

Glossary of terms

The definitions relating to these reports are found in the Code of Fiscal Procedure - Annex 1 and in the Annexes to Law No 233/2015. Of these, below are the definitions for some of the most common items:

(+) The term "Passive Non-Financial Institution"

(+) According to CRS - is a Nonfinancial Entity (ENF) that not an Active Nonfinancial Entity or an investment Entity that is not a Participating Jurisdiction Financia Institution.

(+) According to FATCA - is a Nonfinancial Entity that is not a Nonfinancial Active Entity, or a withholding foreign partnership or withholding foreign trust pursuant to relevant U.S. Treasury Regulations.

(+) The term "Active Nonfinancial Entity"

(+) According to CRS – is a Nonfinancial Entity that 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, 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:

- i)** it is established and operated in its Member State or other jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its Member State or other 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 Member State or other 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 Member State or other 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 Member State or other 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 Member State or other jurisdiction of residence or any political subdivision thereof.

(+) According to FATCA - means any NFFE that meets any of the following criteria:

- a)** Less than 50 percent of the NFFE's gross income for the preceding calendar year or other appropriate reporting period is passive income 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 passive income;
- b)** The stock of the NFFE is regularly traded on an established securities market or the NFFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market;
- c)** The NFFE is organized in a U.S. Territory and all of the owners of the payee are bona fide residents of that U.S. Territory;
- d)** 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;

- e) 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;
- f) 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;
- g) 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;
- h) h) 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;
- i) The NFFE is an “excepted NFFE” as described in relevant U.S. Treasury Regulations; or
- j) The NFFE meets all of the following requirements:
 - 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 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;
 - 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 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
 - v) 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.

(+) The term "Passive Income"

(+) *According to CRS* - generally includes that part of gross income consisting of:

- a) dividends;
- b) interest and other income economically equivalent to interest;
- c) rents and royalties, other than rents and royalties derived from the active conduct of a business managed, at least in part, by employees of a NFE;
- d) annuities;
- e) gains from the sale or trading of financial assets giving rise to the passive income referred to above;
- f) gains from transactions (including futures, forwards, options and similar transactions) in any financial assets;
- g) foreign exchange gains;
- h) net income from swaps; or
- i) amounts received under insurance contracts with surrender value.

Notwithstanding the foregoing, passive income does not include, in the case of an NFE that regularly acts as an intermediary in the market for financial assets, any income from any transaction carried out in the ordinary course of such intermediary's business.

(+) *According to FATCA* - generally includes that part of gross income consisting of:

- a) dividends;
- b) interest and other income economically equivalent to interest;
- c) rents and royalties, other than rents and royalties derived from the active conduct of a business carried on at least in part by employees of a NFE;
- d) annuities;
- e) gains from the sale or trading of financial assets giving rise to the passive income referred to above;
- f) gains from transactions (including futures, forwards, options and similar transactions) in any financial assets;
- g) foreign exchange gains;
- h) net income from swaps; or;

- i) amounts received under insurance contracts with surrender value.

(+) The term "International Organization"

(+) *According to CRS* - means any international organisation or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organisation (including a supranational organisation):

- (i) that is comprised primarily of governments;
- (ii) that has in effect a headquarters or substantially similar agreement with the Member State; and
- (iii) the income of which does not inure to the benefit of private persons.

(+) *According to FATCA* - Any international organization or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organization (including a supranational organization):

- (i) that is comprised primarily of non-U.S. governments;
- (ii) that has in effect a headquarters agreement with Romania; and
- (iii) the income of which does not inure to the benefit of private persons.

(+) The term "Government Entity"

(+) *According to CRS* - means the government of a Member State or other jurisdiction, any political subdivision of a Member State or other jurisdiction (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of a Member State or other jurisdiction or of any one or more of the foregoing (each, a "Governmental Entity"). This category is comprised of the integral parts, controlled entities, and political subdivisions of a Member State or other jurisdiction.

