

## Annex II

The following Entities are treated as exempt beneficial owners or deemed-compliant FFIs as the case may be, and the following accounts are excluded from the definition of Financial Accounts.<sup>1</sup>

This Annex II may be modified by a mutual written decision entered into between the Competent Authorities of [Iraq] and the United States: (1) to include additional Entities and accounts that present a low risk of being used by U.S. Persons to evade U.S. tax and that have similar characteristics to the Entities and accounts described in this Annex II as of the date of signature of the Agreement; or (2) to remove Entities and accounts that, due to changes in circumstances, no longer present a low risk of being used by U.S. Persons to evade U.S. tax. Any such addition or removal shall be effective on the date of signature of the mutual decision, unless otherwise provided therein. [Procedures for reaching such a mutual decision may be included in the mutual agreement or arrangement described in paragraph 3 of Article 4 of the Agreement].

- I. **Exempt Beneficial Owners other than Funds.** The following Entities shall be treated as Non-Reporting [Iraqi] Financial Institutions and as exempt beneficial owners for purposes of sections 1471 and 1472 of the U.S. Internal Revenue Code, *other than* with respect to a payment that is derived from an obligation held in connection with a commercial financial activity of a type engaged in by a Specified Insurance Company, Custodial Institution, or Depository Institution.
  - A. **Governmental Entity.** The government of [Iraq], any political subdivision of [Iraq] (which, for the avoidance of doubt, includes a state, province, county, or municipality), or any wholly owned agency or instrumentality of [Iraq] or any one or more of the foregoing (each, a “[Iraqi] Governmental Entity”). This category is comprised of the integral parts, controlled entities, and political subdivisions of [Iraq].
    1. An integral part of [Iraq] means any person, organization, agency, bureau, fund, instrumentality, or other body, however designated, that constitutes a governing authority of [Iraq]. The net earnings of the governing authority must be credited to its own account or to other accounts of [Iraq], with no portion inuring to the

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<sup>1</sup> [The descriptions in this Annex II are a summary of the final U.S Treasury Regulations and include the modifications to the final regulations to which the United States Treasury is willing to agree. The United States Treasury no longer intends to separately list in Annex II to future intergovernmental agreements classes of Entities or accounts that are addressed by the descriptions herein. In addition, the United States Treasury no longer intends to list non-profit organizations or Entities that are not Financial Institutions. These types of Entities are described in subparagraphs B(2) through B(4) of section VI of Annex I. The descriptions in this Annex II reflect extensive consultation with financial institutions and governments, and therefore cannot be further modified solely to ease or eliminate a specific element of a description (e.g., with respect the requirement that a Financial Institution with a local client base has at least 98 percent of its Financial Accounts by value as of the last day of the preceding calendar year held by residents (described in paragraph A of section III of this Annex II), the United States Treasury will not agree to a lower applicable percentage). The United States Treasury is, however, willing to discuss the application of this Annex II to Entities or accounts that do not satisfy all the requirements of a particular description listed herein. As part of such discussion, FATCA Partner must provide the United States Treasury with a specific written description of which requirements are satisfied and which are not satisfied, and with respect to the requirements that are not satisfied, must demonstrate the existence of a substitute requirement that provides equal assurance that such Entity or account presents a low-risk of tax evasion.]

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.

2. A controlled entity means an Entity that is separate in form from [Iraq] or that otherwise constitutes a separate juridical entity, provided that:
    - a) The Entity is wholly owned and controlled by one or more [Iraqi] Governmental Entities directly or through one or more controlled entities;
    - b) The Entity's net earnings are credited to its own account or to the accounts of one or more [Iraqi] Governmental Entities, with no portion of its income inuring to the benefit of any private person; and
    - c) The Entity's assets vest in one or more [Iraqi] Governmental Entities upon dissolution.
  3. 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 general public with respect to the common welfare or relate to the administration of some phase of government.<sup>2</sup> 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.
- B. **International Organization.** Any international organization or wholly owned agency or instrumentality thereof. This category includes any intergovernmental organization (including a supranational organization) (1) that is comprised primarily of non-U.S. governments; (2) that has in effect a headquarters agreement with [Iraq]; and (3) the income of which does not inure to the benefit of private persons.
- C. **Central Bank.** An institution that is by law or government sanction the principal authority, other than the government of [Iraq] itself, issuing instruments intended to circulate as currency. Such an institution may include an instrumentality that is separate from the government of [Iraq], whether or not owned in whole or in part by [Iraq].

