



Common Reporting Standard  
Account Monitoring  
*"Change of Circumstances"*



# CRS Account Monitoring

- OECD CRS Implementation Report 2018
- Global Forum CRS Peer Review Terms of Reference
- CRS “Account Monitoring” Scope of Obligation
- Account Monitoring 1<sup>st</sup> Degree Baseline Analysis
- Account Monitoring 2<sup>nd</sup> Degree Baseline Analysis
- Account Monitoring 3<sup>rd</sup> Degree Baseline Analysis
- Practical Examples - Workshop

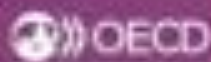
# CRS Implementation Report 2018



Global Forum on Transparency  
and Exchange of Information for Tax Purposes



# Automatic Exchange of Information Implementation Report 2018



OECD

Organisation for Economic Co-operation and Development



CENTENAL

Advisory

## Key Points:

- Peer Review and Terms of Reference to concentrate on “Effective Implementation” of CRS
- Ensure Financial Institutions Comply with Reporting Obligations - Report Complete and Accurate Information
- Local CRS Compliance Audits
- Key CRS Requirement:  
“... Reporting Financial Institution is expected to institute procedures to ensure that any change that constitutes a change in circumstances is identified ...” *CRS Comm 2<sup>nd</sup> ed pg. 130 para 12.*

# Global Forum Terms of Reference

» Global Forum on Transparency  
and Exchange of Information for Tax Purposes

The framework for the  
full AEOI reviews:  
the Terms of  
Reference



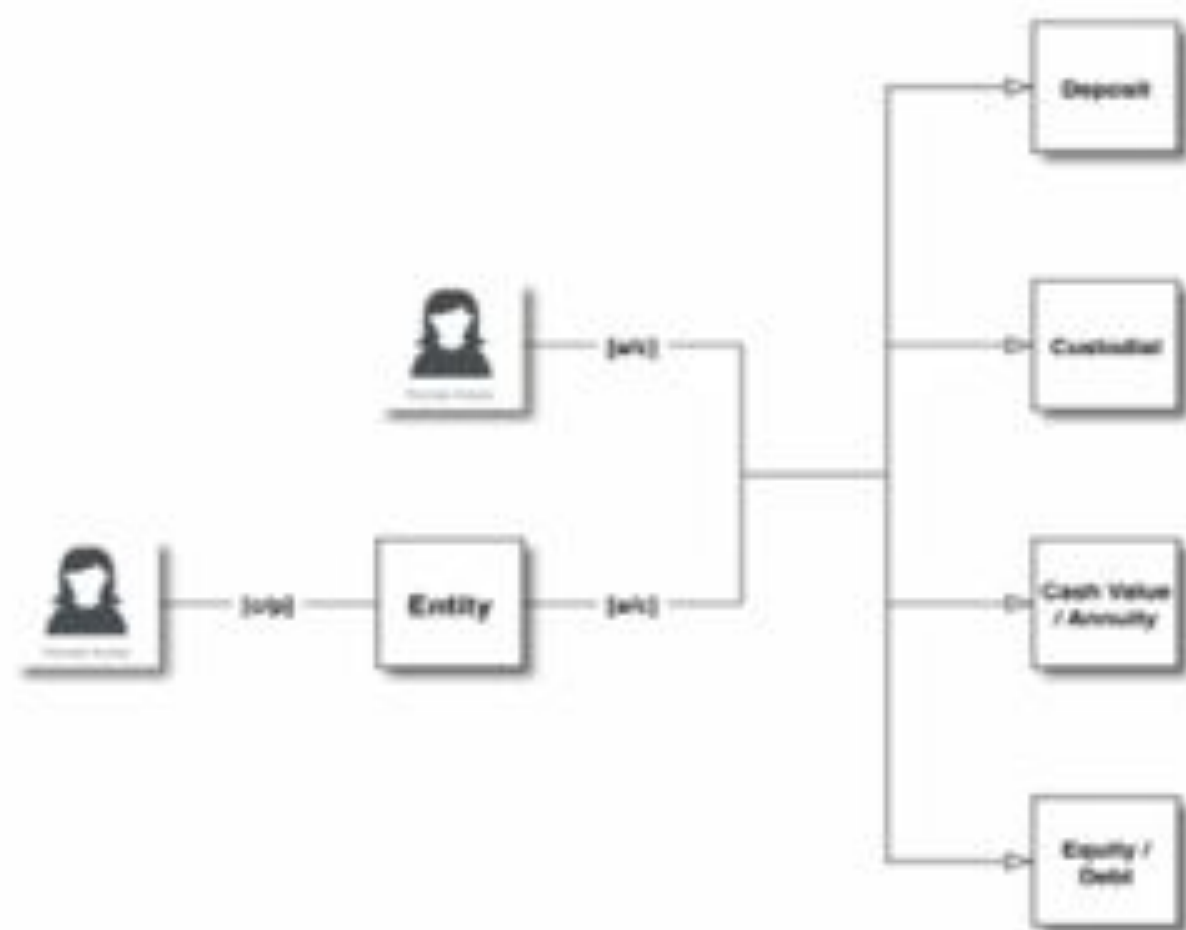
OECD

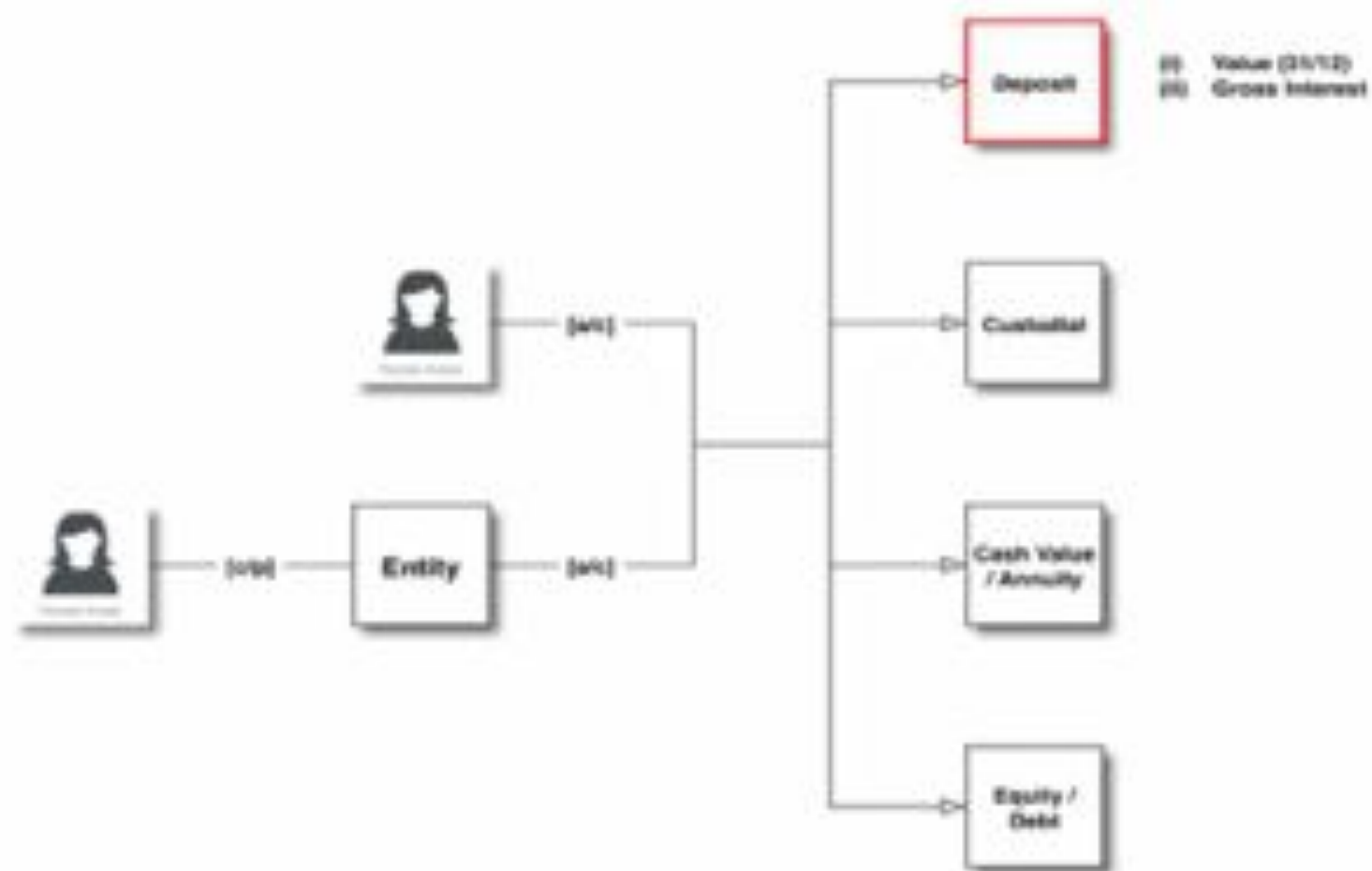


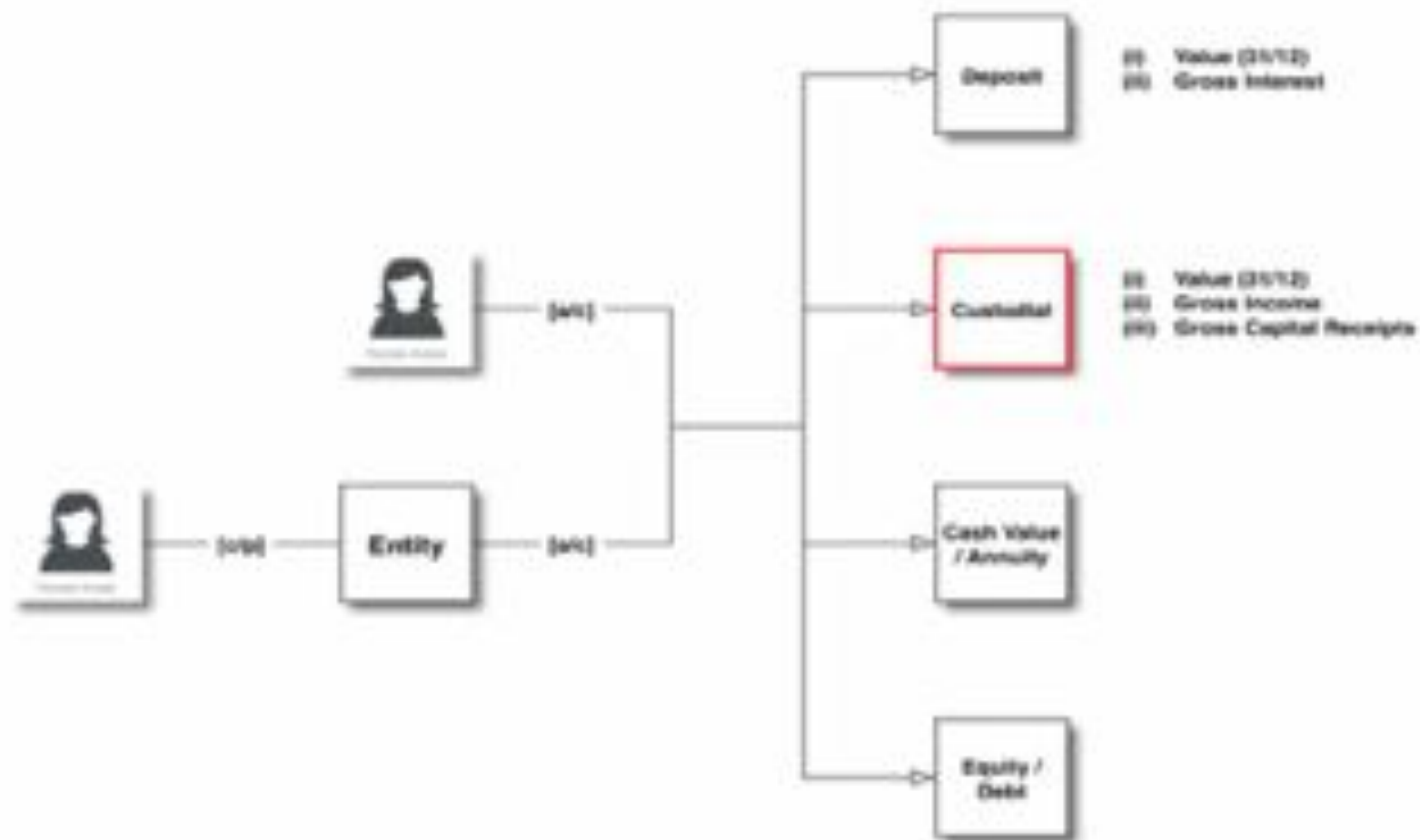
## Key Points:

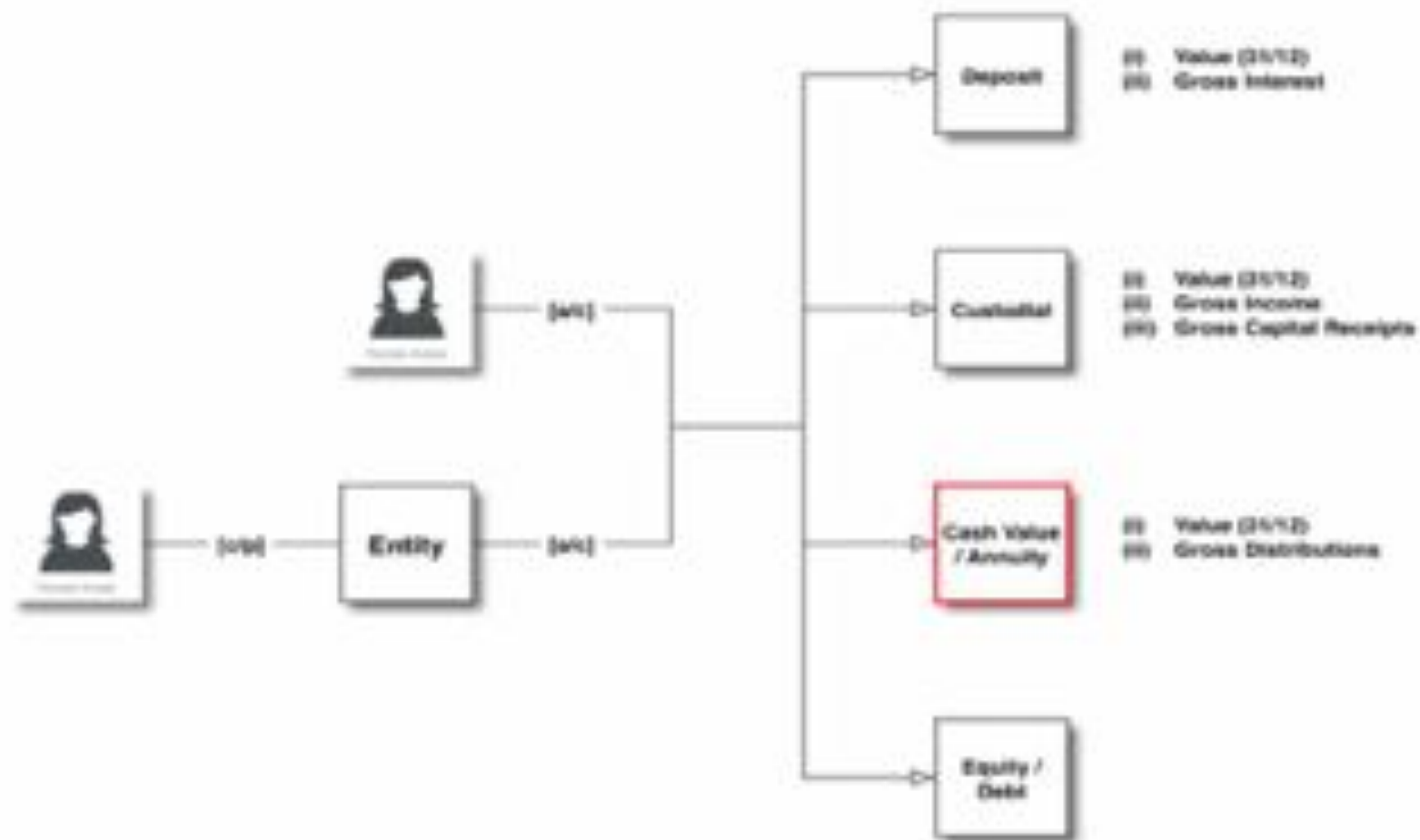
- Jurisdictions Required to have Admin framework to ensure effective implementation of CRS
- Jurisdictions ensure Financial Institutions correctly implement CRS
- Jurisdictions must ensure CRS operates effectively in practice
- Jurisdictions have legislative framework prevent circumvention of CRS by Financial Institutions, Persons and Intermediaries

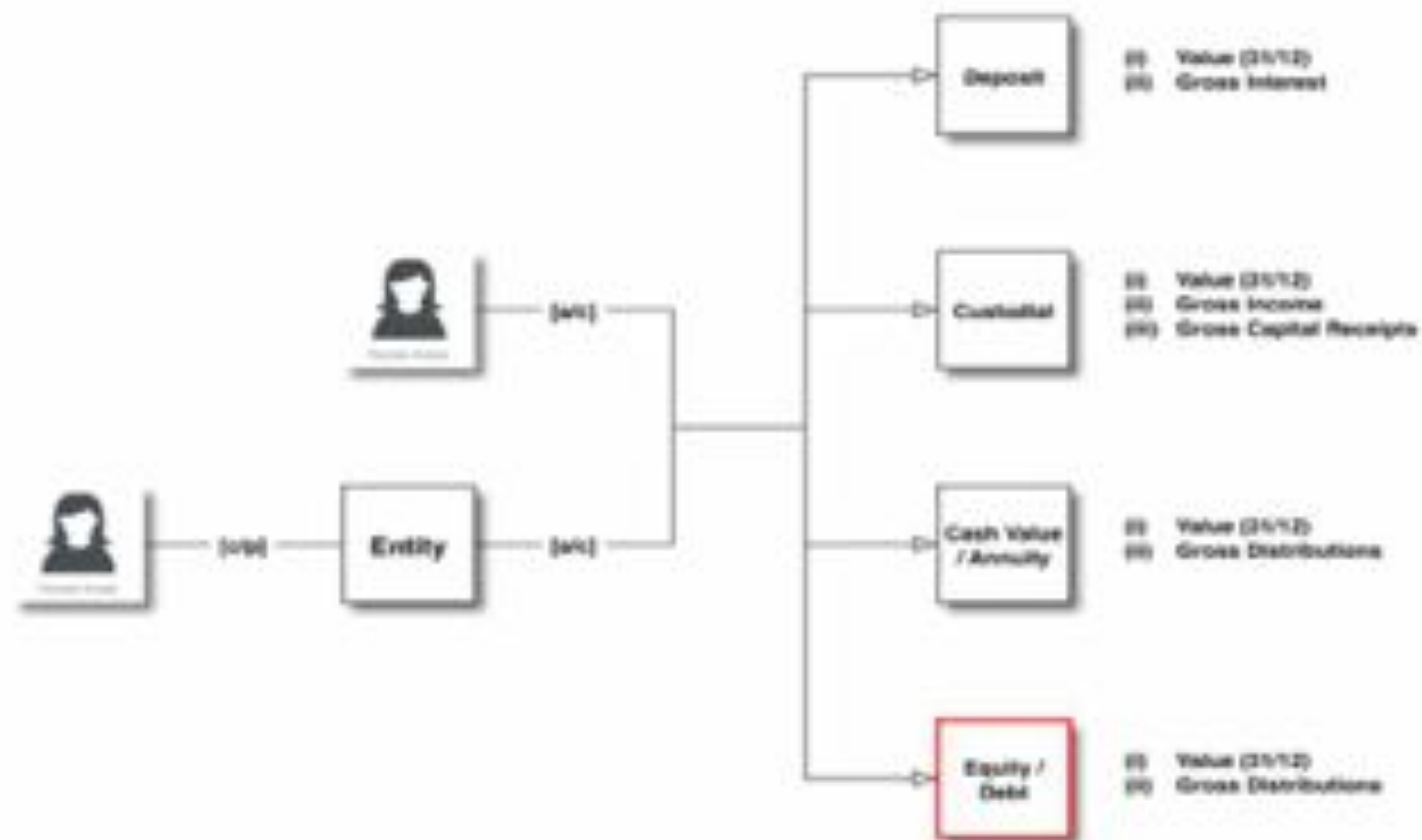
# Account Monitoring: Scope of Obligation

