

# Guidance on the United States of America (US) Foreign Account Tax Compliance Act (FATCA) for Centuria's investors



FATCA is a US law that seeks to minimise US income tax avoidance by US persons investing in assets outside the US, including through their investments in Foreign Financial Institutions.

The Australian Government has entered into an Inter-Governmental Agreement (IGA) with the Government of the United States of America for reciprocal exchange of taxpayer information. Under the IGA, Financial Institutions operating in Australia are required to report information to the Australian Taxation Office (ATO). The ATO may then pass the information on to the US Internal Revenue Service.

Each of the Benefit Funds of Centuria Life is currently considered to be a 'Foreign Financial Institution' (FFI) under the IGA and Centuria Life intends to comply with its FATCA obligations. These laws apply to all Financial Institutions offering investment funds in Australia.

In order for the Funds to comply with these obligations, Centuria will collect certain information about you as necessary to verify your FATCA status.

Centuria is required to provide information about the following investors to the ATO:

- investors identified as US citizens or tax residents (information about corporations and trusts with US substantial owners or controlling persons will also be reported);
- investors who do not certify to Centuria their FATCA status; and
- certain Financial Institutions that do not meet their FATCA obligations (Non-participating Foreign Financial Institutions).

## How to complete the "FATCA self-certification" section of the Application Form

Centuria is not able to provide tax advice and cannot determine the impact or compliance obligations of FATCA or the IGA for investors' business activities. Centuria strongly encourages investors to seek the advice of an experienced tax advisor to determine what actions investors may need to take.

## Individuals - Complete Section 1

Section 1 of the FATCA Self Certification Form must be completed by individual investors (including Joint Investors & Sole Traders). If you are not a US person for tax purposes (ie you are an Australian Citizen / Resident) please tick the box 'NO'. This is all you need to do to complete the FATCA Self Certification Form and you can then proceed to the signatories section.

Please tick the box 'YES' to indicate if you are a US Person for tax purposes and provide your US Taxpayer Identification Number (TIN).

### What is a US Person for tax purposes?

US citizens or residents of the US for tax purposes includes:

- Anyone born in the US (who hasn't renounced their US citizenship);
- A US citizen (including persons with dual or multiple citizenships); and
- US lawful permanent residents (eg green card holders).

If you have a US address, a US telephone number, a US passport, a US drivers' licence or a US birth certificate, this may indicate that you are a US person unless you can provide documentary evidence that you are not a US citizen or resident for tax purposes.

If you provide a US address or phone number, you must either:

- tick the YES option under the "FATCA status" section of the Application Form; OR
- provide documentary evidence that you are not a US resident or citizen for tax purposes.

If you think you may be a resident of the US for tax purposes, but are not certain, you should seek specialist tax advice.

If you do not provide the information about your FATCA status, we may be required to provide your information to the ATO.

### What is a US TIN?

If you are a US citizen or resident for tax purposes, please provide your US Taxpayer Identification Number (TIN) - this is a nine digit number and could be a Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN). Note: this is NOT your Australian TFN.

## Trusts – Complete section 2

### Superannuation Fund including Self-managed superannuation funds

All superannuation funds are exempt entities and information about these entities is not required to be reported to the ATO. The FATCA form does not need to be completed for all investors who are identified as Superannuation Funds as part of the Customer identification section of the Product Disclosure Application Forms.

### US Trusts

If the account holder is a trust that is subject to the laws of the US, please select the box “US Trust”.

Please provide your US Taxpayer Identification Number (TIN) - this is a nine digit number and could be a Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN). Note: this is NOT your Australian TFN.

Certain US entities are exempt in the US from tax reporting, including US banks and a US retirement plan. If you are aware of any exemption applying to the US Trust, please answer “YES” to the question “Is the Trust an exempt payee for US tax purposes?” If you answer NO to this question, information about this account will be required to be reported to the ATO.

