

## Instructions for the purposes of FATCA / CRS

1. **Financial Institution or Foreign Financial Institution (FFI)**- The term FFI means any financial institution that is a:

**A. Depository institution:**

Accepts deposits in the ordinary course of banking or similar business.

**B. Custodial institution:**

As a *substantial portion* of its business, holds financial assets for the account of others

*Meaning of Substantial portion*

– 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 *holding financial assets and related financial services* equals or exceeds 20 percent of the entity's gross income during the shorter of-

(1) The three-year period ending on December 31 of the year preceding the year in which the determination is made;

(2) The period during which the entity has been in existence before the determination is made. )

*Meaning of Income attributable to holding financial assets and related financial services:*

– Income attributable to holding financial assets and related financial services means custody, account maintenance, and transfer fees; commissions and fees earned from executing and pricing securities transactions; income earned from extending credit to customers with respect to financial assets held in custody by the entity (or acquired through such extension of credit); income earned on the bid-ask spread of financial assets; fees for providing financial advice with respect to financial assets held in (or potentially to be held in) custody by the entity; and fees for clearance and settlement services)

**C. Investment entity :**

Primarily conducts a business or operates for or on behalf of a customer for any of the following 3 activities-

- Trading in money market instruments, foreign exchange, foreign currency, etc.
- Individual or collective portfolio management
- Investing, administering or managing funds, money or financial asset 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

*Explanation - An entity is treated as primarily conducting as a business one or more of the activities described in sub-clause (A), or an entity's gross income is primarily attributable to investing, reinvesting, or trading in financial assets for purposes of sub-clause (B), if 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.*

**D. 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.

**E. Holding company or treasury company:**

Is an entity that is a holding company or treasury centre that is a part of an expanded affiliate group that includes a depository, custodial institution, specified insurance company or investment entity

**2. Financial Institutions not required to have a GIIN**

<b>Code</b>	<b>Category</b>
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 and Investment Managers
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

**3. Non-financial entity(NFFE) - Any entity that is not a financial institution (including a territory NFFE)**

Types of NFFEs excluded from FATCA reporting are:

<ul style="list-style-type: none"> <li>• <i>Publicly traded corporation (listed company)</i> <ul style="list-style-type: none"> <li>- The stock of such corporation is 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)</li> </ul> </li> <li>• <i>Related entity of a listed company</i> <ul style="list-style-type: none"> <li>- The entity identified is a member of the same expanded affiliate group as an entity the stock of which is regularly traded on an established securities market;</li> </ul> </li> <li>• <i>Active NFFE : (is any one of the following):</i></li> </ul>	
<b>Code</b>	<b>Sub-category</b>
01	Less than 50 percent of the NFFE's gross income for the preceding calendar year or other appropriate reporting period is <i>passive income</i> and less than 50 percent of the assets held by the NFFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of <i>passive income</i> ;
02	The NFFE is a government (other than the U.S. government), a political subdivision of such government (which, for the avoidance of doubt, includes a state, province, county, or municipality), or a public body performing a function of such government or a political subdivision thereof, a government of a U.S. Territory, an international organization, a non-U.S. central bank of issue, or an Entity wholly owned by one or more of the foregoing;
03	Substantially all of the activities of the NFFE 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 NFFE 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;
04	The NFFE 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 NFFE shall not qualify for this exception after the date that is 24 months after the date of the initial organization of the NFFE;
05	The NFFE 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 NFFE 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 NFFE is a 'non for profit' organization which meets all of the following requirements:</p> <ul style="list-style-type: none"> <li>o 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 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;</li> <li>o It is exempt from income tax in its jurisdiction of residence;</li> <li>o It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;</li> <li>o The applicable laws of the NFFE's jurisdiction of residence or the NFFE's formation documents do not permit any income or assets of the NFFE 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 NFFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFFE has purchased; and</li> </ul> <p>The applicable laws of the NFFE's jurisdiction of residence or the NFFE's formation documents require that, upon the NFFE'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 NFFE's jurisdiction of residence or any political subdivision thereof.</p> <p><i>Explanation.-</i> For the purpose of this sub-clause, the following shall be treated as fulfilling the criteria provided in the said sub-clause, namely:-</p> <ul style="list-style-type: none"> <li>(I) an Investor Protection Fund referred to in clause (23EA);</li> <li>(II) a Credit Guarantee Fund Trust for Small Industries referred to in clause 23EB; and</li> <li>(III) an Investor Protection Fund referred to in clause (23EC), of section 10 of the Act;</li> </ul>

