

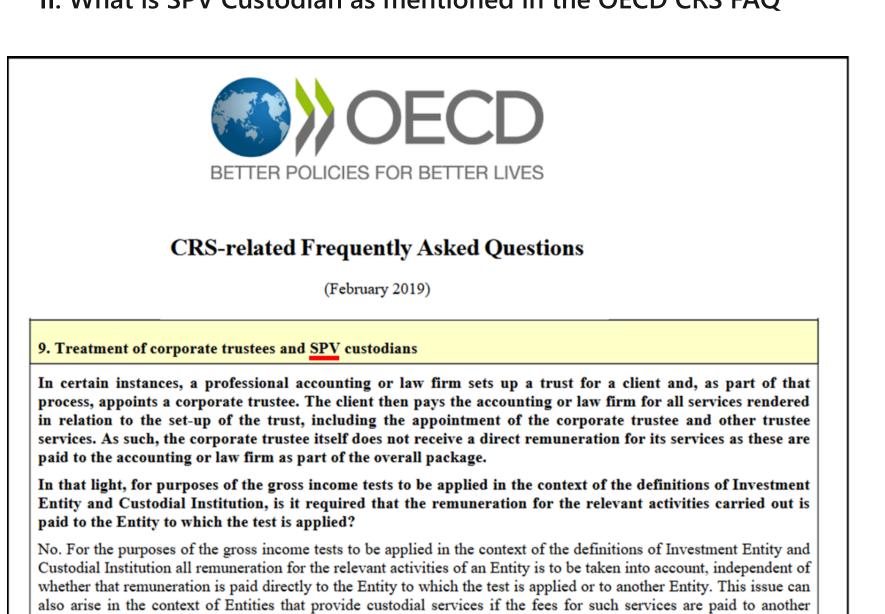
I. Non-participating Custodial Institutions

May 5, 2024



• There is no look-through of non-participating Custodial Institutions by any Reporting FI maintaining the accounts of the Custodian. For example, a non-participating Custodial Institution holds the shares of a managing Investment Entity • Do not confuse a reporting FI maintaining an account of a Passive NFE owned by a nonparticipating Custodial Institution. Here the reporting FI will look through the Custodial Institution in trying to identify the Controlling Persons of the Passive NFE. Also for CARF, the Crypto Reporting Service Provider will look through managed Investment Entity and subsequently look through the non-participating Custodial Institutions

II. What is SPV Custodian as mentioned in the OECD CRS FAQ

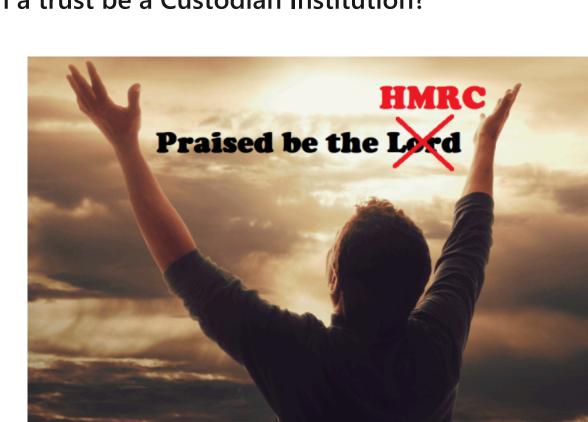


• I have published several LinkedIn articles on this topic. Here, there too, and everywhere. • In a nutshell, an SPV Custodian is an entity formed by a client to be their own bespoke Custodian.

III. Can a trust be a Custodian Institution?

a custodial institution.

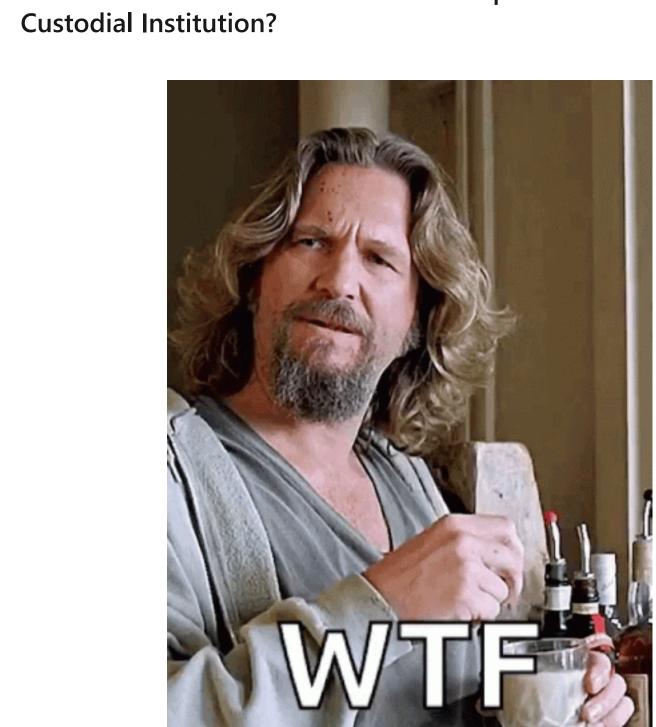
Custodial Institution.



