

# W8-BEN-E Definitions and Validation Instructions

**This document is for information purposes only and does not constitute advice. If any person reading this document requires further information they should seek independent Tax advice.**

**Foreign Financial Institution (FFI).** A foreign financial institution (FFI) generally means a foreign entity that is a financial institution.

**Participating FFI.** A participating FFI is an FFI (including a Reporting Model 2 FFI) that has agreed to comply with the terms of an FFI agreement. The term participating FFI also includes a qualified intermediary (QI) branch of a U.S. financial institution, unless such branch is a reporting Model 1 FFI.

**Intergovernmental Agreement (IGA).** An IGA means a Model 1 IGA or a Model 2 IGA. For a list of jurisdictions treated as having in effect a Model 1 or Model 2 IGA, see “List of Jurisdictions” available at [www.irs.gov/fatca](http://www.irs.gov/fatca). A Model 1 IGA means an agreement between the United States or the Treasury Department and a foreign government or one or more agencies to implement FATCA through reporting by FFIs to such foreign government or agency thereof, followed by automatic exchange of the reported information with the IRS. An FFI in a Model 1 IGA jurisdiction that performs account reporting to the jurisdiction’s government is referred to as a reporting Model 1 FFI. A Model 2 IGA means an agreement or arrangement between the U.S. or the Treasury Department and a foreign government or one or more agencies to implement FATCA through reporting by FFIs directly to the IRS in accordance with the requirements of an FFI agreement, supplemented by the exchange of information between such foreign government or agency thereof and the IRS. An FFI in a Model 2 IGA jurisdiction that has entered into an FFI agreement is a participating FFI, but may be referred to as a reporting Model 2 FFI.

**GIIN** means a Global Intermediary Identification Number assigned to a PFFI or Registered Deemed Compliant FFI.

**Disregarded entity.** A business entity that has a single owner and is not a corporation under Regulations section 301.7701-2(b) is disregarded as an entity separate from its owner. A disregarded entity does not submit this Form W-8BEN to a partnership for purposes of section 1446 or to an FFI for purposes of chapter 4. Instead, the owner of such entity provides appropriate documentation. See Regulations section 1.1446-1 and section 1.1471-3(a)(3)(v), respectively.

**Non-Financial Foreign Entities (NFFEs),** An NFFE is any non-US entity that is not treated as a Financial Institution. An NFFE will either be an Active NFFE or a Passive NFFE.

**Criteria for determining an Active NFFE.** An Active NFFE is defined as any NFFE that meets ONE of the following criteria:

- Less than 50 per cent of the NFFE’s gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50 per cent 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.
- 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 traded on an established securities market. See Section 3.10 for how this should be applied under the Agreement.
- The NFFE is organized in a US Territory and all of the owners of the payee are bona fide residents of that US Territory. The definition of US Territory is set out at Article 1 (1) (b) of the Agreement.

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- The NFFE is a non-US Government, a political subdivision of such non-US Government (which, for the avoidance of doubt, includes a state, province, county, or municipality), or a public body performing a function of such non-US Government or a political subdivision thereof, a government of a US Territory, an international organization, a non-US central bank of issue, or an entity wholly owned by one or more of the foregoing.
- 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. However the entity will not qualify as an Active NFFE if it functions (or holds itself out to be) 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. In these circumstances the entity will be a passive NFFE.
- 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.
- 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.
- 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.

The NFFE is an “Excepted NFFE” (excluding Direct Reporting NFFEs and sponsored Direct Reporting NFFEs) as described in relevant US Treasury Regulations; or

- The NFFE meets all of the following requirements:
  - 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;
  - It is exempt from income tax in its country of residence;
  - It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
  - The applicable laws of the entity’s country of residence or the entity’s formation documents do not permit any income or assets of the entity to be distributed to, or applied for the benefit of, a private person or non-charitable entity other than pursuant to the conduct of the entity’s charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the entity has purchased; and
  - The applicable laws of the entity’s country of residence or the entity’s formation documents require that, upon the entity’s liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organization, or escheat to the government of the entity’s country of residence or any political subdivision thereof.

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## Passive Income

The term “passive income” means the portion of gross income that consists of:

1. Dividends, including substitute dividend amounts;
2. Interest;
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;
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;
5. Annuities;
6. The excess of gains over losses from the sale or exchange of property that gives rise to passive income described in items 1 to 5;
7. The excess of gains over losses from transactions (including futures, forwards, and similar transactions) in any commodities, but not including—
  - (i) Any commodity hedging transaction described in section 954(c)(5)(A) of the U.S. Revenue Code, determined by treating the entity as a controlled foreign corporation; or
  - (ii) Active business gains or losses from the sale of commodities, but only if substantially all the foreign entity’s commodities are property described in paragraph (1), (2), or (8) of section 1221(a) of the U.S. Revenue Code;
8. The excess of foreign currency gains over foreign currency losses;
9. Net income from “notional principle contracts”. These are financial instruments that provide for the payment of amounts by one party to another at specified intervals calculated by reference to a specified index upon a notional principal amount in exchange for specified consideration or a promise to pay similar amounts (NB: in the UK this would normally be a swap);
10. Amounts received under cash value insurance contracts; or
11. Amounts earned by an insurance company in connection with its reserves for insurance and annuity contracts.

