

**FIRST FIDELITY TRUST, LTD.  
NEVIS, WEST INDIES**



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**COMPLIANCE AND NOTIFICATION PACKAGE  
FOR UNITED STATES TAXPAYERS  
(Single Grantor)**

**Introduction**

The purpose of the Compliance and Notification Package is to inform you, as the grantor and/or beneficiaries of a foreign trust and as United States citizens or resident aliens, you are required by federal tax law to meet certain reporting requirements as set forth by the Internal Revenue Service. Furthermore, this Package is to inform you about state and federal laws dealing with fraudulent transfers and bankruptcy laws that may be applicable to the creation of your foreign trust. This Compliance and Notification Package is composed of five sections.

Section One provides you with notice of the IRS forms you may need to file when you are the settlor or beneficiary of a foreign trust. The list is not necessarily exhaustive; therefore, you should consult with a tax professional regarding which forms to file and how to file them. Depending on the offshore structure you have, additional forms may be required.

Section Two describes the “Affidavit and Source of Funds and Indemnification” form and how it is used. This form must be completed each time assets are transferred from the United States to a foreign jurisdiction.

Section Three contains notification that all transfers from the United States to a foreign jurisdiction may be subject to Fraudulent Transfer, Money Laundering and/or other laws. You should consult with your legal and tax advisors to ensure compliance with these laws.

Section Four is your acknowledgement that you have been notified of certain tax and legal issues surrounding your status as grantors or beneficiaries of a foreign trust. United States citizens are taxed on worldwide income and as such, must be aware of the rules that apply to foreign business transactions.

Section Five is an affidavit regarding financial condition. United States citizens are subject to state and federal fraudulent transfer and bankruptcy laws, and as such, must provide an affidavit regarding the true and correct nature of their financial status. The

**FIRST FIDELITY TRUST, LTD.  
NEVIS, WEST INDIES**

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creation of a trust involves a change of legal ownership, and therefore, is subject to the aforementioned laws, which must be complied with prior to FFT accepting funds and establishing a trust on behalf of the grantor.

**First Fidelity Trust, Ltd. (FFT) suggests that you retain professional advice before implementing an offshore business or investment plan that includes a foreign trust.** We strive to work closely with your advisors in order to institute an offshore plan, which is beneficial to you and legally compliant.

In order for FFT to act as your Trustee, this Package must be completed and returned to our office. FFT will not perform any services, and is not obligated to do so, until this Package is properly executed and returned.

FFT is committed to providing you the service you expect. As part of that service, FFT strives to ensure that all transactions in which FFT is involved with meet the legal requirements of both Nevis and the jurisdictions in which our clients reside.

**FIRST FIDELITY TRUST, LTD.  
NEVIS, WEST INDIES**

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**SECTION 1  
UNITED STATES TAX MATTERS**

This Compliance Package sets forth only the forms you may need to file with the Internal Revenue Service when you are the settlor, beneficiary or both of a foreign trust and with regard to trust income, expenses and distributions. Pursuant to the grantor trust rules, which are codified in Sections 671 – 679 of the United States Internal Revenue Code of 1986, as amended, as the settlor/grantor of a foreign trust with U.S. beneficiaries, trust income, deductions and credits are attributable to you, the grantors, for U.S. income tax purposes. Therefore, additional filings may be required, including, but not limited to, making elections for business entities owned by the trust, reporting any financial accounts held by the trust, and any income or information returns required due to the trust's ownership of any of the above.

Please be advised that it is your responsibility to file these forms in an accurate and timely manner. Severe penalties, including civil and/or criminal liabilities may be levied against you if the proper forms are not filed, filed late, filed incompletely or inaccurately. The following list is not necessarily exhaustive and may not be solely relied upon. If you have any questions, contact your legal or accounting professional and/or the appropriate governmental agency. FFT and its employees assume no responsibility for notifying you of any changes in the structure of these forms or changes in the information reported on them or the requirement of additional filings.

However, we stand ready to assist your legal or accounting professional in completing the appropriate forms. Additionally, in accordance with IRC 6048(b), FFT will prepare and file the annual IRS Form 3520-A. Further, FFT will provide copies of the IRS Form 3520-A Foreign Grantor Trust Owner Statement and a Foreign Grantor Trust Beneficiary Statement to the appropriate parties. The grantor and beneficiaries use these forms to meet their reporting requirements in conjunction with IRS Form 3520. You should examine the IRS Form 3520 and make an annual determination on whether you or any of the beneficiaries you have listed in your trust deed are required to file this form.