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<sup>2</sup> [The activities of a national social security scheme will generally be considered to be performed for the general public with respect to the common welfare. The income of a pension fund established to provide retirement benefits for employees of the government, however, generally will be considered to inure to a private person, although the pension fund may still be treated as an exempt beneficial owner under paragraph D of section II of this Annex II.]

- II. **Funds that Qualify as Exempt Beneficial Owners.** The following Entities shall be treated as Non-Reporting [Iraqi] Financial Institutions and as exempt beneficial owners for purposes of sections 1471 and 1472 of the U.S. Internal Revenue Code.
- A. **[Treaty-Qualified Retirement Fund].** A fund established in [Iraq], provided that the fund is entitled to benefits under an income tax treaty between [Iraq] and the United States on income that it derives from sources within the United States (or would be entitled to such benefits if it derived any such income) as a resident of [Iraq] that satisfies any applicable limitation on benefits requirement, and is operated principally to administer or provide pension or retirement benefits.]<sup>3</sup>
- B. **Broad Participation Retirement Fund.** A fund established in [Iraq] to provide retirement, disability, or death benefits, or any combination thereof, to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that the fund:
1. Does not have a single beneficiary with a right to more than five percent of the fund's assets;
  2. Is subject to government regulation and provides annual information reporting about its beneficiaries to the relevant tax authorities in [Iraq]; and
  3. Satisfies at least one of the following requirements:
    - a) The fund is generally exempt from tax in [Iraq] on investment income under the laws of [Iraq] due to its status as a retirement or pension plan;
    - b) The fund receives at least 50 percent of its total contributions (other than transfers of assets from other plans described in paragraphs A through D of this section or from retirement and pension accounts described in subparagraph A(1) of section V of this Annex II) from the sponsoring employers;
    - c) Distributions or withdrawals from the fund are allowed only upon the occurrence of specified events related to retirement, disability, or death (except rollover distributions to other retirement funds described in paragraphs A through D of this section or retirement and pension accounts described in subparagraph A(1) of section V of this Annex II), or penalties apply to distributions or withdrawals made before such specified events; or
    - d) Contributions (other than certain permitted make-up contributions) by employees to the fund are limited by reference to earned income of the employee or may not exceed \$50,000 annually, applying the rules set forth in Annex I for account aggregation and currency translation.

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<sup>3</sup> [This paragraph would only be included where FATCA Partner and the United States have in effect an income tax treaty with such a provision.]

- C. **Narrow Participation Retirement Fund.** A fund established in [Iraq] to provide retirement, disability, or death benefits to beneficiaries that are current or former employees (or persons designated by such employees) of one or more employers in consideration for services rendered, provided that:
1. The fund has fewer than 50 participants;
  2. The fund is sponsored by one or more employers that are not Investment Entities or Passive NFFEs;
  3. The employee and employer contributions to the fund (other than transfers of assets from treaty-qualified retirement funds described in paragraph A of this section or retirement and pension accounts described in subparagraph A(1) of section V of this Annex II) are limited by reference to earned income and compensation of the employee, respectively;
  4. Participants that are not residents of [Iraq] are not entitled to more than 20 percent of the fund's assets; and
  5. The fund is subject to government regulation and provides annual information reporting about its beneficiaries to the relevant tax authorities in [Iraq].
- D. **Pension Fund of an Exempt Beneficial Owner.** A fund established in [Iraq] by an exempt beneficial owner to provide retirement, disability, or death benefits to beneficiaries or participants that are current or former employees of the exempt beneficial owner (or persons designated by such employees), or that are not current or former employees, if the benefits provided to such beneficiaries or participants are in consideration of personal services performed for the exempt beneficial owner.
- E. **Investment Entity Wholly Owned by Exempt Beneficial Owners.** An Entity that is a [Iraq] Financial Institution solely because it is an Investment Entity, provided that each direct holder of an Equity Interest in the Entity is an exempt beneficial owner, and each direct holder of a debt interest in such Entity is either a Depository Institution (with respect to a loan made to such Entity) or an exempt beneficial owner.
- III. **Small or Limited Scope Financial Institutions that Qualify as Deemed-Compliant FFIs.** The following Financial Institutions are Non-Reporting [Iraq] Financial Institutions that shall be treated as registered deemed-compliant FFIs or certified deemed-compliant FFIs, as the case may be, for purposes of section 1471 of the U.S. Internal Revenue Code.
- A. **Registered Financial Institution with a Local Client Base.** A Financial Institution satisfying the following requirements is a Non-Reporting [Iraqi] Financial Institution treated as a registered deemed-compliant FFI for purposes of section 1471 of the U.S. Internal Revenue Code:
1. The Financial Institution must be licensed and regulated as a financial institution under the laws of [Iraq];

