

Frequently Asked Questions (FAQ)

FATCA

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General

What is FATCA?

FATCA is the acronym for the U.S. legislation called “**Foreign Account Tax Compliance Act**”. The FATCA provisions were included in the Hiring Incentives to Restore Employment (“HIRE”) Act on 18 March 2010.

FATCA is primarily a reporting system, i.e. a global system of automatic exchange of information between the United States and other countries. Amongst other, [non-U.S. Financial Institutions](#) have to

- **Identify** and obtain information on account holders that is necessary to determine which accounts are [U.S. Reportable Accounts](#);
- Annually **report** information on their customer data, their account balances and financial income.

What is the purpose of FATCA?

FATCA aims to prevent U.S. taxpayers from avoiding tax by investing through non-U.S. Financial Institutions or offshore investment vehicles and concealing their assets from the U.S. tax authorities (called “[Internal Revenue Service](#)” or “IRS”).

You are tax liable in the United States if you are obliged to file tax returns in the U.S. Whether you are required to pay tax depends, amongst other things, on the tax treaty between Belgium and the United States or, for instance, your income. The [IRS](#) defines a U.S. taxpayer as a [U.S. Person](#).

When does FATCA begin?

FATCA is applicable since **1 July 2014**.

ING Belgium however started contacting clients earlier in order to give them sufficient time to document their U.S. status. In practice, this means that:

- Existing customers with U.S. Indicia have been contacted between May and December 2014.
- New customers started being contacted as from the end of December 2013.

Who is impacted by FATCA?

FATCA is far-reaching and can impact any person, whether [Private Individual](#) or [Legal Entity](#), U.S. or non-U.S.

While FATCA certainly affects U.S. withholding agents and U.S. multinational companies, its greatest impact is on non-U.S. [Financial Institutions](#) as all [Foreign Financial Institutions](#) (“FFI”) must comply with FATCA or be subject to a 30% penalty withholding.

What information does ING Belgium report to the IRS to comply with FATCA?

FATCA requires reporting by [Foreign Financial Institutions](#) on the identity of [Specified U.S. Persons](#) on their [U.S. Reportable Accounts](#), the balance on these accounts as at 31st December of each year, financial income and, in the future, revenues from the sale of securities. The first reporting in 2015 will cover the year 2014.

For example, a Belgian citizen born in the U.S. will be considered as a [Specified U.S. Person](#) and will be reported to the Belgian Tax Authorities ("[FPS Finances](#)") who will forward the information to the [IRS](#).

Same information will be reported for [Undocumented](#) clients, i.e. clients with U.S. indicia who have been contacted by ING and who have not responded.

When does FATCA reporting begin?

The first reporting will occur in 2015 and will cover the year 2014. ING Belgium, as all Belgian banks, will report to the Federal Public Service [FPS Finances](#). They will forward the information to the [IRS](#) by 30 September 2015 at the latest.

Am I allowed to determine which data is going to be reported to the IRS?

No. What needs to be reported to the [IRS](#) is determined by law.

What is the withholding tax system under FATCA?

FATCA introduces as a penalty a 30% withholding tax system on [Withholdable Payments](#) made to a [Foreign Financial Institution](#) **which does not comply with the disclosure obligations** imposed by FATCA ("[Non-participating Financial Institutions](#)").

ING Belgium will be compliant with FATCA. As a result, there will be no withholding tax applicable to our [Private Individual](#) clients.

When does FATCA withholding begin?

A FATCA 30% penalty withholding applies on [U.S. Source Fixed or Determinable, Annual or Periodical \("FDAP"\) Income](#), which includes interest and dividends. Since 1st July 2014, [Foreign Financial Institutions](#) compliant with FATCA apply the tax on [Withholdable Payments](#) made to [Foreign Financial Institutions](#) **which do not comply with the disclosure obligations** imposed by FATCA ("[Non-participating Financial Institutions](#)").

On 1st January 2017, withholding will begin for gross proceeds from the sale of property that can produce [U.S. Source](#) dividends or interest.

What are the consequences for ING Belgium of having clients with U.S. Indicia?

If a customer has a [U.S. Indicum](#), such as the [U.S. Citizenship](#), a U.S. place of birth or mailing address, ING Belgium as a [Foreign Financial Institution](#) (“FFI”) must obtain documentation to confirm the status (either U.S. or non-U.S.) of the customer.

