

## Withholding Statement / Written Agreement For non-withholding foreign (non-US) Partnerships and Simple/Grantor Trusts

Account/Custody Account

Account Holder/s

This Withholding Statement / Written Agreement for non-withholding foreign (non-US) Partnerships and Simple/Grantor Trusts (herein referred to as “**Account Holder/s**”) must be provided prior to a payment and is an in-tegral part of the account holder documentation.

- None of the partners, owners or beneficiaries of the Account Holder/s is/are a flow-through entity or acting as intermediary; and
- None of the partners, owners or beneficiaries of the Account Holder/s is/are subject to FATCA withholding or reporting<sup>3</sup>.

### 1. Application of the joint account treatment

If the following preconditions are satisfied, Section 4.05. of the QI Agreement (released in IRS Revenue Procedure 2014-39) regarding the joint account treatment is applicable:

The terms partner, owner or beneficiary mean in this context:

- The Account Holder/s is a / are certified deemed-compliant FFI/s (other than a registered deemed-compliant Model 1 IGA FFI)<sup>1</sup>, an exempt beneficial owner/s, an owner-documented FFI/s or an NFFE/s (other than a with-holding partnership/s or trust/s);
- None of the partners, owners or beneficiaries of the Account Holder/s is/are a US person<sup>2</sup>;

Partner	The partner/s of a Partnership (including entities that are treated as partnerships following the application of the so-called “check-the-box” election)
Owner	The owner/s of a Grantor Trust (usually the settlor/s)
Beneficiary	The beneficiary/ies of a Simple Trust

The Account Holder/s confirm/s that (*please check appropriate box*):

- All of the above listed preconditions for the application of Section 4.05 of the QI Agreement regarding the joint account treatment are **satisfied**.
- One or more of the above listed preconditions for the application of Section 4.05 of the QI Agreement re-garding the joint account treatment are **not satisfied**.

<sup>1</sup> The term certified deemed-compliant FFI (other than a registered deemed-compliant Model 1 IGA FFI) means certified deemed-compliant FFIs under the US Treasury Regulations or a Model 2 IGA as well as nonreporting Model 1 IGA FFIs without an equivalent that is treated as a registered deemed-compliant FFI under the US Treasury Regulations.

<sup>2</sup> An individual is a US Person if he/she is US citizen (incl. dual citizen) or US resident. The term US resident means an individual that is in possession of a US Green Card (irrespective of expiry date), that meets the substantial presence test, or that is a US resident because of any other reason (e.g. dual residency or being a non-US spouse filing jointly a US tax return with a US spouse). A corporation or partnership is a US person if it is created or organized in the US, or under the laws of the US or of any US State. A trust is a US Person if it cumulatively meets both the court test and the control test. If one of the two tests is not met, a trust is not considered a US Person.

<sup>3</sup> A partner, owner or beneficiary may be subject to FATCA withholding or reporting if, for example, it is a nonparticipating FFI or a passive NFFE with US controlling persons.

**2. Additional documentation requirements**

Further, the Account Holder/s must provide the following documents to Bank Vontobel AG (hereinafter “the QI”) in addition to this statement:

- IRS Form W-8IMY for the Account Holder/s, establishing its QI and FATCA status; **and**
- IRS Forms W-8BEN(-E), W-8EXP or W-9 for each partner, owner or beneficiary of the Account Holder/s; **and**
- If the joint account treatment according to part 1 of this statement is not applicable, a Form 459 “Waiver / Authorization to disclose client and account data to the Internal Revenue Service” for the Account Holder/s.

**3. Written Agreement for pool reporting according Sec. 4.05(A)(5) of the QI Agreement [only relevant if joint account treatment according to part 1 of this statement is applicable]**

If the joint account treatment is applicable, the Account Holder/s agree/s, upon request, to make available for inspection to the QI or the QI’s auditor for the purposes of the QI’s compliance review under section 10 of the QI Agreement (including to respond to US Internal Revenue Service (“IRS”) inquiries regarding its compliance review), records that establish that it has provided the QI with documentation for purposes of chapters 3 and 4 (together with any associated withholding statements and other documents or information) for all its partners, owners or beneficiaries. In this respect, the Account Holder/s waive/s any legal prohibitions against providing such records to the QI.

In the event the Account Holder/s fail/s to make available to the QI or the QI’s auditor the records, documents and all other necessary information for the above-mentioned purposes within 90 days after the request the QI must correct its withholding by applying a 30% withholding on US source income according to the applicable US Treasury Regulations and file a corrected Form 1042 and a corrected and individualized Form 1042-S for each partner, owner or beneficiary, **i.e. each partner’s, owner’s or beneficiary’s identity will be disclosed to the IRS.**

The Account Holder/s confirm/s having taken note of this prescription of disclosure and expressly agree/s to it. The Account Holder/s undertake/s to indemnify and hold the QI harmless from any costs, losses, damages, claims and expenses (including, without limitation reasonable legal expenses) resulting from such action.

The Account Holder/s furthermore confirm/s that the Account Holder/s informed each partner, owner or beneficiary on the QI’s obligation to disclose their identity to the IRS in case of failure of providing the requested information and documents necessary and that each partner, owner or beneficiary agreed to the disclosure under the given circumstances.

**4. Complete partner, owner or beneficiary list**

The Account Holder/s confirm/s that the below list includes all its partners, owners or beneficiaries. Further, the Account Holder/s acknowledge/s that this Withholding Statement / Written Agreement incorporates by reference any information contained on any IRS Form W-8BEN(-E), W-8EXP or W-9 associated with the account for which this statement is submitted.

