

**FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA) -  
NON-INDIVIDUAL**



To be filled out only by US Person or with US indicia.

**FATCA QUESTIONNAIRE**

**CLIENT NAME:** \_\_\_\_\_

**BRANCH/DEPARTMENT:** \_\_\_\_\_

**1**

Question/Inquiry	YES	NO
Is the entity a corporation or partnership created or organized in the United States (U.S.) or under the law of the U.S. or of any state (excluding U.S. Territories)?		
Is the entity a trust which meets both of the following requirements? <ul style="list-style-type: none"> <li>• a court within the U.S. is able to exercise primary supervision over the administration of the trust; and</li> <li>• one or more U.S. persons have the authority to control all substantial decisions of the trust</li> </ul>		
Is the entity an estate that is treated as a U.S. person?		
Does the entity have stockholders who are U.S. citizens and own, directly or indirectly, more than 10% of the stock of the entity?		
Does the entity have partners who are U.S. citizens and own, directly or indirectly, more than 10% of the profits interests or capital interests in such partnership?		
For trusts, does the entity have U.S. citizens who hold, directly or indirectly, more than 10% of the beneficial interests of such trust?		
Does the entity have an office in the U.S.?		
Does the entity have a U.S. mailing address (including U.S. P.O. box)?		

**If any of the answers to questions stated above is YES, kindly specify required applicable information below:**

**A. Name** \_\_\_\_\_

**B. U.S. Address** \_\_\_\_\_  
 \_\_\_\_\_

**C. U.S. Tel. No.** \_\_\_\_\_ **D. U.S. TIN** \_\_\_\_\_ **E. U.S. P.O. Box** \_\_\_\_\_

**F. Standing instructions to pay amount/transfer funds to an account maintained in the U.S.** \_\_\_\_\_  
 \_\_\_\_\_

**G. Name of the person granted the power of attorney or signing authority with U.S. address** \_\_\_\_\_

**H. An "in-care-of" address or "hold mail" address** \_\_\_\_\_

**I. Length of stay in U.S. : Year/s** \_\_\_\_\_ **Month/s** \_\_\_\_\_

Please see guidelines on how to compute for the length of stay in U.S. by following the computation of substantial presence test below.

Qualification/Eligibility for substantial presence test must involve being physically present in the U.S. for at least:

- a. 31 days during the current year and;
- b. 183 days during the 3-year period that includes the current year and the 2 years immediately before that, counting:
  - i. All the days you were present in the current year and;
  - ii. 1/3 of the days you were present in the first year before the current year, and;
  - iii. 1/6 of the days you were present in the second year before the current year

**2****What is your FATCA status?**

STATUS	YES	NO
Deemed compliant FFI		
Excepted FFI		
Excepted (NFFE)		
Exempt FFI		
Exempt NFFEs		
Non-participating FFI		
Participating FFI		
Passive NFFE		

*See glossary on page 4 for definition of terms.***3**

If your company is a U.S. owned foreign entity, please tick the most appropriate box relative to your company:

- Corporation** – Substantial U.S. owner held by one or more specified U.S. person/s (meaning any specified person owning directly or indirectly 10% or more of stock of such corporation - by vote or value).
- Partnership** - Partners born in or out of the U.S. that owns directly or indirectly more than 10% of the profits, interest or capital interest in such partnership.
- Trust** - U.S. person holds directly or indirectly more than 10% of the beneficial interest of such trust.

**4**

If your company/partnership is a U.S. owned foreign entity, list the name, country of citizenship and/or residency of each U.S. beneficial owner who are ultimate holders of 10% or more of the corporation, partnership or trust:

Name	U.S. Citizen or Resident	Country of Citizenship and/or Residency

**5**

For non-U.S., non-financial entities with substantial owners, list the name, address, and U.S. TIN:

Name	U.S. Citizen or Resident	Country of Citizenship and/or Residency

**CLIENT CONFORME:****SIGNATURE VERIFIED BY:**

\_\_\_\_\_  
Client Signature over Printed Name

\_\_\_\_\_  
Signature / Name of Employee

CERTIFICATION, CONSENT, AND WAIVER

This is to certify that I am/the entity is \_\_\_\_\_

Not a U.S. person but have at least one of the following indicia, which necessitates the submission of additional documents per FATCA regulations:

- a) Designation of the account holder as a U.S. citizen or resident;
b) A U.S. place of birth;
c) A current U.S. residence or U.S. mailing address (including a U.S. post office box);
d) A current U.S. telephone number (regardless of whether such number is the only telephone number associated with the account holder);
e) Standing instructions to pay amounts from the account to an account maintained in the U.S.;
f) A current power of attorney or signatory authority granted to a person with a U.S. address; or
g) An "in-care-of" address or a "hold mail" address that is the sole address identified for the account holder.

I undertake to provide Sterling Bank of Asia Inc. (A Savings Bank) ("Sterling Bank of Asia") all documents and information as may be required by FATCA regulations.