If documentation is not obtained, the customer remains [Undocumented](#).

The FATCA legislation requires that documented [Specified U.S. Persons](#) as well as [Undocumented](#) customers are reported to the Belgian Tax Authorities (“[FPS Finances](#)”) who will forward the information to the [IRS](#).

Does FATCA only apply to new clients?

No. FATCA is applicable to **all** clients. Both new and pre-existing clients will receive a FATCA status according to their customer details.

Pre-existing clients will not be affected by the new FATCA legislation?

No. FATCA is applicable to **all** clients. Both new and pre-existing clients will receive a FATCA status according to their customer details. However, only [Specified U.S. Persons](#) and [Undocumented](#) customers holding a [Financial Account](#) will have to be reported to the Belgian Tax Authorities (“[FPS Finances](#)”) who will forward the information to the [IRS](#).

Can U.S. legislation be made compulsory in Belgium?

Belgium, as most European countries, has entered into an [Intergovernmental Agreement](#) (“IGA”) to render FATCA enforceable in our domestic legislation. This IGA was signed on 23 April 2014.

ING has elected to become FATCA compliant and has been registered with the status of [Registered Deemed Compliant Foreign Financial Institution](#) in the frame of the IGA.

You will find more information on this registration on ing.be/fatca-giin.

Isn't ING Belgium being stricter than other banks when applying FATCA?

No. FATCA is applicable to all non-U.S. financial institutions (“[Foreign Financial Institutions](#)” – “FFI”) and other financial intermediaries. Would ING Belgium not comply with the disclosure obligations imposed by FATCA, all its -and those of its clients- relevant [U.S.-sourced](#) payments, such as dividends and interest paid by U.S. corporations, would be subject to a 30% withholding tax. Therefore, ING Belgium, as **all other Belgian banks**, has decided to implement the changes required by FATCA.

[U.S. Citizens](#) are and remain welcome in ING for accounts and savings as long as they are willing to comply with ING's request for FATCA documentation. Customers identified as [Specified U.S. Persons](#) and [Non-documented Customers](#) will be reported to the IRS as from 2015.

Does FATCA change anything to U.S. taxpayers' obligations?

No. U.S. taxpayers have always had the obligation to declare their worldwide income in their annual tax return.

What will happen if I refuse to provide the documentation requested by ING?

ING needs to report its clients who are [Specified U.S. Persons](#) on the basis of the information and documentation in its possession. We therefore ask our clients to properly document themselves for FATCA purposes in order to apply the correct FATCA status upon reporting. This is also an opportunity for our clients to update their personal data.

If a client does not provide us with the required documentation, or wishes to remain [Undocumented](#) for FATCA purposes, ING will be obliged to report his customer data, his account balances and financial income as [Undocumented](#) to the Belgian Tax Authorities ("[FPS Finances](#)") who will forward the information to the [IRS](#).

Private Individuals

When am I considered a U.S. Person?

As a natural person, you are considered a **U.S. Person** if you are a citizen or resident of the United States (holders of the Permanent Resident Card (Green Card) but also persons who meet the [Substantial Test of Presence](#) for the calendar year are considered U.S. Resident for tax purposes).

For more information, see <http://www.irs.gov/Individuals/International-Taxpayers/Determining-Alien-Tax-Status>.

What are U.S. Indicia?

U.S. Indicia are indicators that a person, private individual or legal entity, could be considered as a [Specified U.S. Person](#).

For private individuals, they are:

- [U.S. Citizenship](#) or [U.S. Residency](#) (this includes having a Green Card allowing to permanently reside in the United States as an immigrant),
- Place of birth is in the U.S.,
- Current (mailing, residence, post office box or c/o) address is in the U.S.,
- Sole address is a care of address or hold mail,
- A U.S. telephone number,
- A power of attorney or signatory authority was granted to a person with a U.S. (mailing, residence, post office box or c/o) address.
- Standing instructions from an ING Belgium account to an account in the U.S.

Having one of these indicia does not mean that the client is in fact a [U.S. Person](#), only that he needs closer scrutiny.

What is a U.S. Reportable Account?

