



**SVALBARD TRUST AS  
CUSTODIAL INSTITUTION**

# TECHNICAL GUIDANCE

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30  
pages





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# A. Introduction to Svalbard Custodial Institution

- 1). The bank will not report on the Investment Entity as it's an Excluded Person Financial Institution.
- 2). The Investment Entity will not report on its Account Holder as it's an Excluded Person Financial Institution.
- 3). The Custodial Institution, the trust, will not report on its Account Holder as it's a non-participating jurisdiction Financial Institution.

UK trust  
Custodial  
Institution  
(Svalbard)

Investment Entity  
Company



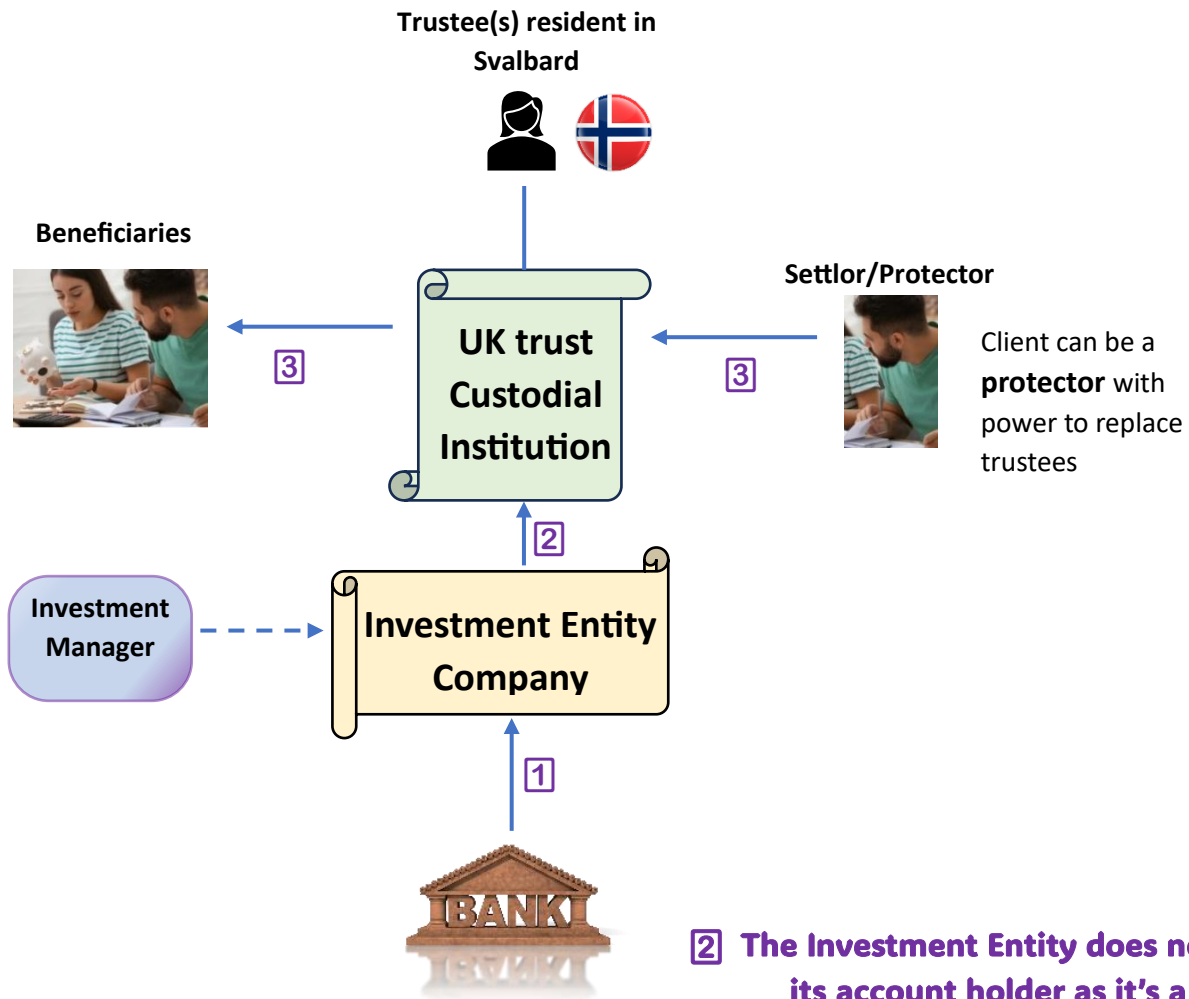
- A Svalbard Norway Custodial Institution holding a managed Investment Entity is not subject to the Common Reporting Standard.
- The Custodial Institution can be a UK trust with trustee(s) resident in Svalbard.
- The managed Investment Entity can be resident anywhere in the world.
- The Investment Entity can hold any bankable asset.
- The Settlor can be a Protector (with powers to replace trustees).







