Guidance for Completion of FATCA Documentation for Canadian Entities (Including Trusts)

- The purpose of this document is to assist Canadian entities to determine their FATCA entity type in accordance with the Canadian Intergovernmental Agreement ("IGA") and to provide the applicable documentation required. **Do not continue if this is not a Canadian entity.**
- A Canadian entity must determine:
  - Whether it is a Canadian Financial Institution. *Refer to definition on page 3.*
  - If it is not a Canadian Financial Institution, by definition it is a Non-Financial Foreign Entity (NFFE) and must determine whether it is an Active NFFE or Passive NFFE.
  - Whether the entity is a Flow-through entity or acting as an intermediary for U.S. Tax Purposes.

Part A – Determination of Entity Type and Classification

Step 1. Determination of whether entity is a Canadian Financial Institution	
Canadian Financial Institution	See definition of 'Canadian Financial Institution' on page 3. **Go to Part B if entity meets definition**.
Step 2. Determination of whether entity is an Active NFFE or Passive NFFE	
Active NFFE	Refer to the Active NFFE categories on Page 4 to determine if this classification is applicable. **Go to Step 3 if entity meets definition.** Additional definitions for 'Excepted NFFE' as described in relevant U.S. Treasury Regulations are provided in Appendix A.
Passive NFFE	A Passive NFFE means any NFFE that is **NOT:** • an Active NFFE or • a Withholding Foreign Partnership or Withholding Foreign Trust pursuant to relevant U.S. Treasury Regulations. **Go to Step 3 if entity meets definition.**
Step 3. Determination of whether entity is a Flow-through entity or acting as an Intermediary for U.S. Tax Purposes	
Flow-through entity or an entity acting as an intermediary for the account (other than a Canadian Financial Institution)	Examples of Flow-through entities are: Simple Trust, Grantor Trust, Partnership. Examples of entities acting as an intermediary: Qualified Intermediary or Non Qualified Intermediary. **Go to Part B for documentation guidelines if entity meets definition.**
NOT a Flow-through entity or an entity acting as an intermediary for the account	Examples of non Flow-through entities are: Corporations, Complex Trusts. **Go to Part B for documentation guidelines if entity meets definition.**

Part B – Documentation

If you are:	Action required
Canadian Financial Institution	Complete Form W-8BEN-E and any other supporting documentation as identified in the W-8BEN-E. If the Canadian FI is acting as an intermediary, complete Form W-8IMY. For Owner Documented Foreign Financial Institution (ODFFI) entities, also complete ODFFI Reporting Statement or provide an auditor's letter. (Generally only applicable to non-Canadian entities.)
Active NFFE & Flow-through Entity or Intermediary	1. Complete the Canadian Intergovernmental Agreement (IGA) Certification Form – Active NFFE attached; **AND** 2. Complete Form W-8IMY as follows: **only** Parts I and II (as applicable), **and** one of Parts III to VIII (as applicable), **and** XXIX. **Note**: Select "Active NFFE" on Line 5 of Part I based on the Canadian IGA, irrespective of specific type of active NFFE; **AND** 3. Withholding Statement; **AND** 4. W Forms for each beneficiary listed on the Withholding Statement.
Active NFFE & NOT a Flow-through entity	1. Complete the Canadian Intergovernmental Agreement (IGA) Certification Form – Active NFFE attached; **AND** 2. Complete Form W-8BEN-E as follows: **only** Parts I to III, as applicable, **and** Part XXX of Form W-8BEN-E. **Note**: Select "Active NFFE" on Line 5 of Part I based on the Canadian IGA, irrespective of specific type of Active NFFE.
Passive NFFE & Flow-through entity	1. Complete the Canadian Intergovernmental Agreement (IGA) Certification Form – Passive NFFE attached; **AND** 2. Complete Form W-8IMY as follows: **only** Parts I and II (as applicable), **and** one of Parts III to VIII (as applicable), **and** XXIX of Form W-8IMY. **Note**: Select "Passive NFFE" on Line 5 of Part I based on the Canadian IGA; **AND** 3. Withholding Statement; **AND** 4. W Forms for each beneficiary listed on the Withholding Statement.
Passive NFFE & NOT a flow-through entity	1. Complete the Canadian IGA Certification Form – Passive NFFE attached; **AND** 2. Complete Form W-8BEN-E as follows: **only** Parts I to III, as applicable **and** Part XXX. **Note:** Select "Passive NFFE" on Line 5 of Part I based on the Canadian IGA.

