructions please visit <http://www.crs.hsbc.com/en/cmb/poland> or contact your Relationship Manager.

The 'Organisation for Economic Co-operation and Development' (OECD) has developed the rules to be used by all governments participating in the CRS and these can be found on the OECD's 'Automatic Exchange of Information' (AEOI) website, [www.oecd.org/tax/automatic-exchange/](http://www.oecd.org/tax/automatic-exchange/)

You may also find helpful information in the Act of 9 March 2017 on Exchange of Tax Information with Other Countries (Journal of Laws from 2017, pos. 648). The Act can be found under this [link](#).

If you have any questions on how to define your tax residency status, please visit the OECD website or speak to your tax advisor as we are not allowed to give tax advice.

You can find a list of definitions in the Appendix.



**Controlling Person tax residency Self-Certification FORM** (please complete Parts 1-3 in BLOCK CAPITALS)

**Part 1 – Identification of a Controlling Person**

**A. Name of Controlling Person**

Family Name or Surname(s): \_\_\_\_\_

Title: \_\_\_\_\_

First or Given Name: \_\_\_\_\_

Middle Name(s): \_\_\_\_\_

**B. Current Residence Address**

Line 1 (e.g. House/Apt/Suite Name, Number, Street): \_\_\_\_\_

Line 2 (e.g. Town/City/Province/County/State): \_\_\_\_\_

Country: \_\_\_\_\_

Postal Code/ZIP Code: \_\_\_\_\_

**C. Mailing Address** (please complete if Section **B** above not completed)

Line 1 (e.g. House/Apt/Suite Name, Number, Street): \_\_\_\_\_

Line 2 (e.g. Town/City/Province/County/State): \_\_\_\_\_

Country: \_\_\_\_\_

Postal Code/ZIP code: \_\_\_\_\_

**D. Date of birth** (dd/mm/yyyy) \_\_\_\_\_

**E. Place of birth**

Town or City of Birth: \_\_\_\_\_

Country of Birth: \_\_\_\_\_

**F. Identity card**

Type: \_\_\_\_\_

Number: \_\_\_\_\_

**G. The legal name of the relevant entity Account Holder(s) of which you are a Controlling Person**

Legal name of **Entity 1** \_\_\_\_\_

Legal name of **Entity 2** \_\_\_\_\_

Legal name of **Entity 3** \_\_\_\_\_

**Part 2 – Country/Countries of Residence for Tax Purposes and related Taxpayer Identification Number or functional equivalent (“TIN”) (See Appendix)**

Please complete the following table indicating:

- (i) where the Controlling Person is tax resident;
- (ii) the Controlling Person’s TIN for each country indicated; and,
- (iii) if the Controlling Person is a tax resident in a country that is a Reportable Jurisdiction(s) then please also complete **Part 3 “Type of Controlling Person”**

(You can also find out more about whether a country is a Reportable Jurisdiction on the [OECD automatic exchange of information portal](#)).

If the Controlling Person is tax resident in more than three countries please use a separate sheet.

If a TIN is unavailable please provide the appropriate reason **A, B** or **C**:

**Reason A** - The country where the controlling person is liable to pay tax does not issue TINs to its residents

**Reason B** - The Account Holder is otherwise unable to obtain a TIN or equivalent number (Please explain why you are unable to obtain a TIN in the below table if you have selected this reason)

**Reason C** -No TIN is required. (Note. Only select this reason if the authorities of the country of tax residence entered below do not require the TIN to be disclosed)

	<b>Country/Countries of tax residence</b>	<b>TIN (If a country of tax residence is Poland, please populate NIP number)</b>	<b>If no TIN available enter Reason A, B or C</b>
1			
2			
3			

Please explain in the following boxes why you are unable to obtain a TIN if you selected Reason B above.

1	
2	
3	

**Part 3 – Type of Controlling Person**
*(Please only complete this section if you are tax resident in one or more Reportable Jurisdictions)*