#### 4. Other definitions

(i) <i>Expanded affiliated group</i>	Expanded affiliated group is defined to mean one or more chains of members connected through ownership (50% or more, by vote or value, as the case may be) by a common parent entity if the common parent entity directly owns stock or other equity interests meeting the requirements in at least one of the other members. Generally, only a corporation shall be treated as the common parent entity of an expanded affiliated group,
(ii) <i>Passive NFFE</i>	<p>The term passive NFFE means</p> <ul style="list-style-type: none"> <li>(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</li> <li>(ii) an investment entity</li> <li>(iii) a withholding foreign partnership or withholding foreign trust;</li> </ul> <p>(Note: Foreign persons having controlling interest in a passive NFFE are liable to be reported for tax information compliance purposes)</p>
(iii) <i>Passive income</i>	<p>The term passive income means the portion of gross income that consists of-</p> <ul style="list-style-type: none"> <li>(1) Dividends, including substituted dividend amounts;</li> <li>(2) Interest</li> <li>(3) Income equivalent to interest, including substitute interest and amounts received from or with respect to a pool of insurance contracts if the amounts received depend in whole or part upon the performance of the pool;</li> <li>(4) 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 NFFE</li> <li>(5) Annuities</li> <li>(6) The excess of gains over losses from the sale or exchange of financial assets that gives rise to passive income described in this section</li> <li>(7) The excess of gains over losses from transactions (including futures, forwards, and similar transactions) in any financial assets</li> <li>(8) The excess of foreign currency gains over foreign currency losses</li> <li>(9) Net income from notional principal contracts</li> <li>(10) Amounts received under cash value insurance contracts</li> <li>(11) Amounts earned by an insurance company in connection with its reserves for insurance and annuity contracts</li> </ul>

But passive income will not include in case of a non-financial entity that acts as a dealer in financial assets, any income from any transaction entered into in the ordinary course of such dealer's business as a dealer.

*(iv) Controlling persons*

Controlling persons are natural persons who exercise control over an entity.

In the case of a trust, such term 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, such term means persons in equivalent or similar positions. The term "Controlling Persons" shall be interpreted in a manner consistent with the Financial Action Task Force recommendations.

Pursuant to guidelines on identification of Beneficial Ownership issued vide RBI circular no. DBOD.AML.BC.No.71/14.01.001/2012-13 dated January 18, 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 banking company and financial institution, as the case may be, shall identify the beneficial owners of the trust and take reasonable measures to verify the identity of such persons, through the identity of the settlor 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.

*(v) U.S. person*

"U.S. Person" means a United States of America citizen or resident individual, a partnership or corporation organized in the United States of America or under the laws of the United States of America or any State thereof, a trust if (i) a court within the United States of America would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust, and (ii) one or more U.S. persons have the authority to control all substantial decisions of the trust, or an estate of a decedent that is a citizen or resident of the United States of America.

*(vi) 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.

*(vii) Direct Reporting NFFE –*

Direct reporting NFFE will mean an NFFE that elects to report on Form 8966 directly to the IRS certain

information about its direct or indirect substantial U.S. owners, in lieu of providing such information to withholding agents or participating FFIs with which the NFFE holds a financial account
<p>(viii) <i>Owner documented FFI</i> –</p> <p>An FFI that meets the following requirements:</p> <p>(A) The FFI is an FFI solely because it is an investment entity;</p> <p>(B) The FFI is not owned by or related to any FFI that is a depository institution, custodial institution, or specified insurance company;</p> <p>(C) The FFI does not maintain a financial account for any nonparticipating FFI;</p> <p>(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</p> <p>(E) The designated withholding agent agrees to report to the IRS (or, in the case of a reporting Model 1 FFI, 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 NFFE.</p>
<p>(ix) <i>Sponsoring Entity</i> –</p> <p>The term <i>sponsoring entity</i> means an entity that registers with the IRS and agrees to perform the due diligence, withholding, and reporting obligations of one or more FFIs pursuant to § 1.1471-5(f)(1)(i)(F) or (2)(iii).</p>

## 5. 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

## 6. Categories

Code	Category
00	Partnership Firm
01	HUF
02	Private Limited Company
03	Public Company
04	Society
05	AOP /BOI
06	Trust
07	Liquidator