## B. Trust as a Custodial Institution



**1** No CRS reporting by bank as its account holder is an excluded person Financial Institution.

The term "**Reportable Person**" means a Reportable Jurisdiction Person **other** than:

- Regularly traded corporation
- Governmental Entity
- International Organisation
- Central Bank
- Financial Institution (*Managed Investment Entity, Custodial Institution, Depository Institution, or Specified Insurance Company*)

**2** The Investment Entity does not report on its account holder as it's a Financial Institution

- The managed Investment Entity is a Reporting Financial Institution
- The Investment Entity does not Report on its Account Holder as it's a Custodial Institution, which is an Excluded Person.

**3** The Custodial Institution trust does not report on its Controlling Persons because it's a non-participating jurisdiction Financial Institution

- Svalbard is excluded by Norway from the Mutual Convention on Administration Assistance in Tax Matters as well as the IGA with the US..
- Svalbard is excluded from every double tax agreement and hence has no bilateral tax agreements.
- No reporting Financial Institution in Svalbard reports for CRS (or FATCA)

## Trust holding a corporation is a Custodial Institution for CRS because:

- i. It is an entity
- ii. Holds Financial Assets for the account of others, and
- iii. Earns at least 20% of its gross income from custody fees

CRS Commentary page 160

### **Custodial Institution**

9. Subparagraph A(4) defines the term "**Custodial Institution**" as any Entity that holds, as a substantial portion of its business, Financial Assets for the account of others.


10. It further establishes the "substantial portion" test. 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% of the Entity's gross income during the shorter of:

- the 3-year period prior to the year in which the determination is being made; or
- the period during which the Entity has been in existence.
- "Income attributable to holding Financial Assets and related financial services" means:
  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. Fees for providing financial advice with respect to Financial Assets held in (or potentially to be held in) custody by the entity.
  6. Clearance and settlement services.

11. Entities that safe keep Financial Assets for the account of others, such as custodian banks, brokers, and central securities depositories, would generally be considered Custodial Institutions.

## OECD CRS FAQ on Treatment of SPV Custodians

- For the purpose of the gross income test to be applied in the “context of Entities that provide custodial services if the fees for providing such service are paid to another Entity.” is to be taken into account, independent of whether that remuneration is paid directly to the Entity to which the test is applied or to another Entity.
- Custodial Fees can be paid to third parties.
- The OECD CRS FAQ does not mention that the third party be a related entity
  - ❑ although some domestic CRS rules guide that the third party must be a related entity



**CRS-related Frequently Asked Questions**  
(February 2019)

<b>SECTION VIII: DEFINITIONS</b>
<b>A. REPORTING FINANCIAL INSTITUTIONS</b>
<b>9. Treatment of corporate trustees and SPV custodians</b>
<p><b>In certain instances, a professional accounting or law firm sets up a trust for a client and, as part of that process, appoints a corporate trustee. The client then pays the accounting or law firm for all services rendered in relation to the set-up of the trust, including the appointment of the corporate trustee and other trustee services. As such, the corporate trustee itself does not receive a direct remuneration for its services as these are paid to the accounting or law firm as part of the overall package.</b></p> <p><b>In that light, for purposes of the gross income tests to be applied in the context of the definitions of Investment Entity and Custodial Institution, is it required that the remuneration for the relevant activities carried out is paid to the Entity to which the test is applied?</b></p> <p>No. For the purposes of the gross income tests to be applied in the context of the definitions of Investment Entity and Custodial Institution all remuneration for the relevant activities of an Entity is to be taken into account, independent of whether that remuneration is paid directly to the Entity to which the test is applied or to another Entity. This issue can also arise in the context of Entities that provide custodial services if the fees for such services are paid to another Entity.</p>

## HMRC confirms a Trust can be a Custodial Institution

Trusts are treated as entities by 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.

For example, shares held in trust may be in a Custodial Account and therefore subject to reporting by the trust as the Custodial Institution that holds the account. This may be the case where a trust such as an Employee Benefit Trust continues to hold financial assets, such as shares, for an employee after they have been granted.

HMRC internal manual  
**International Exchange of Information Manual**

From: HM Revenue & Customs  
Published 25 April 2016  
Updated: 5 December 2023, see all updates



## What is an SPV?

# What is a ... ?

## Special Purpose Vehicle (SPV)

A special purpose vehicle (SPV) is a company formed for a single purpose.

They're often used isolate assets or risks or even be responsible for separate transactions that benefit the company.



- A Special Purpose Vehicle, or SPV for short, is usually a subsidiary company of a larger established company that is used to alleviate any risk associated with the aforementioned parent company.
- In some cases, it is required that the SPV should not be owned by the company on whose behalf the entity is created.
- The SPV also known as a SPE is a separate entity that assumes all the risk for the other company.
- It is a legal entity or legal arrangement created for a specific purpose, usually a single project or transaction, which isolates the risk of the underlying assets from the sponsor's balance sheet.

A special purpose vehicle can be a "bankruptcy-remote entity" because the operations of the entity are restricted to the specific assets or projects.

SPV can be incorporated as a company, trust, partnership, or joint venture.

- Purpose Trusts and Special purpose vehicles are entities created to give solutions for a financial need or jurisdictional need.
- They are created, in essence, to help an identifiable group of beneficiaries. It allows for the creation of a real entity in instances where other structures can't meet beneficiaries' requirements or a settlor's or beneficial owner's wishes.

