

India-USA (ARTICLE 1)

USA**ARTICLE 1
DEFINITIONS**

I. For purposes of this agreement and any annexes thereto ("Agreement"), the following terms shall have the meanings set forth below:

- (a) The term "United States" means the United States of America, including the States thereof, and, when used in a geographical sense, means the territory of the United States of America, including inland waters, the air space, the territorial sea thereof and any maritime area beyond the territorial sea within which the United States may exercise sovereign rights or jurisdiction in accordance with international law; the term, however, does not include the U.S. Territories. Any reference to a "State" of the United States includes the District of Columbia.
- (b) The term "U.S. Territory" means American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the Commonwealth of Puerto Rico, or the U.S. Virgin Islands.
- (c) The term "IRS" means the U.S. Internal Revenue Service.
- (d) The term "India" means the Republic of India, and when used in a geographical sense, means the territory of India and includes the territorial sea and airspace above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdiction, according to the Indian law and in accordance with international law, including the U.N. Convention on the Law of the Sea.
- (e) The term "Partner Jurisdiction" means a jurisdiction that has in effect an agreement with the United States to facilitate the implementation of FATCA. The [RS shall publish a list identifying all Partner Jurisdictions.
- (f) The term "Competent Authority" means:
 - (1) in the case of the United States, the

India-UK (ARTICLE 1)

UK**ARTICLE 1
SCOPE OF THE CONVENTION**

1. This Convention shall apply to persons who are residents of one or both of the Contracting States.
2. This Convention extends to the territory of each Contracting State, including its territorial sea, and to those areas of the exclusive economic zone or the continental shelf adjacent to the outer limit of the territorial sea of each State over which it has, in accordance with international law, sovereign rights for the purpose of exploration and exploitation of the natural resources of such areas, and references in this Convention to the Contracting State or to either of them shall be construed accordingly.

India-South Africa (ARTICLE 1)

SOUTH AFRICA**ARTICLE 1
PERSONAL SCOPE**

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

Secretary of the Treasury or his delegate:
and

- (2) in the case of India, the Central Government in the Ministry of Finance (Department of Revenue) or their authorized representative.
- (g) The term "Financial Institution" means a Custodial Institution, a Depository Institution, an Investment Entity, or a Specified Insurance Company.
- (h) The term "Custodial Institution" means any Entity that holds, as a substantial portion of its business, financial assets for the account of others. An entity holds financial assets for the account of others as a substantial portion of its business if the entity's gross income attributable to the holding of financial assets and related financial services equals or exceeds 20 percent of the entity's gross income during the shorter of:
 - (i) the three-year period that ends on December 31 (or the final day of a non-calendar year accounting period) prior to the year in which the determination is being made; or
 - (ii) the period during which the entity has been in existence.
- (i) The term "Depository Institution" means any Entity that accepts deposits in the ordinary course of a banking or similar business.
- (j) The term "Investment Entity" means any Entity that conducts as a business (or is managed by an entity that conducts as a business) one or more of the following activities or operations for or on behalf of a customer:
 - (1) trading in money market instruments (cheques, bills, certificates of deposit, derivatives, etc.); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading;
 - (2) individual and collective portfolio management; or
 - (3) otherwise investing, administering, or managing funds or money on behalf of other persons.

This subparagraph 1(j) shall be interpreted in a

manner consistent with similar language set forth in the definition of "financial institution" in the Financial Action Task Force Recommendations.

- (k) The term "Specified Insurance Company" means any Entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a Cash Value Insurance Contract or an Annuity Contract.
- (l) The term "Indian Financial Institution" means
 - (i) any Financial Institution resident in India, but excluding any branch of such Financial Institution that is located outside India, and
 - (ii) any branch of a Financial Institution not resident in India, if such branch is located in India.
- (m) The term "Partner Jurisdiction Financial Institution" means
 - (i) any Financial Institution established in a Partner Jurisdiction, but excluding any branch of such Financial Institution that is located outside the Partner Jurisdiction, and
 - (ii) any branch of a Financial Institution not established in the Partner Jurisdiction, if such branch is located in the Partner Jurisdiction.
- (n) The term "Reporting Financial Institution" means a Reporting Indian Financial Institution or a Reporting U.S. Financial Institution, as the context requires.
- (o) The term "Reporting Indian Financial Institution" means any Indian financial Institution that is not a Non-Reporting Indian Financial Institution.
- (p) The term "Reporting L .S. Financial Institution" means
 - (i) any Financial Institution that is resident in the United States, but excluding any branch of such Financial Institution that is located outside the United States, and
 - (ii) any branch of a Financial Institution not resident in the United States, if such branch is located in the United States, provided that the Financial Institution or branch has control, receipt, or custody of

income with respect to which information is required to be exchanged under subparagraph (2)(b) of Article 2 of this Agreement.