08	LLP
09	Artificial Juridical person
10	Others

## 7. UBO Code Instructions

UBO Code	Description
UBO-1	Controlling ownership interest of more than 25% of shares or capital or profits of the juridical person [Investor], where the juridical person is a company
UBO-2	Controlling ownership interest of more than 15% of the capital or profits of the juridical person [Investor], where the juridical person is a partnership
UBO-3	Controlling ownership interest of more than 15% of the property or capital or profits of the juridical person [Investor], where the juridical person is an unincorporated association or body of individuals
UBO-4	Natural person exercising control over the juridical person through other means exercised through voting rights, agreement, arrangements or in any other manner <i>[In cases where there exists doubt under UBO-1 to UBO - 3 above as to whether the person with the controlling ownership interest is the beneficial owner or where no natural person exerts control through ownership interests]</i>
UBO-5	Natural person who holds the position of senior managing official [In case no natural person cannot be identified as above]
UBO-6	The settlor(s) of the trust
UBO-7	Trustee(s) of the Trust
UBO-8	The Protector(s) of the Trust [if applicable].
UBO-9	The beneficiaries with 15% or more interest in the trust if they are natural person(s)
UBO-10	Natural person(s) exercising ultimate effective control over the Trust through a chain of control or ownership

## Annexure to the FATCA CRS Annexure for Non-individual accounts

<b>Categories of FI not required to apply for GIIN:</b>	
<b>Code</b>	<b>Category description (please refer notes below)</b>
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

*Notes-*

(1) **Governmental Entity** means the government of a country or territory, any political subdivision of a country or territory (including a state, province, county, or municipality), or any wholly owned agency or instrumentality or controlled entities of a country or territory or of any one or more of the foregoing (where each is also a "Governmental Entity") and includes the integral parts, controlled entities, and political subdivisions of such country or territory. For the purpose of this clause:

(i) An "integral part" of a country or territory means any person, organization, agency, bureau, fund, instrumentality, or other body, by whatever name called, that constitutes a governing authority of a country or territory and the net earnings of the governing authority must be credited to its own account or to other accounts of the country or territory, with no portion inuring to the benefit of any private person;

Provided that an integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity;

Provided further that the 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 a Department of Government;

Provided also that income is considered to inure to the benefit of private persons if the income is derived from the Governmental entity engaged in a commercial business, such as a commercial banking business, which provides financial services to private persons.

(ii) A controlled entity means an entity that is separate in form from the country or territory or that otherwise constitutes a separate juridical entity:

Provided that:

(1) the entity is wholly owned and controlled by one or more Governmental Entities directly or through one or more controlled entities;

(2) 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

(3) the entity's assets vest in one or more Governmental Entities upon dissolution;

Provided further that the income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental program, and the program activities are performed for the general public with respect to the common welfare or relate to the administration a department of government:

Provided also that income is considered to inure to the benefit of private persons if the income is derived from Governmental entity engaged in a commercial business, such as a commercial banking business which provides financial services to private persons.

(2) **"International Organization"** means any international organization or wholly owned agency or instrumentality thereof including any intergovernmental organization,-

(i) that is comprised primarily of governments;

(ii) that has in effect a headquarters or substantially similar agreement with India; and

(iii) the income of which does not inure to the benefit of private persons.

- (3) “**Central Bank**” means a bank that is by law or government sanction the principal authority, other than the government of the country or territory itself, issuing instruments intended to circulate as currency including an instrumentality that is separate from the government of the country or territory, whether or not owned in whole or in part by the country or territory.
- (4) “**Treaty Qualified Retirement Fund**” means a fund established in India, provided that the fund is entitled to benefits under an agreement between India and the Government of any country or territory outside India on income that it derives from sources within such country or territory outside India (or would be entitled to such benefits if it derived any such income) as a resident of India that satisfies any applicable limitation on benefits requirement, and is operated principally to administer or provide pension or retirement benefits.
- (5) “**Broad Participation Retirement Fund**” means a fund established to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former employees (or persons nominated by such employees) of one or more employers in consideration for services rendered, provided that the fund:
- (i) does not have any beneficiary with a right to more than five per cent of the fund’s assets;
  - (ii) is subject to government regulation and provides information reporting to the income-tax authorities; and
  - (iii) satisfies at least one of the following requirements, namely:-
    - a) 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;
    - b) the fund receives at least 50 per cent of its total contributions (other than transfer of assets from other plans described in 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 or from retirement and pension accounts described as “excluded account” under the Rules) from the sponsoring employers;
    - c) distributions or withdrawals from the fund are allowed only in the event of retirement, disability, or death (except rollover distributions to other retirement funds described in “Broad Participation Retirement Fund; a Narrow Participation Retirement Fund; or a Pension Fund of a Governmental Entity, International Organization or Central Bank” or retirement and pension accounts described as “excluded account” under the Rules) or penalties apply to distributions or withdrawals made before such events; or
    - d) 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 an amount equivalent to fifty thousand U.S. dollars annually applying the procedures for account aggregation and currency translation.
- (6) “**Narrow Participation Retirement Fund**” means a fund established to provide retirement, disability, or death benefits to beneficiaries that are current or former



employees (or persons nominated by such employees) of one or more employers in consideration for services rendered, provided that:

- (i) the fund has less than 50 participants;
- (ii) the fund is sponsored by one or more employers that are not investment entities or passive non-financial entities;
- (iii) the employee and employer contributions to the fund (other than transfers of assets from retirement and pension accounts described as “excluded account” under the Rules) are limited by reference to earned income and compensation of the employee, respectively;
- (iv) participants who are not residents in India are not entitled to more than 20 per cent of the fund’s assets; and
- (v) the fund is subject to government regulation and provides information reporting to the income-tax authorities.

(7) **“Pension Fund of a Governmental Entity, International Organization or Central Bank”** means a fund established by a Governmental Entity, International Organization or Central Bank to provide retirement, disability, or death benefits to beneficiaries or participants that are current or former employees (or persons nominated 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 Organization or Central Bank.

(8) **“Non-public fund of the armed forces”** means a fund established in India as a regimental fund or non-public fund by the armed forces of the Union of India for the welfare of the current and former members of the armed forces and whose income is exempt from tax under section 10(23AA) of the Income-tax Act, 1961.

(9) **“Employees’ State Insurance fund”** means a fund established in India as an Employees’ State Insurance Fund under the provisions of the Employees’ State Insurance Act, 1948, to provide medical expenses of low-income factory workers in India.

(10) **“Gratuity fund”** means a fund established in India under the Payment of Gratuity Act, 1972, to provide for the payment of a gratuity to certain types of employees of an Indian employer specified in the Payment of Gratuity Act, 1972.

(11) **“Provident fund”** means a fund established in India under the Provident Fund Act, 1952 or the Employees’ Provident Funds and Miscellaneous Act, 1952 to provide current and former employees of Indian employers retirement benefits in consideration for services rendered, provided that fund:

- (i) does not have a single beneficiary with a right to more than five percent of the fund’s assets;
- (ii) is subject to government regulation and provides annual information reporting about its beneficiaries to the income-tax authorities;
- (iii) the fund is generally exempt from tax in India on investment income under the laws of India due to its status as a Provident Fund; and
- (iv) contributions (other than permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed an amount equivalent to fifty thousand U.S. dollars annually.

(12) "**Qualified credit card issuer**" means a financial institution satisfying the following requirements, namely:-

- (i) 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
- (ii) beginning on or before July 1, 2014, the financial institution implements policies and procedures either to prevent a customer from making an overpayment in excess of an amount equivalent to fifty thousand U.S. dollars or to ensure that any customer overpayment in excess of an amount equivalent to fifty thousand U.S. dollars is refunded to the customer within 60 days

*Explanation.-* A customer overpayment does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns.

(13) An investment entity established in India that is a financial institution only because it,-

- (I) renders investment advice to, and acts on behalf of; or
- (II) manages portfolios for, and acts on behalf of; or
- (III) executes trades on behalf of,

a customer for the purposes of investing, managing, or administering funds or securities deposited in the name of the customer with a financial institution other than a non-participating financial institution;

(14) "**Exempt collective investment 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 persons other than,- (i) those described in "Reportable account" and, (ii) a non-participating financial institution.

*Explanation.-* An investment entity that is regulated as a collective investment vehicle does not fail to qualify as an exempt collective investment vehicle, solely because the collective investment vehicle has issued physical shares in bearer form, provided that:

- (i) the collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after 31<sup>st</sup> December 2012; and
- (ii) the collective investment vehicle retires all such shares upon surrender; and
- (iii) the collective investment vehicle performs the due diligence procedures set forth in rule 114H 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
- (iv) the collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilized as soon as possible, and in any event prior to 1<sup>st</sup> January, 2017.

(15) "**Financial institution with a local client base**" means a financial institution satisfying the following requirements, namely:-

- (i) the financial institution must be licensed and regulated as a financial institution under any law for the time being in force; and

(ii) the financial institution must have no fixed place of business outside of India.

*Explanation.-* A fixed place of business does not include a location that is not advertised to the public and from which the financial institution performs solely administrative support functions; and

(iii) the financial institution must not solicit customers or account holders outside India.

