

APPROVED BY
Order of General Director
of CC "SPB Clearing" (JSC)
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**CRITERIA
FOR THE CLASSIFICATION OF CLIENTS
OF CENTRAL COUNTERPARTY "SPB CLEARING (joint-stock company)
AS FOREIGN TAXPAYER AND METHODS TO OBTAIN NECESSARY INFORMATION FROM THEM**

Moscow, 2022

*Criteria for the Classification of Clients of Central Counterparty «SPB Clearing» (JSC)
as foreign taxpayers, and methods to obtain necessary information from them*

These Criteria for the Classification of Clients of Central Counterparty «SPB Clearing (joint-stock company) as foreign taxpayers, and methods to obtain necessary information from them (the Criteria) were prepared to ensure compliance of Central Counterparty «SPB Clearing (joint-stock company) (the «CC») with the requirements of Federal Law of the Russian Federation dated 28 June 2014 No.173-FZ On Specifics of Financial Operations with Foreign Citizens and Legal Entities, On Introduction of Changes in the Code of Administrative Offences of the Russian Federation, and Revocation of Certain Provisions of Legislative Acts of the Russian Federation and Requirements of the US Foreign Account Tax Compliance Act (FATCA).

For the purpose of these Criteria, clients of the CC include clearing members, i.e. persons, to whom the CC provides clearing services based on clearing service agreements executed with them.

**1. CRITERIA FOR THE CLASSIFICATION OF CLIENTS OF THE CC - INDIVIDUAL ENTREPRENEURS
(NATURAL PERSONS) AS FOREIGN TAXPAYERS**

1.1. Individual entrepreneur (natural person) is a citizen of a foreign state.

1.2. Individual entrepreneur (natural person) has a permit for permanent stay (residence permit) in a foreign state (in particular, permanent US resident card (form I-551 (Green Card)).

1.3. Individual entrepreneur (natural person) complies with the criteria of long-term stay in a foreign state, i.e. individual entrepreneur resided within this state at least for the term set out in legislation of the foreign state for classification as a tax resident of the foreign state.

In case of the US, long-term stay means, that a person resides in the US for at least 31 day during the current calendar year and at least 183 days during 3 years, including the current year and 2 immediately preceding years. In addition, the number of days, during which the individual entrepreneur (natural person) resided in the foreign state in the current year, as well as in 2 previous years, is multiplied by certain coefficient:

- coefficient for the current year is 1 (i.e. all days spent in the US in the current year are taken into account);

- coefficient for the previous year is 1/3;

- coefficient for the year before is 1/6.

Tax residents of the US exclude teachers, students and trainees, who were temporary present in the US based on F, J, M or Q visa type.

1.4. Additional signs, that may suggest, that the client is a US taxpayer, set by the CC based on the information provided by the client for the purpose of identification and service provision:

- place of birth in the US;

- address (residential or mailing address, including postbox) in the US;

- phone number registered in the US;

- indication of an account opened in the US in the application submitted to the CC for registration of an account for funds withdrawal or other document, based on which the CC transfers funds

- letter of attorney issued to a person having their address in the US;
- the right to sign is provided to a person having their address in the US;

1.5. Individual entrepreneur (natural person) cannot be classified by the CC as foreign taxpayer, if the individual entrepreneur (natural person) is a citizen of the Russian Federation and simultaneously with the citizenship of the Russian Federation has no other citizenship of a foreign state (except for citizenship of a member state of the Customs Union), residence permit in a foreign state (permit for permanent stay in a foreign state) or does not permanently reside (stay on long-term basis) in a foreign state.

2. CRITERIA FOR THE CLASSIFICATION OF CLIENTS — LEGAL ENTITIES AS FOREIGN TAXPAYERS

2.1. Country of registration/ incorporation of the legal entity is a foreign state.

2.2. Tax residency in a foreign state.

2.3. For the US:

2.3.1. Controlling persons (beneficiary owners) of a legal entity directly or indirectly owning over 10% of shares in the legal entity include the following persons:

- 1) natural persons classified as foreign taxpayers in accordance with clause 1 hereof; and/or
- 2) legal entities classified as foreign taxpayers in accordance with clause 2.1 hereof,

as well as

2.3.2. Over 50% (separately or in total) of the total income of such legal entity in the previous year are represented by passive incomes¹, and over 50% (separately or in total) of weighted average amount of assets of the legal entity (as of the end of the quarter) are represented by assets generating such income.

2.4. Legal entity (except for financial market organisations or foreign financial institutions, as defined in legislation of the foreign state on foreign account taxation) cannot be classified as foreign taxpayers, if over 90 per cent of shares in its authorised capital are directly or indirectly controlled by the Russian Federation and/or citizens of the Russian Federation (including those holding simultaneously with citizenship of the Russian Federation citizenship of a member state of the Customs Union), except for natural persons having simultaneously with citizenship of the Russian Federation citizenship of another country (except for citizenship of a member state of the Customs Union) or having residence permit in a foreign state or permanently residing (staying on long-term basis) in a foreign state.

¹ Passive incomes include dividends; interests; incomes generated by pool of insurance contracts, if the amounts received fully or partially depend on the pool profitability; rent and royalty (except for rent and royalty received in course of active operational activities); annuities; income from sales or exchange of property generating one of the above mentioned income types; income from transactions with exchange goods (including futures, forwards, and similar transactions), except for hedging transactions, if transactions with such goods constitute the principal activity; income from operations with foreign currency (positive or negative exchange rate differences); contracts, cost of which is aligned to the underlying asset (nominal), e.g. derivatives (currency swap, interest swap, options, etc.); redemption amount under insurance contract or the loan amount secured by an insurance agreement; amounts received by insurance company at the expense of reserves for insurance activities and annuities.

3. METHODS TO OBTAIN INFORMATION FOR THE PURPOSE OF THE CC CLIENTS CLASSIFICATION AS FOREIGN TAXPAYERS

The CC uses the following legally available to it methods to obtain information for the purpose of its clients classification as foreign taxpayers:

- 1) written and oral questions/ requests to the client;
- 2) filling in by the client of a form confirming/ denying the possibility to classify them as a foreign taxpayer, in particular, W-8/W-9 tax forms (W-9 form applies only for the US taxpayers) provisioned in tax legislation of the US, as well as questionnaires independently prepared by the CC (Annex 1 and Annex 2 hereto);
- 3) analysis of available information on the client, in particular, information contained in trade registers of foreign states, Mass Media, commercial data bases, etc.;
- 4) other methods that do not contradict applicable legislation of the Russian Federation.