However, the following amounts are excluded from any calculation of Passive Income:

1. Any income from interest, dividends, rents, or royalties that is received or accrued from a related person to the extent such amount is properly allocable to income of such related person that is not passive income. For purposes of this section, a person is a related person with respect to the NFFE if—
  - (A) Such person is an individual, corporation, partnership, trust, or estate which controls, or is controlled by, the NFFE, or

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(B) Such person is a corporation, partnership, trust, or estate which is controlled by the same person or persons which control the NFFE.

2. In the case of an NFFE that regularly acts as a dealer in property described in item 6 above of this section (referring to the sale or exchange of property that gives rise to passive income), forward contracts, option contracts, or similar financial instruments (including notional principal contracts and all instruments referenced to commodities)

(i) Any item of income or gain (other than any dividends or interest) from any transaction (including hedging transactions and transactions involving physical settlement) entered into in the ordinary course of such dealer's trade or business as such a dealer; and

(ii) If such dealer is a dealer in securities, any income from any transaction entered into in the ordinary course of such trade or business as a dealer in securities

## Form W-8BEN-E: Lines 1-10 and Signature Certification



<b>Form W-8BEN-E</b> (Rev. July 2017) Department of the Treasury Internal Revenue Service	<b>Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities)</b> For use by entities. Individuals must use Form W-8BEN. Section references are to the Internal Revenue Code. Go to <a href="http://www.irs.gov/FormW8BEN-E">www.irs.gov/FormW8BEN-E</a> for instructions and the latest information. Give this form to the withholding agent or payer. Do not send to the IRS.	OMB No. 1545-1821
<b>Do NOT use this form for:</b>		<b>Instead use Form:</b>
<ul style="list-style-type: none"><li>• U.S. entity or U.S. citizen or resident . . . . . W-9</li><li>• A foreign individual . . . . . W-8BEN (Individual) or Form 6233</li><li>• A foreign individual or entity claiming that income is effectively connected with the conduct of trade or business within the U.S. (unless claiming treaty benefits) . . . . . W-8ECI</li><li>• A foreign partnership, a foreign simple trust, or a foreign grantor trust (unless claiming treaty benefits) (see instructions for exceptions) . . . . . W-8IMY</li><li>• A foreign government, international organization, foreign central bank of issue, foreign tax-exempt organization, foreign private foundation, or government of a U.S. possession claiming that income is effectively connected U.S. income or that is claiming the applicability of section(s) 115(2), 501(c), 892, 895, or 1443(b) (unless claiming treaty benefits) (see instructions for other exceptions) . . . . . W-8ECI or W-8EXP</li><li>• Any person acting as an intermediary (including a qualified intermediary acting as a qualified derivatives dealer) . . . . . W-8IMY</li></ul>		

- ▶ Ensure no certifications have been crossed out on any part of the form, or any markings have been made to alter the form
  
- ▶ Confirm that the signature on the form is an original ink to paper form, or the form has been provided to you electronically via email or fax

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# Form W-8BEN-E: Lines 1-10 and Signature Certification (cont'd)

- ▶ **Line 1** – Name listed should match the name of the account holder of record. If the name does not match, review Line 3 or Line 10 to determine if account holder's name is listed
- ▶ **Line 2** – Country should match country in your records for the account holder.
- ▶ The United States cannot be listed as a country
- ▶ If the country is abbreviated, the abbreviation cannot be ambiguous

Part I Identification of Beneficial Owner				
<b>1</b> Name of organization that is the beneficial owner ABC Company	<b>2</b> Country of incorporation or organization Ceyman Islands			
<b>3</b> Name of disregarded entity receiving the payment (if applicable, see instructions)				
<b>4</b> Chapter 3 Status (entity type) (Must check one box only):				
<input type="checkbox"/> Simple trust	<input type="checkbox"/> Grantor trust	<input checked="" type="checkbox"/> Corporation	<input type="checkbox"/> Disregarded entity	<input type="checkbox"/> Partnership
<input type="checkbox"/> Central Bank of Issue	<input type="checkbox"/> Tax-exempt organization	<input type="checkbox"/> Complex trust	<input type="checkbox"/> Estate	<input type="checkbox"/> Government
		<input type="checkbox"/> Private foundation	<input type="checkbox"/> International organization	
If you entered disregarded entity, partnership, simple trust, or grantor trust above, is the entity a hybrid making a treaty claim? If "Yes" complete Part III. <input type="checkbox"/> Yes <input type="checkbox"/> No				

