

APPROVED  
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Chief Executive Officer  
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Registered number 0130

**OOO HSBC Bank (RR)  
Criteria for inclusion of clients into foreign taxpayer category  
and ways of collecting required information from clients**

**Moscow  
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## 1. GENERAL PROVISIONS

This document has been developed to meet the requirements of Russian Federal Law No. 173-FZ dated 28.06.2014 “On Special Features of Financial Transactions with Foreign Nationals and Legal Entities, on Amendments to the Russian Administrative Offences Code and Invalidation of Certain Provisions of Russian Legislative Acts”, it establishes criteria by which OOO HSBC Bank (RR) identifies its clients as foreign taxpayers, and determines ways in which the Bank obtains required information from its customers.

## 2. TERMS AND DEFINITIONS

In this document, the following terms and abbreviations shall have the following meaning:

- **Financial services agreement** means an agreement signed between the Bank and its client, the Bank’s standard terms on which the Bank provides financial services to the client in accordance with Russian law, the general banking license and charter of the Bank.
- **Russian law** means any laws, orders, resolutions, legislative acts, decrees, instructions, letters, telegrams, decisions or directives issued from time to time by any existing federal and/or regional and/or local government authority in the Russian Federation or a successor thereof, or by any judicial authority, ministry, committee, agency, service or other executive authorities of any level including federal or regional, regulatory or administrative body, department, commission, bureau or agency of the Russian Federation, including, without limitation, the Central Bank of the Russian Federation or a monetary authority or foreign exchange authority of the Russian Federation, which, in each case, exercise legal or actual control on the entire territory or part of the Russian Federation.
- **Foreign tax law** means laws and other regulations of foreign states and their administrative territorial units, agreements signed with authorised regulators on taxation and servicing of foreign accounts.
- **Bank’s client** means a person which is signing or has signed a Financial Services Agreement with the Bank.
- **Foreign taxpayer** means a client of the Bank to which foreign tax law applies, including the US Foreign Account Tax Compliance Act of 18.03.2010 (FATCA).
- **Foreign tax authority** means a foreign tax regulator and/or foreign tax agent authorised by a foreign tax regulator to withhold overseas taxes and charges.
- **Authorised body of the Russian Federation** means Central Bank of the Russian Federation, Russian federal government authority in charge of counteraction against money laundering and financing of terrorism (the Russian AML/CTF authority), Russian federal government authority in charge of control and supervision over taxes and charges, foreign tax authority, and other authorised bodies of the Russian Federation.

## 3. CRITERIA FOR INCLUSION OF THE BANK’S CLIENT INTO FOREIGN TAXPAYER CATEGORY

3.1. The Bank uses the following criteria for inclusion of its clients into foreign taxpayer category:

- The client has official status of foreign tax resident and/or foreign taxpayer which is evidenced by documents as required by the laws of the relevant foreign country, or by a written statement of the Client to the Bank;
- The client (legal entity) is registered / incorporated in a foreign country;
- The client (physical individual / private entrepreneur) is a citizen of a foreign country or has permanent residence permit in a foreign country (e.g. I-551 Green Card form evidencing permanent residence in the US);
- The client (physical individual / private entrepreneur) meets the criteria for “long-term stay in a foreign country”, i.e. such physical individual / private entrepreneur has stayed in such country for

the minimum period specified in laws of such foreign state required for recognition of such person as a taxpayer – tax resident – of such foreign country.

3.2. To identify foreign taxpayers, the Bank considers the following factors:

- For clients which are physical individuals or private entrepreneurs:
  - place of birth in a foreign country;
  - address (home address or postal address including P/O box) in a foreign country;
  - telephone number registered in a foreign country;
  - standing orders on money transfers to an account in a foreign country;
  - power-of-attorney issued to a person with an address in a foreign country;
  - signing authority granted to a person with an address in a foreign country;
  - “in care of” or “until called for” specified as the only address for delivery of statements in respect of accounts with the Bank.
- On the date of identification, over 10% of shares or participating shares in the capital of legal entity client is directly or indirectly owned by:
  - a legal entity registered / incorporated in a foreign country;
  - physical individual which is a foreign taxpayer according to the criteria specified in sections 3.1 and 3.2 of this document.

The procedure for identification of beneficial owners and indirect ownership shares in a legal entity is specified in Annex 2 to this document.

3.3. Unless otherwise stipulated by Russian law, information about the following types of the Bank’s clients is not subject to collection and reporting to foreign tax authorities:

1) physical individuals who are citizens of the Russian Federation, except physical individuals which:

(a) in addition to being citizens of the Russian Federation are also citizens of a foreign country (other than a member country of the Customs Union);

(b) have permit for permanent residence in a foreign state;

2) legal entities established under the laws of the Russian Federation in which more than 90% of shares / participatory shares in statutory capital is directly or indirectly controlled by the Russian Federation and/or citizens of the Russian Federation including Russian citizens who are also citizens of a member country of the Customs Union (except physical individuals named in 3.3(a) and 3.3(b) above).