Name of individual or organization	Type of IRS Form (check appropriate box)			Income allocation (must total 100%) <sup>4</sup>
1. ....	<input type="checkbox"/> W-8BEN(-E)	<input type="checkbox"/> W-8EXP	<input type="checkbox"/> W-9	.....
2. ....	<input type="checkbox"/> W-8BEN(-E)	<input type="checkbox"/> W-8EXP	<input type="checkbox"/> W-9	.....
3. ....	<input type="checkbox"/> W-8BEN(-E)	<input type="checkbox"/> W-8EXP	<input type="checkbox"/> W-9	.....
4. ....	<input type="checkbox"/> W-8BEN(-E)	<input type="checkbox"/> W-8EXP	<input type="checkbox"/> W-9	.....
5. ....	<input type="checkbox"/> W-8BEN(-E)	<input type="checkbox"/> W-8EXP	<input type="checkbox"/> W-9	.....

<sup>4</sup> Only required if joint account treatment according to part 1 of this statement is not applicable.

**5. Applicable US withholding tax rates**

The statutory US withholding tax rate for payments to non-US persons is 30 percent. However, there may be situations where a lower rate of withholding can be claimed based on the basis of a double tax treaty<sup>5</sup> or an exemption under the US Internal Revenue Code (IRC)<sup>6</sup>. Under the joint account treatment, Sec. 4.05(B)(2) of the QI Agreement requires the QI to determine the applicable US withholding tax rates by allocating all payments to the partner, owner or beneficiary subject to the highest rate of withholding. If the joint account treatment is not applicable, payments will be allocated to the partner/s, owner/s or beneficiary/ies according to the income allocation provided by the Account Holder/s in part 4 of this statement. The Account Holder/s agree/s that the QI identifies the relevant partner, owner or beneficiary based on the IRS Forms W-8BEN(-E), W-8EXP and W-9 that have been provided for its partners, owners or beneficiaries together with this statement. Regarding the claim of treaty benefits, the QI will solely rely on the "Claim of Tax Treaty Benefits" sections of the partners', owners' or beneficiaries' IRS Forms W-8BEN(-E), i.e. if the section is not completed the QI will not grant a reduced rate of withholding based on a tax treaty. In case a wrong US withholding tax rate has been applied due to an error in this statement or any associated IRS Form W-8BEN(-E), W-8EXP or W-9, the Account Holder/s undertake/s to indemnify and hold the QI harmless from any costs, losses, damages, claims and expenses (including, without limitation, reasonable legal expenses) resulting from such action.

When claiming a reduced US withholding tax rate under a double tax treaty, the limitation on benefits (LOB) provisions of such treaty may need to be considered. The Account Holder/s confirm/s that it has informed all non-individual partners, owners or beneficiaries that are

claiming treaty benefits about the respective LOB provisions<sup>7</sup>.

**6. Declarations**

The Account Holder/s confirm/s that it will inform the QI of any changes to this statement and any IRS Form W-8IMY, W-8BEN(-E), W-8EXP or W-9 associated with the account for which this statement is submitted. This includes any modification to the partner, owner or beneficiary structure (e.g. new entry, succession or retirement) as well as any change regarding the partner, owner or beneficiary information in any associated IRS Form W-8BEN(-E), W-8EXP or W-9 (e.g. change of chapter 3 or chapter 4 (FATCA) status or residence). The Account Holder/s agree/s to provide to the QI or update the documentation, as required, following such change in circumstances.

The Account Holder/s confirm/s that all the aforesaid representations and information are correct and exhaustive.

**7. Applicable law, place of performance and place of jurisdiction**

All legal aspects of the relationship between the Account Holder/s and the QI shall be governed by Swiss law. The place of performance, the place of debt collection for Account Holder/s domiciled abroad and the exclusive place of jurisdiction for all legal proceedings shall be Zurich. The QI reserves the right, however, to take legal action against the Account Holder/s before the authority of his domicile or before any other competent court or debt collection authority, in which event exclusively Swiss law shall remain applicable.

Place/Date

Signature<sup>8</sup>

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Place/Date

Signature

.....

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<sup>5</sup> A list of all countries having a double tax treaty with the US (incl. the applicable treaty withholding rates) can be found under: [http://www.swissbanking.org/us\\_treaties\\_english.pdf](http://www.swissbanking.org/us_treaties_english.pdf). Although the QI believes that the information on the aforementioned website is supposed to be reliable, no representation is made that the information is accurate, up-to-date or complete. The QI does not accept liability for any loss arising from the use of the information on that website.

<sup>6</sup> For example, the portfolio interest exemption based on US IRC sections 871(h) and 881(c) or another exemption under US IRC sections 501(c)(3), 892, or 895).

<sup>7</sup> A copy of the complete double tax treaties or only of the applicable LOB provisions can be found under: [http://www.swissbanking.org/qitoolkit\\_import?sourcepath=countrylist.htm](http://www.swissbanking.org/qitoolkit_import?sourcepath=countrylist.htm). Although the QI believes that the information on the aforementioned website is supposed to be reliable, no representation is made that the information is accurate, up-to-date or complete. The QI does not accept liability for any loss arising from the use of the information on that website.

<sup>8</sup> In case of a partnership each partner has to sign this Withholding Statement / Written Agreement.