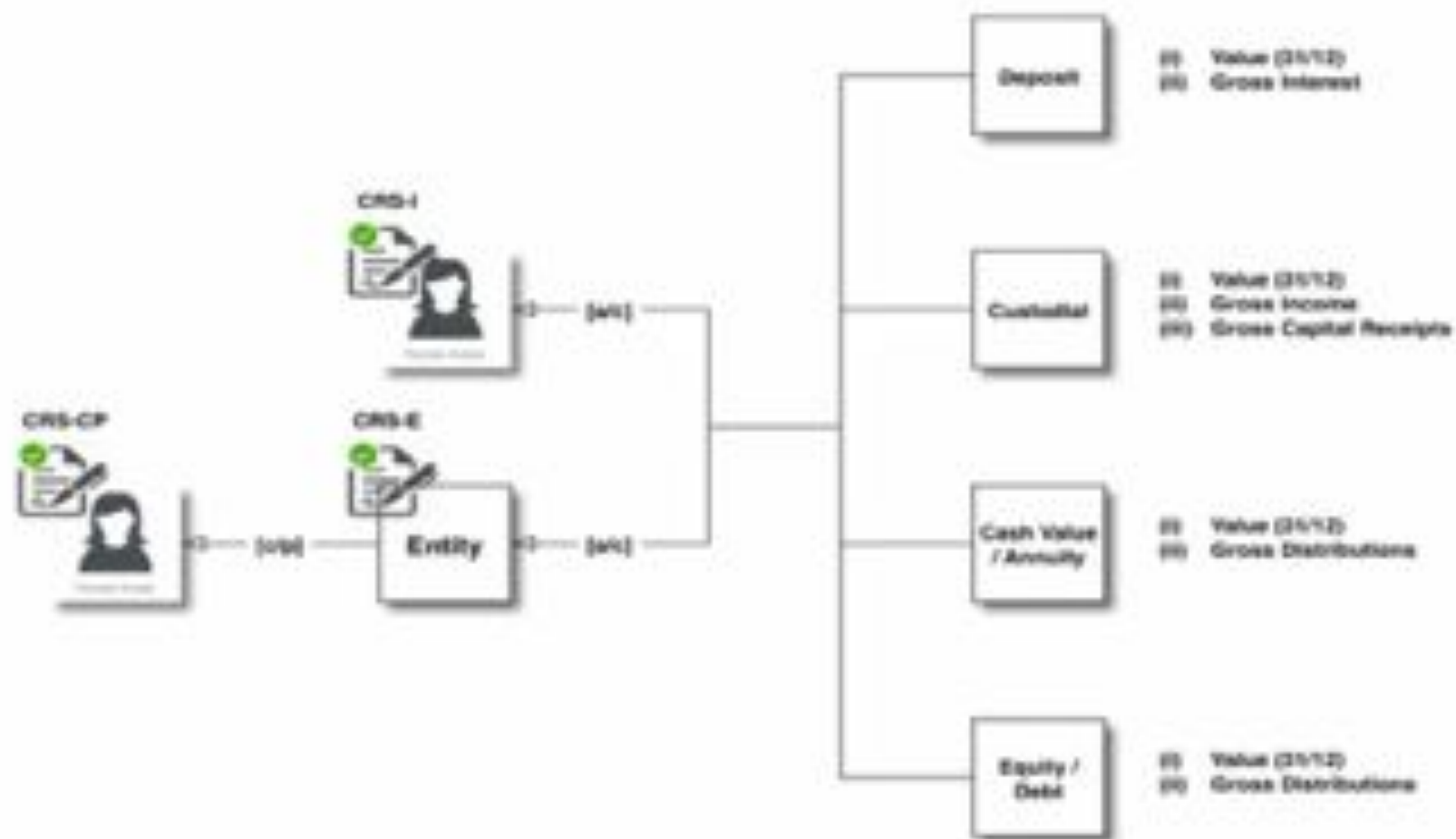














## Section VII: Special Due Diligence Rules

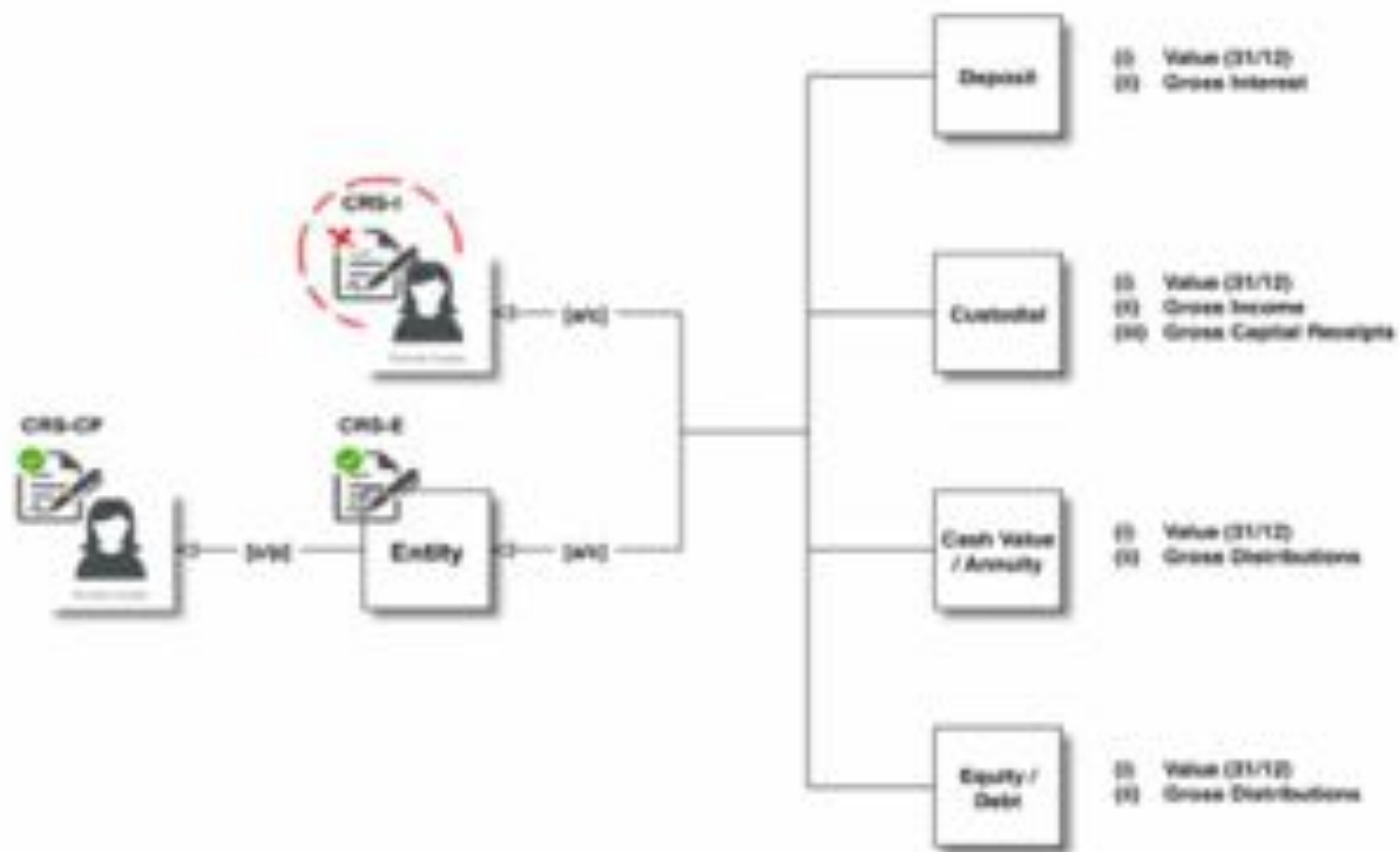
The following additional rules apply in implementing the due diligence procedures described above:

- A. Reliance on Self-Certifications and Documentary Evidence. A Reporting Financial Institution may not rely on a self-certification or Documentary Evidence if the Reporting Financial Institution knows or has reason to know that the self-certification or Documentary Evidence is incorrect or unreliable.

3. A Reporting Financial Institution has reason to know that a self-certification or Documentary Evidence is unreliable or incorrect if its knowledge of relevant facts or statements contained in the self-certification or other documentation, including the knowledge of the relevant relationship managers, if any (see paragraphs 38-42 and 50 of the Commentary on Section III), is such that a reasonably prudent person in the position of the Reporting Financial Institution would question the claim being made. A Reporting Financial Institution also has reason to know that a self-certification or Documentary Evidence is unreliable or incorrect if there is information in the documentation or in the Reporting Financial Institution's account files that conflicts with the person's claim regarding its status.

17. A “change in circumstances” includes any change that results in the addition of information relevant to a person’s status or otherwise conflicts with such person’s status. In addition, a change in circumstances includes any change or addition of information to the account holder’s account (including the addition, substitution, or other change of an account holder) or any change or addition of information to any account associated with such account (applying the account aggregation rules described in subparagraphs C(1) through (3) of Section VII) if such change or addition of information affects the status of the account holder.

Active Account Monitoring  
vs.  
Reactive Account Monitoring



4. **Relationship Manager Inquiry for Actual Knowledge.** In addition to the electronic and paper record searches described above, the Reporting Financial Institution must treat as a Reportable Account any High Value Account assigned to a relationship manager (including any Financial Accounts aggregated with that High Value Account) if the relationship manager has actual knowledge that the Account Holder is a Reportable Person.

9. A Reporting Financial Institution must implement procedures to ensure that a relationship manager identifies any change in circumstances of an account. For example, if a relationship manager is notified that the Account Holder has a new mailing address in a Reportable Jurisdiction, the Reporting Financial Institution is required to treat the new address as a change in circumstances and, if it elects to apply subparagraph B(6), is required to obtain the appropriate documentation from the Account Holder.



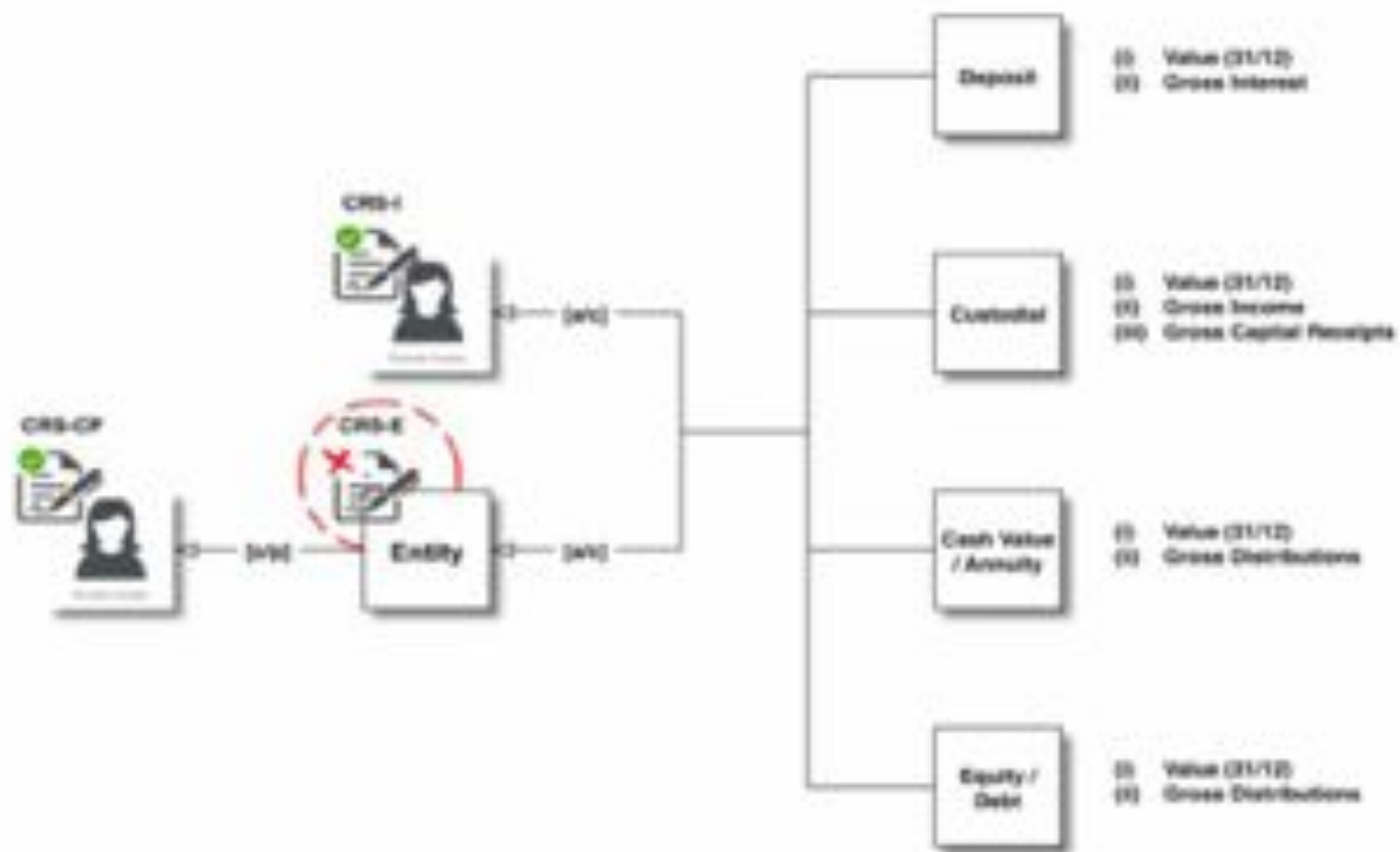
Similarly, with respect to the relationship manager inquiry, annual verifications would suffice without there being a requirement for a relationship manager to confirm on an account-by-account basis that it does not have actual knowledge that each Account Holder assigned to him is a Reportable Person.



In addition, a Reporting Financial Institution does not know or have reason to know that a self-certification or Documentary Evidence is unreliable or incorrect solely because it discovers any of the indicia listed in subparagraph B(2)(c) through (e) of Section III and such indicia conflicts with the self-certification or Documentary Evidence.

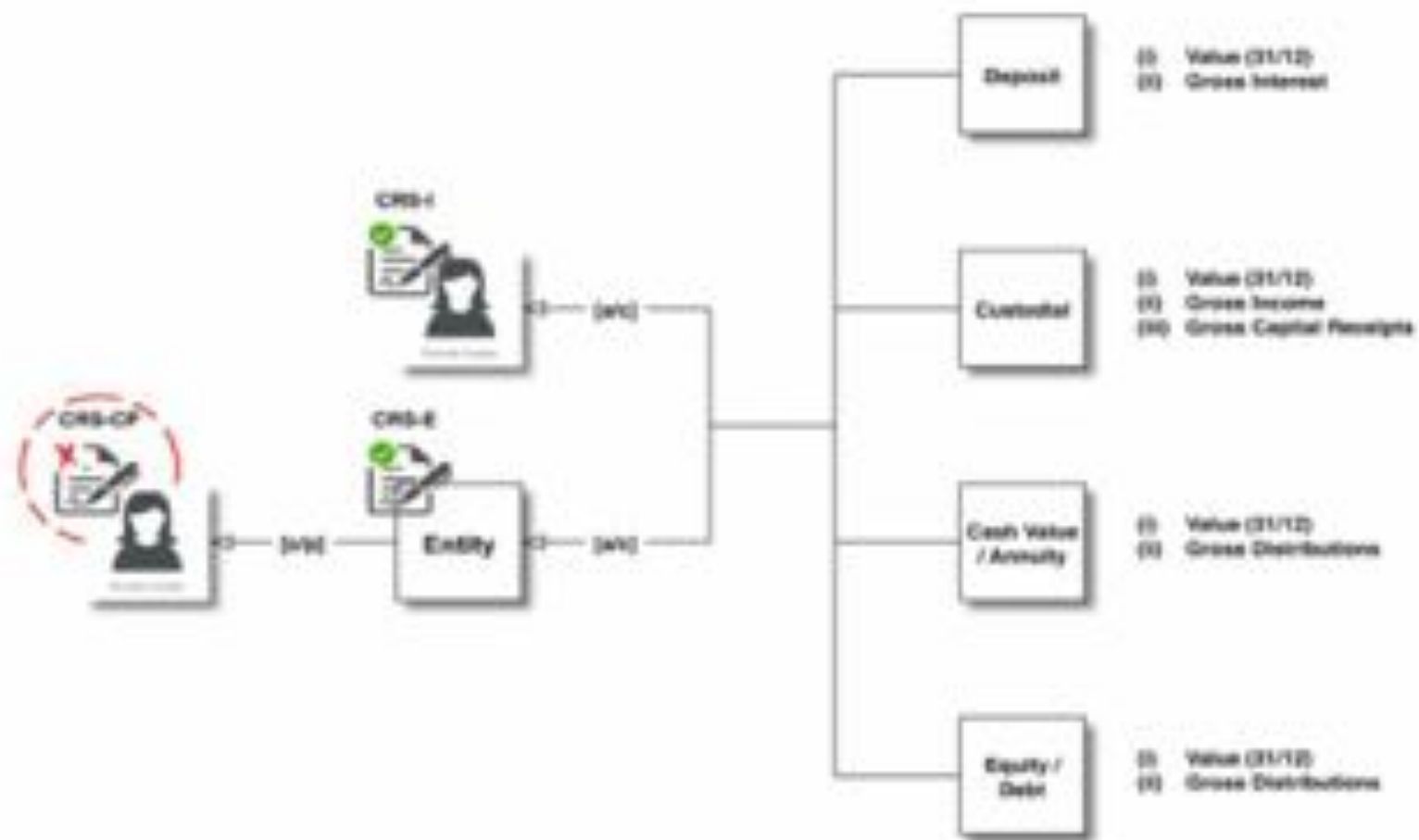
2. **Electronic Record Search.** If the Reporting Financial Institution does not rely on a current residence address for the individual Account Holder based on Documentary Evidence as set forth in subparagraph B(1), the Reporting Financial Institution must review electronically searchable data maintained by the Reporting Financial Institution for any of the following indicia and apply subparagraphs B(3) through (6):
- a)
  - b)
  - c) One or more telephone numbers in a Reportable Jurisdiction and no telephone number in the jurisdiction of the Reporting Financial Institution;
  - d) Standing instructions (other than with respect to a Depository Account) to transfer funds to an account maintained in a Reportable Jurisdiction;
  - e) Currently effective power of attorney or signatory authority granted to a person with an address in a Reportable Jurisdiction; or
  - f)

A Reporting Financial Institution may rely on a self-certification without having to inquire into possible changes of circumstances that may affect the validity of the statement, unless it knows or has reason to know that circumstances have changed.



