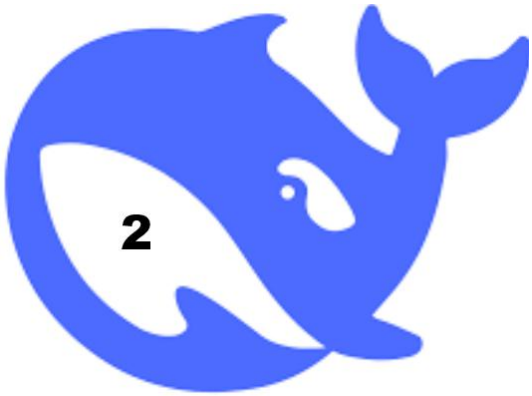


**DEEPSEEK ON SVALBARD STRUCTURE AVOIDING FATCA**

A Svalbard Custodial Institution trust holding a UK investment entity *may avoid FATCA reporting obligations* under specific conditions, particularly if no income flows to the custodial institution. Here's a detailed analysis based on the search results:

### 1. *FATCA Classification of the Custodial Institution*

- A "Custodial Institution" under FATCA is defined as an entity holding financial assets for others and deriving ≥20% of its gross income from custodial services or related activities (e.g., account maintenance, execution fees) .

- If the Svalbard trust *does not generate income* (e.g., fees, interest, or capital gains), it may fall below the 20% threshold and avoid classification as a Custodial Institution, thereby escaping FATCA registration and reporting requirements .

### 2. *Svalbard's FATCA Status*

- Svalbard is *not a FATCA-participating jurisdiction* and has no intergovernmental agreement (IGA) with the U.S. This means entities in Svalbard are not obligated to register for a Global Intermediary Identification Number (GIIN) or report to the IRS .

- Without a GIIN, the custodial institution would typically face a 30% withholding tax on U.S.-source payments. However, *if no income flows to the institution*, this withholding penalty is irrelevant .

### 3. *Structure of the UK Investment Entity*

- The UK investment entity's income (e.g., dividends, capital gains) would not trigger FATCA obligations for the Svalbard trust *unless the trust itself receives distributions*. If the trust acts purely as a holding vehicle and does not derive income, it remains outside FATCA's scope .

- The UK entity, however, may still need to comply with FATCA if it qualifies as a Financial Institution (FI) under U.S. rules (e.g., as an Investment Entity) .

### 4. *Avoiding "Recalcitrant Account" Reporting*

- Non-participating FFIs (like the Svalbard trust) are generally required to report "recalcitrant" account holders (e.g., those refusing to provide FATCA-compliant documentation). However, if the custodial institution has *no income-generating accounts*, there is nothing to report .

### 5. *Potential Risks and Loopholes*

- The structure hinges on the *absence of income* to the trust. If the custodial institution begins generating fees or other income (e.g., from managing assets), it risks FATCA classification and penalties .

- The OECD and U.S. authorities have flagged similar structures (e.g., "shell bank loopholes") as potential avoidance schemes, though the legality depends on strict adherence to technical requirements .

### Conclusion

Under the described conditions—*no income flowing to the Svalbard trust*—the structure likely avoids FATCA obligations. However, this requires meticulous adherence to operational constraints (e.g., no fees, no U.S.-source income). Legal and tax advisors should monitor evolving regulations, particularly with the OECD's Crypto Asset Reporting Framework (CARF) and potential updates to FATCA/CRS guidelines .