Any [Financial Account](#) that falls into the scope of FATCA reporting and which is held by:

- a [Specified U.S. Person](#) or
- a [Passive NFFE \(U.S.-owned\)](#) or
- any [Non-documented Customer](#).

Which information will be reported to the IRS?

To be compliant a [Foreign Financial Institution](#) is required to disclose details of all "[U.S. Reportable Accounts](#)" held on its books by holders who fall into the scope of FATCA.

The information that must be provided includes:

- 1) The name, address and U.S. [Taxpayer Identification Number](#) ("TIN") of each account holder (if the TIN is not available, the date of birth will be reported);
- 2) The account number;
- 3) The year-end account balance or value (starting 31st December 2014); and

- 4) Payments made with respect to the account i.e.
- gross amount of interest, dividends or other income generated with respect to the assets held in the account (as from 2015);
 - total gross proceeds from the sale or redemption of property paid or credited to the account (as from 2016).

The reporting to the [IRS](#) will take the form of an annual report on each [U.S. Reportable Account](#). Any further information which the IRS may request about those accounts needs to be provided.

Remark:

The disclosure is required not only in relation to direct account holders but also to any substantial U.S. owners of account holders, such as U.S. shareholders in some Belgian non-financial entities that are [Passive NFFE](#).

Does ING have any plans to stop accepting private U.S. customers, due to FATCA?

[U.S. Persons](#) are and remain welcome in ING for accounts and savings as long as they are willing to comply with the FATCA obligations. However, ING will not open new financial accounts for [Undocumented U.S. Persons](#).

For investments, please check ING's related policy on www.ing.be/uscorner.

I'm a U.S. citizen, my spouse is Belgian. We live and work in Belgium. I have been advised to get the Belgian citizenship to avoid FATCA. Is it possible to avoid the consequences of FATCA by getting the Belgian citizenship?

No. After getting the Belgian citizenship, you have both nationalities. For the U.S. tax authorities, you remain a [U.S. Citizen](#) as long as you have not officially renounced your U.S. citizenship. In case you would renounce your U.S. citizenship, you should provide ING with a [Certificate of Loss of Nationality of the United States](#).

I am already a client of ING Belgium and I've been contacted by ING because I have U.S. indicia. Am I obliged to fill in the W-8BEN or W-9 forms?

It is strongly recommended to fill in the forms [W-8BEN](#) (certification of non-U.S. status) or [W-9](#) (certification of U.S. status). You should be aware that, should you not fill in the appropriate form, you will be considered as an [Undocumented](#) client under FATCA if [U.S. Indicia](#) are found in your customer data. ING Belgium will then be obliged to report your accounts to the Belgian Tax Authorities ("[FPS Finances](#)") who will forward the information to the [IRS](#).

I want to become a client of ING Belgium and I have U.S. indicia. Am I obliged to fill in the W-8BEN or W-9 forms?

Yes. Not filling in the forms [W-8BEN](#) or [W-9](#) would render you [Undocumented](#) under FATCA. ING Belgium has decided not to enter into relations with potential clients who are not willing to comply with the request for FATCA documentation.

I'm already a client of ING Belgium. Why did I receive a request for documentation?

You can get a request for documentation in four cases:

1. You are an existing customer and hold a [Financial Account](#) with ING Belgium. Your customer details show one or more [U.S. Indicia](#).
2. You are an existing customer but don't own a [Financial Account](#) with ING Belgium. For example, you hold an ING Auto insurance policy or a Star Fund account. These products are not considered to be [Financial Accounts](#) under FATCA. Now you wish to open a current or deposit account with ING Belgium. These accounts are considered [Financial Accounts](#) under FATCA. We have analysed your customer details and found [U.S. Indicia](#).
3. You have informed us about a change in your customer information, for example providing us with a new address located in the U.S.
4. You are an existing customer and hold a [Financial Account](#) with ING Belgium. Your customer data does not show any [U.S. Indiciu](#)m but you have granted a power of attorney or signatory to a person with a U.S. (mailing, residence, post office box or c/o) address.

I was born in the U.S. but have never lived there. I am not to be considered as a U.S. Citizen. What can ING Belgium do to help me?

If you were born in the United States, you automatically acquired [U.S. Citizenship](#) at birth. This means you most likely hold dual citizenship.