## C. Why use a UK trust



### i. Why choose England / Wales as jurisdiction law of Trust

- It is considered just and fair in the interpretation and enforcement of trusts.

### ii). What is a non-UK trust

Also known as UK non-resident trust

- None of the trustees are resident in the UK for tax purposes, or
- At least one of the trustees are resident in the UK
  - and the settlor of the trust was one of the following when the trust was set up or funds added:
    - not **resident** or **normally resident** in the UK
      - ❑ a person is ordinarily or normally resident if they are living in the UK lawfully and voluntarily, as part of the regular order of their life for the time being, whether for a long or short duration
    - not **domiciled** or **deemed domicile** in the UK
      - ❑ **Domicile** refers to the country where someone intends to make their permanent home. There can only be one place of domicile.
      - ❑ **Deemed domicile, is if either condition is met:**
        - Condition A (need not be living in UK)
          - ❑ Born in the UK, and
          - ❑ UK is their domicile of origin (where your father was domicile when you were born), and
          - ❑ Be UK resident for 2017-2018, or later year.
        - Condition B
          - ❑ Has been UK resident for at least 15 of the 20 tax years before the tax year.

### iii). What makes a trust subject to UK jurisdiction law

A trust shall be governed by the law chosen by the settlor\*

- The jurisdiction choice must be expressed in the terms of the writing evidencing the trust\*\*
- Where no applicable law has been chosen, a trust shall be governed by the law with which it is most closely connected.

\* Hague Conference on Private International Law (HCCH): 1985 Convention on the Law Applicable to Trusts and on their Recognition: Article 6

\*\* HCCH 1985 Convention Article 7



### iii). What makes a trust subject to UK jurisdiction law cont...

UK trust law shall govern:\*\*\*

1. Appointment, resignation, and removal of trustees
2. Distribution of the trust assets.
3. Right of trustees to delegate in the discharge of their duties.
4. Power of trustees to administer or to dispose of trust assets, or to acquire new assets.
5. Powers of investment of trustees.
6. Power to accumulate income of the trust.
7. Relationship between the trustees and the beneficiaries.
8. Termination of the trust.

\*\*\* *HCCH 1985 Convention Article 8*

### iv). No UK person is required to be involved in forming or maintaining a UK trust

- Non-UK residents can be trustees of UK trusts and need not be licensed.
- UK Trust Deed need not be formed by UK persons, UK lawyer, UK notary, or UK corporate service provider.
- No UK representative agent needed.
- UK Deed of Trust need not be witnessed in UK

### v). Must a UK trust be notarized

Requirements for a Deed of Trust to be valid in the UK:

- Law of Property Act 1989 requires a deed:
  - use of appropriate wording; **and**
  - be signed by each party in the presence of attesting witnesses.
- No notarization needed for a UK Deed of Trust.

### vi). English law on attesting witnesses

- Only one individual witness per signature needed for a Deed of Trust.
- Where two or more people are executing a deed, the same witness may witness each signature, but each signature should be separately attested.
- A party to a deed cannot also act as a witness, i.e., they cannot be a beneficiary, settlor, or trustee or protector.
- A relative is not prohibited from acting as a witness but it is practice that this be avoided.
- Minors are allowed to witness, but it is recommended they be at least 18 years old, or at least of sufficient maturity.
- The witness is not required to vouch for the identity of the signatory or read and comprehend the document.

### vii). Attesting the signature

- Witness watches signatory sign and then *attests* the signature by signing an attestation clause confirming that the Deed was signed in their presence.
- The witness should print their name, address, and occupation in the attestation clause.
- The witness must be present when the executing party signs the deed. Signatures must be manual as facsimile and e-signatures not acceptable.



## D. When does a trust in the UK not need to register

### i). HMRC Trust Registration Service: Non-UK trusts generally do not register

The Trust Registration Service (TRS) was introduced in by the UK government in 2017 with the aim of preventing the misuse of trusts for illegal purposes. The TRS records the beneficial ownership of assets held in trust. So, if the trustee legally owns an asset, there is a separate record of who benefits from the asset. If registrable, trustees must provide information to the TRS regarding:

- Settlers, trustees, beneficiaries, protectors, **and**
- Assets held, such as money, buildings and land, company shares, partnerships, yachts, cars, jewellery, art, etc.