*Limits on reason to know*

8. For purposes of determining whether a Reporting Financial Institution that maintains a Preexisting Entity Account has reason to know that the status applied to the Entity is unreliable or incorrect, the Reporting Financial Institution is only required to review information contradicting the status claimed if such information is contained in the current customer master file, the most recent self-certification and Documentary Evidence for the person, the most recent account opening contract, and the most recent documentation obtained by the Reporting Financial Institution for purposes of AML/KYC Procedures or for other regulatory purposes.



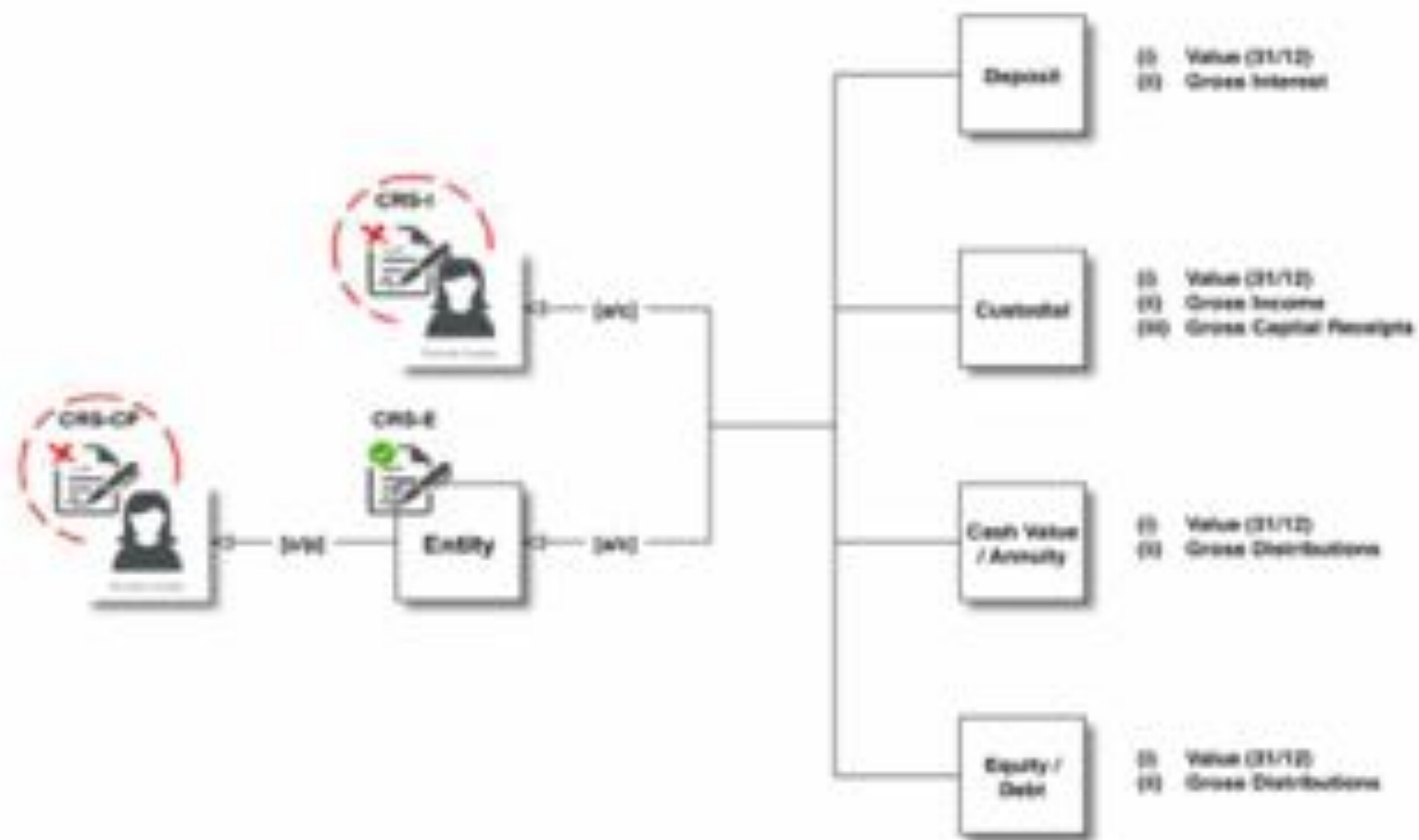


A Reporting Financial Institution may rely on a self-certification without having to inquire into possible changes of circumstances that may affect the validity of the statement, unless it knows or has reason to know that circumstances have changed.

Active Account Monitoring  
vs.  
Reactive Account Monitoring



# Residence by Investment Schemes



# Residence Blacklist:

*Last updated: 20 November 2018*

Jurisdiction	Name of CBI/RBI scheme
Antigua and Barbuda	Antigua and Barbuda Citizenship by Investment
Antigua and Barbuda	Permanent Residence Certificate
Bahamas	Bahamas Economic Permanent Residency
Bahrain	Bahrain Residence by Investment
Barbados	Special Entry and Residence Permit
Cyprus	Citizenship by Investment: Scheme for Naturalisation of Investors in Cyprus by Exception
Cyprus	Residence by Investment
Dominica	Citizenship by Investment
Grenada	Grenada Citizenship by Investment
Malaysia	Malaysia My Second Home Programme
Malta	Malta Individual Investor Programme
Malta	Malta Residence and Visa Programme
Qatar	Residence Visa for Real Estate Owner

# Residence Blacklist:

Saint Kitts and Nevis	Citizenship by Investment
Saint Kitts and Nevis	Residence by Investment
Saint Lucia	Citizenship by Investment Saint Lucia
Seychelles	Type 1 Investor Visa
Turks and Caicos Islands	Permanent Residence Certificate via Undertaking and Investment in a Home
Turks and Caicos Islands	Permanent Residence Certificate via Investment in a Designated Public Sector Project
Turks and Caicos Islands	Permanent Residence Certificate via Investment in a Home or Business
United Arab Emirates	UAE Residence by Investment
Vanuatu	Development Support Programme
Vanuatu	Self-Funded Visa
Vanuatu	Land-Owner Visa
Vanuatu	Investor Visa

The information in the table reflects the current state of the OECD's analysis of CBI/CIR schemes and will be updated on an ongoing basis.

### What should Financial Institutions do?

Under Section VII of the CRS, a Financial Institution may not rely on a self-certification or Documentary Evidence if the Financial Institution knows or has reason to know, that the self-certification or Documentary Evidence is incorrect or unreliable. The same applies with respect to Pre-existing High-Value Accounts where a relationship manager has actual knowledge that the self-certification or Documentary Evidence is incorrect or unreliable.

In making the determination whether a Financial Institution has reason to know that a self-certification or Documentary Evidence is incorrect or unreliable, it should take into account all relevant information available to the Financial Institution, including the results of the OECD's CBI/RBI risk analysis. As a result, where, taking into account all relevant information, the facts and circumstances would lead the Financial Institution to have doubts as to the tax residency(ies) of an Account Holder or Controlling Person, it should take appropriate measures to ascertain the tax residency(ies) of such persons.

To the extent that the doubt is related to the fact that the Account Holder or Controlling Person is claiming residence in a jurisdiction offering a potentially high-risk CBI/RBI scheme, Fis may consider raising further questions, including:

- Did you obtain residence rights under an CBI/RBI scheme?
- Do you hold residence rights in any other jurisdiction(s)?
- Have you spent more than 90 days in any other jurisdiction(s) during the previous year?
- In which jurisdiction(s) have you filed personal income tax returns during the previous year?

The responses to the above questions should assist Financial Institutions in ascertaining whether the provided self-certification or Documentary Evidence is incorrect or unreliable.

To the extent that the doubt is related to the fact that the Account Holder or Controlling Person is claiming residence in a jurisdiction offering a potentially high-risk CBI/RBI scheme, FIs may consider raising further questions, including:

- Did you obtain residence rights under an CBI/RBI scheme?
- Do you hold residence rights in any other jurisdiction(s)?
- Have you spent more than 90 days in any other jurisdiction(s) during the previous year?
- In which jurisdiction(s) have you filed personal income tax returns during the previous year?

The responses to the above questions should assist Financial Institutions in ascertaining whether the provided self-certification or Documentary Evidence is incorrect or unreliable.

# Account Monitoring: 1<sup>st</sup> Degree Analysis

# 1<sup>st</sup> Degree Analysis Overview

- Overview Analysis
- Investment Trust Analysis







- (i) Account Close
- (ii) Death
- (iii) Incapacity
- (iv) Change Tax Residence





- (i) Account Close
- (ii) Death
- (iii) Incapacity
- (iv) Change Tax Residence



Managed Investment Trust

- (i) Change Tax Residence
- (ii) Change of Status
- (iii) Liquidation/Termination

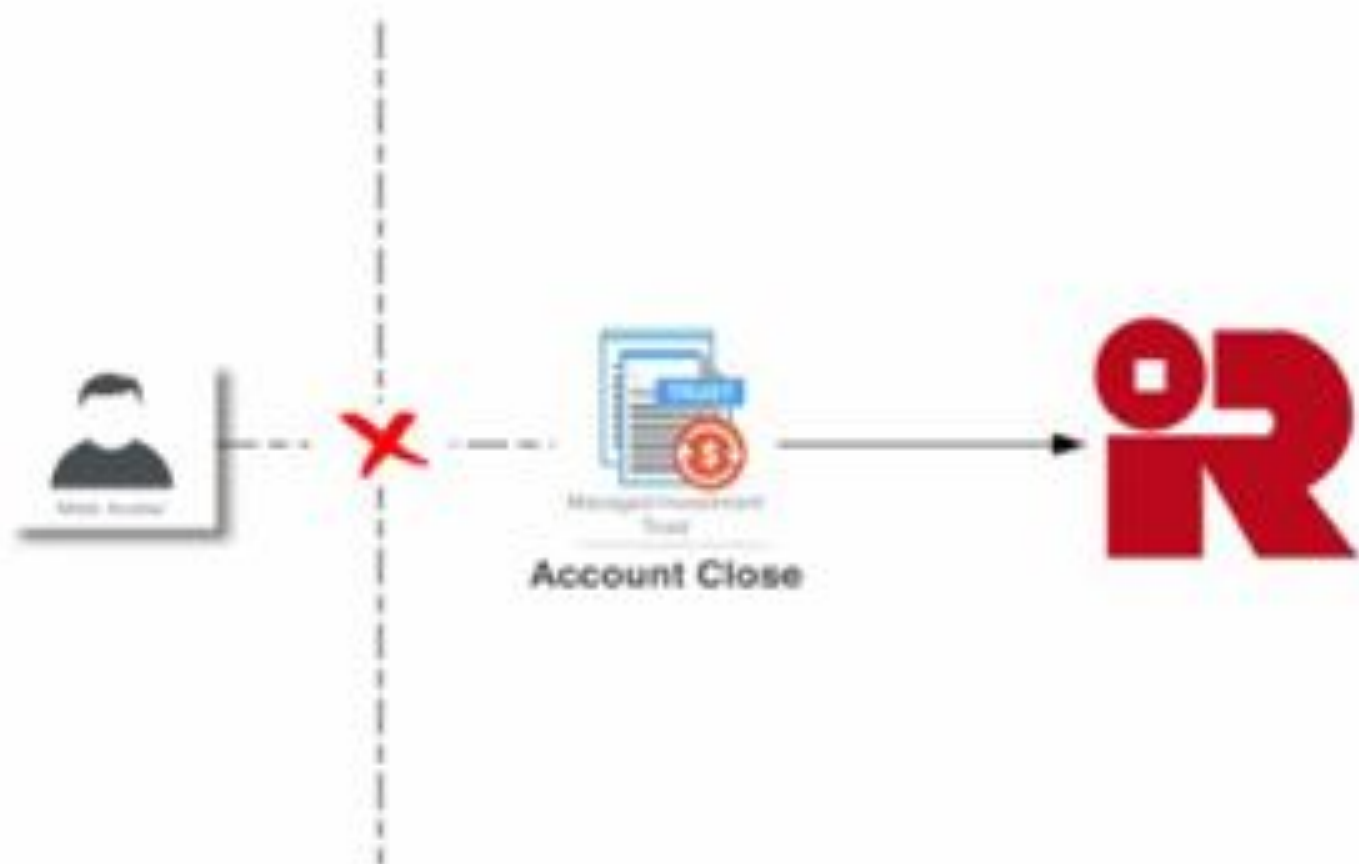


# Account Closure

14. In the case of an account closure, the Reporting Financial Institution has no obligation to report the account balance or value before or at closure, but must report that the account was closed.

Where a Reportable Account is closed, information with respect to that account must be reported until the date of closure.









# Death of Account Holder

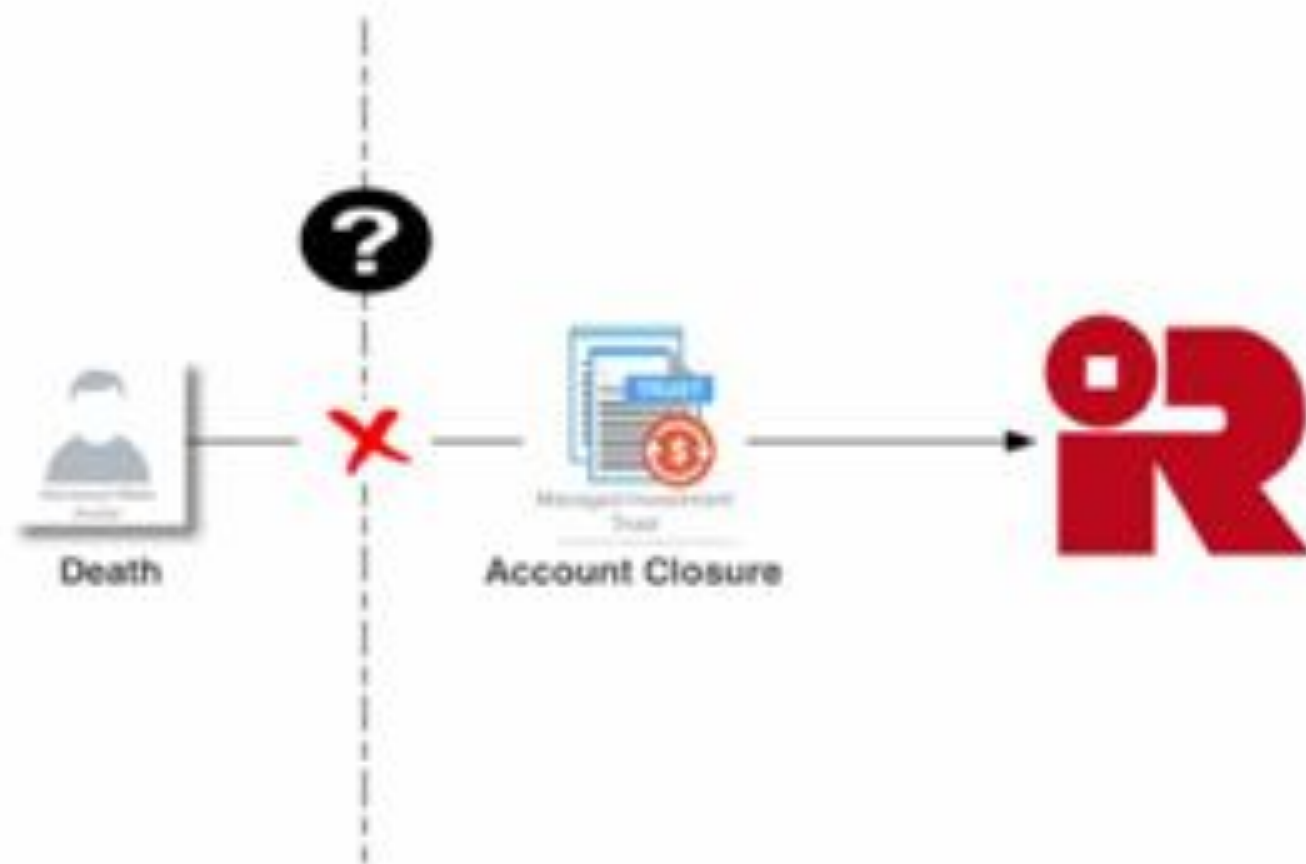




## Estate accounts

92. According to subparagraph C(17)(d), an account that is held solely by an estate can be an Excluded Account if the documentation for such account includes a copy of the deceased's will or death certificate. For this purpose, the Reporting Financial Institution must treat the account as having the same status that it had prior to the death of the Account Holder until the date it obtains such copy. In determining what is meant by "estate", reference must be made to each jurisdiction's particular rules on the transfer or inheritance of rights and obligations in the event of death (e.g. the rules on universal succession).





In determining when an account is "closed", reference must be made to the applicable law in a particular jurisdiction. If the applicable law does not address closure of accounts, an account will be considered to be closed according to the normal operating procedures of the Reporting Financial Institution that are consistently applied for all accounts maintained by such institution.







## Automatic exchange of information - CRS and FATCA

- [What new changes will be implemented in the automatic exchange of information - CRS and FATCA](#)
- Last modified: 10 Nov 2015
- 1.02, 4000

## Automatic exchange of information guidance - CRS and FATCA

This information is intended to help you understand your obligations under automatic participation in Australia's Exchange of Information (EOI) regime, covering the automatic exchange of financial account information with foreign partners.

These guidance documents apply to the Foreign Account Tax Compliance Act (FATCA) in the case of exchanges to Australia with the United States of America (US), and the Common Reporting Standard (CRS) in the standards, as the correct language - in the case of exchanges to Australia with other countries that have implemented the standard.

This guidance explains EOI obligations from 1 July 2017. The date for CRS deemed compliance is Australia 1 July 2018 (where applicable). For information on the guidance, see [ATO's CRS and FATCA FAQs](#) (1 July 2017).

There are also guidance documents covering issues FATCA and CRS. When the correct language for following CRS words, please see [ATO's CRS and FATCA FAQs](#) in the guidance.

CRS and FATCA are:

CRS	FATCA
Reporting Financial Institution (RFI)	Reporting Financial Institution (RFI)



Where a Reportable Person held a Financial Account at the time of death, there is an account closure for them for AEOI purposes. See section 5.6 for reporting on closed accounts.



# Account Holder Incapacity











139. A person, other than a Financial Institution, holding a Financial Account for the benefit or account of another person as agent, custodian, nominee, signatory, investment advisor, intermediary, or legal guardian, is not treated as holding the account according to subparagraph E(1). Instead, such other person is treated as holding the account. For these purposes, a Reporting Financial Institution may rely on information in its possession (including information collected pursuant to AML/KYC Procedures), based on which it can reasonably determine whether a person is acting for the benefit or account of another person.