Unlike most other jurisdictions, U.S. tax liability is attached to citizenship rather than only to residence which means that [U.S. Citizens](#) living abroad must, on an annual basis, file U.S. tax returns on their worldwide income regardless of the place where they reside.

In order to attest that you are not tax liable in the United States, you need to provide us with a [Certificate of Loss of Nationality of the United States](#), to support the [W-8BEN](#) form.

If you were born in the United States because your parents were working there as diplomats, you probably don't hold [U.S. Citizenship](#). In this case, please inform us about this for additional guidance.

I have no link with the U.S. but I gave proxy on my account to someone who is a U.S. citizen. What does it mean for me?

Granting a power of attorney or signatory authority to a person **with a U.S. (mailing, residence, post office box or c/o) address** is a [U.S. Indiciu](#)m.

As a consequence, unless you provide a [W-8BEN](#), your account will be treated as a [U.S. Reportable Account](#) and will be reported to the Belgian Tax Authorities (“[FPS Finances](#)”) who will forward the information to the [IRS](#).

The information in the ING database is not correct and I have no link with the U.S. What can I do to cure this situation?

Please contact your ING branch. Depending on the [U.S. Indicia](#) in the ING database, you will have to provide additional documentation.

If I provide ING with the requested documents, does it mean that I can keep my securities account?

No. There is an ING policy not to provide securities services to [U.S. Persons](#) anymore.

For investments, please check ING’s related policy on www.ing.be/uscorner.

I have a Belgian and a U.S. passport but I live and work in Belgium and only use my U.S. passport on the rare occasions I travel to the U.S. on holiday or business. Am I really considered as a U.S. Person?

Yes. You have double citizenship, Belgian and U.S. As such you are considered as a [U.S. Person](#).

I am a Belgian student currently on a university exchange within a U.S. university. Am I considered as a U.S. Resident and liable under FATCA?

You can usually find additional information on your tax status on your university’s website or contact the U.S. embassy that has issued your visa.

My daughter is a student in the U.S. and I have standing instructions to transfer each month a certain amount of money to her account there. Is my account with ING Belgium liable under FATCA?

Having standing instructions to an account in the U.S. is considered as a [U.S. Indicum](#). In order not to be reportable under FATCA, you will have to fill in a [W-8BEN](#) form.

Legal Entities

What are U.S. Indicia?

U.S. Indicia are indicators that a person, private individual or legal entity, could be considered as a [Specified U.S. Person](#).

For legal entities, they usually are:

- The country of incorporation or residence (branches of non-U.S. entities) is the United States of America,
- Current (mailing, residence, post office box or c/o) address is in the U.S.

Having one of these indicia does not mean that the legal entity is in fact a [U.S. Person](#), only that it needs closer scrutiny.

What is a U.S. Reportable Account?

Any [Financial Account](#) that falls into the scope of FATCA reporting and which is held by:

- a [Specified U.S. Person](#) or
- a [Passive NFFE \(U.S.-owned\)](#) or
- any [Non-documented Customer](#).

What is a Non-Financial Foreign Entity (“NFFE”)?

A Non-Financial Foreign Entity is a non-U.S. legal entity that is not a [Financial Institution](#).

There are two categories of NFFEs:

- Active NFFEs are engaged in an active trade or business (production, industry, non-financial services, etc.) where less than 50% of their gross income for the preceding calendar year is passive.

Example: A bakery produces bread and has no other income besides the income of this activity.

- Passive NFFEs have gross income that derives for more than 50% from passive income (a. o. dividends, interests, rents, royalties, annuities).

Example: A bakery has a large investment portfolio and has more income from financial investments than from its business activity.

What information will a Foreign Financial Institution report to the IRS regarding U.S. Reportable Accounts?

To be compliant a [Foreign Financial Institution](#) is required to disclose details of all [U.S. Reportable Accounts](#) held on its books by holders who fall into the scope of FATCA.

For Legal Entities holding accounts with ING Belgium, the disclosure is not only limited to the Legal Entity, but also to any of its U.S. owners who holds at least 25% of the equity in a [Passive NFFE](#) (e.g. U.S. individuals holding 30% of the equity in a Belgian passive corporation).