### A non-UK trust should only register with the TRS if:

- it acquires, directly or indirectly, UK land and buildings, unless it's a co-ownership express trust<sup>A</sup> **or**
- is liable for taxes relating to UK assets or UK-sourced income (income, capital gains, inheritance, stamp duty reserve tax, stamp duty land tax) **or**
- at least one trustee is UK resident and trust enters a relationship<sup>B</sup> with UK relevant persons<sup>C</sup>

**A** Money Laundering and Terrorist Financing (Amendment) Regulation 2020 Part II Beneficial Ownership.

**B** Business, professional, or commercial relationship.

**C** Financial Institutions, Credit institutions, Auditors, Insolvency Practitioners, External Accountants, Tax Advisers, Legal Professionals, Trust or Company Service Providers, Estate Agents, High Value Dealers, Casinos

### ii). Untaxed non-UK trusts do not register with HMRC for tax

Non-UK trusts do not register with HMRC for tax unless the trustee is liable to pay taxes on UK assets or UK-sourced income:

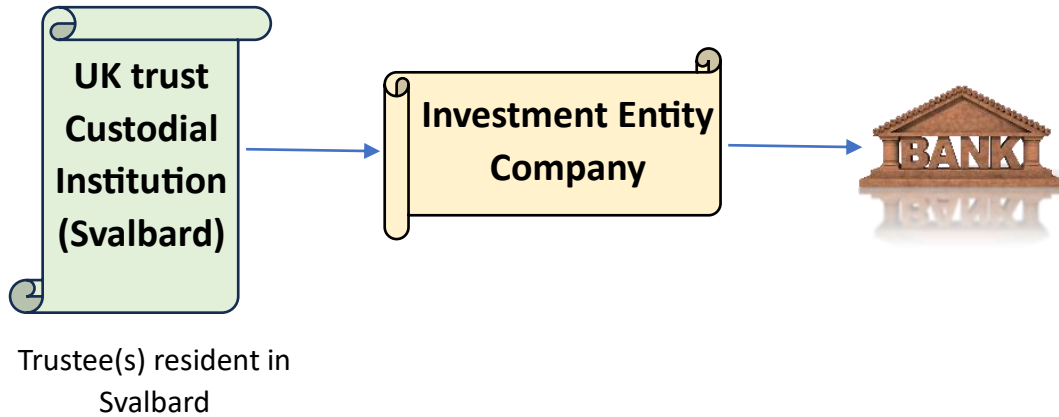
- income,
- capital gains
- inheritance
- stamp duty reserve tax
- stamp duty land tax

## E. The Investment Entity does not report on its Account Holder as it's a Financial Institution

- The managed Investment Entity is a Reporting Financial Institution
- The Investment Entity does not Report on its Account Holder as it's a Custodial Institution, which is an Excluded Person.



## F. No CRS reporting by bank as its account holder is an excluded person Financial Institution.



The term "**Reportable Person**" means a Reportable Jurisdiction Person **other** than:

- Regularly traded corporation on established securities market
- Governmental Entity
- International Organisation
- Central Bank
- Financial Institution (*Custodial Institution, Managed Investment Entity, Depository Institution, or Specified Insurance Company*)



## **G. Trust Financial Institution is resident for CRS purposes where trustees located**

In the case of a trust that is a Financial Institution, irrespective of whether it is resident for tax purposes in a jurisdiction, the trust is considered to be subject to the jurisdiction where its trustees are resident unless it is taxable and reporting in that jurisdiction.

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### **B. COMMENTARIES ON THE COMMON REPORTING STANDARD**

#### **SECTION VIII CONCERNING DEFINED TERMS**

##### **REPORTING FINANCIAL INSTITUTION**

##### **PARTICIPATING JURISDICTION FINANCIAL INSTITUTION**

4.1. In this context, the term "Participating Jurisdiction" refers to a jurisdiction that has implemented the Common Reporting Standard.

For this purpose, a Financial Institution is "resident" in a Participating Jurisdiction if it is subject to the jurisdiction of such Participating Jurisdiction (i.e., the Participating Jurisdiction is able to enforce reporting by the Financial Institution). In general, where a Financial Institution is resident for tax purposes in a Participating Jurisdiction, it is subject to the jurisdiction of such Participating Jurisdiction and it is, thus, a Participating Jurisdiction Financial Institution. I <

4.2. In the case of a trust that is a Financial Institution (irrespective of whether it is resident for tax purposes in a Participating Jurisdiction), the trust is considered to be subject to the jurisdiction of a Participating Jurisdiction if one or more of its trustees are resident in such Participating Jurisdiction

4.2.1. Except if the trust reports all the information required to be reported pursuant to the CRS with respect to Reportable Accounts maintained by the trust to another Participating Jurisdiction because it is resident for tax purposes in such other Participating Jurisdiction.

4.3. However, where a Financial Institution (other than a trust) does not have a residence for tax purposes (e.g., because it is treated as fiscally transparent, or it is located in a jurisdiction that does not have an income tax), it is considered to be subject to the jurisdiction of a Participating Jurisdiction and it is, thus, a Participating Jurisdiction Financial Institution if:

- a) it is incorporated under the laws of the Participating Jurisdiction
- b) it has its place of management (including effective management) in the Participating Jurisdiction; or
- c) it is subject to financial supervision in the Participating Jurisdiction.

## H. No reporting by non-participating Custodial Institution

Trustees resident in  
Svalbard



- The Trust Custodial Institution is resident for CRS purposes in Svalbard, Norway as the trustees reside in Svalbard
- Svalbard is a non-participating jurisdiction of CRS
- Therefore, the trust Custodial Institution is a non-participating Financial Institution
- The non-participating Custodial Institution does not report for CRS

## I. The Norwegian Register of Beneficial Owners Act

A custodial Institution trust does not register with the Norway beneficial register as it does not **engage in operations** - open a local bank account or own property.