*Explanation.-* A financial institution shall not be considered to have solicited customers or account holders outside India merely because the financial institution, (a) operates a website, provided that the website does not specifically indicate that the financial institution provides financial accounts or services to non-residents, and does not otherwise target or solicit customers or account holders who are resident of any country or territory outside India for tax purposes, or (b) advertises in print media or on a radio or television station that is distributed or aired primarily within India but is also incidentally distributed or aired in other countries, provided that the advertisement does not specifically indicate that the financial institution provides financial accounts or services to non-residents, and does not otherwise target or solicit customers or account holders who are resident of any country or territory outside India for tax purposes; and

(iv) the financial institution is required under any law for the time being in force to identify resident account holders for purposes of either information reporting or withholding of tax with respect to financial accounts held by residents or for purposes of satisfying the due diligence requirements under the Prevention of Money-laundering Act, 2002 (15 of 2003); and

(v) at least 98 percent of the financial accounts by value maintained by the financial institution must be held by residents; and

(vi) beginning on or before the 30th June, 2014, the policies and procedures of the financial institution are consistent with those set forth in rule 114H, to prevent the financial institution from providing a financial account to any non-participating financial institution and to monitor whether the financial institution opens or maintains a financial account for any reportable person who is not a resident of India (including a non-resident who was a resident of India when the financial account was opened but subsequently ceases to be a resident of India) or any passive non-financial entity with controlling persons who are reportable persons;

(vii) such policies and procedures explicitly provide that if any financial account held by a reportable person who is not a resident of India or by a passive non-financial entity with controlling persons who are reportable persons who are not resident of India is identified, the financial institution shall report such financial account as would be required if the financial institution was a reporting financial institution or close such financial account

(viii) with respect to a preexisting account held by an individual who is not a resident of India or by an entity, the financial institution must review those preexisting accounts in accordance with the procedures set forth in rule 114H applicable to preexisting accounts to identify any reportable account or financial account held by a non-participating Financial Institution, and must report such financial account as would be required if the financial institution were a reporting financial institution or close such financial account; and

(ix) each related entity of the financial institution that is a financial institution must be incorporated or organized in India and, with the exception of any related entity that is a retirement fund as described, satisfy the requirements set forth here; and

(x) the financial institution must not have policies or practices that discriminate against opening or maintaining financial accounts for individuals who are Specified U.S. persons and residents of India.

(16) "**Local bank**" means a financial institution satisfying the following requirements, namely:-

- (i) the financial institution operates solely as (and is licensed and regulated under any law for the time being in force), (a) a bank or (b) a credit union or similar cooperative credit organization that is operated without profit; and
- (ii) the financial institution's business consists primarily of receiving deposits from and making loans to, with respect to a bank, unrelated retail customers and, with respect to a credit union or similar cooperative credit organization, members, provided that no member has a greater than five percent interest in such credit union or cooperative credit organization; and
- (iii) the financial institution satisfies the requirements set forth in sub-clauses (ii) and (iii) of point 14 , provided that, in addition to the limitations on the website described in sub-clause (iii) of point 14, the website does not permit the opening of a financial account; and
- (iv) the financial institution does not have more than an amount equivalent to one hundred seventy five million U.S. dollars in assets on its balance sheet, and the financial institution and any related entities, taken together, do not have more than an amount equivalent to five hundred million U.S. dollars in total assets on their consolidated or combined balance sheets; and
- (v) any related entity must be incorporated or organized in India, and any related entity that is a financial institution, with the exception of any related entity that is a retirement fund described in in point (4) to (7) of this *Explanation* or a financial institution with only low-value accounts described in clause (16) of this *Explanation*, must satisfy the requirements set forth in this point.

Explanation.- Regional Rural Banks constituted under the Regional Rural Bank Act 1976 (21 of 1976), Urban Cooperative Banks constituted under respective State Cooperative Societies Acts or Multi State Cooperative Societies Act, State Cooperative Banks or District Central Cooperative Banks constituted under respective State Cooperative Societies Act and Local Area Banks licensed under the Banking Regulations Act, 1949 (10 of 1949) and regulated and registered as public limited companies under the Companies Act, 1956 (1 of 1956) or Companies Act, 2013 (18 of 2013), that satisfy the requirement under sub-clause (iv) shall be treated as local bank for the purpose of this clause;

(17) "**Financial institution with only low-value accounts**" means a financial institution satisfying the following requirements, namely:-

- (i) the financial institution is not an investment entity; and
- (ii) no financial account maintained by the financial institution or any related entity has a balance or value in excess of an amount equivalent to fifty thousand U.S. dollars applying the procedure for account aggregation and currency translation; and

- (iii) the financial institution does not have more than fifty million U.S. dollars in assets on its balance sheet, and the Financial Institution and any Related Entities, taken together, do not have more than fifty million U.S. dollars in total assets on their consolidated or combined balance sheets.