References:

a. CRA: Link to information for Entities
b. IRS Instructions W-8BEN-E - Link to IRS website
c. IRS Instructions W-8IMY - Link to IRS website

Canadian Financial Institution

A Canadian entity will be a **Canadian Financial Institution** if it is included in the definition of the term "listed financial institution" in subsection 263(1) of the Income Tax Act (Canada) (ITA). The following types of Canadian entities are listed Canadian Financial Institutions:

a. an authorized foreign bank within the meaning of section 2 of the *Bank Act* in respect of its business in Canada, or a bank to which that Act applies;
b. a cooperative credit society, a savings and credit union, or a caisse populaire regulated by a provincial Act;
c. an association regulated by the *Cooperative Credit Associations Act*;
d. a central cooperative credit society, as defined in section 2 of the Cooperative Credit Associations Act, or a credit union central or a federation of credit unions or caisses populaires that is regulated by a provincial Act other than one enacted by the legislature of Quebec;
e. a financial services cooperative regulated by *An Act respecting financial services cooperatives*, R.S.Q., c. C-67.3, or *An Act respecting the Mouvement Desjardins*, S.Q. 2000, c. 77;
f. a life company or a foreign life company to which the *Insurance Companies Act* applies or a life insurance company regulated by a provincial Act;
g. a company to which the *Trust and Loan Companies Act applies*;
h. a trust company regulated by a provincial Act;
i. a loan company regulated by a provincial Act;
j. an entity authorized under provincial legislation to engage in the business of dealing in securities or any other financial instruments, or to provide portfolio management, investment advising, fund administration, or fund management, services;
k. an entity that is represented or promoted to the public as a collective investment vehicle, mutual fund, exchange traded fund, private equity fund, hedge fund, venture capital fund, leveraged buyout fund, or similar investment vehicle that is established to invest or trade in financial assets and that is managed by an entity referred to in paragraph (j);
l. an entity that is a clearing house or clearing agency; or
m. a department or an agent of Her Majesty in right of Canada or of a province that is engaged in the business of accepting deposit liabilities.

Canadian Intergovernmental Agreement (IGA) Certification Form - Active NFFE

The certifications below form an integral part of the attached Form W-8BEN-E / W-8IMY (as applicable).

This certification has been provided by (entity name) _____
in order for RBC[1] to meet its due diligence requirements as a Registered Deemed Compliant FFI under the Intergovernmental Agreement (IGA) between the United States and Canada.

I certify that the entity as identified in Part I of the attached Form W-8BEN-E OR W-8IMY is a Canadian entity that is not a Canadian Financial Institution pursuant to the IGA between the United States and Canada and is certifying its status as an Active NFFE pursuant to the IGA between the United States and Canada that meets one of the categories of Active NFFE indicated below.

Check the ONE category that applies to the Active NFFE (only check one box):

☐ Less than 50 percent of the NFFE's gross income for the preceding calendar year or other appropriate reporting period is passive income and less than 50 percent of the assets held by the NFFE during the preceding calendar year or other appropriate reporting period are assets that produce or are held for the production of passive income.

☐ The stock of the NFFE is regularly traded on an established securities market or the NFFE is a Related Entity of an Entity the stock of which is regularly traded on an established securities market.

☐ The NFFE is the Canadian government, a political subdivision of such government (which, for the avoidance of doubt, includes a province, territory, county, or municipality), or a public body performing a function of such government or a political subdivision thereof, an international organization, the Bank of Canada, or an Entity wholly owned by one or more of the foregoing.

☐ Substantially all of the activities of the NFFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an NFFE shall not qualify for this status if the NFFE functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes.

☐ The NFFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFFE shall not qualify for this exception after the date that is 24 months after the date of the initial organization of the NFFE.

☐ The NFFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganizing with the intent to continue or recommence operations in a business other than that of a Financial Institution.

☐ The NFFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution.

☐ The NFFE is an "excepted NFFE" (see Appendix A for definition) as described in relevant U.S. Treasury Regulations.