# Form W-8BEN-E: Lines 1-10 and Signature Certification (cont'd)

- ▶ **Line 4** – One box should be checked. If the entity type selected is Partnership, Simple Trust, or Grantor Trust, request the account holder provide a Form W-8IMY. **Note:** A partnership that is a hybrid claiming treaty benefits can provide a W-8BEN-E but must also provide a W-8IMY
- ▶ If no box or more than one box is checked, form is invalid
- ▶ **Line 5**– One box should be checked..
- ▶ If no box or more than one box is checked, form is invalid

<b>4</b> Chapter 3 Status (entity type) (Must check one box only):	<input checked="" type="checkbox"/> Corporation	<input type="checkbox"/> Disregarded entity	<input type="checkbox"/> Partnership
<input type="checkbox"/> Simple trust	<input type="checkbox"/> Grantor trust	<input type="checkbox"/> Complex trust	<input type="checkbox"/> Estate
<input type="checkbox"/> Central Bank of Issue	<input type="checkbox"/> Tax-exempt organization	<input type="checkbox"/> Private foundation	<input type="checkbox"/> International organization
If you entered disregarded entity, partnership, simple trust, or grantor trust above, is the entity a hybrid making a treaty claim? If "Yes" complete Part III. <input type="checkbox"/> Yes <input type="checkbox"/> No			
<b>5</b> Chapter 4 Status (FATCA status) (See instructions for details and complete the certification below for the entity's applicable status.)	<input type="checkbox"/> Nonreporting IGA FFI. Complete Part XII.		
<input type="checkbox"/> Nonparticipating FFI (including an FFI related to a Reporting IGA FFI other than a deemed-compliant FFI, participating FFI, or exempt beneficial owner).	<input type="checkbox"/> Foreign government, government of a U.S. possession, or foreign central bank of issue. Complete Part XIII.		
<input type="checkbox"/> Participating FFI.	<input type="checkbox"/> International organization. Complete Part XIV.		
<input checked="" type="checkbox"/> Reporting Model 1 FFI.	<input type="checkbox"/> Exempt retirement plans. Complete Part XV.		
<input type="checkbox"/> Reporting Model 2 FFI.	<input type="checkbox"/> Entity wholly owned by exempt beneficial owners. Complete Part XVI.		
<input type="checkbox"/> Registered deemed-compliant FFI (other than a reporting Model 1 FFI, sponsored FFI, or nonreporting IGA FFI covered in Part XII). See instructions.	<input type="checkbox"/> Territory financial institution. Complete Part XVII.		
<input type="checkbox"/> Sponsored FFI. Complete Part IV.	<input type="checkbox"/> Excepted nonfinancial group entity. Complete Part XVIII.		
<input type="checkbox"/> Certified deemed-compliant nonregistering local bank. Complete Part V.	<input type="checkbox"/> Excepted nonfinancial start-up company. Complete Part XIX.		
<input type="checkbox"/> Certified deemed-compliant FFI with only low-value accounts. Complete Part VI.	<input type="checkbox"/> Excepted nonfinancial entity in liquidation or bankruptcy. Complete Part XX.		
<input type="checkbox"/> Certified deemed-compliant sponsored, closely held investment vehicle. Complete Part VII.	<input type="checkbox"/> 501(c) organization. Complete Part XXI.		
<input type="checkbox"/> Certified deemed-compliant limited life debt investment entity. Complete Part VIII.	<input type="checkbox"/> Nonprofit organization. Complete Part XXII.		
<input type="checkbox"/> Certain investment entities that do not maintain financial accounts. Complete Part IX.	<input type="checkbox"/> Publicly traded NFFE or NFFE affiliate of a publicly traded corporation. Complete Part XXIII.		
<input type="checkbox"/> Owner-documented FFI. Complete Part X.	<input type="checkbox"/> Excepted territory NFFE. Complete Part XXIV.		
<input type="checkbox"/> Restricted distributor. Complete Part XI.	<input type="checkbox"/> Active NFFE. Complete Part XXV.		
	<input type="checkbox"/> Passive NFFE. Complete Part XXVI.		
	<input type="checkbox"/> Excepted inter-affiliate FFI. Complete Part XXVII.		
	<input type="checkbox"/> Direct reporting NFFE.		
	<input type="checkbox"/> Sponsored direct reporting NFFE. Complete Part XXVIII.		
	<input type="checkbox"/> Account that is not a financial account.		