(18) "**Sponsored investment entity and controlled foreign corporation**" means a financial institution described in the following, namely:-

- (i) a financial institution is a sponsored investment entity if,- (a) it is an investment entity established in India that is not a qualified intermediary (being an intermediary that is a party to a withholding agreement with the United States of America), withholding foreign partnership, or withholding foreign trust; and (b) an entity has agreed with the financial institution to act as a sponsoring entity for the financial institution;
- (ii) a financial institution is a sponsored controlled foreign corporation if (a) the financial institution is a controlled foreign corporation organized under any law for the time being in force in India that is not a qualified intermediary (being an intermediary that is a party to a withholding agreement with the United States of America), withholding foreign partnership, or withholding foreign trust; (b) the financial institution is wholly owned, directly or indirectly, by a reporting U.S. financial institution referred to in Article 1 of the FATCA agreement that agrees to act, or requires an affiliate of the financial institution to act, as a sponsoring entity for the financial institution; and (c) the financial institution shares a common electronic account system with the sponsoring entity that enables the sponsoring entity to identify all account holders and payees of the financial institution and to access all account and customer information maintained by the financial institution including, but not limited to, customer identification information, customer documentation, account balance, and all payments made to the account holder or payee,

and that complies with the following requirements namely:-

- a) the sponsoring entity is authorized to act on behalf of the financial institution (such as a fund manager, trustee, corporate director, or managing partner) to fulfill applicable registration requirements of U.S.A; and
- b) the sponsoring entity has registered as a sponsoring entity with the U.S.A; and
- c) if the sponsoring entity identifies any U.S. reportable account with respect to the financial institution, the sponsoring entity registers the financial institution pursuant to applicable registration requirements of the United States of America on or before the 31st December, 2015 or the date that is ninety days after such U.S. reportable account is first identified, whichever is later; and
- d) the sponsoring entity agrees to perform, on behalf of the financial institution, all due diligence, withholding, reporting, and other requirements that the financial institution would have been required to perform if it were a reporting financial institution;
- e) the sponsoring entity identifies the financial institution and includes the identifying number of the financial institution (obtained by following applicable registration requirements on the IRS FATCA registration website) in all reporting completed on the financial institution's behalf; and
- f) the sponsoring entity has not had its status as a sponsor revoked.

(19) “**sponsored, closely held investment vehicle**” means an Indian financial institution satisfying the following requirements, namely:-

- (i) the financial institution is a financial institution solely because it is an investment entity and is not a qualified intermediary (being an intermediary that is a party to a withholding agreement with the United States of America), withholding foreign partnership, or withholding foreign trust; and
- (ii) the sponsoring entity is a reporting U.S. financial institution referred to in Article 1 of the FATCA agreement, reporting financial institution, or participating foreign financial institution defined in Annex II of the FATCA agreement, is authorized to act on behalf of the financial institution (such as a professional manager, trustee, or managing partner), and agrees to perform, on behalf of the financial institution, all due diligence, withholding, reporting, and other requirements that the financial institution would have been required to perform if it were a reporting financial institution; and
- (iii) the financial institution does not act as an investment vehicle for unrelated parties; and
- (iv) twenty or less than twenty individuals own all of the debt interests and equity interests in the financial institution (other than debt interests owned by participating foreign financial institution defined in Annex II of the FATCA agreement and non-reporting financial institutions and equity interests owned by an entity if that entity owns hundred percent of the equity interests in the financial institution and is itself a sponsored financial institution); and
- (v) the sponsoring entity complies with the following requirements, namely:-
  - a. it has been registered as a sponsoring entity in terms of FATCA of the U.S.A.
  - b. the sponsoring entity agrees to perform, on behalf of the financial institution, all due diligence, withholding, reporting, and other requirements that the financial institution would have been required to perform if it were a reporting financial institution and retains documentation collected with respect to the financial institution for a period of six years; and
  - c. the sponsoring entity identifies the financial institution in all its reporting completed on the financial institution’s behalf; and
  - d. the sponsoring entity has not had its status as a sponsor revoked.