### Who is obliged to register?

- The Act lays down an obligation to register for most legal entities, including private limited liability companies, public limited liability companies, cooperatives, securities funds, etc.
- **Administrators of non-Norwegian trusts** also come within the scope of the Act.
- The purview of the Act is based on the aforementioned anti-money laundering directive, under which it is required that 'corporate and other legal entities' are made subject to a requirement to collect information about beneficial owners, and that as many types of legal persons as possible are made subject to the rules, in order to ensure transparency.
- Although a **trust** bears clear similarities to a Norwegian foundation, it is not the same thing and may not, for example, be established under Norwegian law.

A non-Norwegian trust may nevertheless be administered from Norway.

- The assets of a trust may also be invested in Norway or be property in Norway.
- Administrators of non-Norwegian trusts will not usually be registered in the Norwegian Enterprise Register and have not customarily been considered to be engaged in operations in Norway.
- Now, though, administrators of trusts will come within the purview of the legislation on beneficial owners, irrespective of whether the administrator or the trust is registered in the Norwegian Enterprise Register, if it is **engaged in operations in Norway**. The administrator will in any event be considered to be engaged in operations in Norway when it:
  1. In the trust's name is made subject to obliged entities' customer due diligence measures (see section 4 of the Act relating to Measures to Combat Money Laundering and Terrorist Financing Act, such as when a Norwegian bank requests KYC information about the administrator or the trust.
  2. Owns or acquires real property in Norway. Point 2 entails a broadening of the term 'operations', given that owning Norwegian property was not previously necessarily sufficient to conclude that the owner was engaged in operations in Norway.

## J. Custodial Fees can be earned by third parties



### CRS-related Frequently Asked Questions

(February 2019)

#### SECTION VIII: DEFINITIONS

#### A. REPORTING FINANCIAL INSTITUTIONS

#### 9. Treatment of corporate trustees and SPV custodians

In certain instances, a professional accounting or law firm sets up a trust for a client and, as part of that process, appoints a corporate trustee. The client then pays the accounting or law firm for all services rendered in relation to the set-up of the trust, including the appointment of the corporate trustee and other trustee services. As such, the corporate trustee itself does not receive a direct remuneration for its services as these are paid to the accounting or law firm as part of the overall package.

**In that light, for purposes of the gross income tests to be applied in the context of the definitions of Investment Entity and Custodial Institution, is it required that the remuneration for the relevant activities carried out is paid to the Entity to which the test is applied?**

No. For the purposes of the gross income tests to be applied in the context of the definitions of Investment Entity and Custodial Institution all remuneration for the relevant activities of an Entity is to be taken into account, independent of whether that remuneration is paid directly to the Entity to which the test is applied or to another Entity. This issue can also arise in the context of Entities that provide custodial services if the fees for such services are paid to another Entity.






## K. Where is Svalbard

1,000 km from North Pole. 3,000 polar bears live there



- Svalbard is an archipelago in the Arctic Ocean part of the Kingdom of Norway, but not all Norwegian laws apply.
- Jan Mayen  is a volcanic island near Greenland with a few resident scientists.
- Despite Svalbard and Jan Mayen being unincorporated areas not governed by own local government, neither is considered a dependency of Norway.



## L. Svalbard is under the sovereignty of Norway






### Norway Dependencies

Norway has 3 uninhabited dependent territories (*Norwegian language 'biland'*) not independent but under Norwegian sovereignty.

Not part of the Kingdom of Norway.

Located in the Antarctic:

- **Bouvet Island** a subantarctic island 
- **Peter I Island** a volcanic island located off the coast of continental Antarctica 
- **Queen Maud Land** an Antarctica sector claim 



## M. Svalbard International Agreements

- Spitzbergen was terra nullius until the 1925 Svalbard treaty recognised Norway's sovereignty over Svalbard.,
- Svalbard is not a dependency but an integral part of Norway, however not all Norwegian laws apply. It is neither a county nor municipality.
- Norwegian private, civil, criminal, and procedural laws apply to Svalbard except where regulations apply concerning taxation, environmental conservation, administration, fishing, resources, mining, immigration, non-discrimination of foreigners, social security, territorial water, etc.
- Due to its separate regulations, no immigration visas needed for treaty signatories, outside of the European Economic Area, Schengen, and NATO.
- Svalbard has fiscal autonomy, with lower tax rates than mainland Norway and no Value Added Tax.
- Norway's international agreements thus exclude Svalbard from:
  - Double Taxation Agreements
  - OECD Mutual Convention on Administrative Assistance in Tax Matters
  - Common Reporting Standard
  - FATCA IGA

For the purposes of this Agreement, unless otherwise defined the term "Norway" means the Kingdom of Norway, and includes the land territory and internal waters, the territorial sea and the area beyond the territorial sea where the Kingdom of Norway, according to Norwegian legislation and in accordance with international law, may exercise her rights with respect to the seabed and subsoil and their natural resources; the **term does not comprise Svalbard**, Jan Mayen and the Norwegian dependencies ('biland').