#### **4. WAYS OF COLLECTING INFORMATION REQUIRED TO DETERMINE WHETHER A CLIENT SHOULD BE REGARDED AS A FOREIGN TAXPAYER**

4.1. The Bank may use any lawfully available means of obtaining information to determine a client’s tax status and decide whether to include a client in the foreign taxpayer category e.g. may request the client to provide details using FATCA declaration (for non-financial companies only) or W-8 or W-9 form as required by US tax law. Samples of the FATCA declaration, W-8 and W-9 forms and completion guidance can be found on the Bank’s official Internet site at <http://fatca.hsbc.com/en/cmb/russia>. As the Bank does not provide tax advice, a client is expected to independently choose either W-8 or W-9 tax form, in accordance with client’s status. If the client is not sure which form to choose, the Bank would recommend such client to seek help from a professional tax consultant. If as a result of any events a client’s earlier provided details become inaccurate, such client should immediately notify the Bank. In some cases the Bank may request additional documents to confirm any information it has received.

4.2. Having detected a foreign taxpayer among its clients as stipulated by this document:

1) The Bank shall report such client’s details to authorised bodies of the Russian Federation, according to the procedures, within timelines and to the extent required by Russian law.

2) Within 2 (two) business days after receiving a request (or additional request) from a foreign tax authority to provide information about a client of the Bank which is a foreign taxpayer, the Bank shall notify the authorised bodies of the Russian Federation of receiving such request, following the procedure stipulated by Russian law.

3) At least 10 (ten) business days before providing the foreign tax authority with requested information about a client of the Bank which is a foreign taxpayer, the Bank shall provide such information to the authorized bodies of the Russian Federation, according to the procedure and within timelines stipulated by Russian law. After analysis of such information, the Russian AML/CTF authority may, within 10 (ten) business days of receiving such information, make a decision to approve / ban the provision of such information to the foreign tax authority.

4) The process to be followed by the Russian AML/CTF authority when forbidding the Bank to forward the information to a foreign tax authority, as well as the form of such restrictive decision, are specified in Russian law. If the Bank does not receive any such decision by the due date for reporting its foreign taxpayer client details to the foreign tax authority, the Bank shall proceed with such reporting.

4.3. The Bank shall request a client to provide information and documents by sending a letter to the location address or e-mail address specified by the client, or by delivering such letter to the client (its authorised representative) in person in a meeting with a representative of the Bank.

4.4. Information requested by the Bank for the purpose of establishing whether the Bank's client is a foreign taxpayer shall be provided, and consent (refusal) to forward such information to the authorised body of the Russian Federation shall be communicated to the Bank by the client within 15 business days of the Bank's request to the client.

4.5. If, at the time of signing an agreement with the Bank, a potential client which the Bank regards as a foreign taxpayer on the basis of a reasonable assumption (supported by documents) fails to provide information required for establishing such potential client's foreign taxpayer status, and/or if a potential client which is a foreign taxpayer fails to provide written consent / notification of refusal to forward the information to a foreign tax authority within 15 (fifteen) business days of the Bank's request, the Bank may decline to enter into a financial services agreement with such potential client including but not limited to a bank account / deposit agreement or another financial services agreement.

4.6. If the Bank has made a reasonable assumption, supported by documents, that a client should be included in the foreign taxpayer category, but the client has failed to provide requested information which would allow to confirm or invalidate such assumption, or if a client which is a foreign taxpayer has failed to provide consent / to express refusal to forward information to a foreign tax authority, the Bank may decide to refuse to process any transactions to the benefit of or by order of such client under a financial services agreement, and/or in events contemplated by Russian law, may unilaterally terminate a financial services agreement, by notifying the client of its decision not later than 1 (one) day following the day of such decision.

## **Annex 1: CRITERIA FOR ESTABLISHING BENEFICIAL OWNERS OF LEGAL ENTITY**

Beneficial owner of a legal entity shall be identified as follows:

- for a corporation – a person which directly or indirectly owns more than 10% of shares of such corporation (by number of votes or share value);
- for a partnership – a person which directly or indirectly owns more than 10% of participatory shares in such partnership;
- for a trust – a person which directly or indirectly owns more than 10% shares in a trust. The beneficial owner of a trust is a person which has the right to receive, directly, indirectly or via nominal recipient, mandatory distributions i.e. payments the size of which depends on the terms of trust agreement, and discretionary distributions i.e. payments made at the discretion of trust manager. For trusts, 10% ownership share is identified as follows:
  - in respect of mandatory distributions – if the fair market value of distribution (money or property) exceeds 10% of either the value of all distributions made in the current year, or the value of assets owned by the trust by end of the year in which distribution is made;
  - in respect of discretionary distributions – if the amount of distribution exceeds 10% of the value of trust assets.

Indirect ownership interest in a legal entity shall be identified according to the following rules:

- in the event of indirect ownership of shares / participatory interest: if shares / interest in a foreign company is owned by another company (partnership or trust), then shareholders / owners of such other company shall be considered owners of the foreign company in proportion to their share in such other company (partnership or trust);
- in the event of indirect ownership of participatory interest in a partnership or a trust: if a share in a partnership or trust is owned by another company (partnership or trust), then shareholders / owners of such other company shall be considered owners of the foreign company in proportion to their share in such other company (partnership or trust);
- in the event of ownership through options: if the controlling person owns, directly or indirectly (indirect ownership shall be established as specified in second bullet point in this Annex 1), a call option in respect of shares of a foreign company (participatory units in a partnership or a trust), such person shall be regarded as the owner of shares (participatory units) of the foreign company / partnership / trust as specified in the option;
- in the identification of a person's share in a foreign corporation / partnership / trust, the Bank shall consider all material facts and circumstances, and shall ignore all instruments devised for concealment / artificial reduction of ownership share;
- in the identification of a person's share in a foreign corporation / partnership / trust, the Bank shall add such person's share to the shares owned by such person's related parties including spouses, family members of share owner etc.).