- a) An "integral part" of a Member State or other jurisdiction means any person, organisation, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of a Member State or other jurisdiction. The net earnings of the governing authority must be credited to its own account or to other accounts of the Member State or other jurisdiction, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity.
- b) A "controlled entity" means an Entity which is separate in form from the Member State or other jurisdiction or which otherwise constitutes a separate juridical entity, provided that:

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

(ii) the Entity's net earnings are credited to its own account or to the accounts of one or more Governmental Entities, with no portion of its income inuring to the benefit of any private person; and

(iii) the Entity's assets vest in one or more Governmental Entities upon dissolution.

(c) Income does not inure to the benefit of private persons if such persons are the intended beneficiaries of a governmental programme, and the programme activities are performed for the general public with respect to the common welfare or relate to the administration of some phase of government. Notwithstanding the foregoing, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a Governmental Entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons.

(+) According to FATCA - The government of Romania, any political subdivision of Romania (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of Romania or any one or more of the foregoing (each, a "Romanian Governmental Entity"). This category is comprised of the integral parts, controlled entities, and political subdivisions of Romania.

An integral part of Romania means any person, organization, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of Romania. The net earnings of the governing authority must be credited to its own account or to other accounts of Romania, with no portion inuring to the benefit of any private person. An integral part does not include any individual who is a sovereign, official, or administrator acting in a private or personal capacity.

A controlled entity means an Entity that is separate in form from Romania or that otherwise constitutes a separate juridical entity, provided that:

i) The Entity is wholly owned and controlled by one or more Romanian Governmental Entities directly or through one or more controlled entities;

ii) The Entity's net earnings are credited to its own account or to the accounts of one or more Romanian Governmental Entities, with no portion of its income inuring to the benefit of any private person; and

iii) The Entity's assets vest in one or more Romanian Governmental Entities upon dissolution.

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 public with respect to the common welfare or relate to the administration of some phase of government. Notwithstanding the foregoing, however, income is considered to inure to the benefit of private persons if the income is derived from the use of a governmental entity to conduct a commercial business, such as a commercial banking business, that provides financial services to private persons.

(+) The term " Financial Institution"

(+) *According to CRS-* means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.

(+) *According to FATCA -* means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.

(+) The term “Custodial Institution”

(+) *According to CRS –* means any Entity that holds, as a substantial portion of its business, Financial Assets for the account of others. An Entity holds Financial Assets for the account of others as a substantial portion of its business if the Entity's gross income attributable to the holding of Financial Assets and related financial services equals or exceeds 20 % of the Entity's gross income during the shorter of:

- a) the three-year period that ends on 31 December (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or
- b) the period during which the Entity has been in existence.

The term "income attributable to the holding of financial assets and related financial services" refers to:

- a) fees for custody, account management and transfer fees;
- b) fees and charges realized from the execution and charging of securities transactions in respect of financial assets held in custody;
- c) income realized from extending credit to customers in respect of financial assets held in custody or obtained by an extension of credit;
- d) income realized on a bidding range on financial assets held in custody;
- e) fees for providing financial advice in relation to financial assets held or likely to be held in custody by the entity; and
- f) for clearing and settlement services.

Entities that hold and administer financial assets on behalf of third parties, such as custodian banks, brokers and central securities depositories, are generally considered to be custodial institutions. Entities that do not hold financial assets for third parties are not considered custodians.

(+) *According to CRS -* means any Entity that holds, as a substantial portion of its business, financial assets for the account of others. An entity holds financial assets for the account of others as a substantial portion of its business if the entity's gross income attributable to the holding of financial assets and related financial services equals or exceeds 20 percent of the entity's gross income during the shorter of:

- (i) the three-year period that ends on December 31 (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or
- (ii) the period during which the entity has been in existence.

(+) The term “Depository Institution”

(+) According to CRS - means any Entity that accepts deposits in the ordinary course of a banking or similar business.