☐ The NFFE meets all of the following requirements:

1) It is established and operated in its jurisdiction of residence exclusively for religious, charitable, scientific, artistic, cultural, athletic, or educational purposes; or it is established and operated in its jurisdiction of residence and it is a professional organization, business league, chamber of commerce, labor organization, agricultural or horticultural organization, civic league or an organization operated exclusively for the promotion of social welfare;
2) It is exempt from income tax in its jurisdiction of residence;
3) It has no shareholders or members who have a proprietary or beneficial interest in its income or assets;
4) The applicable laws of the NFFE's jurisdiction of residence or the NFFE's formation documents do not permit any income or assets of the NFFE to be distributed to, or applied for the benefit of, a private person or non-charitable Entity other than pursuant to the conduct of the NFFE's charitable activities, or as payment of reasonable compensation for services rendered, or as payment representing the fair market value of property which the NFFE has purchased; and
5) The applicable laws of the NFFE's jurisdiction of residence or the NFFE's formation documents require that, upon the NFFE's liquidation or dissolution, all of its assets be distributed to a governmental entity or other non-profit organization, or escheat to the government of the NFFE's jurisdiction of residence or any political subdivision thereof.

Signature of individual authorized to sign for the entity _____ **Date (MM/DD/YYYY)**

[1] "**RBC**" includes: RBC Dominion Securities Inc., RBC Direct Investing Inc., Royal Trust Corporation of Canada, The Royal Trust Company, RBC Phillips Hager & North Investment Counsel Inc.

Appendix A - 'Excepted NFFE' under the U.S. Treasury Regulations (includes, but is not limited to the following)

Type of Entity	**Conditions to Qualify**
Excepted Nonfinancial Entity – Non-Financial Group Entity	A foreign entity that is a member of a <u>nonfinancial group</u> if: • The entity is not a depository institution or custodial institution (other than for members of its expanded affiliated group (EAG)). • The entity is a holding company, treasury center, or captive finance company and substantially all of the activities of such entity are to perform one or more of these functions. • Cannot hold itself out (and was not formed in connection with or availed of by) an arrangement or investment vehicle that is a private equity fund, venture capital fund, leveraged buyout fund, or any similar investment vehicle established with an investment strategy to acquire or fund companies and to treat the interests in those companies as capital assets held for investment purposes. For purposes of determining whether an entity was formed in connection with or availed of by such an arrangement or investment vehicle, any entity that existed at least six month prior to its acquisition by such arrangement or investment vehicle and that, prior to the acquisition, regularly conducted activities in the ordinary course of business will not be considered to have been formed in connection with or availed of by the arrangement or investment vehicle, in the absence of other facts suggesting the existence of an investment strategy described in the prior sentence. <u>Nonfinancial Group:</u> An expanded affiliated group (EAG) is a nonfinancial group if: 1. For the 3 year period (or the period during which the EAG has been in existence, if shorter) ending on December 31 of the year preceding the year for which the determination is made: • no more than 25% of the gross income of the EAG (excluding income derived by any member that is a start-up company or company entering into a new line of business or an entity in liquidation or bankruptcy) and income derived from transactions between members of the EAG consists of passive income; • no more than 5% of the gross income of the EAG is derived by members of the EAG that are FFIs (excluding income derived from transactions between members of the EAG or by any member of the EAG that is a certified deemed compliant FFI); AND • no more than 25% of the FMV of assets held by the EAG (excluding assets held by a member that is a start-up company or company entering into a new line of business or an entity in liquidation or bankruptcy) and assets resulting from transaction between relation members of the EAG are assets that produce or are held for the production of passive income; AND 2. Any member of the EAG that is an FFI is either a PFFI or deemed compliant FFI. Exception does not apply where: Entity is an insurance company or a holding company that is a member of an EAG that includes an insurance company, and the insurance company or holding company issues, or is obligated to make payments with respect to a cash value insurance or annuity contract.
Excepted Nonfinancial Entity – Inter-Affiliate FFI	A foreign entity that is a member of a PFFI group if it: • Does not maintain financial accounts (other than accounts maintained for members of its EAG); • Does not hold an account (other than a depository account in the country in which the entity is operating to pay for expenses in that country) with or receive payments from any withholding agent other than a member of its EAG; • Does not make withholdable payments to any person other than to members of its EAG that are not limited FFIs or limited branches; and • The entity has not agreed to report under the regulations or otherwise act as an agent for chapter 4 purposes on behalf of any FI, including a member of its EAG.
Excepted Nonfinancial Entity – Section 501(c) Entity	Foreign entity described in section 501(c) of the IRC (non-profit organizations) <u>other than</u> an insurance company described in section 501(c)(15).