# Account Holder Change of Tax Residence



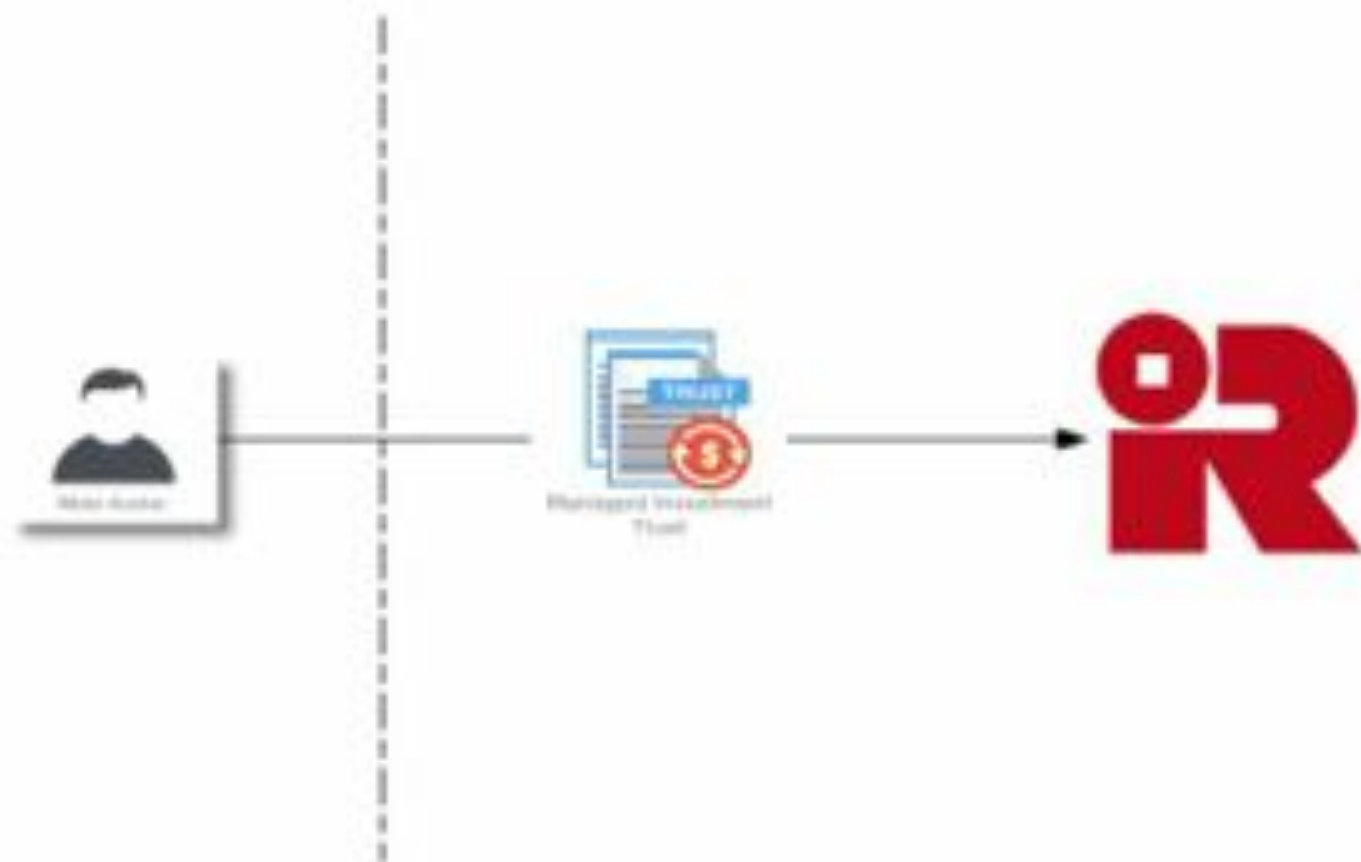






# Change of Tax Residence RFI

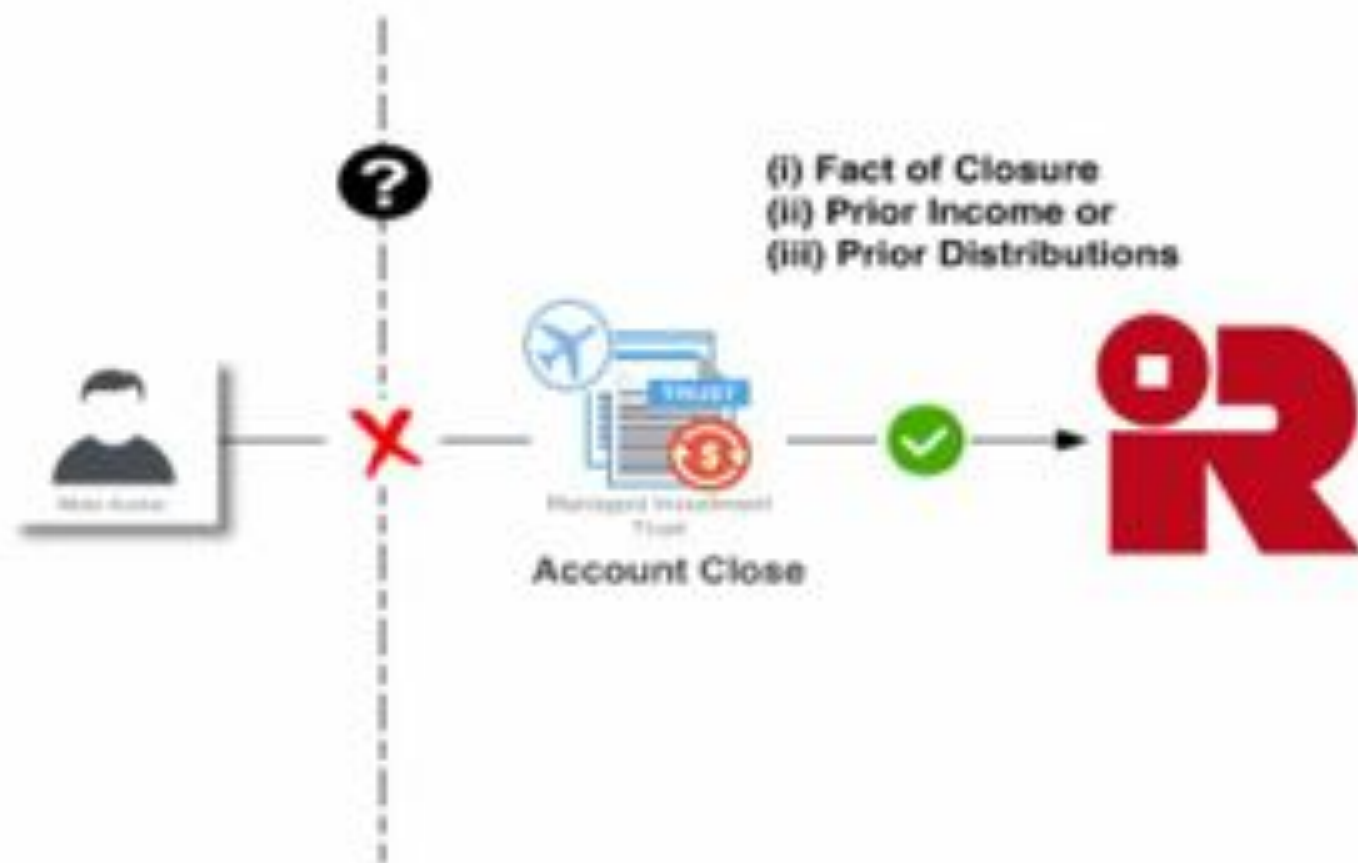














## Tax Information Authority



CAYMAN ISLANDS

### THE COMMON REPORTING STANDARD FOR AUTOMATIC EXCHANGE OF FINANCIAL ACCOUNT INFORMATION IN TAX MATTERS

Version 3.0

#### Guidance Notes

These Guidance Notes are issued under regulation 8(2) of the Tax Information Authority (International Tax Compliance) (Common Reporting Standard) Regulations, 2015 by the Tax Information Authority as the Competent Authority for the purposes of the legislation.

Date of issue: 15 March 2018

Department for International Tax Cooperation

Website: [www.dti.gov.ky](http://www.dti.gov.ky)  
Contact: Mr. Peter Stafford  
Email: [peter.stafford@dti.gov.ky](mailto:peter.stafford@dti.gov.ky)



c) *Migration (e.g. transfer by continuation) of Cayman Financial Institutions*

A Cayman Financial Institution which is migrating to another jurisdiction will be required to terminate its registration on the AEOI Portal by following the procedure prescribed in the AEOI Portal User Guide. In particular, the Cayman Financial Institution will be required to submit CRS Returns and a CRS Filing Declaration for the "stub" part of the year up to the date of migration unless it is migrating to another Participating Jurisdiction which will require the Financial Institution to make CRS Returns there by the end of the year of migration.

# Change of Status RFI

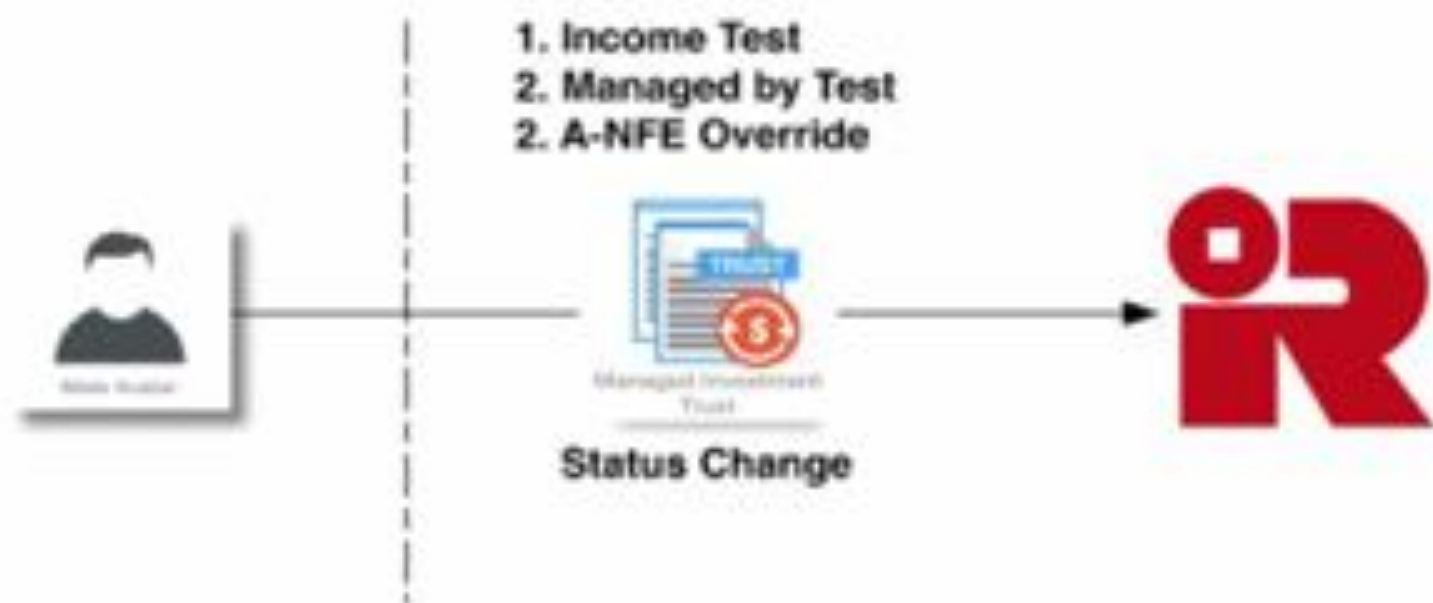




6. The term “**Investment Entity**” means any Entity:

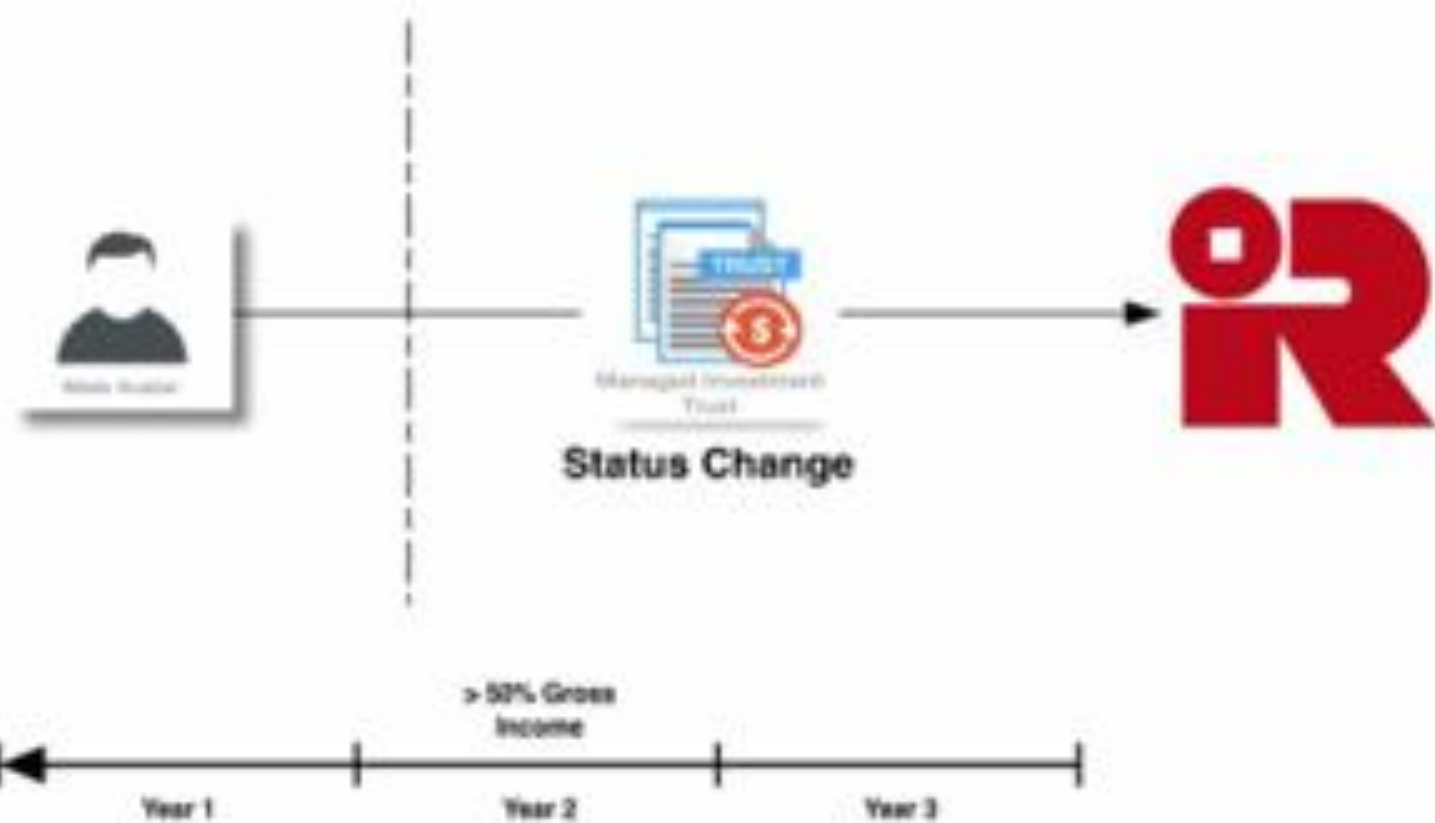
- b) the gross income of which is primarily attributable to investing, reinvesting, or trading in Financial Assets, if the Entity is managed by another Entity that is a Depository Institution, a Custodial Institution, a Specified Insurance Company, or an Investment Entity described in subparagraph A(6)(a).

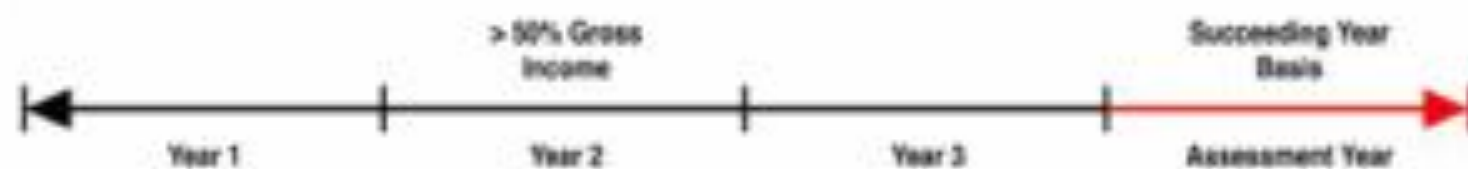




an Entity's gross income is primarily attributable to investing, reinvesting, or trading in Financial Assets for purposes of subparagraph A(6)(b), if the Entity's gross income attributable to the relevant activities equals or exceeds 50 per cent of the Entity's gross income during the shorter of: (i) the three-year period ending on 31 December of the year preceding the year in which the determination is made; or (ii) the period during which the Entity has been in existence.

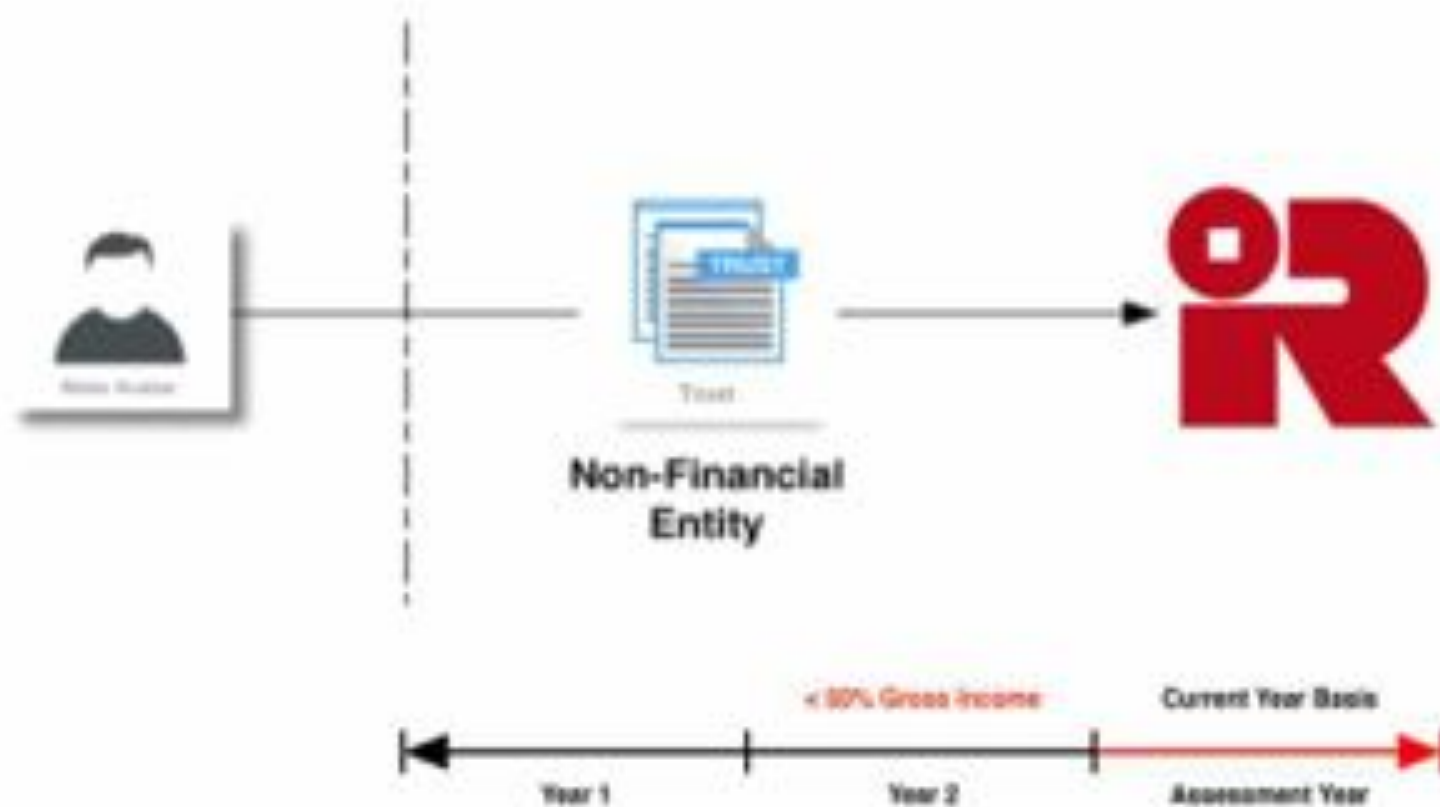
















An Entity is “managed by” another Entity if the managing Entity performs, either directly or through another service provider, any of the activities or operations described in subparagraph A(6)(a) on behalf of the managed Entity. However, an Entity does not manage another Entity if it does not have discretionary authority to manage the Entity’s assets (in whole or part).