An entity is considered to be engaged in "banking or other similar activities" if, in the ordinary course of its business with customers, the entity attracts deposits or other similar investments of funds and regularly engages in one or more of the following activities

- a) makes loans for its own account;
- b) buys, sells, discounts, or negotiates accounts receivable, installment obligations, promissory notes, drafts, checks, drafts, acceptances, or other certificates of indebtedness;
- c) issue letters of credit and negotiate drafts drawn thereunder
- d) offer trusts and trust services
- e) finance foreign exchange transactions; or
- f) enter into, purchase or sell finance leases or leased assets.

Banks, cooperative credit organizations, home savings and loan banks and mortgage banks are generally considered as depository institutions. However, whether an entity is engaged in banking or similar activities is determined by the actual nature of those activities of the entity.

Depository institutions also include mutual benefit societies, which are regulated under specific legislation.

An institution shall not be considered to be engaged in banking or other similar activities if the institution accepts deposits from persons solely as collateral for the sale or rental of real estate or under some other financial agreement between the institution and the person holding the deposit with the institution.

(+) According to FATCA - means any Entity that accepts deposits in the ordinary course of a banking or similar business.

(+) The term "Specified Insurance Company"

(+) According to CRS - means any Entity that is an insurance company (or the holding company of an insurance company) which issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.

An insurance company is an entity:

- a) whose gross income, for example, gross premium income and gross investment income, associated with insurance, reinsurance, and annuity contracts, exceeds 50% of its total gross income in the immediately preceding calendar year; or
- b) whose aggregate value of assets associated with insurance, reinsurance, and annuity contracts exceeds 50% of total assets at any time during the immediately preceding calendar year.

(+) *According to FATCA* - means any 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.

(+) The term “Investment Entity”

(+) *According to CRS* - means any Entity:

(a) which primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer:

(i) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;

(ii) individual and collective portfolio management; or

(iii) otherwise investing, administering, or managing Financial Assets or money on behalf of other persons; or

(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 Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in subparagraph (a) above.

An entity is administered by another entity if the administering entity carries out, either directly or through a service provider, any of the activities or operations in (a) above on behalf of the administered entity.

However, an entity does not manage another entity if it does not have discretion to manage all or part of the assets of that entity.

If an entity is managed by a mixture of financial institutions, NPEs or individuals, the entity is considered to be managed by another entity that is a depository institution, custodian institution, specified insurance company or investment entity as set out in (a) above, if one of the entities that manages it is such an entity.

An entity shall be considered to carry on as its principal activity one or more of the activities referred to in subparagraph (a), or the gross income of an entity is primarily attributable to investing, reinvesting or trading in financial assets as defined in subparagraph (b), if the gross income of the entity attributable to the relevant activities equals or exceeds 50% of the gross income of the entity over the shorter of:

- the three-year period ending on December 31 of the year preceding the year in which the calculation is made; or

- the period during which the entity existed.

The term 'investment entity' does not include an entity that is an active non-financial entity, because that entity meets any of the criteria set out in subparagraphs (b) to (f) of the definition of active non-financial entity.

An entity shall be considered to be an investment entity if it operates or holds itself out as a collective investment undertaking, mutual fund, exchange-traded fund, private equity fund, hedge fund, hedge fund, venture capital fund, buy-out fund, or any other similar investment undertaking established on the basis of an investment strategy for the investment, reinvestment or trading of financial assets.

An entity which acts as an investment company, or which manages, administers or manages the rights to real estate that is not debt in the name of another person, such as a real estate investment trust, shall not be considered an investment entity.

(+) According to FATCA - means any Entity that conducts as a business (or is managed by an entity that conducts as a business) one or more of the following activities or operations for or on behalf of a customer:

- (i)** trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
- (ii)** individual and collective portfolio management; or
- (iii)** otherwise investing, administering, or managing funds or money on behalf of other persons.

(+) The term “Central Bank”

(+) According to CRS - in Romania, the term "central bank" shall mean the National Bank of Romania, as defined in Article 1 of Law No 312/2004 on the Statute of the National Bank of Romania, as amended and supplemented.

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