Type of Entity	Conditions to Qualify
Excepted Nonfinancial Entity – Non-profit organization	1. Established and maintained in its country of residence exclusively for religious, charitable, scientific, artistic, cultural or educational purposes if the entity is: • exempt from income tax in its country of residence; • has no shareholders or members who have a proprietary or beneficial interest in its income or assets; • applicable laws or formation documents do not permit any income or assets to be distributed to, or applied for the benefit of, an individual or non-charitable entity other than for charitable activities, or as payment of reasonable compensation for services rendered or the use of property, or FMV for property purchased. 2. On liquidation or dissolution, assets must be distributed as set out in regulations.
Excepted NFFE—Direct Reporting NFFE	A NFFE that elects to report information about its direct or indirect substantial U.S. owners to the IRS and meets the following requirements: 1. The NFFE must register on Form 8957, "FATCA Registration," (or such other form as the IRS may prescribe) with the IRS to obtain a GIIN pursuant to the procedures prescribed by the IRS; (election is effective upon the issuance of a GIIN to the NFFE) 2. The NFFE must report directly to the IRS on Form 8966 "FATCA Report," (or such other form as the IRS may prescribe) the following information for each calendar year (or, may be required by the IRS to certify on Form 8966, or in such other manner as the IRS may prescribe, that the NFFE has no substantial U.S. owners): a. name, address, and TIN of each substantial U.S. owner of such NFFE; b. total of all payments made to each substantial U.S. owner (including the gross amounts paid or credited to the substantial U.S. owner with respect to such owner's equity interest in the NFFE during the calendar year, which include payments in redemption or liquidation (in whole or part) of the substantial U.S. owner's equity interest in the NFFE); c. the value of each substantial U.S. owner's equity interest in the NFFE determined by applying the rules described in 1.1471-5(b)(4) (substituting the term equity for the terms account and financial account); d. name, address, and GIIN of the NFFE; AND e. any other information as required by Form 8966 (or such other form as the IRS may prescribe) and its accompanying instructions. The NFFE must obtain a written certification (contained on a withholding certificate or in a written statement) from each person that would be treated as a substantial U.S. owner of the NFFE if such person were a specified U.S. person. Such written certification must indicated whether the person is a substantial U.S. owner of the NFFE, and if so, the name, address and TIN of the person. If the NFFE has reason to know that such written certification is unreliable or incorrect, it must contact the person and request a revised written certification. If no revised written certification is received, the NFFE must treat the person as a substantial U.S. owner and report on Form 8966 the information required for substantial U.S. owners. Reason to Know—The NFFE has reason to know that a written certification is unreliable or incorrect if the certification is inconsistent with information in the NFFE's possession, including information that the NFFE provides to a financial institution in order for the FI to meet its AML or other account identification due diligence procedures with respect to the NFFE's account, information that is publicly available, and U.S. indicia as described in 1.1441-7(b) and for which appropriate documentation sufficient to cure the U.S. indicia in the manner set form in 1.1441-7(b)(8) has not been obtained. The NFFE must keep records that it produces in the ordinary course of its business that summarizes the activity (including the gross amounts described above that are paid or credited to each of its substantial U.S. owners) relating to its transactions with respect to the equity of the NFFE held by each of its substantial U.S. owners for any calendar year in which the owner was required to be reported. The records must be retained for the longer of 6 years or the retention period under the NFFE's normal business procedures. NFFE may be required to extend the 6 year period if the IRS requests an extension prior to the expiration of the 6 year period. The NFFE must respond to requests made by the IRS for additional information with respect to any substantial U.S. owner that is subject to reporting by the NFFE or with respect to other records such as withholding certificates and certain other specified records.