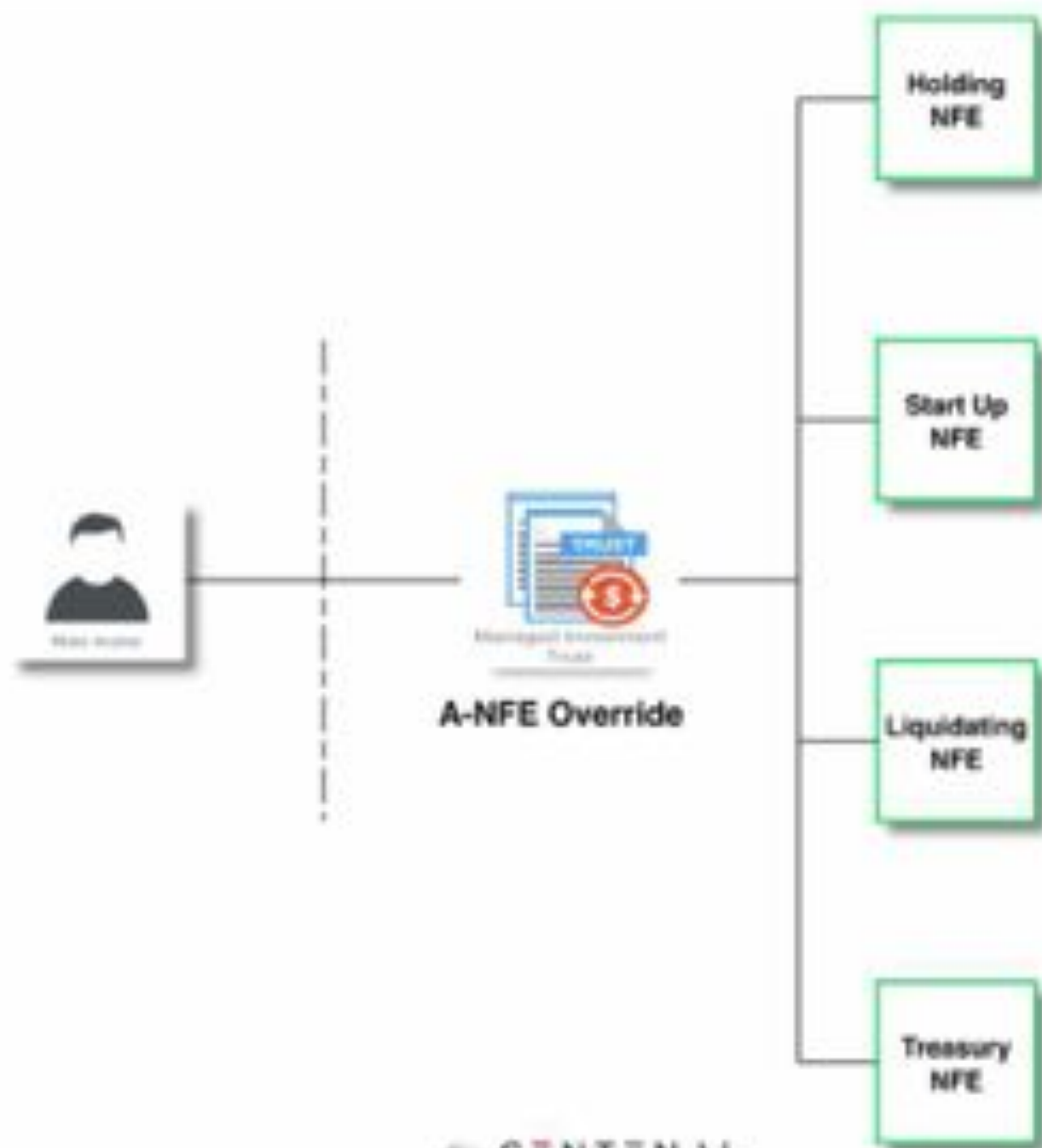
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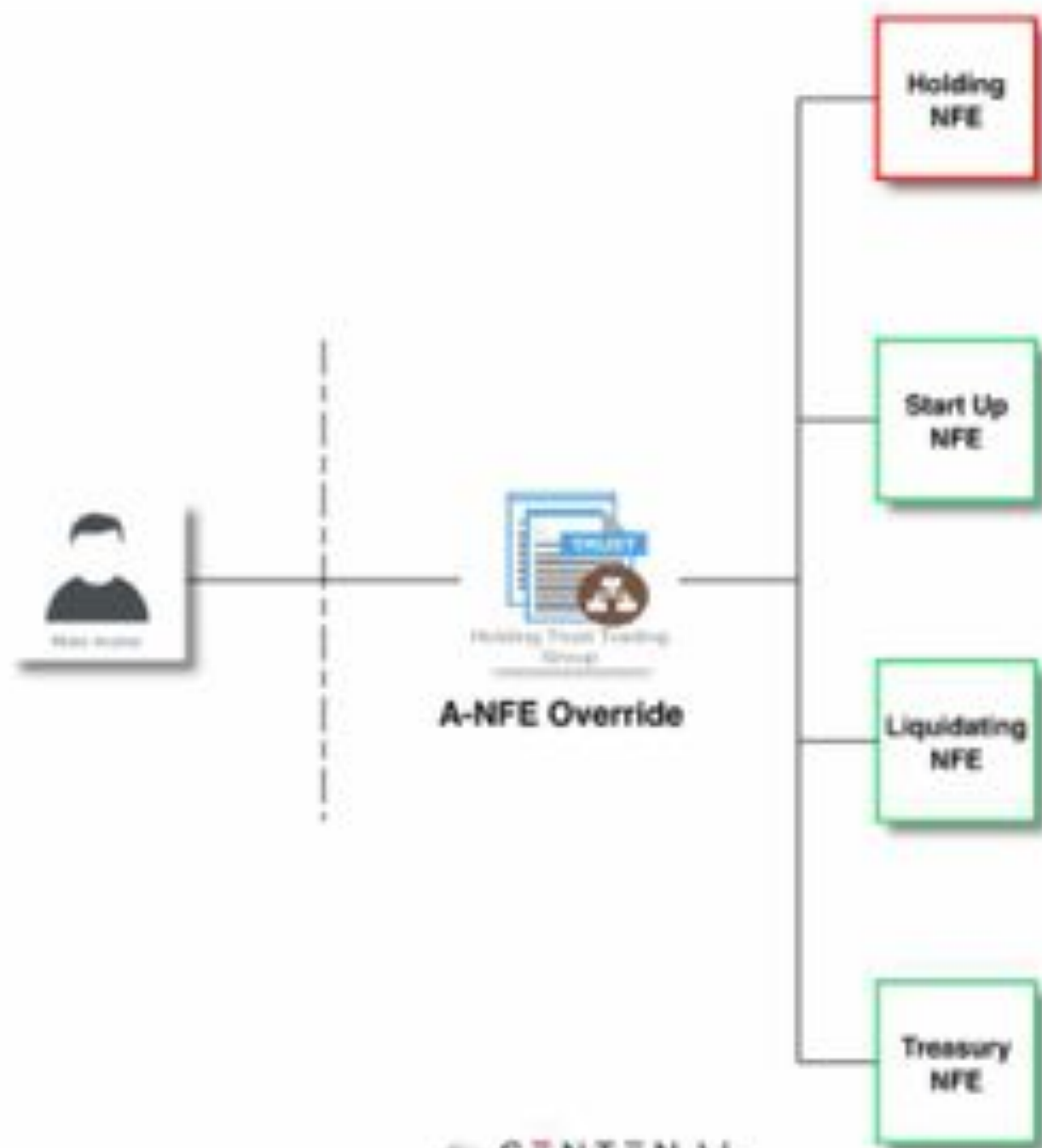
The term "Investment Entity" does not include an Entity that is an Active NFE because it meets any of the criteria in subparagraphs D(9)(d) through (g).



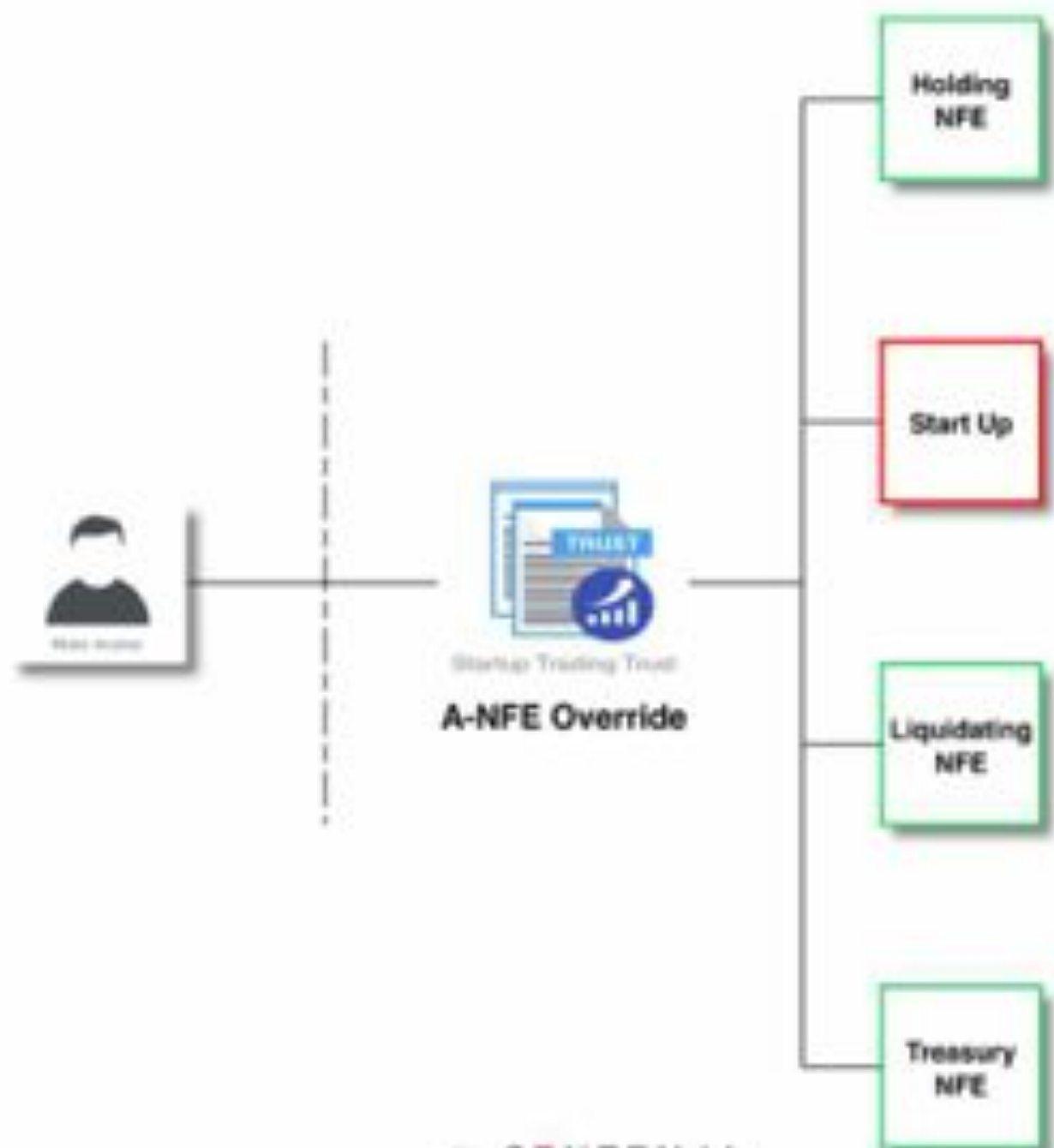




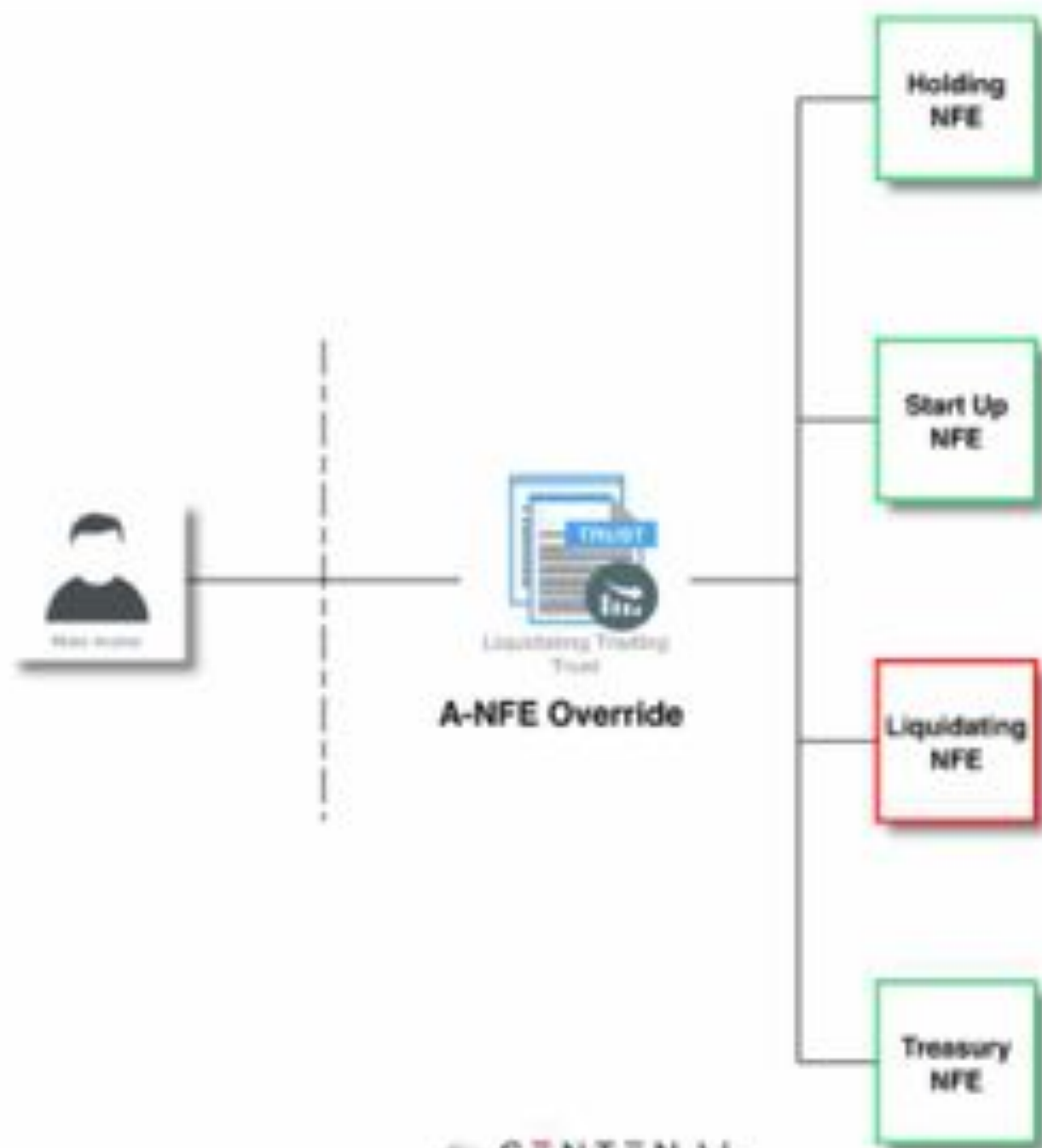




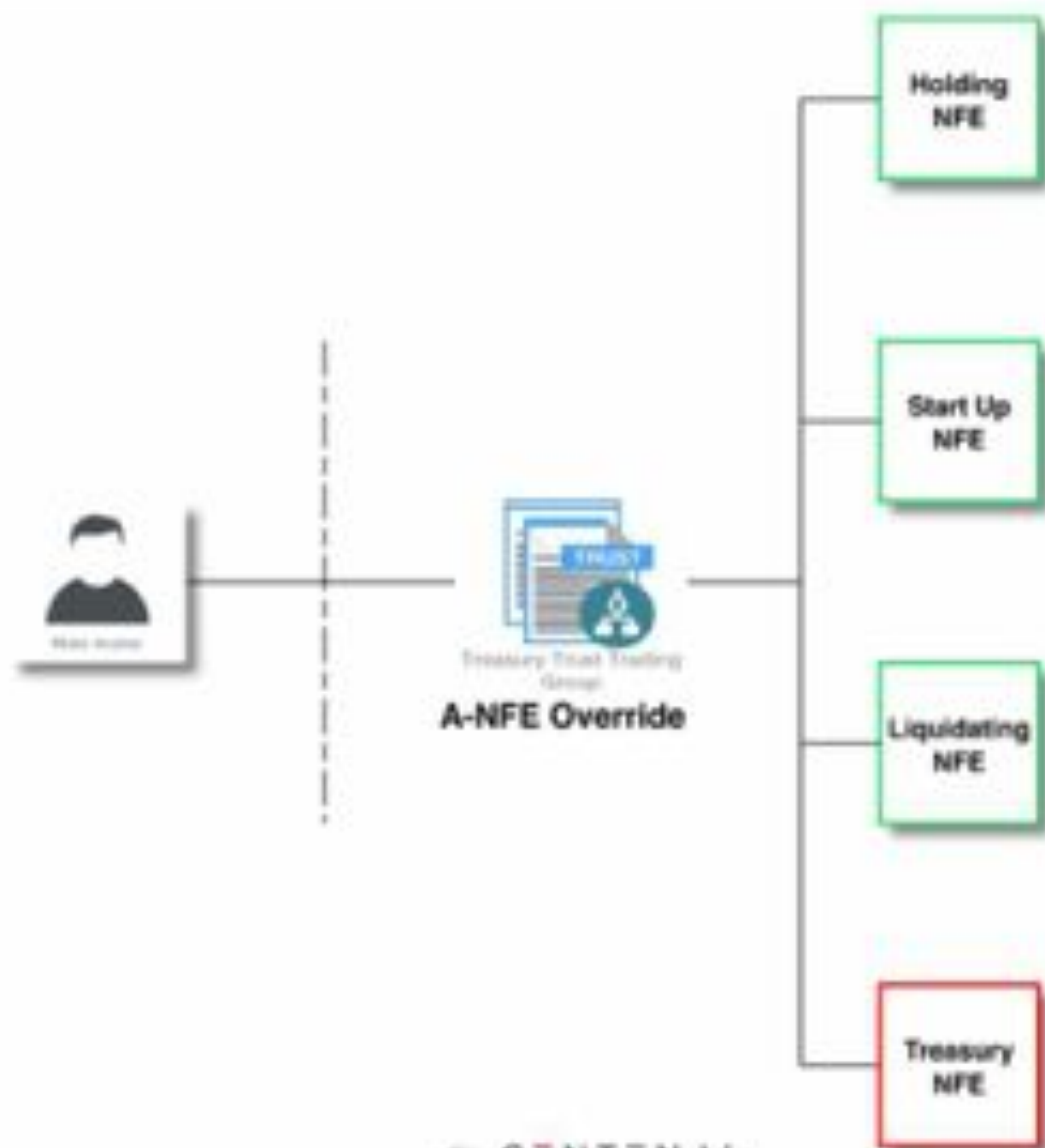
- d) Substantially all of the activities of the NFE consist of holding (in whole or in part) the outstanding stock of, or providing financing and services to, one or more subsidiaries that engage in trades or businesses other than the business of a Financial Institution, except that an NFE does not qualify for this status if the NFE functions (or holds itself out) as an investment fund, such as a private equity fund, venture capital fund, leveraged buyout fund, or any investment vehicle whose purpose is to acquire or fund companies and then hold interests in those companies as capital assets for investment purposes;