As mentioned above, the grantor trust rules provide that the settlor of a foreign trust with a U.S. beneficiary is considered the tax owner of that portion of the trust, which he or she contributed. Therefore, as the tax owner of the trust assets, you are also the tax owner of any financial accounts, business entities or other investments purchased by the trustee with your contribution. For example, if the trustee, using your contribution, forms an international business corporation (IBC) and operates it as a going concern, you may be required to file various U.S. tax returns based on your tax ownership by virtue of the trust. You should consult your tax professional to determine the applicability of any additional filing requirements.

Finally, you should also consult with State and Local taxing authorities to determine what responsibility you have, if any, for reporting taxable income under those statutes or ordinances.

**FIRST FIDELITY TRUST, LTD.  
NEVIS, WEST INDIES**

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**By signing below you acknowledge that you have been notified of the following forms and that one or more of these forms must be filed annually. You also acknowledge that additional IRS forms may be required depending on the assets held by the trust and the business dealings of the trust. You also acknowledge that state or local taxes may be due depending on your specific circumstances.**

1. Form 3520 “Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts.”
2. Form 3520-A “Annual Information Return of Foreign Trust with a U.S. Owner.” (Filed on your behalf by FFT)
3. TDF 90-22.1 “Report of Foreign Bank and Financial Accounts.” Required to be filed annually by any U.S. citizen having financial interest in or signature authority over any foreign bank account exceeding \$10,000 in total value at any time during the calendar year, or multiple accounts that in the aggregate exceed \$10,000.

Read, approved and accepted this \_\_\_\_\_ day of \_\_\_\_\_

  

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**FIRST FIDELITY TRUST, LTD.  
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**SECTION 2  
AFFIDAVIT OF SOURCE OF FUNDS  
AND INDEMNIFICATION - INTRODUCTION**

An affidavit of source of funds and indemnification form must be filed each time you transfer funds to the account of FFT. FFT requires these forms in order to help ensure compliance with U.S. Fraudulent Transfer, U.S. and Nevis Money Laundering Statutes and other laws. FFT will automatically reject and return funds received if a properly completed and signed affidavit of source of funds and indemnification form is not simultaneously provided. Please see your advisor for a copy of this form.

Furthermore, FFT will not assist you in the transfer of funds without prior receipt of a properly signed and completed affidavit of source of funds and indemnification form.

**By signing below you acknowledge First Fidelity Trust, Ltd. will and is hereby entitled to refuse to assist you in the transfer of funds without prior receipt of an Affidavit of Source of Funds and Indemnification Form.**

Read, approved and accepted this \_\_\_\_\_ day of \_\_\_\_\_

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**FIRST FIDELITY TRUST, LTD.  
NEVIS, WEST INDIES**

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**SECTION 3  
FRAUDULENT TRANSFER AND MONEY LAUNDERING LAWS**

The purpose of this section of the Compliance Package is to notify you of certain laws regulating financial transactions and services. FFT will not assist anyone with a transaction that violates these or any other laws. **By signing below you acknowledge that First Fidelity Trust, Ltd. will and is hereby entitled to refuse to assist in any transaction which it determines to be criminally or civilly actionable under these or any other laws.**

**U.S. Fraudulent Transfers (Civil Context):**

Most states have adopted some form of either the Uniform Fraudulent Transfers Act (UFTA) or the Uniform Fraudulent Conveyances Act (UFCA). Under these statutes, it is civilly actionable and in some cases, criminally actionable, for you to engage in transfers of your assets if such transfers hinder, delay, or defraud your creditors, and in some instances, known future creditors. In making a determination of the legality of your transfer, you must give due consideration to current and contingent liabilities. Therefore, by signing below you acknowledge that you have been advised of the potential applicability of civil and criminal fraudulent transfer statutes. You should consult with your advisors to determine the applicability of any fraudulent transfer laws that may apply.

**U.S. Fraudulent Transfers (Federal Bankruptcy Context):**

U.S. bankruptcy law provides for a one-year look back period in which the Bankruptcy Trustee may undo fraudulent transfers. Furthermore, a fraudulent transfer made in contemplation of filing a bankruptcy petition in Federal bankruptcy court can amount to a Federal crime. Therefore, by signing below you acknowledge that you have been advised of the potential applicability of Federal bankruptcy fraudulent transfer statutes. You should consult with your advisors to determine the applicability of any bankruptcy laws that may apply.