Please provide the Controlling Person's Status by ticking the appropriate box	Entity 1	Entity 2	Entity 3
<b>a. Controlling Person of a legal person – control by ownership</b>			
<b>b. Controlling Person of a legal person – control by other means</b>			
<b>c. Controlling Person of a legal person – senior managing official</b>			
<b>d. Controlling Person of a trust - settlor</b>			
<b>e. Controlling Person of a trust – trustee</b>			
<b>f. Controlling Person of a trust – protector</b>			
<b>g. Controlling Person of a trust – beneficiary</b>			
<b>h. Controlling Person of a trust – other</b>			
<b>i. Controlling Person of a legal arrangement (non-trust) – settlor-equivalent</b>			
<b>j. Controlling Person of a legal arrangement (non-trust) – trustee-equivalent</b>			
<b>k. Controlling Person of a legal arrangement (non-trust) – protector-equivalent</b>			
<b>l. Controlling Person of a legal arrangement (non-trust) – beneficiary-equivalent</b>			
<b>m. Controlling Person of a legal arrangement (non-trust) – other-equivalent</b>			

**Part 4 – Declarations and Signature**

I understand that the information supplied by me is covered by the full provisions of the terms and conditions governing the Account Holder's relationship with the Bank setting out how the Bank may use and share the information supplied by me.

I acknowledge that the information contained in this form and information regarding the Controlling Person and any Reportable Account(s) may be reported to the tax authorities of the country in which this account(s) is/are maintained and exchanged with tax authorities of another country or countries in which [I/the Controlling Person] may be tax resident pursuant to intergovernmental agreements to exchange financial account information.

I certify that I am the Controlling Person, or am authorised to sign for the Controlling Person, of all the account(s) held by the entity Account Holder to which this form relates and where I am not the Controlling Person.

I certify that where I have provided information regarding any other person (such as a Controlling Person or other Reportable Person to which this form relates) that I will, within 30 days of signing this form, notify those persons that I have provided such information to the Bank and that such information may be provided to the tax authorities of the country in which the account(s) is/are maintained and exchanged with tax authorities of another country or countries in which the person may be tax resident pursuant to intergovernmental agreements to exchange financial account information.

**I declare that all statements made in this declaration are, to the best of my knowledge and belief, correct and complete.**

**I am aware of criminal liability for making a false statement.**

I undertake to advise the Bank within 30 days of any change in circumstances which affects the tax residency status of the individual identified in Part 1 of this form or causes the information contained herein to become incorrect, and to provide the Bank with a suitably updated Self-Certification Form and Declaration within 90 days of such change in circumstances.

Signature: \_\_\_\_\_

Name and surname (in printed letters): \_\_\_\_\_

Date: (dd/mm/yyyy) \_\_\_\_\_

Signature: \_\_\_\_\_

Name and surname (in printed letters): \_\_\_\_\_

Date: (dd/mm/yyyy) \_\_\_\_\_

Note: The document must be signed by the person/persons authorised to represent the company according to legal requirements.

Note: Please indicate the capacity/function in which you are signing the form (for example 'Authorised Officer', 'Management Board Member', 'Proxy'). If signing under a power of attorney please also attach a certified copy of the power of attorney.

Capacity: \_\_\_\_\_

## Appendix – Definitions

**Note:** These are selected definitions provided to assist you with the completion of this form. Further details can be found within the OECD *“Common Reporting Standard for Automatic Exchange of Financial Account Information”* (the “CRS”), the associated *“Commentary”* to the CRS, and domestic guidance. This can be found at the following link [\[OECD\]](#)

If you have any questions then please contact your tax advisor or domestic tax authority.

**“Account Holder”** means the person listed or identified as the holder of a Financial Account. A person, other than a Financial Institution, holding a Financial Account for the benefit of another person as an agent, a custodian, a nominee, a signatory, an investment advisor, an intermediary, or as a legal guardian, is not treated as the Account Holder. In these circumstances that other person is the Account Holder. For example in the case of a parent/child relationship where the parent is acting as a legal guardian, the child is regarded as the Account Holder. With respect to a jointly held account, each joint holder is treated as an Account Holder.

**“Active NFE”** an NFE is an Active NFE if it meets any of the criteria listed below. In summary, those criteria refer to:

- active NFEs by reason of income and assets;
- publicly traded NFEs;
- Governmental Entities, International Organisations, Central Banks, or their wholly owned Entities;
- holding NFEs that are members of a nonfinancial group;
- start-up NFEs;
- NFEs that are liquidating or emerging from bankruptcy;
- treasury centres that are members of a nonfinancial group; or
- non-profit NFEs.