- c) The NFE is not yet operating a business and has no prior operating history, but is investing capital into assets with the intent to operate a business other than that of a Financial Institution, provided that the NFE does not qualify for this exception after the date that is 24 months after the date of the initial organization of the NFE;

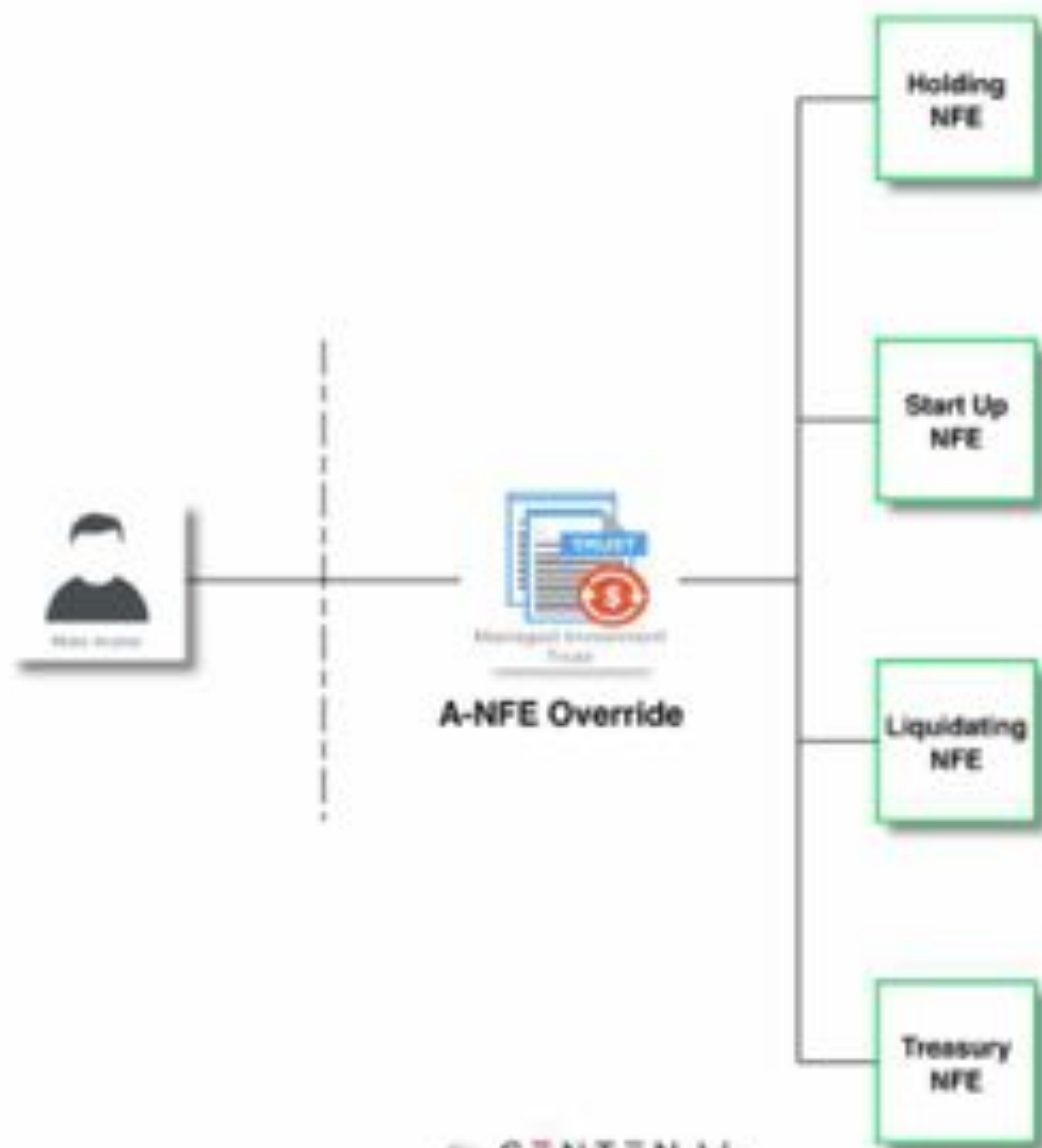


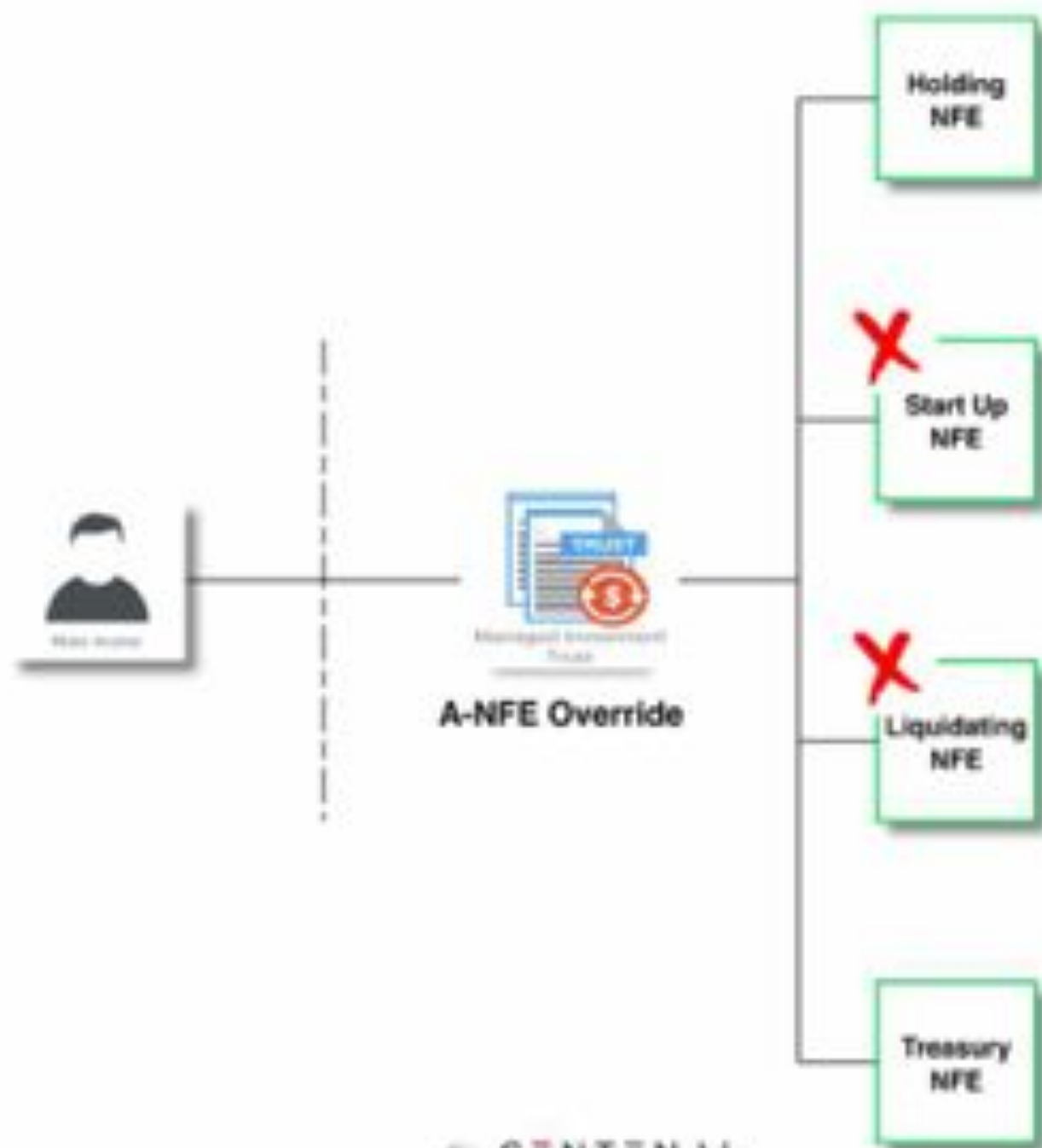
- f) The NFE was not a Financial Institution in the past five years, and is in the process of liquidating its assets or is reorganizing with the intent to continue or recommence operations in a business other than that of a Financial Institution;



g) The NFE primarily engages in financing and hedging transactions with, or for, Related Entities that are not Financial Institutions, and does not provide financing or hedging services to any Entity that is not a Related Entity, provided that the group of any such Related Entities is primarily engaged in a business other than that of a Financial Institution;