## N. OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters allows signatory States to exclude territories



### The Multilateral Convention on Mutual Administrative Assistance in Tax Matters

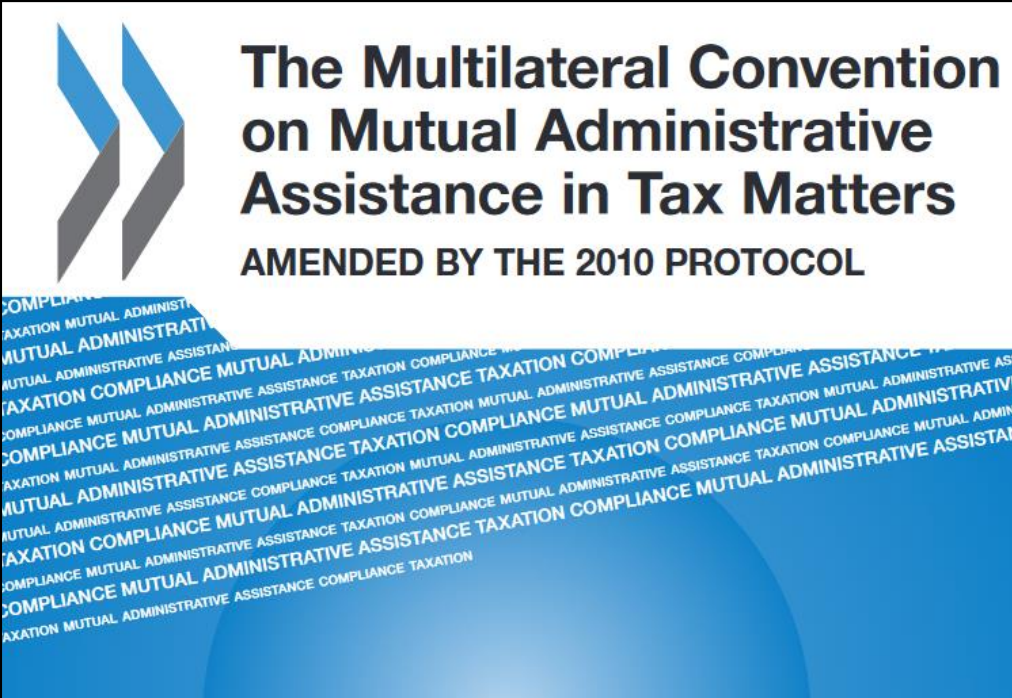
AMENDED BY THE 2010 PROTOCOL

#### Article 29 – Territorial application of the Convention

1. Each State may, at the time of signature, or when depositing its instrument of ratification, acceptance or approval, **specify the territory or territories to which this Convention shall apply.**
2. Any state may, at any later date, by a declaration addressed to one of the Depositaries, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Depositary.

## O. OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters excludes Svalbard

The OECD Convention does not apply to Norway's two unincorporated areas, nor its three dependencies



**The Multilateral Convention  
on Mutual Administrative  
Assistance in Tax Matters  
AMENDED BY THE 2010 PROTOCOL**

**Council of Europe/OECD Convention on Mutual Administrative  
Assistance in Tax Matters - Declaration by Norway**

**NORWAY**

***Declaration contained in the instrument of ratification deposited on 13 June 1989 - Or.  
Engl.***

As regards **Norway** the Convention on Mutual Administrative Assistance in Tax Matters shall apply to the territory of the Kingdom of Norway, including any area outside the territorial waters of the Kingdom of Norway, where the Kingdom of Norway, according to Norwegian legislation and in accordance with international law, may exercise her rights with respect to the seabed and subsoil and their natural resources; **the Convention does not apply to Svalbard**, Jan Mayen or the Norwegian dependencies ("biland").

- Svalbard is the only territory in the world excluded from the OECD Multilateral Convention
- Neither does Svalbard have any bilateral tax agreements

## P. Norway FATCA IGA excludes Svalbard

### Agreement Between the Government of the United States of America



and



### The Government of the Kingdom of Norway to Improve International Tax Compliance and to Implement FATCA

4-15-2013

#### Article 1 Definitions

1. 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 "Norway" means the Kingdom of Norway, and includes the land territory, internal waters, the territorial sea and the area beyond the territorial sea where the Kingdom of Norway, according to Norwegian legislation and in accordance with international law, may exercise her rights with respect to the seabed and subsoil and their natural resources; the term does **not comprise Svalbard**, Jan Mayen and the Norwegian dependencies ("biland").