Signed: \_\_\_\_\_
Printed Name and Signature of the Account Holder



Not a U.S.-owned foreign entity but has at least one of the following indicia, which necessitates the submission of additional documents per FATCA regulations:

- a) Classification of an account holder as a U.S. resident in the withholding agent's customer files;
b) A current U.S. residence address or U.S. mailing address;
c) With respect to an offshore obligation, standing instructions to pay amounts to a U.S. address or an account maintained in the U.S.;
d) A current telephone number for the entity in the U.S. but no telephone number for the entity outside of the U.S.;
e) A current telephone number for the entity in the U.S. in addition to a telephone number for the entity outside of the U.S.;
f) A power of attorney or signatory authority granted to a person with a U.S. address; and
g) An "in-care-of" address or "hold mail" address that is the sole address provided for the entity.

The entity undertakes to provide Sterling Bank of Asia Inc. (A Savings Bank) ("Sterling Bank of Asia") all documents and information as may be required by FATCA regulations.

Signed: \_\_\_\_\_
Printed Name and Signature of the Account Holder



A specified U.S. Person/A U.S.-owned foreign entity as defined in Section 1473(2) and 1473(3) of the United States Internal Revenue Code 2.

That, as a U.S. Person/U.S.-owned foreign entity, I am/the entity is subject to the requirements of the United States Foreign Account Tax Compliance Act ("FATCA") and the regulations of the United States Internal Revenue Services ("U.S. IRS").

This Certification, Consent and Waiver signifies:

- a) My/The entity's consent to the disclosure of certain information and waiver of the secrecy of bank deposits under Section 2 of Republic Act No. 1405 or "An Act Prohibiting Disclosure of or Inquiry into, Deposits with any Banking Institution and Providing Penalty Therefor" and Section 8 of Republic Act No. 6426 or "An Act Instituting a Foreign Currency Deposit System in the Philippines, and for Other Purposes";
b) My/The entity's consent to the processing of the information indicated below under Republic Act No. 10173 or "An Act Protecting Individual Personal Information in Information and Communications Systems in the Government and the Private Sector, Creating for this Purpose a National Privacy Commission, and for other Purposes";
c) My/The entity's consent to, and waiver of such other laws of the Philippines which will require the issuance of a consent and/or waiver for the disclosure of the information required under FATCA regulations;
d) My/The entity's acknowledgment and consent for Sterling Bank of Asia to report and disclose the following information pertaining to my/the entity's account to the U.S. IRS for purposes of compliance with FATCA regulations:
- The name, address and U.S. tax identification number;
- In case of any account holder that is a U.S. entity with one or more U.S. owners, the name, address, and TIN of each substantial U.S. owner of said entity;
- The account number;
- The year-end account balance;
- Gross receipts and gross withdrawals or payments from the account;
- Any other information pertaining to my/the entity's account that may be required to be submitted to the U.S. IRS per FATCA regulations.

I/the entity undertake/s to provide Sterling Bank of Asia Inc. (A Savings Bank) ("Sterling Bank of Asia") such other information as may be required by the FATCA regulations. I/the entity understand/s that without my/the entity's cooperation, Sterling Bank of Asia will tag the account as "recalcitrant" and will close the same as required by FATCA regulations. This Certification, Consent and Waiver is given only for purposes of compliance by Sterling Bank of Asia with FATCA regulations.

Signed: \_\_\_\_\_
Printed Name and Signature of the Account Holder



ENDNOTES

- 1. As defined in the FATCA regulations, a "U.S. Person" is any of the following:
- U.S. citizen (including dual citizen)
- U.S. resident
- A domestic partnership/corporation (entity created or organized in the U.S. or under the laws of the United States)
- An estate of a decedent who is a U.S. person

- Any trust if (i) a court within the U.S. is able to exercise primary supervision over the administration of the trust; and (ii) one or more U.S. persons have the authority to control all substantial decisions of the trust
• The government of the United States, the State, municipality, or any political subdivision, any wholly owned agency or instrumentality of such governments

2. (1) 1473-1 Section 1473 definitions  
 (2) Substantial United States owner  
 (A) In general the term "substantial United States owner" means:  
 (i) with respect to any corporation, any specified U.S. Person which owns, directly or indirectly, more than 10% of the stock of such corporation (by vote or value);  
 (ii) with respect to any partnership, any specified U.S. Person which owns, directly or indirectly, more than 10% of the profits interests or capital interests in such partnership; and  
 (iii) in the case of a trust:  
 (I) any specified U.S. Person treated as an owner of any portion of such trust under subpart E of part I of subchapter J of chapter 1; and  
 (II) to the extent provided by the Secretary in regulations or other guidance, any specified U.S. person which holds, directly or indirectly, more than 10% of the beneficial interest of such trust.  
 (3) Specified U.S. Person  
 Except as otherwise provided by the Secretary, the term "specified United States Person" means any U.S. person other than:  
 a) Any corporation the stock of which is regularly traded on an established securities market;

- b) Any corporation which is a member of the same expanded affiliated group (as defined in section 1471(e)(2) without regard to the last sentence thereof) as a corporation the stock of which is regularly traded on an established securities market;  
 c) Any organization exempt from taxation under section 501(a) or an individual retirement plan;  
 d) The U.S. or any wholly-owned agency or instrumentality thereof;  
 e) Any State, the District of Columbia, any possession of the U.S., any political subdivision of any of the foregoing, or any wholly-owned agency or instrumentality of any one or more of the foregoing;  
 f) Any bank (as defined in section 581);  
 g) Any real estate investment trust (as defined in section 856);  
 h) Any regulated investment company (as defined in section 851);  
 i) Any common trust fund (as defined in section 548(a)); and  
 j) Any trust which (i) is exempt from tax under section 664(c), or (ii) is described in section 4947 (a)(1).