2. The Financial Institution must have no fixed place of business outside of [Iraq]. For this purpose, a fixed place of business does not include a location that is not advertised to the public and from which the Financial Institution performs solely administrative support functions;
3. The Financial Institution must not solicit customers or Account Holders outside [Iraq]. For this purpose, a Financial Institution shall not be considered to have solicited customers or Account Holders outside [Iraq] merely because the Financial Institution (a) operates a website, provided that the website does not specifically indicate that the Financial Institution provides Financial Accounts or services to nonresidents, and does not otherwise target or solicit U.S. customers or Account Holders, or (b) advertises in print media or on a radio or television station that is distributed or aired primarily within [Iraq] but is also incidentally distributed or aired in other countries, provided that the advertisement does not specifically indicate that the Financial Institution provides Financial Accounts or services to nonresidents, and does not otherwise target or solicit U.S. customers or Account Holders;
4. The Financial Institution must be required under the laws of [Iraq] to identify resident Account Holders for purposes of either information reporting or withholding of tax with respect to Financial Accounts held by residents or for purposes of satisfying [Iraq]'s AML due diligence requirements;
5. At least 98 percent of the Financial Accounts by value maintained by the Financial Institution as of the last day of the preceding calendar year must be held by residents (including residents that are Entities) of [Iraq];<sup>4</sup>
6. Beginning on or before July 1, 2014, the Financial Institution must have policies and procedures, consistent with those set forth in Annex I, to prevent the Financial Institution from providing a Financial Account to any Nonparticipating Financial Institution and to monitor whether the Financial Institution opens or maintains a Financial Account for any Specified U.S. Person who is not a resident of [Iraq] (including a U.S. Person that was a resident of [Iraq] when the Financial Account was opened but subsequently ceases to be a resident of [Iraq]) or any Passive NFFE with Controlling Persons who are U.S. residents or U.S. citizens who are not residents of [Iraq];
7. Such policies and procedures must provide that if any Financial Account held by a Specified U.S. Person who is not a resident of [Iraq] or by a Passive NFFE with Controlling Persons who are U.S. residents or U.S. citizens who are not residents of [Iraq] is identified, the Financial Institution must report such Financial Account as would be required if the Financial Institution were a Reporting [Iraq] Financial Institution or close such Financial Account;

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<sup>4</sup> [The bracketed language would only be included where FATCA Partner is a Member State of the European Union.]