An entity will be classified as Active NFE if it meets any of the following criteria:

- a) less than 50% of the NFE’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 NFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income;
- b) the stock of the NFE is regularly traded on an established securities market or the NFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
- c) the NFE is a Governmental Entity, an International Organisation, a Central Bank, or an Entity wholly owned by one or more of the foregoing;
- d) 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 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;
- e) the NFE is not yet operating a business and has no prior operating history, (a “start-up NFE”) but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organisation of the NFE;
- f) the NFE was not a Financial Institution in the past five 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;
- g) 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; **or**

- h) the NFE meets all of the following requirements (a “non-profit NFE”):
- i) it is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional 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;
  - ii) it is exempt from income tax in its jurisdiction of residence;
  - iii) it has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
  - iv) the applicable laws of the NFE’s jurisdiction 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
  - v) the applicable laws of the NFE’s jurisdiction 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 organisation, or escheat to the government of the NFE’s jurisdiction of residence or any political subdivision.

**“Control”** over an Entity is generally exercised by the natural person(s) who ultimately has a controlling ownership interest (typically on the basis of a certain percentage (e.g. 25%)) in the Entity. 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 or persons are identified as exercising control of the Entity through ownership interests, the Controlling Person of the Entity is deemed to be the natural person who holds the position of senior managing official.

**“Controlling Person”** this is a natural person who exercises control over an entity. Where that entity is treated as a Passive Non-Financial Entity (“NFE”) then a Financial Institution must determine whether such Controlling Persons are Reportable Persons. This definition corresponds to the term “beneficial owner” as described in Recommendation 10 of the Financial Action Task Force Recommendations (as adopted in February 2012).

**“Controlling Persons of a trust”** 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 (including through a chain of control or ownership). 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 activities of the trust.

Where the settlor(s) of a trust is an Entity then the CRS requires Financial Institutions to also identify the Controlling Persons of the settlor(s) and when required report them as Controlling Persons of the trust.

In the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions.

**“Entity”** means a legal person or a legal arrangement, such as a corporation, organisation, partnership, trust or foundation.

**“Financial Account”** is an account maintained by a Financial Institution and includes: Depository Accounts; Custodial Accounts; Equity and debt interest in certain Investment Entities; Cash Value Insurance Contracts; and Annuity Contracts.

**“Investment Entity located in a Non-Participating Jurisdiction and managed by another Financial Institution”** is any Entity the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets if the Entity is (i) managed by a Financial Institution and (ii) not resident in, or a branch located in, a Participating Jurisdiction.

**“Investment Entity managed by another Financial Institution”**

An Entity is “managed by” another Entity if the managing Entity performs, either directly or through another service provider on behalf of the managed Entity, any of the activities or operations described in clause (i) above in the definition of “Investment Entity”.

An Entity only manages another Entity if it has discretionary authority to manage the other Entity’s assets (either in whole or part). Where an Entity is managed by a mix of Financial Institutions, NFEs or individuals, the Entity is considered to be managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or the first type of Investment Entity, if any of the managing Entities is such another Entity.

**“Participating Jurisdiction”** a Participating Jurisdiction is a jurisdiction with which an agreement is in place pursuant to which it will provide the information set out in the Common Reporting Standard.

**“Passive NFE”** under the CRS a “Passive NFE” means any NFE that is not an Active NFE. An Investment Entity located in a Non-Participating Jurisdiction and managed by another Financial Institution is also treated as a Passive NFE for purposes of the CRS.

**“Reportable Account”** means an account held by one or more Reportable Persons or by a Passive NFE with one or more Controlling Persons that is a Reportable Person.

**“Reportable Jurisdiction”** is a jurisdiction with which an obligation to provide financial account information is in place.

**“Reportable Person”** is an individual (or entity) that is tax resident in a Reportable Jurisdiction under the laws of that jurisdiction. The Account Holder will normally be the “Reportable Person”; however, in the case of an Account Holder that is a Passive NFE, a Reportable Person also includes any Controlling Persons who are tax resident in a Reportable Jurisdiction. Dual resident individuals may rely on the tiebreaker rules contained in tax conventions (if applicable) to solve cases of double residence for purposes of determining their residence for tax purposes.

**“TIN” (including “functional equivalent”)** means Taxpayer Identification Number or a functional equivalent in the absence of a TIN. A TIN is a unique combination of letters or numbers assigned by a jurisdiction to an individual or an Entity and used to identify the individual or Entity for the purposes of administering the tax laws of such jurisdiction. Further details of acceptable TINs can be found at the following link [[OECD Portal](#)]

Some jurisdictions do not issue a TIN. However, these jurisdictions often utilise some other high integrity number with an equivalent level of identification (a “functional equivalent”). Examples of that type of number include, for individuals, a social security/insurance number, citizen/personal identification/service code/number, and resident registration number.