Type of Entity	Conditions to Qualify
	Periodic Certification—The NFFE must make a periodic certification to the IRS within each 6 month period following the end of each certification period relating to its compliance with respect to the election to be a direct reporting NFFE. • First certification period beings on the date a GIIN is issued and ends at the close of the third full calendar year following that date. • Each subsequent certification period is the 3 calendar year period following the close of the previous certification period. • Certification requires an officer of the NFFE to certify to the following statements: 1. The NFFE has not had any events of default described in paragraph (c)(4)(v) of this section. 2. If there are any events of default, appropriate measures were taken to remediate such failures and to prevent such failures from recurring; and 3. with respect to any failure to report to the extent required, the NFFE has corrected such failure by filing the appropriate information. 4. The NFFE has not had its status as a direct reporting NFFE revoked by the IRS. Revocation of election by NFFE—The election may not be revoked by the NFFE without the consent of the Commissioner. The NFFE must notify its sponsoring entity (if applicable) and all relevant withholding agents if it revokes its election. The election may be revoked by the Commissioner upon an event of default.
Excepted NFFE—Sponsored Direct Reporting NFFE	• NFFE is a sponsored direct reporting NFFE if the NFFE is a direct reporting NFFE and if another entity, other than a NPFFI, has agreed with the NFFE to act as its sponsoring entity. • Requirements for a sponsoring entity: 1. it must be authorized to act on behalf of the NFFE; 2. it has registered with the IRS as a sponsoring entity; 3. it has registered the NFFE with the IRS as a sponsored direct reporting NFFE; 4. it agrees to perform, on behalf of the NFFE, all due diligence, reporting, and other requirements that the NFFE would have been required to performs as a direct reporting NFFE; 5. it identifies the NFFE in all reporting completed on the NFFE's behalf; 6. it complies with the certification and other requirements that apply to direct reporting NFFEs; 7. it has not had its status as a sponsoring entity revoked; AND 8. it agrees to notify all relevant withholding agents and the IRS if its status as a sponsoring entity is revoked, if it otherwise ceases to be the sponsoring entity of any of its sponsored direct reporting NFFEs, or if the status of any of its sponsored direct reporting NFFEs has been revoked.

Canadian Intergovernmental Agreement (IGA) Certification Form - Passive NFFE

The certifications below form an integral part of the attached Form W-8BEN-E / W-8IMY / W-8EXP.

This certification has been completed by (entity name) _____
in order for RBC[1] to meet its due diligence requirements as a Registered Deemed Compliant FFI under the Intergovernmental Agreement (IGA) between the United States and Canada.

I certify that the entity identified in Part I of the attached Form W-8BEN-E / W-8IMY / W-8EXP:

- Is a Canadian entity that is not a Canadian Financial Institution pursuant to the IGA between the United States and Canada and is not certifying its status as an Active NFFE;
- Meets the requirements to be considered a Passive NFFE pursuant to the IGA between the United States and Canada;

AND

- Has provided, in the table below, the U.S. TIN of each Controlling Person of the NFFE that is a U.S. Person, as required.

Identification of Controlling Persons

- For a trust, a Controlling Person means the settlor, the trustees, the protector (if any) and any known beneficiaries. If there are no individuals that are Controlling Persons, the individual(s) with ultimate effective control of the trust will be treated as the controlling person(s).
- For a corporation or non-corporate entity other than a trust, a Controlling Person is an individual who owns or controls (directly or indirectly) 25% or more of the entity. If there are no individuals that are Controlling Persons, a Director or Senior Official of the entity will be treated as the controlling person.
- If the individual listed is a U.S. Person, the U.S. TIN **MUST BE PROVIDED**.

For the purposes of identifying Controlling Person(s), **"U.S. Person"** means an individual who is:

- a U.S. citizen, including those with dual citizenship, **or**
- a U.S. resident, including a lawful permanent resident (green card holder) and an individual who meets the substantial presence test.

Name	Permanent Residence Address (including postal code)	Jurisdiction of Tax Residence	U.S. Person (Yes or No)	U.S. SSN or ITIN (Mandatory if U.S. Person)

Signature of individual authorized to sign for the entity **Date (MM/DD/YYYY)**

[1] "**RBC**" includes: RBC Dominion Securities Inc., RBC Direct Investing Inc., Royal Trust Corporation of Canada, The Royal Trust Company, RBC Phillips Hager & North Investment Counsel Inc.