8. With respect to a Preexisting Account held by an individual who is not a resident of [Iraq] or by an Entity, the Financial Institution must review those Preexisting Accounts in accordance with the procedures set forth in Annex I applicable to Preexisting Accounts to identify any U.S. Account or Financial Account held by a Nonparticipating Financial Institution, and must report such Financial Account as would be required if the Financial Institution were a Reporting [Iraq] Financial Institution or close such Financial Account;
  9. Each Related Entity of the Financial Institution that is a Financial Institution must be incorporated or organized in [Iraq] and, with the exception of any Related Entity that is a retirement fund described in paragraphs A through D of section II of this Annex II, satisfy the requirements set forth in this paragraph A;
  10. The Financial Institution must not have policies or practices that discriminate against opening or maintaining Financial Accounts for individuals who are Specified U.S. Persons and residents of [Iraq]; and
  11. The Financial Institution must satisfy the requirements set forth in paragraph C of section VI of this Annex II.
- B. **Local Bank.** A Financial Institution satisfying the following requirements is a Non-Reporting [Iraqi] Financial Institution treated as a certified deemed-compliant FFI for purposes of section 1471 of the U.S. Internal Revenue Code:
1. The Financial Institution operates solely as (and is licensed and regulated under the laws of [Iraq] as) (a) a bank or (b) a credit union or similar cooperative credit organization that is operated without profit;
  2. The Financial Institution's business consists primarily of receiving deposits from and making loans to, with respect to a bank, unrelated retail customers and, with respect to a credit union or similar cooperative credit organization, members, provided that no member has a greater than five percent interest in such credit union or cooperative credit organization;
  3. The Financial Institution satisfies the requirements set forth in subparagraphs A(2) and A(3) of this section, provided that, in addition to the limitations on the website described in subparagraph A(3) of this section, the website does not permit the opening of a Financial Account;
  4. The Financial Institution does not have more than \$175 million in assets on its balance sheet, and the Financial Institution and any Related Entities, taken together, do not have more than \$500 million in total assets on their consolidated or combined balance sheets; and
  5. Any Related Entity must be incorporated or organized in [Iraq], and any Related Entity that is a Financial Institution, with the exception of any Related Entity that is a retirement fund described in paragraphs A through D of section II of this Annex II or a Financial Institution with only low-value accounts described in



paragraph C of this section, must satisfy the requirements set forth in this paragraph B.

C. **Financial Institution with Only Low-Value Accounts.** A [Iraqi] Financial Institution satisfying the following requirements is a Non-Reporting [Iraqi] Financial Institution treated as a certified deemed-compliant FFI for purposes of section 1471 of the U.S. Internal Revenue Code:

1. The Financial Institution is not an Investment Entity;
2. No Financial Account maintained by the Financial Institution or any Related Entity has a balance or value in excess of \$50,000, applying the rules set forth in Annex I for account aggregation and currency translation; and
3. The Financial Institution does not have more than \$50 million in assets on its balance sheet, and the Financial Institution and any Related Entities, taken together, do not have more than \$50 million in total assets on their consolidated or combined balance sheets.

D. **Registered Qualified Credit Card Issuer.** A [Iraqi] Financial Institution satisfying the following requirements is a Non-Reporting [Iraqi] Financial Institution treated as a registered deemed-compliant FFI for purposes of section 1471 of the U.S. Internal Revenue Code:

1. The Financial Institution is a Financial Institution solely because it is an issuer of credit cards that accepts deposits only when a customer makes a payment in excess of a balance due with respect to the card and the overpayment is not immediately returned to the customer;
2. Beginning on or before July 1, 2014, the Financial Institution implements policies and procedures to either prevent a customer deposit in excess of \$50,000, or to ensure that any customer deposit in excess of \$50,000, in each case applying the rules set forth in Annex I for account aggregation and currency translation, is refunded to the customer within 60 days. For this purpose, a customer deposit does not refer to credit balances to the extent of disputed charges but does include credit balances resulting from merchandise returns; and
3. The Financial Institution must satisfy the requirements set forth in paragraph C of section VI of this Annex II.

IV. **Investment Entities that Qualify as Deemed-Compliant FFIs and Other Special Rules.** The Financial Institutions described in paragraphs A through E of this section are Non-Reporting [Iraqi] Financial Institutions that shall be treated as registered deemed-compliant FFIs or certified deemed-compliant FFIs, as the case may be, for purposes of section 1471 of the U.S. Internal Revenue Code. In addition, paragraph F of this section provides special rules applicable to an Investment Entity.

