03.08 - An Equity or Debt Interest in an Investment Entity

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Where an Investment Entity is an asset manager, investment advisor or other similar entity, then their Debt and Equity Interests are excluded from being a Financial Account. This mirrors the treatment of Debt and Equity interests in entities that are solely Depository or Custodial Institutions.

Debt and Equity Interests (other than regularly traded interests) are only Financial Accounts in relation to those entities that are Investment Entities because:

- the entity's gross income is attributable to investing, reinvesting or trading in financial assets, **and** they are managed by a Financial Institution including another Investment Entity, **or**
- the entity functions or holds itself out as a Collective Investment Vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leveraged buyout fund, or any similar investment vehicle established with an investment strategy of investing, reinvesting or trading in financial assets.

In the case of a partnership that is a Financial Institution, the term Equity Interest means either a capital or profits interest in the partnership.

In the case of a Trust that is a Financial Institution, an Equity Interest means either an interest held by any person treated as a settlor or beneficiary of all or a portion of the Trust or any other natural person exercising ultimate effective control over the Trust.

A Specified US Person shall be treated as being a beneficiary of a Trust if such person has:

- the right to receive a mandatory distribution (either directly or indirectly) from the Trust; or
- receives a discretionary distribution (either directly or indirectly) from the Trust.

101700 - Financial Accounts: Equity or Debt Interest in an Investment Entity

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101700 – Financial Accounts: Equity or Debt Interest in an Investment Entity

Equity and debt interests are financial accounts if they are interests in an investment entity.

Where an entity is an investment entity solely because it acts on behalf of a customer by investing, managing or administering Financial Assets in the name of the customer, the debt and equity interest in the investment entity are not Financial Assets provided it renders only investment advice to, or manages portfolios for, the customer.

An equity interest may vary depending on the nature of the investment entity. In the case of an investment entity that is a partnership, an equity interest is either a capital or profits interest in the partnership.

In the case of a trust, an equity interest is any interest held by a person who is treated as a settlor or beneficiary of all or any part of the trust, or any other natural person exercising ultimate effective control over the trust.

- A Reportable Person will be treated as being a beneficiary of a trust if such a person has the right to receive a mandatory distribution from the trust. This distribution can be received either directly or indirectly, for example through a nominee; or
- Receives a discretionary payment from the trust. Again this receipt can be either directly or indirectly from the trust.

89. The general rule and the more specific categories.

The general rule is that a Financial Account is an **account maintained by a Financial Institution**. The CRS then further clarifies the definition to state that the term includes specific categories of accounts (Depository Accounts, Custodial Accounts, Equity and debt interests, Cash Value Insurance Contracts and Annuity Contracts). Figure 8 sets out the categories of Financial Accounts. Table 2 shows which Financial Institution is considered to maintain each type of Financial Account.

Table 2: Who maintains the Financial Accounts

92. accommodate jurisdiction-specific Financial Accounts.

Map

In order to accommodate **jurisdiction-specific Financial Accounts** which also present a low risk of being used to evade tax, the CRS provides for Participating Jurisdictions to define in their domestic law other Financial Accounts as Excluded Accounts. This is subject to certain conditions, including that the categorisation as such does not frustrate the purposes of the Standard. Examples are contained within the Standard. It is expected that each jurisdiction would have only one list of domestically-defined Excluded Accounts (as opposed to different lists for different Participating Jurisdictions) and that it would make such a list publicly available. While the two systems are independent from each other, a starting point for what might be included in the list is the jurisdiction-specific accounts excluded from the definition of Financial Accounts in Annex II of the FATCA IGA.

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Figure 8: Accounts which are Financial Accounts