The information that must be provided includes:

- 1) The name, address and the [Employer Identification Number](#) (“EIN”) of each account holder;
- 2) The name, address and [TIN](#) (if any) of each substantial [Specified U.S. Person](#) owner of such entity (if the TIN is not available, the date of birth will be reported);
- 3) The account number;
- 4) The year-end account balance or value (starting 31st December 2014); and
- 5) Payments made with respect to the account i.e.
 - gross amount of interest, dividends or other income generated with respect to the assets held in the account (as from 2015);
 - total gross proceeds from the sale or redemption of property paid or credited to the account (as from 2016).

The reporting to the [IRS](#) will take the form of an annual report on each [U.S. Reportable Account](#). Any further information which the IRS may request about those accounts needs to be provided.

My company shows none of the U.S. Indicia you mention. Why are you asking me to fill in a W-8BEN-E or self-certification form?

FATCA sometimes requires that legal entities, that do not show any [U.S. Indicum](#), deliver additional documentation. The [IGA](#) between Belgium and the United States provides that the following cases must be identified by way of a self-certification:

- 1) [Passive Non-Financial Foreign Entities](#) (“Passive NFFEs”) with which [Foreign Financial Institutions](#) start a relationship (new entity’s account) ([IGA, Annex I, V., B.,3. b\)](#)):
 - b) If the Account Holder is **a Passive NFFE**, the Reporting Belgian Financial Institution must identify the Controlling Persons as determined under AML/KYC Procedures, and must determine whether any such person is a U.S. citizen or resident on the basis of a self-certification from the Account Holder or such person. If any such person is a U.S. citizen or resident, the Reporting Belgian Financial Institution must treat the account as a U.S. Reportable Account
- or
- 2) [Passive Non-Financial Foreign Entities](#) (“Passive NFFEs”) which open an additional account (pre-existing entity’s account) with a [Foreign Financial Institution](#), and for which the aggregated balance on pre-existing accounts is above USD 1,000,000 as at 30 June 2014 (and at 31/12 of the subsequent years) ([IGA, Annex I, IV., D.,4. c\)](#)):
 - c) For purposes of determining whether a Controlling Person of a Passive NFFE is a U.S. citizen or resident for tax purposes, a Reporting Belgian Financial Institution may rely on:
 - (1) Information collected and maintained pursuant to AML/KYC Procedures in the case of a Preexisting Entity Account held by one or more NFFEs with an account balance or value that does not exceed \$1,000,000; **or**
 - (2) A self-certification (which may be on an IRS Form W-8 or W-9, or on a similar agreed form) from the Account Holder or such Controlling Person in the case of a Preexisting Entity

Account held by one or more NFFEs with an account balance or value that exceeds \$1,000,000

Financial Institutions

What is a Foreign Financial Institution (“FFI”)?

The definition of an FFI is very broad and includes a number of entities generally not considered to be financial institutions.

An FFI is any non-U.S. entity (thus ‘foreign’ from a U.S. perspective) that:

- Accepts deposits in the ordinary course of a banking or similar business; or
- Has a substantial portion of its business in the form of financial assets for the account of others; or
- Is engaged (or holding itself out as being engaged) primarily in the business of investing, reinvesting, or trading in securities, partnership interests, commodities, or any interest (including futures contracts, forward contracts or options) in such securities, partnership interests, or commodities.

This includes not only banks, insurance companies and brokers but extends to clearing organisations, trust companies, hedge funds, private equity funds, property funds and pension funds. It also includes securitisation vehicles and other investment vehicles.

Unless an entity proves otherwise, ING will consider the following entities as foreign financial institutions for FATCA purposes:

- entities with a NACE code (or Statistical Classification of Economic Activities in the European Community) specific to FFIs, see the [appendix](#) to this document; or
- entities for which publicly available information, such as industry codes (e.g. G.I.I.N., NACE, SIC, NAICS) indicate that they are an FFI, or
- entities for which information otherwise available indicates that they are an FFI.

What are Foreign Financial Institutions required to do in order to comply with FATCA?