- (q) The term "Non-Reporting Indian Financial Institution" means any Indian Financial Institution, or other Entity resident in India, that is described in Annex II as a Non-Reporting Indian Financial Institution or that otherwise qualifies as a deemed-compliant FFI or an exempt beneficial owner under relevant U.S. Treasury Regulations in effect on the date of signature of this Agreement.
- (r) The term "Nonparticipating Financial Institution" means a nonparticipating FFI, as that term is defined in relevant U.S. Treasury Regulations, but does not include an Indian Financial Institution or other Partner Jurisdiction Financial Institution other than a Financial Institution treated as a Nonparticipating Financial Institution pursuant to sub-paragraph 2(b) of Article 5 of this Agreement or the corresponding provision in an agreement between the United States and a Partner Jurisdiction.
- (s) The term "Financial Account" means an account maintained by a Financial Institution, and includes:
- (1) in the case of an Entity that is a Financial Institution solely because it is an Investment Entity, any equity or debt interest (other than interests that are regularly traded on an established securities market) in the Financial Institution;
 - (2) in the case of a Financial Institution not described in subparagraph 1(s)(1) of this Article, any equity or debt interest in the Financial Institution (other than interests that are regularly traded on an established securities market), if
 - (i) the value of the debt or equity interest is determined, directly or indirectly, primarily by reference to assets that give rise to U.S. Source Withholdable Payments, and
 - (ii) the class of interests was established with a purpose of

avoiding reporting in accordance with this Agreement; and

- (3) any Cash Value Insurance Contract and any Annuity Contract issued or maintained by a Financial Institution, other than a non-investment-linked, nontransferable immediate life annuity that is issued to an individual and monetizes a pension or disability benefit provided under an account that is excluded, from the definition of Financial Account in Annex II.

Notwithstanding the foregoing, the term "Financial Account" does not include any account that is excluded from the definition of Financial Account in Annex II. For purposes of this Agreement, interests are "regularly traded" if there is a meaningful volume of trading with respect to the interests on an ongoing basis, and an "established securities market" means an exchange that is officially recognized and supervised by a governmental authority in which the market is located and that has a meaningful annual value of shares traded on the exchange. For purposes of this subparagraph l(s), an interest in a Financial Institution is not "regularly traded" and shall be treated as a Financial Account if the holder of the interest (other than a Financial Institution acting as an intermediary) is registered on the books of such Financial Institution. The preceding sentence will not apply to interests first registered on the books of such Financial Institution prior to July 1, 2014, and with respect to interests first registered on the books of such Financial Institution on or after July 1, 2014, a Financial Institution is not required to apply the preceding sentence prior to January 1, 2016.

- (t) The term "Depository Account" includes any commercial, checking, savings, time, or thrift account, or an account that is evidenced by a certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar instrument maintained by a Financial Institution in the ordinary course of a banking or similar business. A Depository Account also includes an amount held by an insurance company

- pursuant to a guaranteed investment contract or similar agreement to pay or credit interest thereon.
- (u) The term "Custodial Account" means an account (other than an Insurance Contract or Annuity Contract) for the benefit of another person that holds any financial instrument or contract held for investment (including, but not limited to, a share or stock in a corporation, a note, bond, debenture, or other evidence of indebtedness, a currency or commodity transaction, a credit default swap, a swap based upon a nonfinancial index, a notional principal contract, an Insurance Contract or Annuity Contract, and any option or other derivative instrument).
 - (v) The term "Equity Interest" means, in the case of a partnership that is a Financial Institution, either a capital or profits interest in the partnership. In the case of a trust that is a Financial Institution, an Equity Interest is considered to be held by any person treated as a settlor or beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust. A Specified U.S. Person shall be treated as being a beneficiary of a foreign trust if such Specified U.S. Person has the right to receive directly or indirectly (for example, through a nominee) a mandatory distribution or may receive, directly or indirectly, a discretionary distribution from the trust.
 - (w) The term "Insurance Contract" means a contract (other than an Annuity Contract) under which the issuer agrees to pay an amount upon the occurrence of a specified contingency involving mortality, morbidity, accident, liability, or property risk.
 - (x) The term "Annuity Contract" means a contract under which the issuer agrees to make payments for a period of time determined in whole or in part by reference to the life expectancy of one or more individuals. The term also includes a contract that is considered to be an Annuity Contract in accordance with the law, regulation, or practice of the jurisdiction in which the contract was issued, and under which the issuer agrees to make payments for a term of years.
 - (y) The term "Cash Value Insurance Contract" means an Insurance Contract (other than an indemnity reinsurance contract between two insurance

companies) that has a Cash Value greater than \$50,000.

