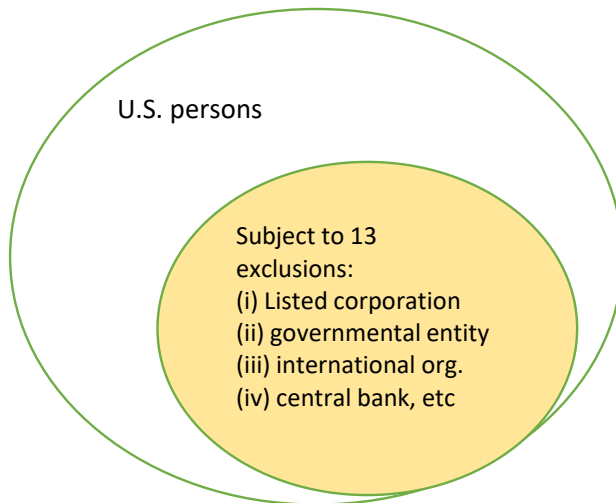


IV. Preexisting Entity Account (PreEIA)

Review Procedures for Identifying Accounts With Respect to Which Reporting Is Required

D.1. Determine Whether the Entity Is a **Specified U.S. person**.



(a) **A specified U.S. person** is a U.S. person subject to the 13 exclusions provided in article 1 of **HK-US IGA**

- (i) a 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, as defined in section 1471(e)(2) of the U.S. Internal Revenue Code, as a corporation described in clause (i);
- (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) a 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) a 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.

(b) the account holder is a **U.S. person**

a U.S. person means

- i) a U.S. citizen or resident individual
- ii) a partnership
- iii) a corporation
- iv) a trust, subject to jurisdiction of U.S. court and control by a U.S. person
- v) a estate of decedent who is U.S. citizen or resident

D.2. Determine Whether a Non-U.S. Entity Is a **Financial Institution (FI)**, (or FFI under Treasury Reg.).

- i) An entity must either be an FFI or an NFFE (note: by exclusion)
 - a) check whether the entity has a GIIN
 - b) if yes, it is an FI. The account is not U.S. account
- ii) See definition of an FI in article 1 of HK-US IGA
 - a) Depository institution
 - b) Custodial institution
 - c) Investment entity
 - d) Specified insurance company
- iii) Determine whether an FI is a custodial institution
 - a) Check for 20% gross income threshold
 - b) whether entity's gross income attributable to holding of financial assets is 20% or more of the gross income during the shorter of
 - A the 3-year period ending Dec 31 preceding the year in which the determination is made, or
 - B the period during which entity has existed.
- iv) Determine whether an FI is an investment entity *
 - a) Use "managed by" test, or
 - b) Income test - "primarily conduct as business for customers"
 - A trading in financial assets
 - B individual or collective portfolio management
 - C investing or managing funds
 - c) whether entity's gross income attributable to above-described activity is 50% or more of the gross income during the shorter of
 - A the 3-year period ending Dec 31 preceding the year in which the determination is made, or
 - B the period during which entity has existed.

* As per U.S. Treasury Regulations