To be compliant with FATCA, [Foreign Financial Institutions](#) are required to:

- **Register** with the [IRS](#) and obtain a [G.I.I.N.](#);
- **Identify** and obtain information on account holders that is necessary to determine which accounts are [U.S. Reportable Accounts](#);
- Annually **report** information on [U.S. Reportable Accounts](#);
- Apply a penalty **withholding** tax of 30% to specific types of [U.S. Source](#) income paid to [Non-participating Foreign Financial Institutions](#) (“NPFFI”);
- Periodically **comply and certify** that they have met their obligations under FATCA.

A [Foreign Financial Institution](#) that does not comply with any of these five key obligations will be considered a [Non-participating Foreign Financial Institution](#) (“NPFFI”).

What is a Participating Foreign Financial Institution?

A [Foreign Financial Institution](#) that enters into an FFI agreement with the [IRS](#) is referred to as a “Participating Foreign Financial Institution” (“PFFI”). An FFI that does not enter into an agreement

with the [IRS](#) is referred to as a [Non-participating Foreign Financial Institution](#) (“NPFFI”), and is subject to withholding under FATCA.

[Foreign Financial Institutions](#) located in a country that has signed an IGA Model 1 are considered as [Registered Deemed Compliant FFIs](#). Belgium, like most countries in the European Union is an IGA Model 1 country.

What is a Registered Deemed Compliant Foreign Financial Institution?

A [Foreign Financial Institution](#) incorporated in a country that has entered into an Intergovernmental Agreement (“[IGA](#)”) with the U.S. [Internal Revenue Service](#) (“IRS”).

Belgium and the U.S. signed an [IGA](#) on 23 April 2014. On that day, ING Belgium became a Registered Deemed Compliant FFI.

What is a Non-participating FFI?

A [Foreign Financial Institution](#) (“FFI”) that is not a [Participating FFI](#), a [Registered Deemed-Compliant FFI](#) or an [Exempt Beneficial Owner](#), and that is not compliant with any of the five key [FATCA requirements](#).

What is a Global Intermediary Identification Number (G.I.I.N.)?

Each [Participating](#) or [Deemed Compliant](#) FFI will be issued a Global Intermediary Identification Number (“G.I.I.N.”) which will be used to identify this entity. A G.I.I.N. will be issued when registering with the [IRS](#).

What is ING Belgium’s Global Intermediary Identification Number (G.I.I.N.)?

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Glossary

Certificate of Loss of Nationality of the United States

Official document issued by a U.S. embassy, to attest that you have renounced your [U.S. Citizenship](#). In case you hold [U.S. Citizenship](#) or if you were born in the U.S., you need to provide this document if you want to attest that you are no longer tax liable in the United States.

Employer Identification Number ("EIN")

Federal [Tax Identification Number](#) used to identify a business entity. See also <http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employer-ID-Numbers-EINs>.

Exempt Beneficial Owner

Amongst others:

- (i) Any foreign government, any political subdivision of a foreign government, or any wholly owned agency or instrumentality of any one or more of the foregoing; or
- (ii) Any international organisation or any wholly owned agency or instrumentality thereof; or
- (iii) Any foreign central bank of issue; or
- (iv) Any government of U.S. territory; or
- (v) Certain retirement funds; or
- (vi) Entities wholly owned by one or more other Exempt Beneficial Owners

FDAP Income

For purposes of FATCA, means Fixed or Determinable Annual or Periodic income, except for gains derived from the sale of real or personal property (including market discount and option premiums, but not including original issue discount).

Examples are compensation for personal services, dividends, interest, pensions and annuities, alimony, rents, other than gains from the sale of real property, royalties, etc.

Financial Account

Includes:

- (i) any depositary or custodial accounts maintained by a [Foreign Financial Institutions \(FFI\)](#),
- (ii) any shareholding or debt holdings in the FFI (unless these are regularly traded on an established securities market) and
- (iii) cash value insurance contracts.

There are some exemptions from this definition including certain retirement savings accounts and general insurance products.

Non-life insurance products such as ING Auto, ING Family and Home Blanket Insurance, ING Lion Assistance... are out of scope of FATCA.

Federal Public Service Finance (“FPS Finance”)

Entity of the Belgian federal authorities fulfilling, amongst other responsibilities, the role of Belgian tax agency.

Intergovernmental Agreement (“IGA”)

Bilateral agreement between a country’s tax authority and the U.S. government that facilitates compliance with FATCA. The model agreements enable [Foreign Financial Institutions](#) in the designated jurisdictions to comply with FATCA, especially where privacy laws exist. There are currently two types of IGAs, Model 1 and Model 2.