## GLOSSARY

### 1. Deemed-compliant Foreign Financial Institution (FFI)

Certain FFIs will not be required to enter into an FFI agreement with the United States Internal Revenue Services ("U.S. IRS") in order to be exempted from FATCA withholding. These FFIs are referred to as deemed-compliant FFIs. These FFIs will be required to:

- a) Apply for deemed-compliant status with the U.S. IRS;
- b) Obtain an FFI EIN from U.S. IRS; and
- c) Certify to the U.S. IRS every three years that they meet the requirements for deemed-compliant status.

A deemed-compliant FFI is treated as meeting the requirements of FATCA (and thus is not subject to withholding) because:

- a) It complies with the procedures prescribed by the U.S. Treasury Department to ensure that it does not maintain U.S. accounts; or
- b) It is a member of a class of institution with respect to which the U.S. Treasury Department has determined that the application of the FATCA requirements is not necessary to carry out the purposes of FATCA.

There are three (3) sub-categories:

- a) Registered as deemed-compliant FFI (must register with the U.S. IRS)
- b) Certified deemed-compliant FFI (does not have to register with the U.S. IRS)
- c) Owner documented FFI (does not have to register with the U.S. IRS)

**Status:** Deemed-compliant status is reserved for a class of entities that treasury has deemed to pose a low risk of tax evasion, such as certain local banks, local FFI members of participating FFI groups and certain investment vehicles.

### 2. Excepted FFI

An entity account holder excluded from FATCA withholding and reporting.

### 3. Excepted Non-foreign Financial Entity (NFFE)

A non-U.S. account with no reporting requirements. They are not subject to FATCA withholding and reporting. An NFFE is deemed excepted if:

- a) It certifies that it does not have substantial U.S. owners; and
- b) It is considered as posing low risk of tax evasion.

Five (5) sub-categories:

- a) Publicly traded non-U.S. corporations
- b) Certain affiliated entities related to publicly traded corporations
- c) Certain territory entities
- d) Active NFFE (could defer active income on tax return and would have already been reported to the U.S. IRS)
- e) Passive NFFE

Examples of NFFEs are:

Publicly traded non-U.S. corporations, foreign central banks of issue and foreign governments, their political subdivisions and wholly owned agencies.

### 4. Exempt FFI

Section 1471 (f) of the IRS code (additional reference: U.S. IRS Notice 2010-60) an exempt FFI is:

- a) Any foreign government and any political subdivision of a foreign government, or any wholly owned agency or instrumentality of any one or more of the foregoing;

- b) Any international organization or any wholly owned agency or instrumentality thereof;
- c) Any foreign central bank of issue; or
- d) Any other class of pertinent by the U.S. IRS or U.S. Department of the Treasury as posing a low risk of tax evasion.

### 5. Exempt NFFEs (no substantial U.S. owners)

These are NFFEs that do not have any U.S. owners and the attributes of the following:

- a) Any corporation, the stock of which is regularly traded on an established securities market;
- b) Any corporation which is a member of the publicly traded controlled group (more than 50% ownership);
- c) Any entity which is organized under the laws of U.S. possession and which is wholly-owned by one or more bona fide residents;
- d) Any foreign government (political subdivision), or any wholly-owned agency or instrumentality of the foregoing;
- e) Any international organization or wholly-owned agency or instrumentality;
- f) Any foreign central bank of issue; and
- g) Any other class of foreign persons identified by the U.S. IRS as posing a low risk of tax evasion.

### 6. Non-participating FFI

Any FFI and NFFE that refuse to sign an agreement with the U.S. IRS.

### 7. Participating FFI

An FFI that enters into a FFI agreement with the U.S. IRS is referred to as a "participating FFI".

### 8. Passive NFFE

Any NFFE that is not an active NFFE. Must identify its substantial U.S. owners or certify that the entity does not have any substantial U.S. owners.

### 9. FFI

A foreign financial institution that is not a resident in the U.S..

### 10. NFFE

Any non-U.S. entity that is not an FFI. A non-foreign financial entity that does not meet the definition of an FFI and generally includes:

- a) Privately held operating business;
- b) Professional services firms; or
- c) Any other non-publicly-traded foreign entity not involved in banking or investment management.

### 11. U.S. owned foreign entity

Any foreign entity that has one or more substantial U.S. owners.