### Trusts that are a Financial Institution

Some trusts may be a Financial Institution, or the Trustee itself may be a Financial Institution; if it is an investment entity that trades in financial assets or invests, administers, manages funds, money or certain financial assets on behalf of other persons. For further information about the definition, please see: <http://www.irs.gov/Businesses/Corporations/Information-for-Foreign-Financial-Institutions>

Please see the guidance on ‘Financial Institutions’ below for more information on the meaning of a Financial Institution.

If the trust is a Financial Institution, please select the ‘Financial Institution’ box. This will require you to then complete the Financial Institution section of the FATCA form (Section 5).

### Deceased estates or testamentary trusts

All Australian Deceased Estates are exempt entities and information about these entities is not required to be reported to the ATO. Please select the box “Deceased Estates (excluding US Deceased Estates)”.

### Other trusts that are unregulated - Family Trust / Unit Trust / Other Trusts

If the trust is not a US Trust or a Financial Institution, please select the box “Family Trust/Unit Trust/Other Trust”.

Please consider whether the trust derives more than 50% of its gross income from passive investment activities or whether 50% of its assets are held to produce passive investment income.

The term passive investment income refers to income such as:

- Dividends
- Interest;
- Rents and royalties,
- Annuities;
- Capital Gains / losses on investments
- The excess of gains over losses from the sale or exchange of property that gives rise to passive income described in points (1) through (5) above;
- Amounts received under cash value insurance contracts; or
- Amounts earned by an insurance company in connection with its reserves for insurance and annuity contracts.

If the trust earns more than 50% of income from passive investment or holds more than 50% of the assets of the trust for that purpose, the trust is classified as a **Passive Non-Financial Foreign Entity** (Passive NFFE) and you must provide the details of any individuals that are Beneficial Owners (refer to Glossary for definition), beneficiaries, trustees, settlors of the Trust who are US Persons for tax purposes. Centuria is required to report to the ATO on these US persons.

If the trust does not earn more than 50% of income from passive investment or does not hold more than 50% of the assets of the trust for that purpose, we will classify the trust as an **Active Non-Financial Foreign Entity** (Active NFFE). You will not be required to provide details on US persons that are Beneficial Owners, beneficiaries, trustees, settlors of the Trust.

There are a number of other Trust classifications that may enable the Trust to be classified as an Active NFFE and thereby not require reporting on US persons. A full list of these entities can be found in Annexure I, Paragraph VI.B. 4 of the IGA.

Please advise Centuria if you are classified an Active NFFE by virtue of any of these definitions.

## Companies – Complete section 3

### US company

If you are a company incorporated in the US, established under the laws of the US or a US taxpayer please tick the “US company” box and provide the company’s US Taxpayer Identification Number.

### Proprietary or public company that is a Financial Institution

A company may be a Financial Institution if it is an investment entity that trades in financial assets or invests, administers, manages funds, money or certain financial assets on behalf of other persons. For further information about the definition, please see: <http://www.irs.gov/Businesses/Corporations/Information-for-Foreign-Financial-Institutions>.

If the company is a “Financial Institution”, please select the ‘Financial Institution’ box. This will require you to then complete the Financial Institution section of the FATCA form (Section 5).

### **Proprietary or public company that is not a Financial Institution**

If the company earns more than 50% of income from passive investment or holds more than 50% of the assets of the company for that purpose, the company is classified as a Passive Non-Financial Foreign Entity (Passive NFFE) and you must provide the details of any of the Beneficial Owners, through one or more shareholdings of more than 25% of the company's issued capital, who are US Persons for tax purposes. Centuria is required to report to the ATO on these US Persons.

If the company does not earn more than 50% of income from passive investment or does not hold more than 50% of the assets of the company for that purpose, we will classify the trust as an Active Non-Financial Foreign Entity (Active NFFE). You will not be required to provide details on US persons that are Beneficial Owners, beneficiaries, trustees, settlors of the Trust.

There are a number of other entity classifications that may enable the company to be classified as an Active NFFE and thereby not require reporting on US persons. A full list of these entities can be found in Annexure I, Paragraph VI.B. 4 of the IGA.