Belgium signed a Model 1 agreement with the [IRS](#) on 23 April 2014. This IGA includes provisions specific to Belgium in addition to simplified due diligence and withholding requirements. Under this agreement, Belgian financial institutions report to the [Federal Public Service \(FPS\) Finance](#). FPS Finance will supply the information received to the U.S.

Internal Revenue Service (“IRS”)

The United States tax agency. The agency is a bureau of the U.S. Department of the Treasury.

Passive NFFE

[Non-Financial Foreign Entity](#) for which financial income for the preceding calendar year was more than 50 percent of its gross income and/or more than 50 percent of the weighted average percentage of assets (tested quarterly) are assets that produce or are held for the production of financial income.

In other words, if for the preceding calendar year:

- financial income of the entity was more than 50 percent of its gross income

AND/OR

- financial assets (including investments and cash at hand) were more than 50 percent of total assets

then the NFFE will be considered as a Passive NFFE.

Passive NFFE (U.S.-owned)

[Passive Non-Financial Foreign Entity](#) which has one or more substantial owners or controlling persons who are [Specified U.S. Individuals](#). A controlling person means the natural person who exercises control over an entity.

Specified U.S. Person

Any [U.S. Person](#), other than:

- (i) any corporation the stock of which is regularly traded on one or more established securities markets;
- (ii) any corporation that is a member of the same expanded affiliated group;
- (iii) the United States or any wholly owned agency or instrumentality thereof;
- (iv) any State of the United States, any U.S. Territory, any political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing;
- (v) any organization exempt from taxation under section 501(a) of the U.S. Internal Revenue Code or an individual retirement plan as defined in section 7701(a)(37) of the U.S. Internal Revenue Code;
- (vi) any bank as defined in section 581 of the U.S. Internal Revenue Code;
- (vii) any real estate investment trust as defined in section 856 of the U.S. Internal Revenue Code;
- (viii) any regulated investment company as defined in section 851 of the U.S. Internal Revenue Code or any entity registered with the U.S. Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-64);
- (ix) any common trust fund as defined in section 584(a) of the U.S. Internal Revenue Code;
- (x) any trust that is exempt from tax under section 664(c) of the U.S. Internal Revenue Code or that is described in section 4947(a)(1) of the U.S. Internal Revenue Code;
- (xi) any dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any State;
- (xii) any broker as defined in section 6045(c) of the U.S. Internal Revenue Code; or
- (xiii) any tax-exempt trust under a plan that is described in section 403(b) or section 457(g) of the U.S. Internal Revenue Code.

Substantial Test of Presence

You will be considered a [U.S. Resident](#) for tax purposes if you meet the “substantial test of presence”. To meet this test, you must have been physically present in the United States for at least:

- 31 days during last year, and
- 183 days during the 3-year period that includes last year and the previous two years, counting:
 - o All the days you were present during last year, and
 - o 1/3 of the days you were present the year before, and
 - o 1/6 of the days you were present the previous year.

Taxpayer Identification Number (“TIN”)

Identifying number used by the [Internal Revenue Service](#) for tax purposes in the United States. It is issued either by the Social Security Administration (Social Security number) or by the IRS. See also [http://www.irs.gov/Individuals/International-Taxpayers/Taxpayer-Identification-Numbers-\(TIN\)](http://www.irs.gov/Individuals/International-Taxpayers/Taxpayer-Identification-Numbers-(TIN)).

U.S. Citizen

Person born or naturalized in the United States and subject to the jurisdiction thereof and of the State wherein he/she resides.

U.S. Indicia

Indicators that a person, private individual or legal entity, could be considered as a [Specified U.S. Person](#).

For private individuals, they usually are:

- [U.S. Citizenship](#) or a [U.S. Residency](#) (this includes having a Green Card allowing to permanently reside in the United States as an immigrant),
- Place of birth is in the U.S.,
- Current (mailing, residence, post office box or c/o) address is in the U.S.,
- Sole address is a care of address or hold mail,
- A U.S. telephone number,
- A power of attorney or signatory authority was granted to a person with a U.S. (mailing, residence, post office box or c/o) address.
- Standing instructions from an ING Belgium account to an account in the U.S.