- A. **Trusted-Documented Trust.** A trust established under the laws of [Iraq] to the extent that the trustee of the trust is a Reporting U.S. Financial Institution, Reporting Model 1 FFI, or Participating FFI and reports all information required to be reported pursuant to the Agreement with respect to all U.S. Accounts of the trust. Such a trust is a Non-Reporting [Iraqi] Financial Institution treated as a certified deemed-compliant FFI for purposes of section 1471 of the U.S. Internal Revenue Code.
- B. **Registered Sponsored Investment Entity and Controlled Foreign Corporation.** A Financial Institution described in subparagraph B(1) or B(2) of this section having a sponsoring entity that complies with the requirements of subparagraph B(3) of this section is a Non-Reporting [Iraqi] Financial Institution treated as a registered deemed-compliant FFI for purposes of section 1471 of the U.S. Internal Revenue Code.
1. A Financial Institution is a sponsored investment entity if (a) it is an Investment Entity established in [Iraq] that is not a qualified intermediary, withholding foreign partnership, or withholding foreign trust pursuant to relevant U.S. Treasury Regulations; and (b) an Entity has agreed with the Financial Institution to act as a sponsoring entity for the Financial Institution.
  2. A Financial Institution is a sponsored controlled foreign corporation if (a) the Financial Institution is a controlled foreign corporation<sup>5</sup> organized under the laws of [Iraq] that is not a qualified intermediary, withholding foreign partnership, or withholding foreign trust pursuant to relevant U.S. Treasury Regulations; (b) the Financial Institution is wholly owned, directly or indirectly, by a Reporting U.S. Financial Institution that agrees to act, or requires an affiliate of the Financial Institution to act, as a sponsoring entity for the Financial Institution; and (c) the Financial Institution shares a common electronic account system with the sponsoring entity that enables the sponsoring entity to identify all Account Holders and payees of the Financial Institution and to access all account and customer information maintained by the Financial Institution including, but not limited to, customer identification information, customer documentation, account balance, and all payments made to the Account Holder or payee.
  3. The sponsoring entity complies with the following requirements:
    - a) The sponsoring entity is authorized to act on behalf of the Financial Institution (such as a fund manager, trustee, corporate director, or managing partner) to fulfill the requirements of an FFI Agreement;
    - b) The sponsoring entity has registered as a sponsoring entity with the IRS on the IRS FATCA registration website;

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<sup>5</sup> A “controlled foreign corporation” means any foreign corporation if more than 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, or the total value of the stock of such corporation, is owned, or is considered as owned, by “United States shareholders” on any day during the taxable year of such foreign corporation. The term a “United States shareholder” means, with respect to any foreign corporation, a United States person who owns, or is considered as owning, 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation.



- c) Prior to December 31, 2015, the sponsoring entity has registered the Financial Institution with the IRS pursuant to the registration requirements set forth in paragraph C of section VI of this Annex II;
  - d) The sponsoring entity agrees to perform, on behalf of the Financial Institution, all due diligence, withholding, reporting, and other requirements (including the requirements set forth in paragraph C of section VI of this Annex II) that the Financial Institution would have been required to perform if it were a Reporting [Iraqi] Financial Institution;<sup>6</sup>
  - e) The sponsoring entity identifies the Financial Institution and includes the Financial Institution's Global Intermediary Identification Number (or GIIN) in all reporting completed on the Financial Institution's behalf; and
  - f) The sponsoring entity has not had its status as a sponsor revoked. The IRS may revoke a sponsoring entity's status as a sponsor with respect to all sponsored Financial Institutions if there is a material failure by the sponsoring entity to comply with its obligations described above with respect to any sponsored Financial Institution.
- C. **Sponsored, Closely Held Investment Vehicle.** A [Iraqi] Financial Institution satisfying the following requirements is a Non-Reporting ([Iraqi] Financial Institution treated as a certified deemed-compliant FFI for purposes of section 1471 of the U.S. Internal Revenue Code:
- 1. The Financial Institution is a Financial Institution solely because it is an Investment Entity and is not a qualified intermediary, withholding foreign partnership, or withholding foreign trust pursuant to relevant U.S. Treasury Regulations;
  - 2. The sponsoring entity is a Reporting U.S. Financial Institution, Reporting Model 1 FFI, or Participating FFI, is authorized to act on behalf of the Financial Institution (such as a professional manager, trustee, or managing partner), and agrees to perform, on behalf of the Financial Institution, all due diligence, withholding, reporting, and other requirements that the Financial Institution would have been required to perform if it were a Reporting [Iraqi] Financial Institution;
  - 3. The Financial Institution does not hold itself out as an investment vehicle for unrelated parties;
  - 4. Twenty or fewer individuals own all of the debt interests and Equity Interests in the Financial Institution (disregarding debt interests owned by Participating FFIs and deemed-compliant FFIs and Equity Interests owned by an Entity if that Entity owns 100 percent of the Equity

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<sup>6</sup> [A sponsoring entity that sponsors both a FATCA Partner Financial Institution and an FFI that is not located in an Partner Jurisdiction would perform, with respect to the FATCA Partner Financial Institution, all the due diligence, withholding, reporting, and other requirements that the FATCA Partner Financial Institution would have been required to perform if it were a Reporting FATCA Partner Financial Institution and, with respect to the other FFI, all the due diligence, withholding, reporting, and other requirements that the FFI would have been required to perform if it were a participating FFI.]