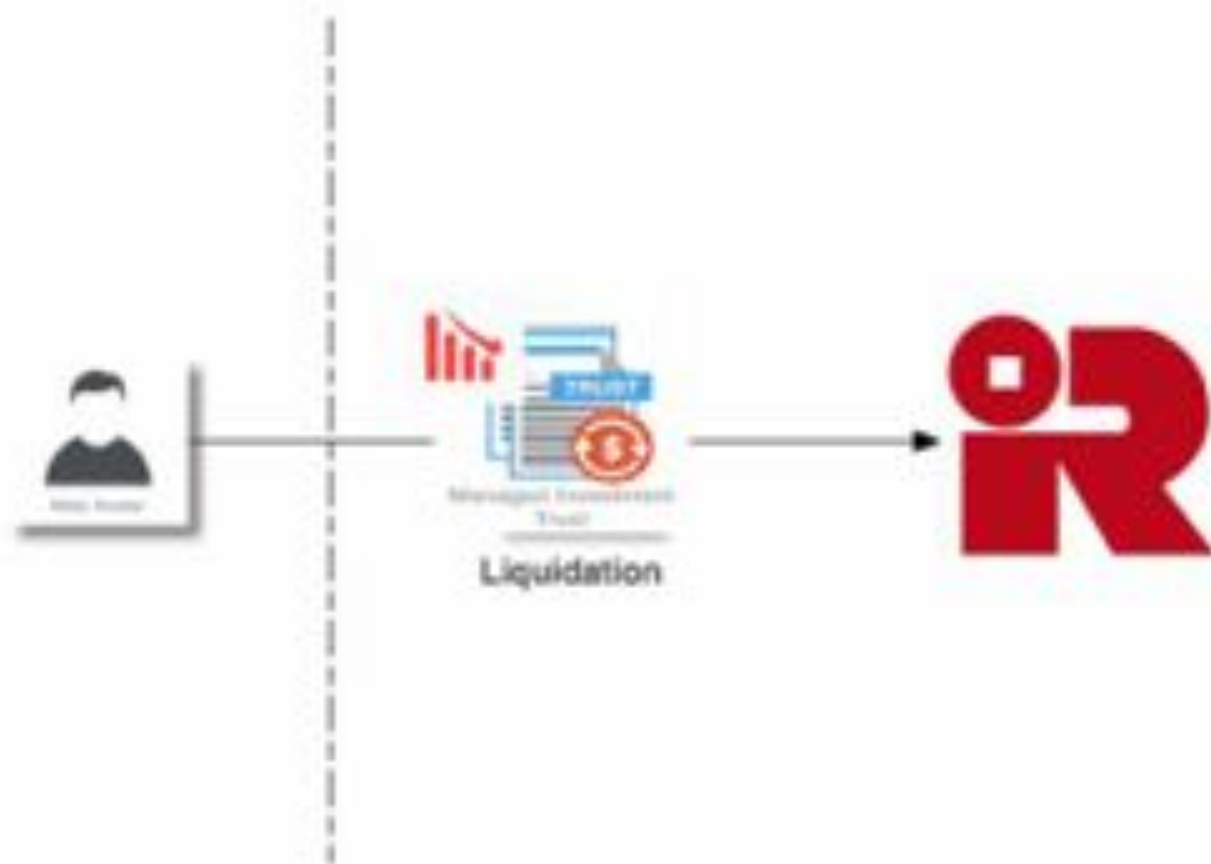


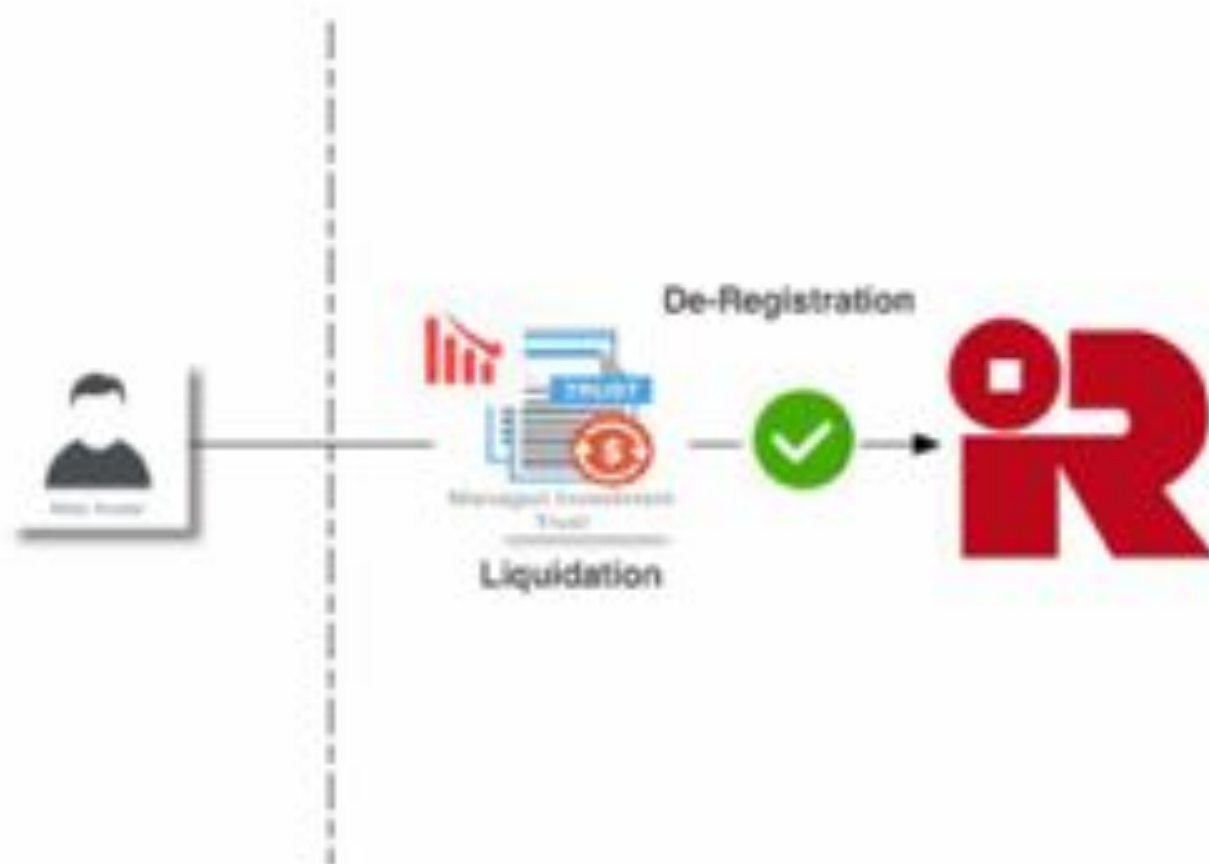


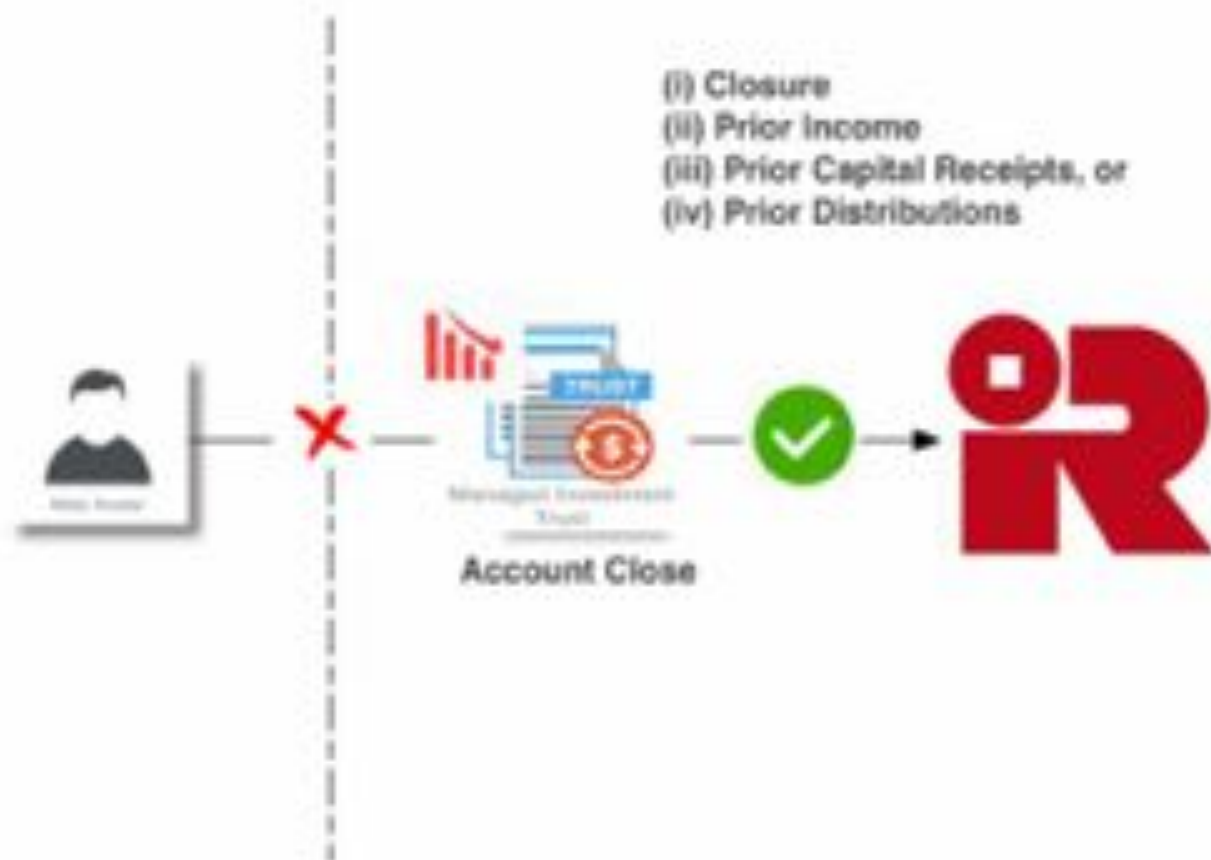
# Liquidation RFI









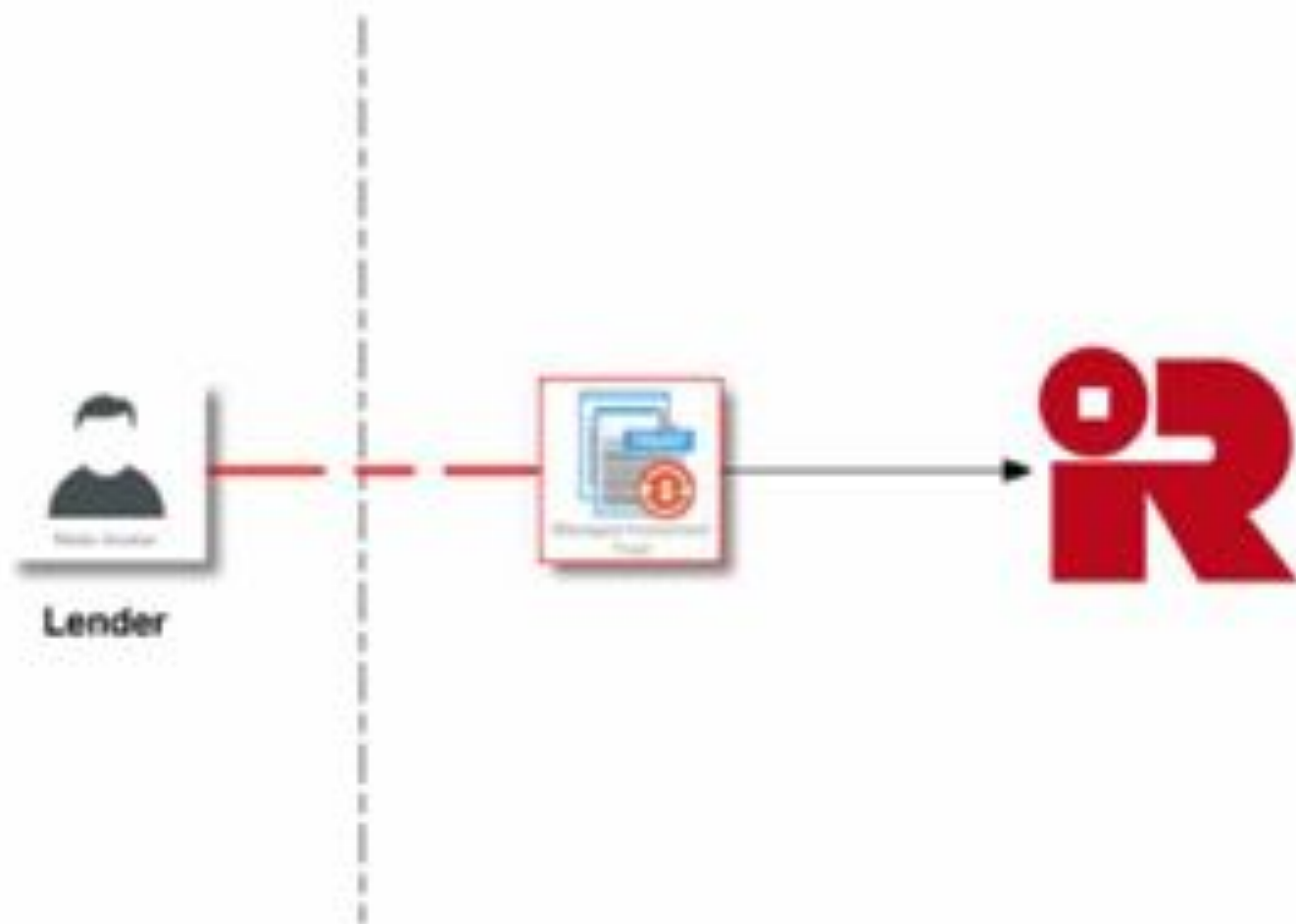


For example, an equity or debt interest in a Financial Institution would generally be considered to be closed upon termination, transfer, surrender, redemption, cancellation, or liquidation.

# 1<sup>st</sup> Degree Account Investment Trust Analysis

# Investment Trust Analysis

## Debt





**Lender**

- (i) Loan Redemption
- (ii) Loan Assignment
- (iii) Loan Write-Off







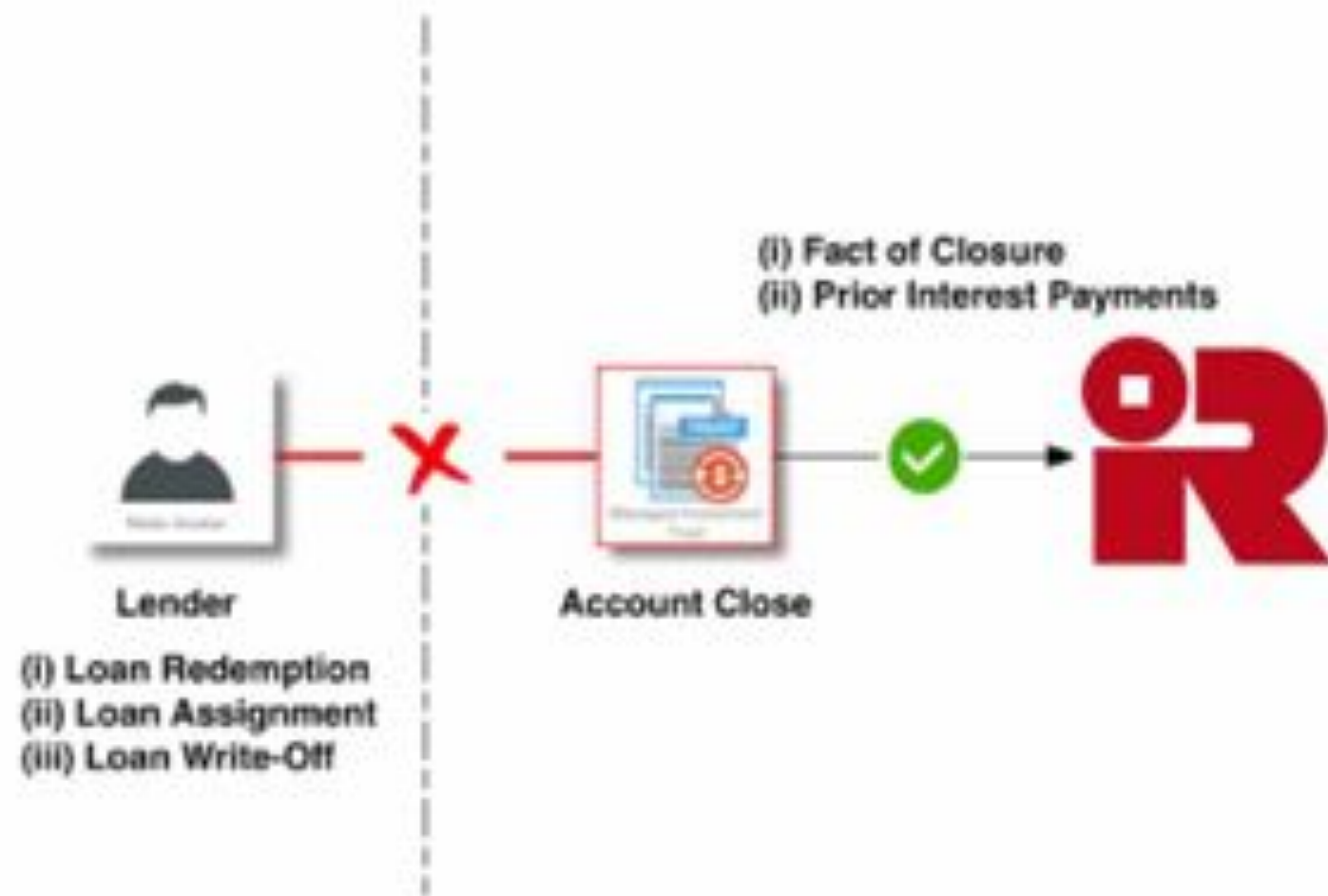
**Lender**

- (i) Loan Redemption
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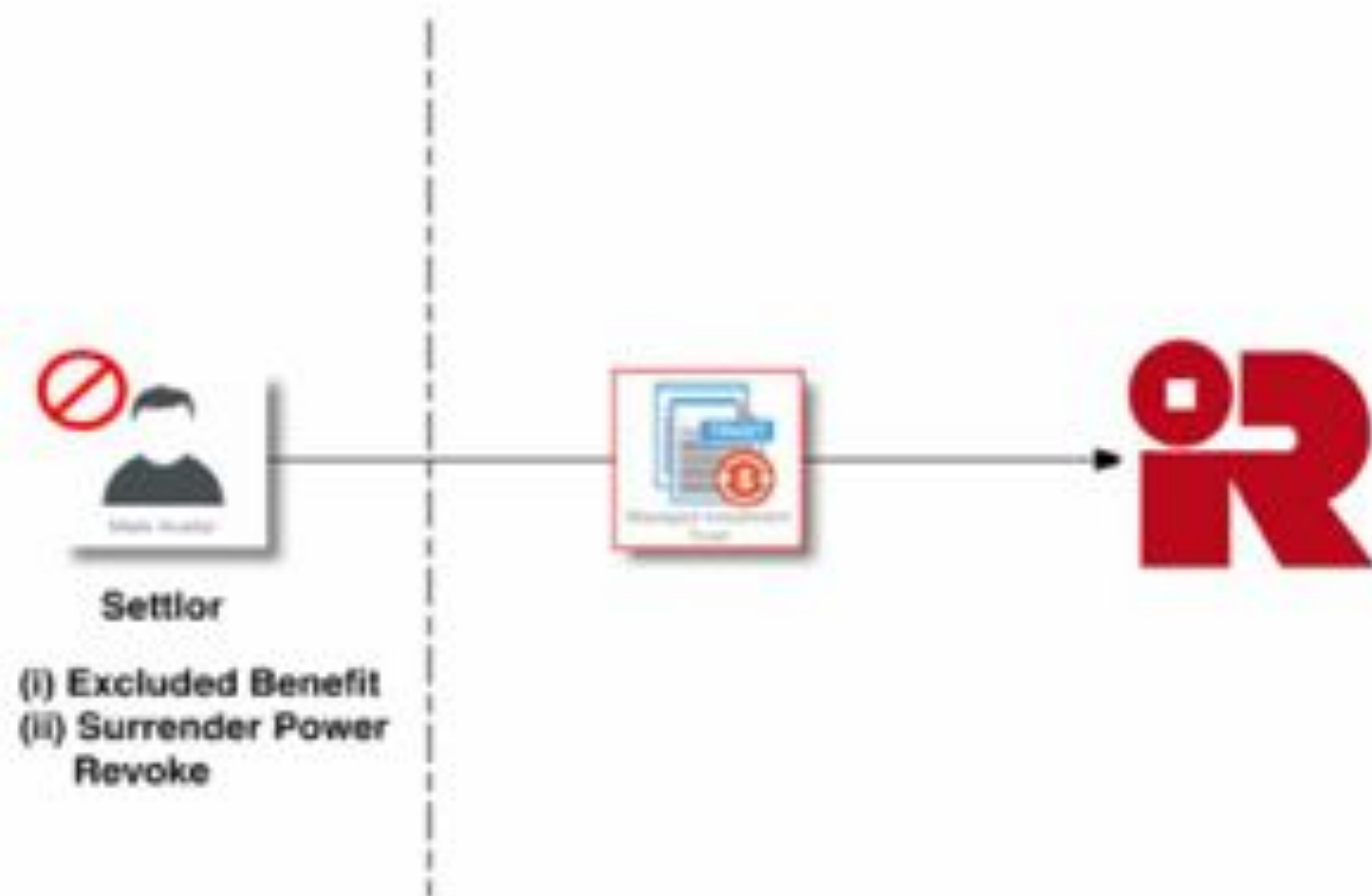
**Account Close**