For legal entities, they usually are:

- The country of incorporation or residence is the United States of America,
- Current (mailing, residence, post office box or c/o) address is in the U.S.

Having one of these indicia does not mean that the account is owned by a [U.S. Person](#), only that it needs closer scrutiny.

U.S. Person

- (A) Any [U.S. Citizen](#) or [Resident](#) individual,
- (B) Any partnership or corporation organized in the United States or under the laws of the United States or any State thereof,
- (C) Any trust if
 - (i) a court within the United States would have authority under applicable law to render orders or judgments concerning substantially all issues regarding administration of the trust, and
 - (ii) one or more U.S. persons have the authority to control all substantial decisions of the trust, or an estate of a decedent that is a citizen or resident of the United States.

U.S. Reportable Account

Any [Financial Account](#) that falls into the scope of FATCA reporting and which is held by:

- a [Specified U.S. Person](#) or
- a [Passive NFFE \(U.S.-owned\)](#) or
- any [Non-documented Customer](#).

U.S. Resident

Private Individual who:

- Has a green card allowing him to permanently reside in the United States as an immigrant; or
- Meets the Substantial Test of Presence.

U.S. Source

Derived from sources within the United States. Example: payments made by a U.S. domestic corporation, U.S. citizens, trust, or entity formed under the laws of the U.S. or its states or if they are effectively connected to the conduct of a U.S. trade or business (such as interest paid by a U.S. branch).

Undocumented (Non-documented) Customer

Any customer for whom U.S. Indicia were found and not cured, or were confirmed as U.S., a. o.:

- did not respond to request for information and the time limit was exceeded, OR
- refused to provide W-9 to confirm he is a Specified U.S. Person; OR
- wished to attest that he is not a U.S. Person but did not provide a W-8BEN, W-8-BEN-E or any other documentation requested to confirm his non-U.S. status.

ING Belgium will not open any new financial account for Undocumented pre-existing clients nor enter into relationship with Undocumented new clients.

W-8BEN

Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting form issued by the Internal Revenue Service. Its purpose is to identify non-U.S. beneficial owners of accounts or transactions. It is for use by Private Individuals only. Legal Entities must use Form W-8BEN-E.

See also instructions on how to fill in the W-8BEN form on the IRS website <http://www.irs.gov/pub/irs-pdf/iw8ben.pdf>.

W-8BEN-E

Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities) form issued by the Internal Revenue Service. Its purpose is to identify non-U.S. Legal Entities or Foreign Financial Institutions that are beneficial owners of accounts or transactions. It is for use by Legal Entities and Foreign Financial Institutions only. Private Individuals must use Form W-8BEN.

W-9

Request for Taxpayer Identification Number and Certification form issued by the Internal Revenue Service. Its purpose is to request the taxpayer's Taxpayer Identification Number ("TIN"). It is to be used by U.S. Persons only, Private Individuals or Legal Entities.

See also instructions on how to fill in the W-9 form on the IRS website <http://www.irs.gov/pub/irs-pdf/iw9.pdf>.

Withholdable payment

(i) Any payment of interest, dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income (see [FDAP Income](#)), if such payment is [U.S. Source](#);

and

(ii) Any sales or other dispositions occurring after 31st December 2016, any Gross Proceeds from the sale or other disposition of any property of a type which can produce interest or dividends from sources within the United States.

Appendix 1

NACE Codes Specific to Financial Institutions under FATCA

64100	Monetary intermediation
64190	Other monetary intermediation
64300	Trusts, funds and similar financial entities
64900	Other financial service activities, except insurance and pension funding n.e.c.
64990	Other financial service activities, except insurance and pension funding n.e.c.
64992	Securities houses
64999	Other financial services
65100	Insurance
65110	Life Insurance
65111	Direct life insurance
65112	Activities of mixed insurance companies, with life predominating
66110	Administration of financial markets
66120	Security and commodity contracts brokerage
66190	Other activities auxiliary to financial services, exc. Insurance, pension funds
66199	Other support activities relating to financial services, excluding insurance, pension funds
66300	Asset management (" <i>vermogensbeheer/gestionnaire de portefeuille</i> ")