Interests in the Financial Institution and is itself a sponsored Financial Institution described in this paragraph C); and

5. The sponsoring entity complies with the following requirements:
  - a) The sponsoring entity has registered as a sponsoring entity with the IRS on the FATCA registration website;
  - b) The sponsoring entity agrees to perform, on behalf of the Financial Institution, all due diligence, withholding, reporting, and other requirements that the Financial Institution would have been required to perform if it were a Reporting [Iraqi] Financial Institution and retains documentation collected with respect to the Financial Institution for a period of six years;
  - c) The sponsoring entity identifies the Financial Institution in all reporting completed on the Financial Institution's behalf; and
  - d) The sponsoring entity has not had its status as a sponsor revoked. The IRS may revoke a sponsoring entity's status as a sponsor with respect to all sponsored Financial Institutions if there is a material failure by the sponsoring entity to comply with its obligations described above with respect to any sponsored Financial Institution.
- D. **Investment Advisors and Investment Managers.** An Investment Entity established in [Iraq] that is a Financial Institution solely because it (1) renders investment advice to, and acts on behalf of, or (2) manages portfolios for, and acts on behalf of, a customer for the purposes of investing, managing, or administering funds deposited in the name of the customer with a Financial Institution other than a Nonparticipating Financial Institution. Such an Investment Entity is a Non-Reporting [Iraqi] Financial Institution treated as a certified deemed-compliant FFI for purposes of section 1471 of the U.S. Internal Revenue Code.
- E. **Collective Investment Vehicle.** An Investment Entity established in [Iraq] that is regulated as a collective investment vehicle, provided that all of the interests in the collective investment vehicle (including debt interests in excess of \$50,000) are held by or through one or more exempt beneficial owners, Active NFFEs described in subparagraph B(4) of section VI of Annex I, U.S. Persons that are not Specified U.S. Persons, or Financial Institutions that are not Nonparticipating Financial Institutions, and the Investment Entity satisfies the requirements set forth in paragraph C of section VI of this Annex II. Such an Investment Entity is a Non-Reporting [Iraqi] Financial Institution treated as a registered deemed-compliant FFI for purposes of section 1471 of the U.S. Internal Revenue Code.
- F. **Special Rules.** The following rules apply to an Investment Entity:
  1. With respect to interests in an Investment Entity that is a collective investment vehicle described in paragraph E of this section, the reporting obligations of any Investment Entity (other than a Financial Institution through which interests in the collective investment vehicle are held) shall be deemed fulfilled.
  2. With respect to interests in:

- a) An Investment Entity established in a Partner Jurisdiction that is regulated as a collective investment vehicle, all of the interests in which (including debt interests in excess of \$50,000) are held by or through one or more exempt beneficial owners, Active NFFEs described in subparagraph B(4) of section VI of Annex I, U.S. Persons that are not Specified U.S. Persons, or Financial Institutions that are not Nonparticipating Financial Institutions; or
- b) An Investment Entity that is a qualified collective investment vehicle under relevant U.S. Treasury Regulations;

the reporting obligations of any Investment Entity that is a [Iraqi] Financial Institution (other than a Financial Institution through which interests in the collective investment vehicle are held) shall be deemed fulfilled.

