Compliance guidance notes for NZ Funds products
Entity application form – information sheet

March 2023

NZ Funds is committed to maintaining the integrity and confidence in the services it provides by ensuring its portfolios are not used to facilitate any financial crimes and that it operates in compliance with all relevant laws.

This guidance has been prepared to assist with the completion of the NZ Funds Entity Application Form and to provide background information as to why certain information is required. It is general in nature and is not intended as a substitute for professional advice. Should you have any concerns about any of the matters discussed below, or your personal circumstances, you should obtain your own professional advice.

Anti-Money Laundering and Countering Financing of Terrorism Act (AML / CFT)

Under the Anti-Money Laundering and Countering Financing of Terrorism (AML / CFT) Act 2009, NZ Funds – as a Financial Institution – is required to collect client identity and address information and in some cases we are also required to verify the source of funds and wealth (using documents from a reliable and independent source).

We have developed various AML forms for this purpose which are available on our website at www.nzfunds.co.nz. Because we need to collect AML information for both the Entity and its Controlling Persons, a combination of AML forms will need to be used for investments by an Entity.

The verification of documents can be done by a NZ Funds Authorised Individual[1]. Alternatively, a Trusted Referee can certify the relevant documents along with completing the appropriate AML form(s).

Further details regarding this process are contained in the AML forms.

The US Foreign Account Tax Compliance Act (FATCA)

This Act requires all non-US financial institutions to collect and report certain information about US accounts (the Entity) and the people who control them.

NZ Funds is a non-US Financial Institution for the purposes of the FATCA rules.

NZ Funds is required to know if the Entity itself is a US account holder, who the Controlling Persons of the Entity are, and if they are US Persons.

If the Entity or its Controlling Persons are US Persons, then NZ Funds is required to obtain their US Tax Identification Numbers and provide this, along with certain information about the investment, to Inland Revenue (IR).

IR in turn may pass this information to the United States Internal Revenue Service.

1 An authorised Individual refers to an authorised person listed on the NZ Funds 'Register of Individuals Authorised to perform CDD'.

The OECD Common Reporting Standard (CRS)

This requires all Financial Institutions to collect and report if the account holder (the Entity) or its Controlling Persons are tax resident in a country other than New Zealand (or the US).

NZ Funds does this by obtaining self-certification from all the Controlling Persons. In certain circumstances, the certification can be signed on a person's behalf. Please note, in these circumstances the person signing it assumes responsibility for the accuracy of the certification.

NZ Funds is required to provide certain information about the Entity and its Controlling Persons to IR. IR, in turn, may pass this information to the revenue authority of the country in which the Entity or its Controlling Persons are tax residents.

If an Entity is a Financial Institution, NZ Funds does not have any CRS reporting obligations; however, the Entity itself may have its own CRS reporting obligations (note that a Trust managed by an Authorised Financial Adviser holding a DIMS license may be a Financial Institution for CRS purposes).

More information on the CRS rules is available on the IRD's website: http://www.ird.govt.nz/international/exchange/crs/

Definitions

What is a Financial Institution?

A Financial Institution is an entity in the business of conducting financial transactions, specifically:

- Custodian Institutions – entities that hold financial assets for the accounts of others.
- Depository Institutions – entities that accept deposits in the ordinary course of banking or similar business.
- Investment Institutions – entities that trade in financial assets or have discretionary authority to manage financial assets on behalf of others. This includes entities whose gross income is primarily from investing or trading in financial assets that are managed by another financial institution.
- Specified Insurance Companies – insurance institutions that issue investment products and make payments with respect to annuity contracts or cash value insurance contracts.

What is a self-certification?

A self-certification is a positive statement confirming a person's tax residency.

What is an active Non-Financial entity?

An active Non-Financial Entity is an Entity that earns 50% or more total gross income from an active business activity (such as a physical trade activity) and 50% or more of the Entity's assets are used in that trade activity.

What is a Controlling Person?

A Controlling Person is any person who can exercise control over the entity, regardless of whether they exercise that control Controlling Persons include but are not limited to:

- Shareholders with more than 25% ownership
- Directors
- Settlors
- Trustees
- Protectors
- Beneficiaries[2]

What is a US Person?

A US Person is a United States citizen or tax resident,or a United States Green Card holder.

2 If the beneficiary is a beneficiary of a discretionary Trust, they are not treated as a Controlling Person until they receive a distribution from the Trust. You must provide NZ Funds with details of any distributions made to beneficiaries who are not New Zealand tax residents. This includes distributions from holdings that are with providers other than NZ Funds.