**United States Money Laundering Control Act:**

The Money Laundering Control Act (Act) makes it illegal to engage in or attempt to engage in certain financial activities involving the proceeds of unlawful activities. FFT will not assist you in such an activity. Therefore, by signing below you acknowledge the transfers contemplated do not involve assets or proceeds derived from criminal activities. Such activities include, but are not limited to:

**FIRST FIDELITY TRUST, LTD.  
NEVIS, WEST INDIES**

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*Tax Evasion:*

This includes any willful attempt in any manner to evade or defeat any tax imposed by the Internal Revenue Code. It also includes the making and subscribing of any return, statement, or other document under declaration that it is made under the penalties of perjury that the person does not believe to be true in every material matter.

*Financial Misconduct:*

This includes the concealment of assets from a receiver, custodian, trustee, marshal, or other officer of the court, from creditors in a bankruptcy proceeding or from the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, or similar agency or person; the making of a fraudulent conveyance in contemplation of a bankruptcy proceeding or with the intent to defeat the bankruptcy law; the giving of false oaths or claims in relation to a bankruptcy proceeding; bribery; the giving of commissions or gifts for the procurement of loans; theft, embezzlement, or misapplication of bank funds or funds of other lending, credit, or insurance institutions; the making of fraudulent bank or credit institution entries or loan or credit applications; and mail, wire, or bank fraud or bank or postal robbery or theft.

*Environmental Crimes:*

These include violations of the Federal Water Pollution Control Act, the Ocean Dumping Act, the Safe Water Drinking Act, the Resource Conservation and Recovery Act, and similar federal statutes.

*Controlled Substances:*

These include the manufacture, importation, sale or distribution of controlled substances; the commission of acts constituting a criminal enterprise; and the transportation of drug paraphernalia.

*Other Crimes:*

These include counterfeiting, espionage, kidnapping or hostage taking, smuggling goods into the United States, copyright infringement, entry of goods by means of false statements, removing goods from the custody of Customs, illegally exporting arms, terrorist financing and trading with United States enemies.

**CAUTION:** Violation of the U.S. Money Laundering laws carries a criminal penalty including a fine of not more than \$500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or

**FIRST FIDELITY TRUST, LTD.  
NEVIS, WEST INDIES**

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both. Additionally, the U.S. can seek civil penalties in addition to the criminal penalties of an amount not more than the greater of (1) the value of the property, funds, or monetary instruments involved in the transaction; or (2) \$10,000. The U.S. government has the authority to enforce this Act against both foreign and domestic persons and institutions.

**Saint Christopher and Nevis Anti-Money Laundering Regulations, 2001 and Anti-Money Laundering (Amendment) Regulations, 2002**

Saint Christopher and Nevis prohibit money-laundering activities as defined in the Proceeds of Crime Act, 2000. Persons and companies convicted of money laundering are subject to fines and imprisonment. A person engages in money laundering where said person engages directly or indirectly in a transaction that involves money or other property that is proceeds of a crime, or the person knowingly receives, possesses, conceals, or disposes of, or brings into or transfers from Saint Kitts and Nevis, any monies or other property that is proceeds of a crime. As an example, proceeds derived from the following activities are subject to Anti-Money Laundering Regulations, 2001 and Anti-Money Laundering (Amendment) Regulations, 2002: drug trafficking and related offenses, extortion, false accounting, forgery, fraud, illegal deposit taking and robbery.

**Finally, by signing below you agree to provide such documentation and execute such affidavits or other documents or instruments we may reasonably require to assure us that all contemplated and future transfers are appropriate.**

Read, approved and accepted this \_\_\_\_\_ day of \_\_\_\_\_

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**FIRST FIDELITY TRUST, LTD.  
NEVIS, WEST INDIES**

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**SECTION 4  
AFFIDAVIT OF UNDERSTANDING AND COMPLIANCE**

I, the undersigned, in the presence of the witness listed below, make the following claims and statements:

1. I hereby affirm that I have fully read and understand the Compliance Package of which this Affidavit of Understanding and Compliance is hereby incorporated by reference.
2. I hereby affirm that I understand that United States citizens or residents are taxed on their worldwide income.
3. I hereby affirm that I understand that I am subject to applicable U.S. Federal, State and Local laws regarding the taxation and reporting requirements of all financial and business transactions, whether those transactions occur within the United States, its territories and possessions or within a foreign jurisdiction.
4. I hereby affirm that I understand that certain legal entities, as defined by Federal, State and Local law, including, but not limited to, foreign trusts, may be “tax neutral” and that I am personally responsible for any applicable Federal, State and/or Local tax and reporting requirements in that event.
5. I hereby affirm that I understand that establishing a foreign trust can obligate me to file certain Internal Revenue Service and Treasury Department forms, including, but not limited to IRS Form 3520 and IRS Form 3520-A (Filed on our behalf by FFT).
6. I hereby affirm that I understand that my status as a grantor of a foreign trust can obligate me to file IRS informational and income tax returns for ownership of, or interest in, financial accounts, business entities and other investments held by the trust, which are in addition to IRS Forms 3520 and 3520-A. These forms may be in addition to TDF 90-22.1, as required by the U.S. Treasury Department to report an interest in a foreign account. I hereby affirm that FFT has, by virtue of this Compliance Package, advised me that I should engage legal and accounting professionals to advise me of the legal and tax implications of my establishment of a foreign trust.
7. I hereby affirm that I understand that transferring assets offshore upon which no tax has been paid, in addition to being tax evasion, could also be construed to be international money laundering, resulting in my, and anyone assisting me in the transfer, being subjected to possible criminal prosecution for conspiracy to commit money laundering.
8. I do not intend to use the Trust to illegally avoid or evade any United States Federal, State or local tax obligation and I hereby undertake that all income and

**FIRST FIDELITY TRUST, LTD.  
NEVIS, WEST INDIES**

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capital gains taxes shall be declared as required under United States Federal, State, and local tax laws.

9. **Finally, in order to induce FFT to accept my funds, I hereby declare and affirm that the funds being transferred to the trust are “after tax” funds, upon which the appropriate taxes have been paid.**

Read, approved and accepted this \_\_\_\_ day of \_\_\_\_\_ .

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Witness:

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Print Name

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Signature

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NEVIS, WEST INDIES**

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**SECTION 5  
AFFIDAVIT REGARDING FINANCIAL CONDITION**

1. I, the undersigned, in the presence of the witness listed below, make the following statements, which are true and correct with regard to my Financial Statement dated \_\_\_\_/\_\_\_\_/200\_\_\_\_, a copy of which is included in my Trust Application Documents and is incorporated herein for all intents and purposes.
  - a. To the best of my knowledge, the fair market value of each asset shown on our Financial Statement is at least equal to or greater than the respective values set forth in the Financial Statement.
  - b. All partnerships, corporations, and other business interests listed on my Financial Statement are self-supporting and require no cash contributions from us or any other persons.
  - c. To the best of my knowledge, the amounts of income and expense set forth on our Financial Statement are true, accurate, and complete.
2. All promissory notes with respect to which I am obligated primarily, secondarily, or contingently are listed my Financial Statement and none is currently either in default or under renegotiation. I have not personally guaranteed any debt connected with any partnership, corporation, or other business interest other than those shown on my Financial Statement.
3. To the best of our knowledge, there is no pending, threatened, or potential claim, lawsuit, or administrative proceeding against us or any business in which we are shareholders, partners, or otherwise have an interest other than those shown on our Financial Statement.
4. To the best of my knowledge, no event has occurred in connection with me or any business in which I am a shareholder, partner, or otherwise have an interest with respect to which I expect a controversy or problem to develop involving any future creditors.
5. I do not currently contemplate filing for relief under the U.S. Bankruptcy Code, nor am I involved in any situation that I reasonably anticipate will cause me to file for relief under the U.S. Bankruptcy Code.
6. Where property has already been transferred from me to the Trust, or to any limited partnership or other holding entity in which the Trust has or will have an interest, I was at that time solvent and able to pay all then reasonably anticipated debts, including any claims or lawsuits against me as they were to come due from the balance of my property after such transfer.

**FIRST FIDELITY TRUST, LTD.  
NEVIS, WEST INDIES**

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7. Following any contemplated or proposed transfer of my property to the Trust, or any limited partnership or other holding entity in which the Trust has or will have an interest, I will be solvent and able to pay all reasonably anticipated debts, including any claims or lawsuits against us as they come due from the balance of our property after such transfer. Upon the transfer of assets to the Trust, the value of our assets will exceed our liabilities, (actual, contingent, or prospective, so far as we know and understand).
8. I confirm and represent that none of the assets which we currently contemplate transferring were derived from any illegal activities.

Read, approved and accepted this \_\_\_\_ day of \_\_\_\_\_.

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Witness:

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Print Name

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Signature