3. With respect to interests in an Investment Entity established in [Iraqi] that is not described in paragraph E or subparagraph F(2) of this section, consistent with paragraph 4 of Article 4 of the Agreement, the reporting obligations of all other Investment Entities with respect to such interests shall be deemed fulfilled if the information required to be reported by first-mentioned Investment Entity pursuant to the Agreement with respect to such interests is reported by such Investment Entity or another person.
4. An Investment Entity established in [Iraqi] that is regulated as a collective investment vehicle shall not fail to qualify under paragraph E or subparagraph F(2) of this section, or otherwise as a deemed-compliant FFI, solely because the collective investment vehicle has issued physical shares in bearer form, provided that:
  - a) The collective investment vehicle has not issued, and does not issue, any physical shares in bearer form after December 31, 2012;
  - b) The collective investment vehicle retires all such shares upon surrender;
  - c) The collective investment vehicle (or a Reporting [Iraqi] Financial Institution) performs the due diligence procedures set forth in Annex I and reports any information required to be reported with respect to any such shares when such shares are presented for redemption or other payment; and
  - d) The collective investment vehicle has in place policies and procedures to ensure that such shares are redeemed or immobilized as soon as possible and in any event prior to January 1, 2017.<sup>7</sup>

V. **Accounts Excluded from Financial Accounts.** The following accounts are excluded from the definition of Financial Accounts and therefore shall not be treated as U.S. Accounts.

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<sup>7</sup> [This provision would only be included where FATCA Partner has previously allowed collective investment vehicles to issue bearer shares.]

**A. Certain Savings Accounts.**

1. Retirement and Pension Account. A retirement or pension account maintained in [Iraq] that satisfies the following requirements under the laws of [Iraq].
  - a) The account is subject to regulation as a personal retirement account or is part of a registered or regulated retirement or pension plan for the provision of retirement or pension benefits (including disability or death benefits);
  - b) The account is tax-favored (*i.e.*, contributions to the account that would otherwise be subject to tax under the laws of [Iraq] are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
  - c) Annual information reporting is required to the tax authorities in [Iraq] with respect to the account;
  - d) Withdrawals are conditioned on reaching a specified retirement age, disability, or death, or penalties apply to withdrawals made before such specified events; and
  - e) Either (i) annual contributions are limited to \$50,000 or less, or (ii) there is a maximum lifetime contribution limit to the account of \$1,000,000 or less, in each case applying the rules set forth in Annex I for account aggregation and currency translation.
2. Non-Retirement Savings Accounts. An account maintained in [Iraq] (other than an insurance or Annuity Contract) that satisfies the following requirements under the laws of [Iraq].
  - a) The account is subject to regulation as a savings vehicle for purposes other than for retirement;
  - b) The account is tax-favored (*i.e.*, contributions to the account that would otherwise be subject to tax under the laws of [Iraq] are deductible or excluded from the gross income of the account holder or taxed at a reduced rate, or taxation of investment income from the account is deferred or taxed at a reduced rate);
  - c) Withdrawals are conditioned on meeting specific criteria related to the purpose of the savings account (for example, the provision of educational or medical benefits), or penalties apply to withdrawals made before such criteria are met; and
  - d) Annual contributions are limited to \$50,000 or less, applying the rules set forth in Annex I for account aggregation and currency translation.

- B. **Certain Life Insurance Contracts.** A life insurance contract maintained in [Iraq] with a coverage period that will end before the insured individual attains age 90, provided that the contract satisfies the following requirements:
1. Periodic premiums, which do not decrease over time, are payable at least annually during the period the contract is in existence or until the insured attains age 90, whichever is shorter;
  2. The contract has no contract value that any person can access (by withdrawal, loan, or otherwise) without terminating the contract;
  3. The amount (other than a death benefit) payable upon cancellation or termination of the contract cannot exceed the aggregate premiums paid for the contract, less the sum of mortality, morbidity, and expense charges (whether or not actually imposed) for the period or periods of the contract's existence and any amounts paid prior to the cancellation or termination of the contract; and
  4. The contract is not held by a transferee for value.
- C. **Account Held By an Estate.** An account maintained in [Iraq] that is held solely by an estate if the documentation for such account includes a copy of the deceased's will or death certificate.
- D. **Escrow Accounts.** An account maintained in [Iraq] established in connection with any of the following:
1. A court order or judgment.
  2. A sale, exchange, or lease of real or personal property, provided that the account satisfies the following requirements:
    - a) The account is funded solely with a down payment, earnest money, deposit in an amount appropriate to secure an obligation directly related to the transaction, or a similar payment, or is funded with a financial asset that is deposited in the account in connection with the sale, exchange, or lease of the property;
    - b) The account is established and used solely to secure the obligation of the purchaser to pay the purchase price for the property, the seller to pay any contingent liability, or the lessor or lessee to pay for any damages relating to the leased property as agreed under the lease;
    - c) The assets of the account, including the income earned thereon, will be paid or otherwise distributed for the benefit of the purchaser, seller, lessor, or lessee (including to satisfy such person's obligation) when the property is sold, exchanged, or surrendered, or the lease terminates;
    - d) The account is not a margin or similar account established in connection with a sale or exchange of a financial asset; and

