

ST.KITTS AND NEVIS

INFORMATION BULLETIN

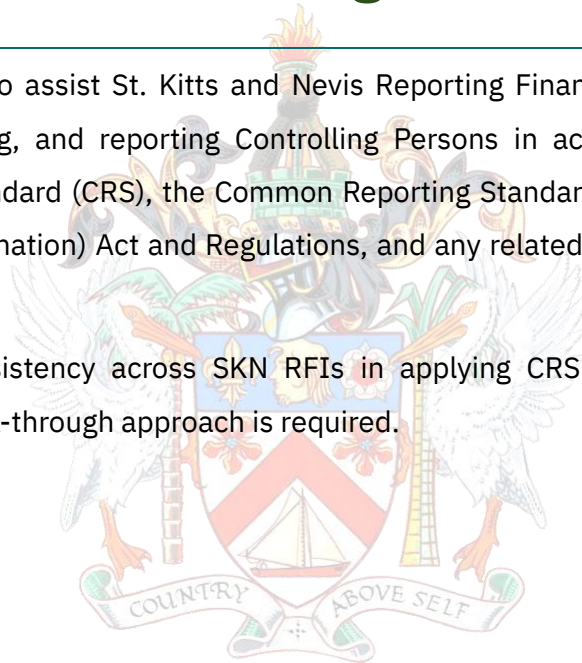


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Guidance on Controlling Persons

This Bulletin is issued to assist St. Kitts and Nevis Reporting Financial Institutions (RFIs) in identifying, documenting, and reporting Controlling Persons in accordance with the OECD Common Reporting Standard (CRS), the Common Reporting Standard (Automatic Exchange of Financial Account Information) Act and Regulations, and any related domestic or international obligations.

It aims to ensure consistency across SKN RFIs in applying CRS due diligence rules and determining when a look-through approach is required.



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Definition of a Controlling Person

A *Controlling Person* is the natural person(s) who exercise control over a Passive Non-Financial Entity (Passive NFE) or over an entity treated as a Passive NFE for CRS purposes. This aligns with the Financial Action Task Force (FATF) concepts of beneficial ownership.

Where no natural person can be identified, the Senior Managing Official of the entity must be treated as the Controlling Person.

When RFIs Must Identify Controlling Persons

RFIs must identify Controlling Persons for:

1. *Passive NFEs* - Entities that are not Active NFEs or Financial Institutions.
2. *Investment Entities in Non-Participating Jurisdictions* - Where an investment entity is resident in a non-participating jurisdiction and “managed by” another entity, a look-through to controlling persons is also required.
3. *Certain Trusts or Legal Arrangements* - If the entity is a trust, foundation, or similar arrangement, Controlling Persons are identified according to the specific roles outlined in Section VIII (D) (6) of the Regulations.

Determining the Type of Entity

Before identifying Controlling Persons, RFIs must classify the account holder accurately:

1. Financial Institution (FI) – normally no controlling persons required
2. Active NFE – no controlling persons required
3. Passive NFE – controlling persons must be identified

Entity classification must be documented and supported by self-certification.

Identifying Controlling Persons Under FATF Standards

For Companies (e.g., corporations, LLCs), Controlling Persons are the natural persons who ultimately own or control the entity, including through:

- Direct or indirect ownership of 25% or more of shares or voting rights
- Control via other means (e.g., shareholder agreements, veto rights)
- Senior Managing Official if no natural person is identifiable

For Partnerships, Controlling Persons include:

- The partners controlling 25% or more of capital or profits

- Persons with controlling management rights

Controlling Persons of Trusts and Similar Legal Arrangements

For trusts, CRS requires identification of the following natural persons regardless of percentage interest:

- Settlor(s) - The identification and reporting of Controlling Persons of the settlor is required not only in the year of settlement but also in all subsequent years.
- Trustee(s)
- Protector(s) (if any)
- Beneficiaries or class of beneficiaries
- Any other natural person exercising ultimate effective control

If beneficiaries are not named, they may be identified as a class until distributions occur.

For foundations and similar vehicles, an equivalent approach applies based on the roles that resemble settlors, controllers, board members, and beneficiaries.

Documentation Requirements

Self-Certification - RFIs must obtain a valid CRS self-certification from the entity account holder, and each Controlling Person identified.

The self-certification must collect:

- Name
- Residential address
- Jurisdiction(s) of tax residence
- Tax Identification Number (TIN)
- Date of birth
- Role as Controlling Person

Reasonableness Test

RFIs must confirm the self-certification is reasonable based on information otherwise obtained in KYC/AML procedures, publicly available information and internal records. If inconsistent, the RFI must seek clarification or new documentation.

Scenario: OECD's CRS-related FAQs, Reliance on AML/KYC procedures for identifying Controlling Persons.

With respect to Pre-existing Entity Accounts with an aggregate account balance or value that does not exceed USD 1,000,000, what is the due diligence and reporting requirement

in cases where the Financial Institution holds information on the names of Controlling Persons and no other information as it was not required to collect such information pursuant to applicable AML/KYC procedures?

The Standard provides that for accounts with a balance or value below USD 1 million (after applying the aggregation rules), the Financial Institution may rely on information collected and maintained for regulatory or customer relationship purposes, including AML/KYC procedures to determine whether a Controlling Person is a Reportable Person (Section V, C, (2), c)). Since, in the example given, the Financial Institution does not have and is not required to have any such information on file that indicates the Controlling Person may be a Reportable Person, it cannot document the residence of the Controlling Persons and does not need to report that person as a Controlling Person.

Reporting Obligations

Where an entity is a Reportable Person or has one or more Reportable Controlling Persons, the RFI must report:

- Account information
- Entity classification
- Details of each Reportable Controlling Person
- Their TIN(s), address, date of birth, jurisdiction(s) of tax residence and controlling role

RFIs must also report the entire balance of the reportable account, not just the share attributable to a controlling person.

Special Considerations

Nevis Trusts and Foundations. Given the prevalence of international trusts and foundations, RFIs must identify controlling persons based on functions, not titles. Entities using corporate trustees still require natural person controlling persons.

Citizenship-by-Investment (CBI). CRS relies on tax residence, not citizenship.

RFIs must:

- Collect the tax residence indicated on self-certifications
- Not substitute citizenship for tax residency
- Apply reasonableness checks regarding multiple passports

Nominee Arrangements. Nominee shareholders or directors do not eliminate the requirement to identify the underlying natural person(s).

Failure to Identify or Report Controlling Persons

If an entity refuses to provide necessary information:

- The account must be treated as Reportable as appropriate
- The FI must classify Controlling Persons based on AML/KYC information available
- The FI must consider whether to treat the account as undocumented

Failure to comply may result in administrative penalties and examination findings or corrective actions

Record-Keeping Requirements

RFIs must retain for at least 6 years and must be available to the Competent Authority on request:

- Self-certifications
- Documentation used for due diligence
- Evidence supporting the RFI's classification decisions
- Audit trails of any corrections or follow-up requests

For further guidance or technical assistance, please contact the IRD International Taxation Unit (ITU) at: aeoi.skn@ird.gov.kn.

Competent Authority
Saint Kitts and Nevis Inland Revenue Department