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## Form W-8BEN-E: Lines 1-10 and Signature Certification (cont'd)

- ▶ **Line 6**– Address line should not contain 1) the name of a financial institution, 2) a P.O. Box, "In-Care-Of" address or address used solely for mailing purposes.

6 Permanent residence address (street, apt. or suite no., or rural route). Do not use a P.O. box or in-care-of address (other than a registered address).	
123 Euclid Street	
City or town, state or province. Include postal code where appropriate.	Country
George Town, Grand Cayman	Cayman Islands

- ▶ If P.O. Box is provided, request that the account holder provide articles of incorporation to support that the P.O. Box is the registered address
- ▶ Country cannot be an ambiguous abbreviation
- ▶ If US address is provided on the form or if there is a US permanent address in the account file, additional cure documentation is required, (e.g. certificate of incorporation).

## Form W-8BEN-E: Lines 1-10 and Signature Certification (cont'd)

- ▶ **Line 7**–A.P.O. Box or "In-Care-Of" address may be used in this line

7 Mailing address (if different from above)	
345 Antilles Road	
City or town, state or province. Include postal code where appropriate.	Country
George Town, Grand Cayman	Cayman Islands

- ▶ Country cannot be an ambiguous abbreviation
- ▶ If US address is provided or if there is a US mailing address in the account file, additional cure documentation is required (e.g. certificate of incorporation)
- ▶ If the country is abbreviated and the abbreviation is not ambiguous then then this requirement is satisfied
- ▶ If the country is abbreviated and the abbreviation is ambiguous, confirm the account file has government issued identification and the country on the identification reasonably matches the abbreviation

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## Form W-BEN-E: Lines 1-10 and Signature Certification (cont'd)

- ▶ **Line 8**—If provided, ensure it does not look obviously incorrect
- ▶ **Line 9a**—If provided, ensure it does not look obviously incorrect
- ▶ GIIN number must follow the **19 CHARACTER** Format:

Example:  
ABCDEF.00000.ME.123

<b>8</b> U.S. taxpayer identification number (TIN), if required	<b>9a</b> GIIN	<b>b</b> Foreign TIN
98-1234567	ABCDEF.00000.ME.123	

- ▶ GIIN needs to be validated against the IRS FFI list within 90 days of receiving the Form W-8BEN-E and annually thereafter.
- ▶ Alternatively, the entity may state "Applied For" and the account holder will need to provide the GIIN to you in 90 days.
- ▶ Some entities may be required to provide the GIIN of the Sponsoring FFI, please see Chapter 4 matrix

## Form W-8BEN-E: Lines 1-10 and Signature Certification (cont'd)

- ▶ **Line 9b**—Does not need to be validated. May rely on TIN provided.

<b>8</b> U.S. taxpayer identification number (TIN), if required	<b>9a</b> GIIN	<b>b</b> Foreign TIN
98-1234567	ABCDEF.00000.ME.123	1122334
<b>10</b> Reference number(s) (see instructions)		
ABC Company		

**Note:** Please complete remainder of the form including signing the form in Part XXX.

- ▶ **Line 10**—Name of account holder may be included in this Line if account holder is disregarded entity

- ▶ **Part XXX** – Ensure **signature, printed name and date** are entered **AND certification box** is clearly checked

### Part XXX Certification

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

- The entity identified on line 1 of this form is the beneficial owner of all the income to which this form relates, is using this form to certify its status for chapter 4 purposes, or is a merchant submitting this form for purposes of section 6050V;
- The entity identified on line 1 of this form is not a U.S. person;
- The income to which this form relates is: (a) not effectively connected with the conduct of a trade or business in the United States, (b) effectively connected but is not subject to tax under an income tax treaty, or (c) the partner's share of a partnership's effectively connected income; and
- For broker transactions or barter exchanges, the beneficial owner is an exempt foreign person as defined in the instructions.

Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which the entity on line 1 is the beneficial owner or any withholding agent that can disburse or make payments of the income of which the entity on line 1 is the beneficial owner.

I agree that I will submit a new form within 30 days if any certification on this form becomes incorrect.

<b>Sign Here</b> ▶	John Doe	9/21/17
Signature of individual authorized to sign for beneficial owner	Print Name	Date (MM-DD-YYYY)
<input checked="" type="checkbox"/> I certify that I have the capacity to sign for the entity identified on line 1 of this form.		

- ▶ If there is an indication that the form has been signed by an agent or third party request a power of attorney (e.g. Authorized signatory or Attorney-in-fact written underneath name) from the account holder
- ▶ If the account holder does not provide a date, you may date stamp the Form W-8

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