Please advise Centuria if you are classified an Active NFFE by virtue of any of these definitions.

### **US Beneficial Owners – Required if you are classified as a Passive NFFE**

If you have been classified as Passive Non- Financial Foreign Entity by virtue of the investing trust or company earning more than 50% of income from passive investment or holding more than 50% of the assets of the trust for that purpose you must answer the question whether:

a) any of the trustee beneficiaries, trustees or settlors are US Persons for tax purposes; or

b) the Beneficial Owners, through one or more shareholdings of more than 25% of the company's issued capital are US Persons for tax purposes.

If you answer "YES" again, you must provide their name, address and US Taxpayer Identification Number (TIN) - this is a nine digit number and could be a US Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN) issued in the US. Note: this is NOT your Australian TFN.

## **Financial Institutions – Complete Section 5**

A trust or company may be a Financial Institution if it is an investment entity that trades in financial assets or invests, administers, manages funds, money or certain financial assets on behalf of other persons. For further information about the definition, please see: <http://www.irs.gov/Businesses/Corporations/Information-for-Foreign-Financial-Institutions>.

If the trust or company is a Financial Institution or the trust has a trustee that is a Financial Institution, please select the "Financial Institution" box and provide your Global Intermediary Identification Number (GIIN). The GIIN is a unique ID number that you would have received from the IRS when you

registered to be a Financial Institution for FATCA.

If you do not have a GIIN, please provide your FATCA Status as one of the following:

- Deemed Compliant FFI
- Excepted FFI
- Exempt beneficial owner
- Non-participating FFI

Annex II of the IGA between Australia and the US sets out which organisations are "Deemed Compliant FFIs", "Excepted FFIs", "Exempt beneficial owners". Please see the IGA here: <http://www.treasury.gov.au/Policy-Topics/Taxation/Tax-Treaties/HTML/Intergovernmental-Agreement>. Information about these types of entities is not required to be reported to the ATO.

If you do not fall within any of these categories, you may be a Non-participating FFI (ie a Financial Institution that is not exempt, but has not registered for FATCA). If you are a Non-participating FFI, information about your account is required to be reported to the ATO.

For information about registering for FATCA, please see the US Internal Revenue Service website: <http://www.irs.gov/Businesses/Corporations/Foreign-Account-Tax-Compliance-Act-FATCA>

## Glossary

**Active Non-Financial Entity** – As defined in Annexure I, Paragraph VI.B. 4 of the Inter Government Agreement. Examples include an entity with less than 50% of income from passive investment or that holds more than 50% of the assets of the trust for that purpose; non-financial publically listed companies; charitable organisations and government bodies and that are not a US Person.

**Beneficial Owner** - An individual who directly or indirectly owns 25% or more of an entity and/or exercises control over that entity by way of determining decisions about the financial and operating policy.

**Exempt Payee** - US entities that are exempt in the US from tax reporting, including; US banks, listed and regularly traded US corporations, or US retirement plans. If the investor is not aware of an exemption, then it is likely they are not an Exempt Payee.

**Financial Institution** - A custodial or depository institution, an investment entity, a specified insurance company (including where formed as a partnership).

**Passive Non-Financial Entity** - Any entity that is a Non-Financial Entity and does not meet the definition of the NFFE that is not a US Person.

**US Company** - A company created in the US, established under the laws of the US or a US taxpayer.

**US Partnership** - A partnership organised or incorporated under any laws of or in the US or of any other jurisdiction if formed by a US Person.

**US Person** is:

- (a) Anyone born in the US (who has not renounced their citizenship), living in the US, a green card holder or US passport holder;
- (b) US Companies, US Trusts or US Partnerships; or
- (c) A trustee, settlor, partner, or beneficial owner of a trust, company or partnership (as applicable) who is a US citizen, resident or green card holder.

**US Trust** - A trust that is established under the laws of the US or a US taxpayer or a trust that has any of its trustees, beneficiaries or settlors as a US citizen, resident or green card holder.