# Q. Norway Double Tax Treaties always exclude Svalbard

*“Reason why Svalbard is excluded from tax treaties is the income tax rates are every low for individuals and corporations compared to Norway mainland”.*

CONVENTION BETWEEN  
THE KINGDOM OF  
**NORWAY**  
AND THE STATE OF  
**ISRAEL**  
FOR THE AVOIDANCE OF DOUBLE  
TAXATION AND THE PREVENTION OF  
FISCAL EVASION WITH RESPECT TO TAXES  
ON INCOME AND CAPITAL

Chapter II Definitions

Article 3

General definitions

The term <Norway> means the Kingdom of Norway, and includes the land territory and internal waters, the territorial sea and the area beyond the territorial sea where the Kingdom of Norway, according to Norwegian legislation and in accordance with international law, may exercise her rights with respect to the seabed and subsoil and their natural resources; the term does **not** comprise **Svalbard** (Spitzbergen), Jan Mayen and the Norwegian dependencies out of Europe.

AGREEMENT BETWEEN  
THE KINGDOM OF  
**NORWAY**  
AND  
**GEORGIA**  
FOR THE AVOIDANCE OF DOUBLE  
TAXATION AND THE PREVENTION OF  
FISCAL EVASION WITH RESPECT TO  
TAXES ON INCOME AND ON CAPITAL  
In force: 23.07.12

Chapter II Definitions

Article 3

General definitions

The term "Norway" means the Kingdom of Norway, and includes the land territory, internal waters and the territorial sea; the term does **not** comprise **Svalbard**, Jan Mayen and the Norwegian dependencies ("biland")

CONVENIO ENTRE  
EL REINO DE  
**NORUEGA**  
Y  
**LOS ESTADOS UNIDOS MEXICANOS**  
PARA EVITAR LA DOBLE IMPOSICIÓN E  
IMPEDIR LA EVASIÓN FISCAL EN  
MATERIA DE IMPUESTOS SOBRE LA  
RENTA Y SOBRE EL PATRIMONIO  
Reglement dato: 08.04.2001

Artículo 3

Definiciones generals

El término "Noruega" significa el Reino de Noruega, comprendida cualquier área fuera de las aguas territoriales del Reino de Noruega en donde el Reino de Noruega, de acuerdo con la legislación noruega y de conformidad con el Derecho internacional, puede ejercer sus derechos respecto del fondo y subsuelo marinos, y sus recursos naturales; el término **no comprende Svalbard**, Jan Mayen y los estados libres asociados noruegos ("biland")



## R. Svalbard is not a Participating Jurisdiction of CRS

- Norway's **Multilateral Competent Authority Agreement**\* uses the **OECD Convention on Mutual Administrative Assistance in Tax Matters** as its legal basis to Automatically Exchange Financial Account information
  - Norway does **not** use the option of bilateral agreements as a legal basis to exchange information
- 
- **Svalbard** is explicitly excluded from the **OECD Convention on Mutual Administrative Assistance in Tax Matters**
  - ➔ So, Norway's **Multilateral Competent Authority Agreement**\* regarding Automatic Exchange of Financial Account Information cannot include Svalbard

\* MCAA provides a standardised mechanism to facilitate the automatic exchange of information in accordance with the Standard for Automatic Exchange of Financial Information in Tax Matters (*'the Common Reporting Standard'*).

**DECLARATION**

I, Siv Jensen, Minister of Finance of the Kingdom of Norway, in my capacity of being the Competent Authority of Norway under the Convention on Mutual Administrative Assistance in Tax Matters, declare that Norway hereby agrees to comply with the provisions of the

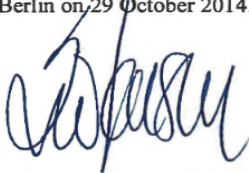
*Multilateral Competent Authority Agreement on  
Automatic Exchange of Financial Account Information*

hereafter referred to as the “Agreement” and attached to this Declaration.

By means of the present Declaration, the Competent Authority of Norway is to be considered a signatory of the Agreement as from 29 October 2014. The Agreement will come into effect in respect of the Competent Authority of Norway in accordance with Section 7 thereof.

The Annex F notification referred to in Section 3(3) of the Agreement is deposited herewith.

Signed at Berlin on 29 October 2014.

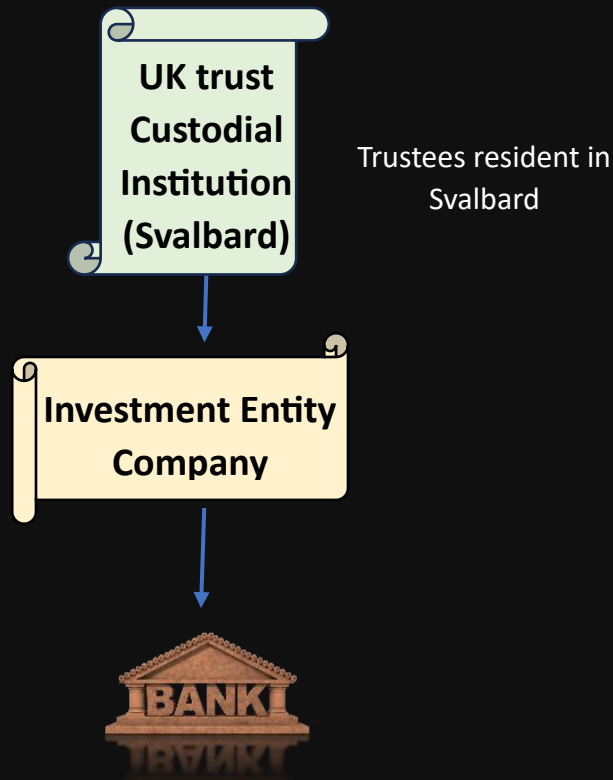


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## S. Summary of Svalbard Custodial Institution