IV. HMRC confirms trusts can be Custodial Institutions • Trusts are treated as entities by all of the agreements for automatic exchange of information. A trust can be either a financial institution or a Non-Financial Entity. • Where a trust meets one of the definitions for being a Financial Institution it is most likely to be an Investment Entity but it may, alternatively, meet the requirements for being a **Custodial Institution.** Note an entity holding assets that may never be delivered because it is conditional is not

V. What is the difference between a corporate nominee and a

Note that an entity holding assets for a short time while a transaction is occurring is not a



• Two words: Custody fees Eight words: Custody fees at least 20% of income • Reminds me of the joke, "What's the difference between tax avoidance and tax evasion?" The thickness of the prison walls. • If a Corporate Nominee maintains an account at a Reporting FI, the FI must report on whose behalf the Nominee is holding the account • However, if the Corporate Nominee is categorized as a Custodial Institution, the Custodial Institution is a non-reportable Person If the CI is non-participating then no CRS reporting occurs

VI. What's the weirdest custody fee that can categorize virtually any entity as a Custodial Institution

• CRS lists six types of custody fees that qualify an entity holding Financial Assets on behalf of someone else as a Custodial Institution. One of these fees makes no sense.



Financial advice with respect to financial assets held in, or potentially to be held in custody

1. Custody, account maintenance, and transfer fees. 2. Commissions and fees earned from executing and pricing securities transactions with respect to Financial Assets held in custody. 3. Income earned from extending credit to customers with respect to Financial Assets held in custody (or acquired through such extension of credit). 4. Income earned from contracts for difference and on the bid-ask spread of financial assets held in custody. 5. Clearance and settlement services.

6. Fees for providing financial advice with respect to Financial Assets held in (or potentially to be held in) custody by the entity.

WTF! Fees for providing financial advice regarding financial assets that can "potentially" be held in custody???

C´mon, this is batshit crazy

VII. If custody fee payments are made to third parties, must the third party be related to the custodian?

A handful of Commonwealth countries (viz, Australia, UK, New Zealand, Ireland, India, Cyprus, Malta, Canada, etc.) in direct contrast to the OECD guidance, have a "related/connected entity" clause for Custodial and Trustee fees **Canad Custodial institution**

3.9 A custodial institution in Canada is an entity that holds, as a substantial

portion of its business, financial assets for the account of others.

3.12 There can be circumstances where an entity holds financial assets for a customer where the income attributable to holding the financial assets or providing related financial services belongs to (or is otherwise paid to) a related entity. For example, the entity could hold assets for a customer of a related entity, or consideration could be paid to a related entity, either as an identifiable payment or as one element of a consolidated payment. In such a case, the income should be taken into account when applying the 20% test.

India Custodial institution

14. There may be circumstances where an entity holds financial assets for a customer where the income attributable to holding the financial assets or providing related financial services either belongs or is otherwise paid to a connected party such as another company in the same group of companies. This may be because the entity holds assets for a customer of a connected party, or simply because any consideration is paid to a connected party, either as an identifiable payment or as one element of a consolidated payment. In that case, the attributable income should be taken into account when applying the 20% test.

person, for example, a company may hold the financial assets of some or all members of the group to which it belongs, and no nominal fees are paid for that service, that are fees less than would apply on a commercial basis, consideration should be given to what would have been paid by an arm's length customer when applying the 20% test.

OECD Guidance CRS FAQ - page 14 Q. 9. (and this is more important)

• The OECD when describing payments made by SPV Custodians to third parties, that may

• These other firms are being paid the Custodial fees on behalf of the Custodial institution

Nevermind, what a few countries' domestic law CRS laws are

as independent accounting or law firms, that are unrelated.

What SPV little company is part of a group that has law/accounting firms

undertake the services of the FI need not be related.

to qualify as a Financial Institution for CRS....

15. Where an entity holds financial assets that are the property of a connected

for CRS? Depositary Institutions and Specified Insurers must be supervised and regulated for CRS • To those with an opinion that a Custodial Institution needs to be regulated or supervised

VIII. Must a Custodian Institution be supervised and regulated

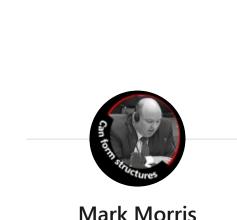
OECD Commentary page 159 - 160 on CRS section VIII Financial Institutions

The term "Financial Institution" means a Custodial Institution,

a Depository Institution, an Investment Entity, or a Specified

Insurance Company, as defined in subparagraph A(3) - (8). Whether an Entity is subject to financial laws and regulations of a Participating Jurisdiction or is subject to supervision and examination by agencies having regulatory oversight of Financial Institutions, is relevant to, but not necessarily determinative of, whether that Entity qualifies as a Financial

Institution under subparagraph A(3) - (8)



CRS and CARF expert. No, truly.

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