- (z) The term "Cash Value" means the greater of
- (i) the amount that the policyholder is entitled to receive upon surrender or termination of the contract (determined without reduction for any surrender charge or policy loan), and
 - (ii) the amount the policyholder can borrow under or with regard to the contract. Notwithstanding the foregoing, the term "Cash Value" does not include an amount payable under an Insurance Contract as:
 - (1) a personal injury or sickness benefit or other benefit providing indemnification of an economic loss incurred upon the occurrence of the event insured against:
 - (2) a refund to the policyholder of a previously paid premium under an Insurance Contract (other than under a life insurance contract) due to policy cancellation or termination, decrease in risk exposure during the effective period of the Insurance Contract, or arising from a redetermination of the premium due to correction of posting or other similar error: or
 - (3) a policyholder dividend based upon the underwriting experience of the contract or group involved.
 - (aa) The term "Reportable Account" means a U.S. Reportable Account or an Indian Reportable Account, as the context requires.
 - (bb) The term "Indian Reportable Account" means a Financial Account I maintained by a Reporting U.S. Financial Institution if:

- (i) in the case of a Depository Account, the account is held by an individual resident in India and more than \$10 of interest is paid to such account in any given calendar year: or
- (ii) in the case of a Financial Account other than a Depository Account, the Account Holder is a resident of India, including an Entity that certifies that it is resident in India for tax purposes, with respect to which U.S. source income that is subject to reporting under chapter 3 of subtitle A or chapter 61 of subtitle F of the U.S. Internal Revenue Code is paid or credited.
- (cc) The term "U.S. Reportable Account" means a Financial Account maintained by a Reporting Indian Financial institution and held by one or more Specified U.S. Persons or by a Non-U.S. Entity

with one or more Controlling Persons that is a Specified U.S. Person. Notwithstanding the foregoing, an account shall not be treated as a U.S. Reportable Account if such account is not identified as a U.S. Reportable Account after application of the due diligence procedures in Annex I.

(dd) The term "Account Holder" means the person listed or identified as the holder of a Financial Account by the Financial Institution that maintains the account. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, or intermediary, is not treated as holding the account for purposes of this Agreement, and such other person is treated as holding the account. For purposes of the immediately preceding sentence, the term "Financial Institution" does not include a Financial Institution organized or incorporated in a U.S. Territory. In the case of a Cash Value Insurance Contract or an Annuity Contract, the Account Holder is any person entitled to access the

Cash Value or change the beneficiary of the contract. If no person can access the Cash Value or change the beneficiary, the Account Holder is any person named as the owner in the contract and any person with a vested entitlement to payment under the terms of the contract. Upon the maturity of a Cash Value Insurance Contract or an Annuity Contract, each person entitled to receive a payment under the contract is treated as an Account Holder.

- (ee) The term "U.S. Person" means a U.S. citizen or resident individual, a partnership or corporation organized in the United States or under the laws of the United States or any State thereof, a 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. This subparagraph l(ee) shall be interpreted in accordance with the U.S. Internal Revenue Code.

(ff) The term "Specified U.S. Person" means a U.S. Person, other than:

- (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 of 15 U.S.C 80a-64);
- (ix) any common trust fund as defined in section 584(d) 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.

- (gg) The term "Entity" means a legal person or a legal arrangement such as a trust.
- (hh) The term "Non-L.S. Entity" means an Entity that is not a U.S. Person.
- (ii) The term "U.S. Source Withholdable Payment" means any payment of interest (including any original issue discount), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income, if such payment is from sources within the United States. Notwithstanding the foregoing, a U.S. Source Withholdable Payment does not include any payment that is not treated as a withholdable payment in relevant U.S. Treasury-Regulations.
- (jj) An Entity is a "Related Entity" of another Entity if either Entity controls the other Entity, or the two Entities are under common control. For this purpose control includes direct or indirect ownership of more than 50 percent of the vote or value in an Entity. Notwithstanding the foregoing, India may

treat an Entity as not a Related Entity of another Entity if the two Entities are not members of the same expanded affiliated group as defined in section 1471(e)(2) of the U.S. Internal Revenue Code.

- (kk) The term "U.S. TIN" means a U.S. federal taxpayer identifying number.
- (ll) The term "Indian TIN" means an Indian taxpayer identifying number.
- (mm) The term "Controlling Persons" means the natural persons who exercise control over an Entity. In the case of a trust, such term means the settlor, the trustees, the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust. and in the case of a legal arrangement other than a trust, such term means persons in equivalent or similar positions. The term "Controlling Persons" shall be interpreted in a manner consistent with the Financial Action Task Force Recommendations.

2. Any term not otherwise defined in this Agreement shall, unless the context otherwise requires or the Competent Authorities agree to a common meaning (as permitted by domestic law), have the meaning that it has at that time under the law of the Party applying this Agreement, an) meaning under the applicable tax laws of that Party

prevailing over a meaning given to the term under other
Saws of that Party.