- e) The account is not associated with a credit card account.
- 3. An obligation of a Financial Institution servicing a loan secured by real property to set aside a portion of a payment solely to facilitate the payment of taxes or insurance related to the real property at a later time.
- 4. An obligation of a Financial Institution solely to facilitate the payment of taxes at a later time.
- E. **Partner Jurisdiction Accounts.** An account maintained in [Iraq] and excluded from the definition of Financial Account under an agreement between the United States and another Partner Jurisdiction to facilitate the implementation of FATCA, provided that such account is subject to the same requirements and oversight under the laws of such other Partner Jurisdiction as if such account were established in that Partner Jurisdiction and maintained by a Partner Jurisdiction Financial Institution in that Partner Jurisdiction.

VI. **Definitions and Other Special Rules.** The following additional definitions and special rules apply to the descriptions above:

- A. **Reporting Model 1 FFI.** The term Reporting Model 1 FFI means a Financial Institution with respect to which a non-U.S. government or agency thereof agrees to obtain and exchange information pursuant to a Model 1 IGA, other than a Financial Institution treated as a Nonparticipating Financial Institution under the Model 1 IGA. For purposes of this definition, the term Model 1 IGA means an arrangement between the United States or the Treasury Department and a non-U.S. government or one or more agencies thereof to implement FATCA through reporting by Financial Institutions to such non-U.S. government or agency thereof, followed by automatic exchange of such reported information with the IRS.
- B. **Participating FFI.** The term Participating FFI means a Financial Institution that has agreed to comply with the requirements of an FFI Agreement, including a Financial Institution described in a Model 2 IGA that has agreed to comply with the requirements of an FFI Agreement. The term Participating FFI also includes a qualified intermediary branch of a Reporting U.S. Financial Institution, unless such branch is a Reporting Model 1 FFI. For purposes of this definition, the term FFI Agreement means where relevant, an FFI Agreement as defined in Article 1 of the Agreement as well as an agreement that sets forth the requirements for a Financial Institution to be treated as complying with the requirements of section 1471(b) of the U.S. Internal Revenue Code. In addition, for purposes of this definition, the term Model 2 IGA means an arrangement between the United States or the Treasury Department and a non-U.S. government or one or more agencies thereof to facilitate the implementation of FATCA through reporting by Financial Institutions directly to the IRS in accordance with the requirements of an FFI Agreement, supplemented by the exchange of information between such non-U.S. government or agency thereof and the IRS.



- C. **Registration Requirements for a Financial Institution that Qualifies as a Registered Deemed-Compliant FFI.** A Financial Institution that qualifies as a registered deemed-compliant FFI must satisfy the following requirements:
1. Register on the IRS FATCA registration website with the IRS pursuant to procedures prescribed by the IRS and agree to comply with the terms of its registered deemed-compliant status;
  2. Have its responsible officer certify every three years to the IRS, either individually or collectively for such Financial Institution and its Related Entities, that all of the requirements for the deemed-compliant category claimed by the Financial Institution have been satisfied since July 1, 2014;
  3. Maintain in its records the confirmation from the IRS of the Financial Institution's registration as a deemed-compliant FFI and the Financial Institution's Global Intermediary Identification Number (or GIIN) or such other information as the IRS specifies in forms or other guidance; and
  4. Agree to notify the IRS if there is a change in circumstances that would make the Financial Institution ineligible for the deemed-compliant status for which it has registered, and to do so with six months of the change in circumstances unless the Financial Institution is able to resume its eligibility for its registered deemed-compliant status within the six-month notification period.

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