1. Svalbard is a non-participating member of the Common Reporting Standard (CRS).
2. A UK trust with trustee(s) resident in Svalbard is a Custodial Institution resident in Svalbard.
3. The Custodial Institution can hold any financial asset including company shares.
4. No reporting for CRS.
  - The bank does not report on the Controlling Persons of the managed Investment Entity as it's a non-reportable Financial Institution, i.e., a Custodial Institution.
  - Its Account Holder is a Custodial Institution, which is a non-reportable Financial Institution
  - The Custodial Institution does not report for CRS as it is located in a CRS non-participating jurisdiction.

# Appendix History of Svalbard

## Terra Nullius until the 1920s

Discovered ostensibly in the 10th century by Greenland Norse hunters. Documentary evidence suggests it was first settled by Icelandic Vikings in the 12th century. Whaling was started in the 1600s dominated by English and Dutch companies. Hunting was carried out from the 17th century by Russian settlers from Veliky Novgorod. From the 19th century, it became dominated by Norwegians. Sustainable coal mining started in 1906 with the establishment by an American of Longyearbyen and by the 1920s, permanent coal mining settlements had been established by the Russians. Rich coal deposits in the barren Arctic lead to a belief that the archipelago drifted from the equator during the Devonian period 400 million years ago.



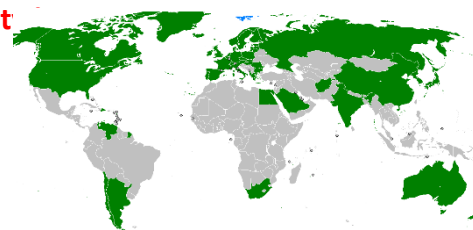
## Claims to sovereignty over Svalbard

Although Denmark & Norway never formally gave up their claim to Svalbard, the archipelago continued to be a terra nullius - a land without a government. Problems were exacerbated as, there were no means to make a mining claim legal nor for a way to resolve conflicts, particularly labour conflicts, which often saw the mining company and the workers have different nationalities.

The Government of Norway took the initiative in 1907 for negotiations between the involved states. Multilateral conferences were held in the early 20th century, which proposed various types of joint rule between claiming nations. The breakthrough came at the Paris Peace Conference. Germany and Russia had both been excluded for warmongering during the great war, while Norway enjoyed goodwill with their neutral policy and was regarded as harmless. The [Svalbard Treaty](#) of 1920 granted Norway full sovereignty over Svalbard. Although the Soviet Union was initially skeptical of the treaty, they were willing to sign it in exchange for Norwegian recognition of the Soviet regime.

## Ratification by 48 signatory powers of the Svalbard (Spitsbergen) Treaty

All signatory Parties to the Svalbard Treaty, 22 EU Member States, and 26 other states have equal rights to economic resources including hunting, fishing, mining, industrial, maritime, and commercial activities. Nor can Svalbard be used for the purpose of war.



After significant political debate, a proposal to establish Svalbard as a dependency and administrate it from Tromsø was rejected. Instead, the *Svalbard Act* specified that the islands would be administrated by the Governor of Svalbard and was considered "part of the Kingdom of Norway", although not regarded as a county. The islands had until then been known as the Spitsbergen Archipelago, and it was at this time the term Svalbard was introduced. The legislation took effect in August 1925.

## Svalbard is an integral part of Norway but is excluded from being in the EU / EEA or Schengen cooperation agreement

It is a common misperception that any citizen in the world can move to Svalbard. The Svalbard treaty allows only citizens of the 48 signatory nations to live and work indefinitely in Svalbard without residence or work visas. Yugoslavia also acceded to the treaty on 6 July 1925, but, as of 2023, none of its successor states have declared to continue the application of the treaty

Svalbard thus could not join the EEA, nor be a Schengen co-operation member. It is not part of NATO. There is however a requirement that you must be able to support yourself if you are living there,

- Norwegian civil law, criminal law, and procedural law apply to Svalbard unless "other" provisions are made.
- There are 31 "other" regulations that apply to Svalbard, concerning taxes,

## Low taxes in Svalbard

Although Svalbard is an integral part of Norway, has fiscal autonomy, with a substantially lower income tax than mainland Norway and no Value Added Tax. Taxes are allowed to be collected, but only enough to support Svalbard and the Svalbard government. This results in lower taxes than mainland Norway and the exclusion of any taxes on Svalbard supporting mainland Norway directly. Svalbard's revenues and expenses are separately budgeted from mainland Norway. Tax rates are significantly lower than mainland taxes e.g., salary taxes range from 8% or 22%. The corporate tax for smaller companies is 16%.

Subsequently, all of Norway's international tax agreements exclude Svalbard.





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