

Department for International Tax Cooperation



CAYMAN ISLANDS

EXPLANATORY NOTE:

CRS deactivation submission requirements

The purpose of this explanatory note is to provide further details on what supporting information is required to be submitted depending on the nature of the FI Deactivation request.

CRS Filings

As noted in the DITC CRS Guidelines, prior to submitting the deactivation on the DITC Portal, each Reporting FI and Trustee Documented Trust (TDT) must complete any outstanding reporting obligations. For each year it is registered on the Portal, up to and including the date listed on the Certificate of Dissolution (or equivalent), the FI must submit a:

- CRS Return
- CRS Filing Declaration
- CRS Compliance Form (for the 2019 reporting period and thereafter)

Once the above obligations have been satisfied, the PPOC or Secondary Users assigned to the account will submit the FI Deactivation Request and upload the appropriate evidence. The FI can submit the final return via the DITC Portal at any time during the calendar year, however, the 'End Date' of the return must be 31/12 of the year the FI terminated. For example, if the date listed on the Certificate of Dissolution is 19/02/2024 and the FI has obtained the required evidence listed below, the final return can be submitted via the Portal on 20/02/2024 with an end date of 31/12/2024.

A return in respect of any Reportable Account for the reporting period, up to the final year of dissolution or winding up, is required and must include all information specified in Section I.A. 1 to 7 of Schedule 1 to the CRS Regulations. This would confirm the closure of that Reportable Account (rather than the account balance or value) pursuant to Section 1.A.4 and also confirm the total gross amount of the relevant payments or proceeds of sale under the applicable paragraph Section 1.A 5, 6 or 7.

Please refer to the [DITC Portal User Guide](#) for details on how to complete the deactivation process, including how to upload the required Documentary Evidence, on the DITC Portal. Note that only one file can be uploaded to the Deactivation Request, therefore ensure all supporting evidence is consolidated into one file.

Support required for Deactivation

Below are examples of the types of documentary evidence that must be uploaded as part of the FI Deactivation request. Note that this not an exhaustive list.

1. Termination of an FI

a. For a corporation, including a Segregated Portfolio Company (SPC):

- i. Certificate of strike-off from General Registry
- ii. Certificate of dissolution from General Registry
- iii. For SPCs, also provide a list of all the underlying Segregated Portfolios (SPs), so a completeness check of the expected associated deactivations can be done

b. For a trust, including a Unit Trust:

- i. Trust deed or resolution signed by the trustee(s) terminating the trust, noting the date of termination
- ii. For Unit Trusts, also provide a list of all sub-entities, so a completeness check of the expected associated deactivations can be done

c. For an SP or sub-fund:

- i. Where some but not all SPs or sub-funds are terminated, provide the signed resolution of the board of directors, trustees or equivalent, terminating the SP or sub-fund, noting the date of termination
- ii. Where all SPs or sub-funds are terminated provide the evidence noted in 1.a or 1.b above as applicable

d. For a partnership:

- i. Certificate of strike-off from General Registry
- ii. Certificate of dissolution from General Registry

2. Classification Change of an FI to an Active or Passive NFE

a. A letter explaining the classification changes is required, this must include:

- i. the reason why the Entity was initially classified as an FI based on the definition of that term in the CRS;
- ii. the reason why the Entity is no longer an FI and from what date;
- iii. how the Entity should now be classified (as a Passive or Active NFE) under the CRS and an explanation as to how the definition is met;
- iv. if it is stated that the entity is an Active NFE, state which element of the definition under Section VIII.D.9 a to h of Schedule 1 to the CRS Regulations is met; and
- v. evidence supporting how the noted definition under the CRS is met

b. Examples of supporting documentation (point 2.a.v above)

The supporting documentation, provided in addition to the required letter in 2.a above, needs to support the definition under the CRS the entity is claiming to meet. The following are examples of what should be provided in various circumstances, but it is not an exhaustive list, and additional documentation may be requested based on the specific circumstances of the deactivation request.

Please note that, in any instance where financial statements, management accounts, internal financial statements, or a trial balance are referred to, these would be non-consolidated stand-alone entity financial accounts. Where an entity holds a CIMA license it is generally expected that the audited financial statements would be provided.

Where confirmation from the directors/trustees/partners is referred to below, it is sufficient to including the information in the letter, required under 2.a, when the letter is signed by a director/trustee/partner. Where the letter required under 2.a is from someone other than a director/trustee/partner of the FI, a resolution signed by the directors/trustees/partners would be expected.

i. Entity has always been a Passive NFE and was incorrectly registered as an FI:

1. Financial statements, management accounts, internal financial statements, or a trial balance for the preceding calendar year supporting that more than 50% the assets held produce passive income and more than 50% of the gross income earned is passive income.
2. Confirmation from the directors/trustees/partners, as appropriate, as to who is managing the assets of the entity.

ii. Entity is a Passive NFE as they are no longer managed by an FI

1. Financial statements, management accounts, internal financial statements, or a trial balance for the preceding calendar year verifying that more than 50% of the assets held produce passive income and more than 50% of the gross income earned is passive income.
2. Support for the termination of the investment management agreement, such as a director's resolution, and confirmation from the directors/trustees/partners, as appropriate, as to who is now managing the assets of the entity.

iii. Entity is a Passive NFE as they don't hold any financial assets

1. Financial statements, management accounts, internal financial statements, or a trial balance for the preceding calendar year outlining the types of assets held. If the details of the assets held are not evident from the financial accounts provided, please include a supplementary reconciliation which details the assets that make up the relevant account balances.

iv. Entity is classified as an Investment Entity under VIII(6)(b) of the regulations but is now a Passive NFE because the gross income portion of the Investment Entity definition isn't met

1. Financial statements, management accounts, internal financial statements, or a trial balance for the three preceding calendar years, or the period the entity has been in existence if the timeframe is shorter. If the sources of income are not evident from the financial accounts, provide a supplementary reconciliation which details the breakdown of the total gross income.