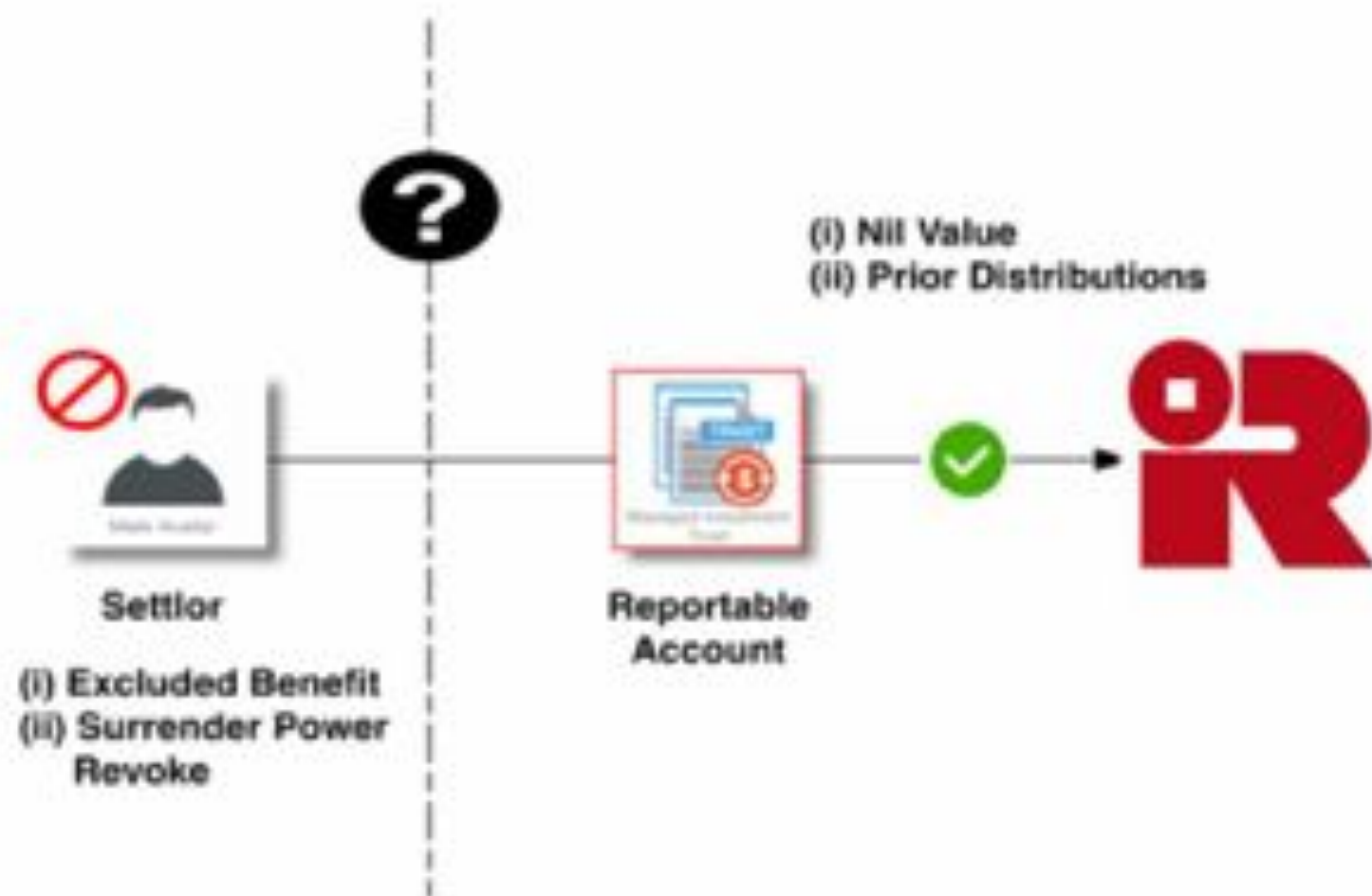




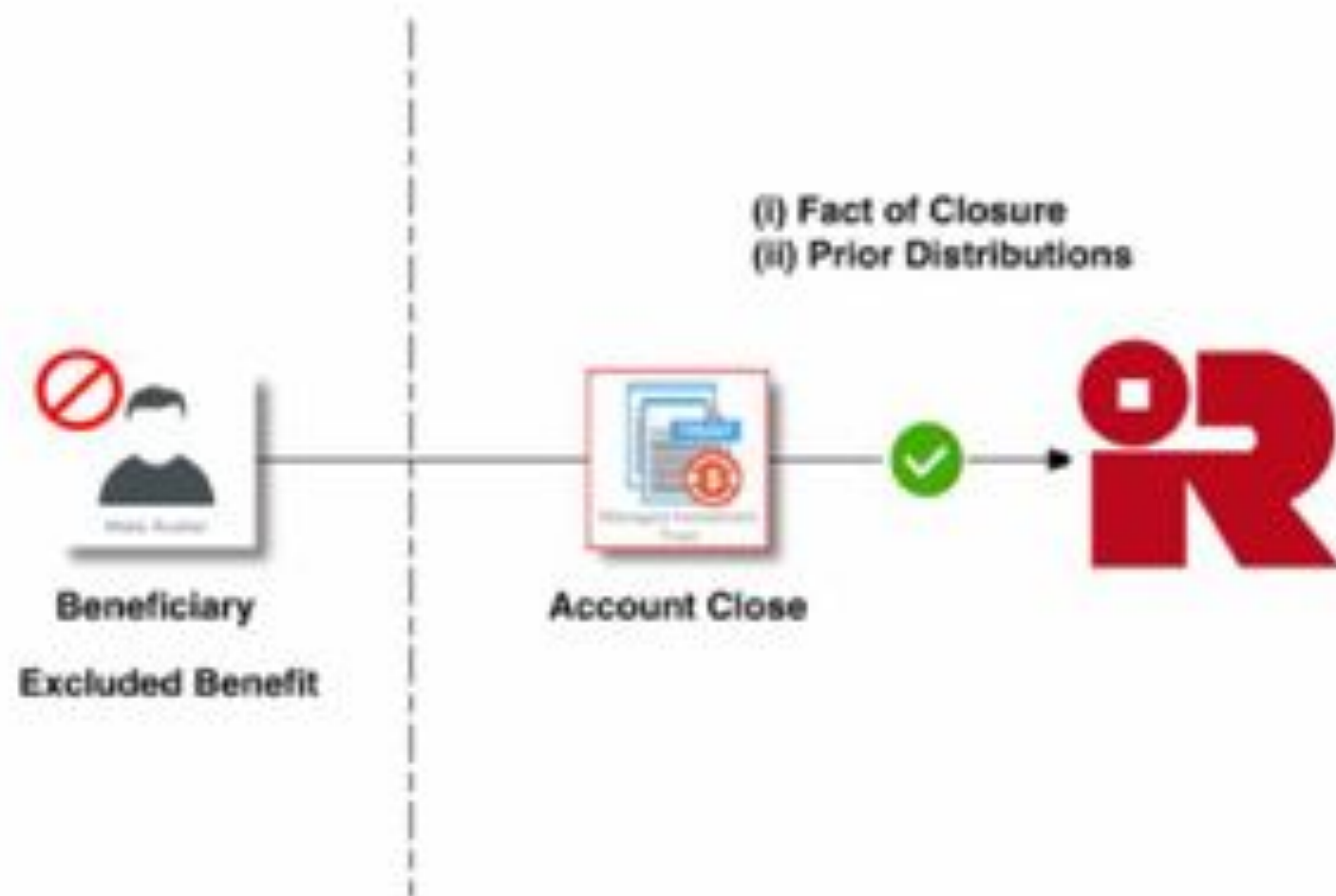
# Investment Trust Analysis Settlor



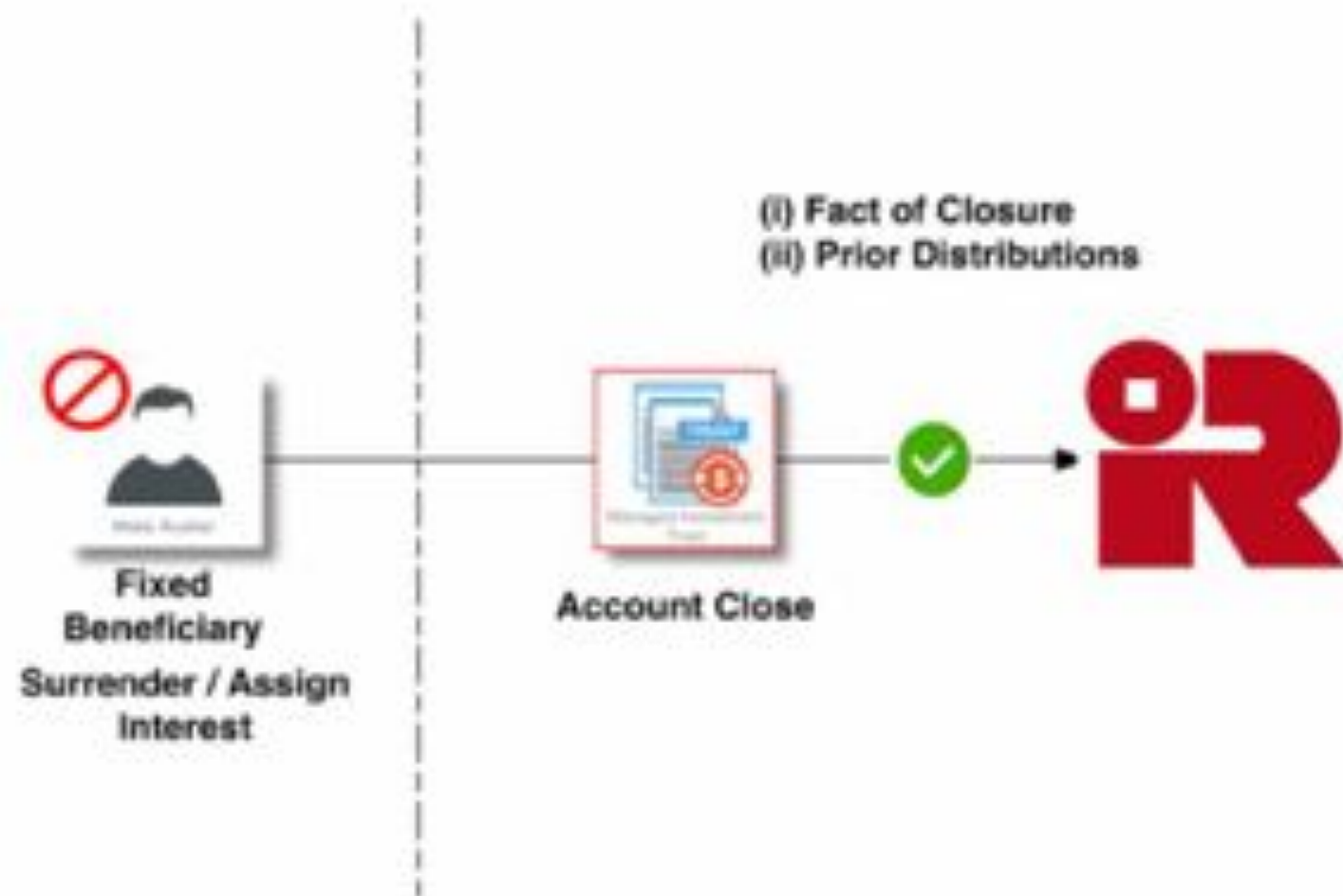


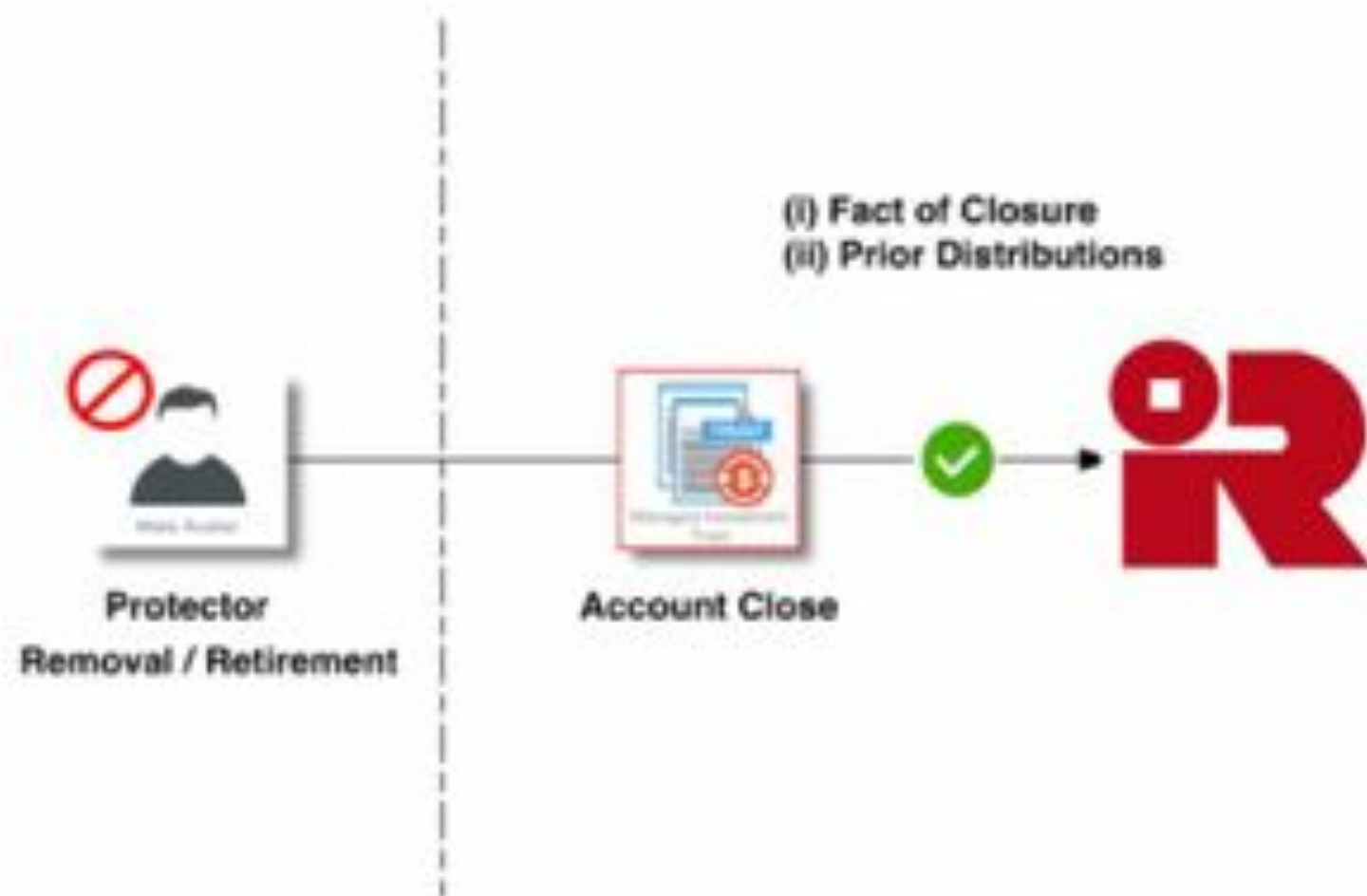


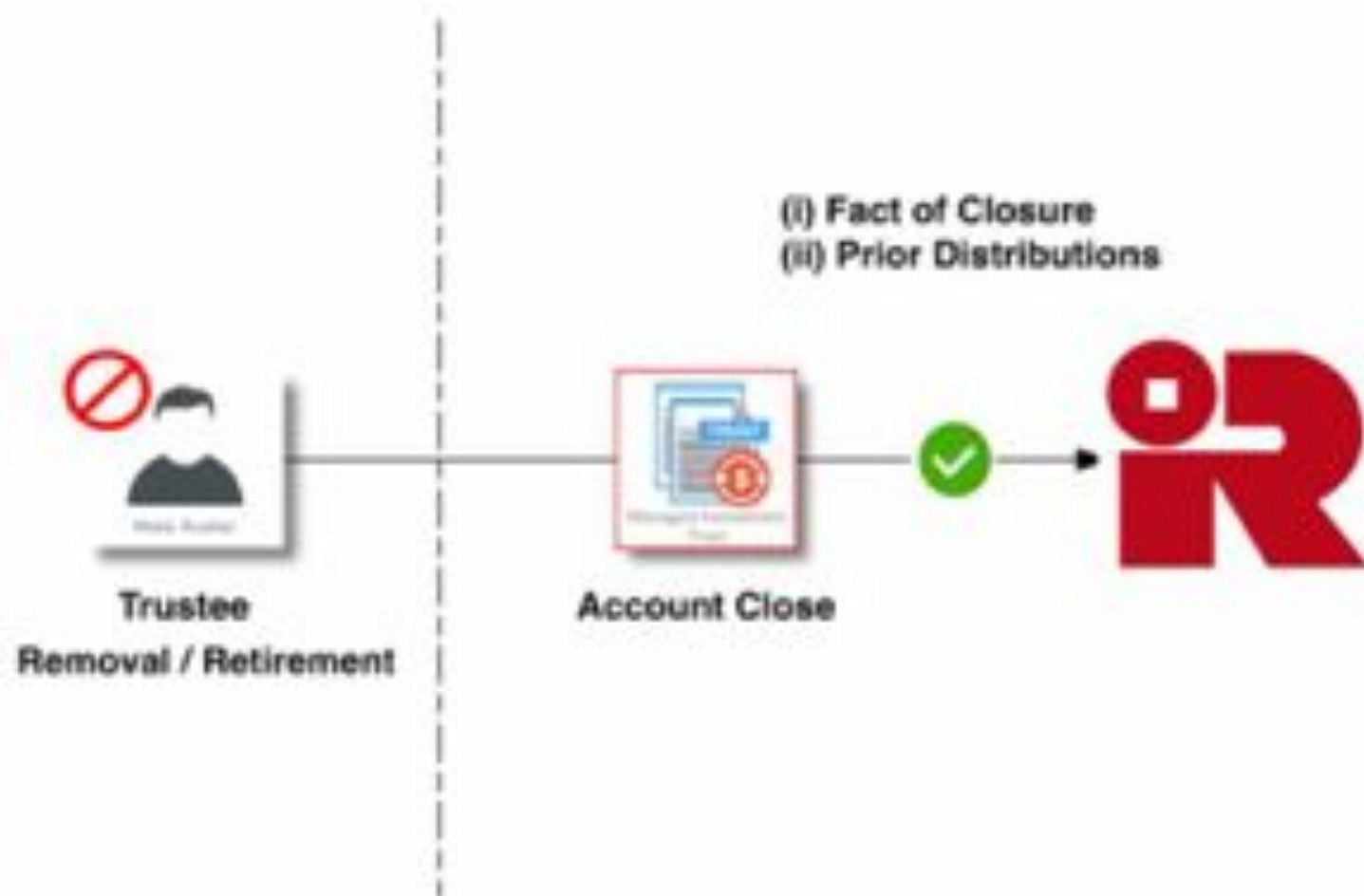
# Investment Trust Analysis Removal, Retirement and Surrender





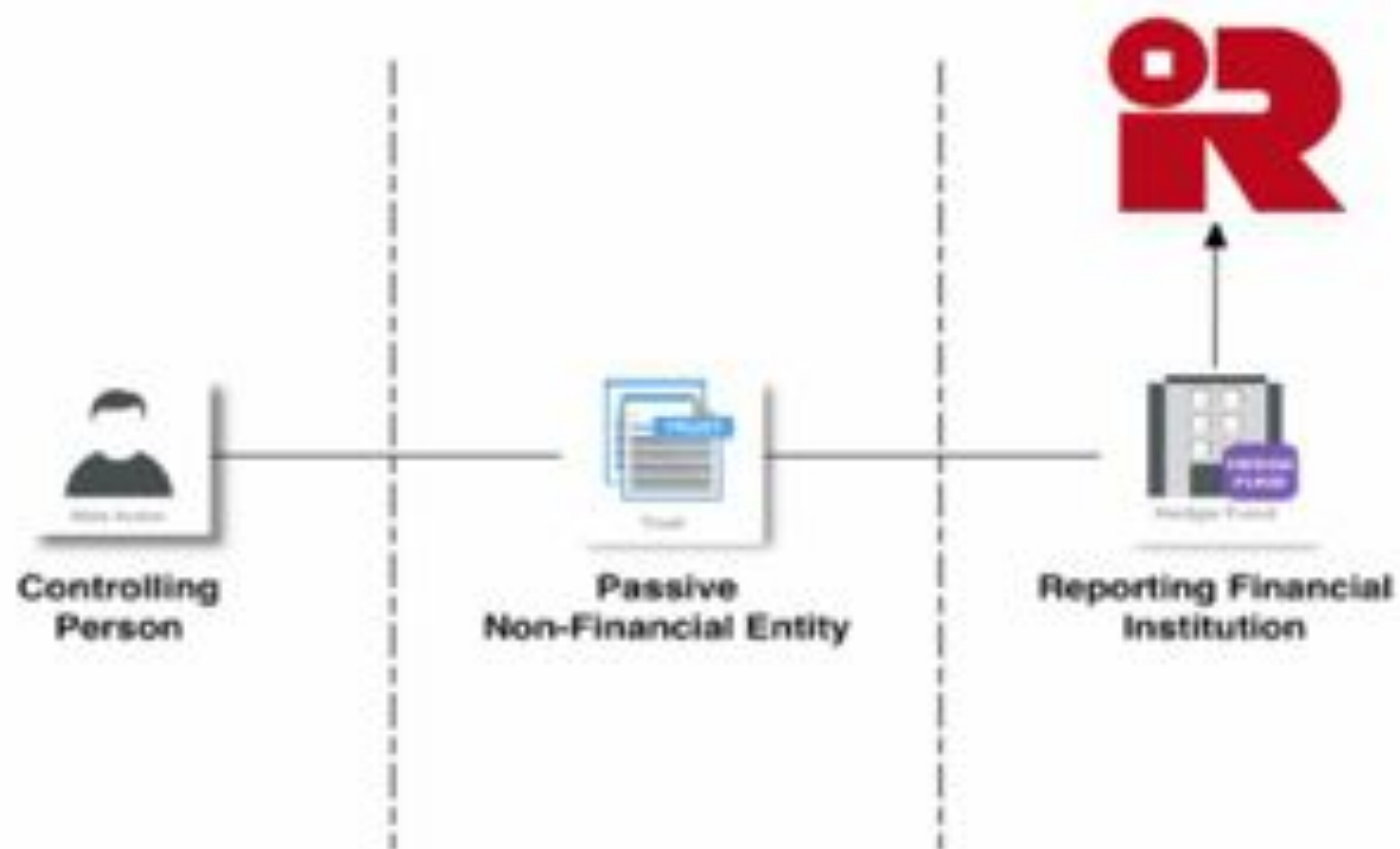


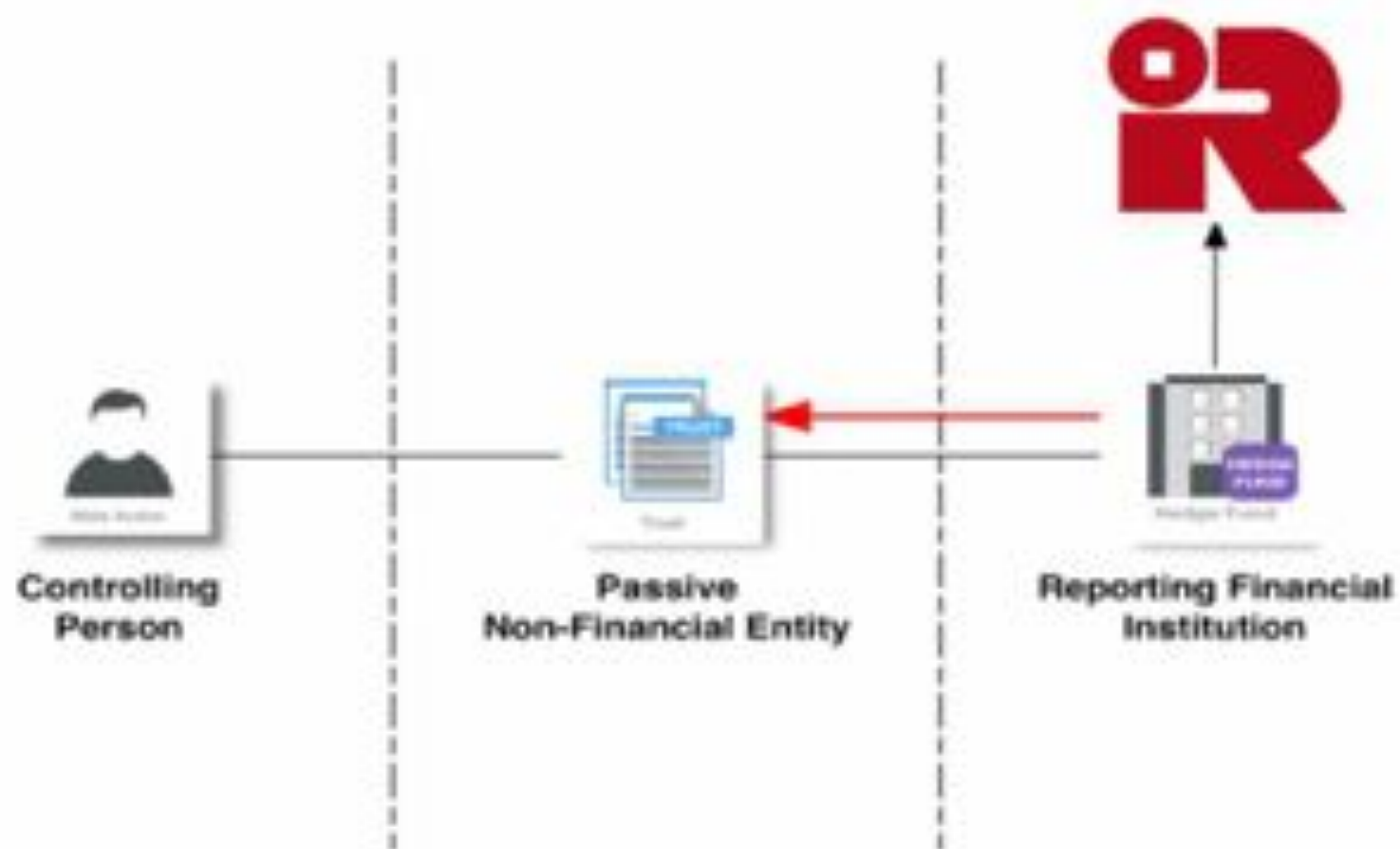


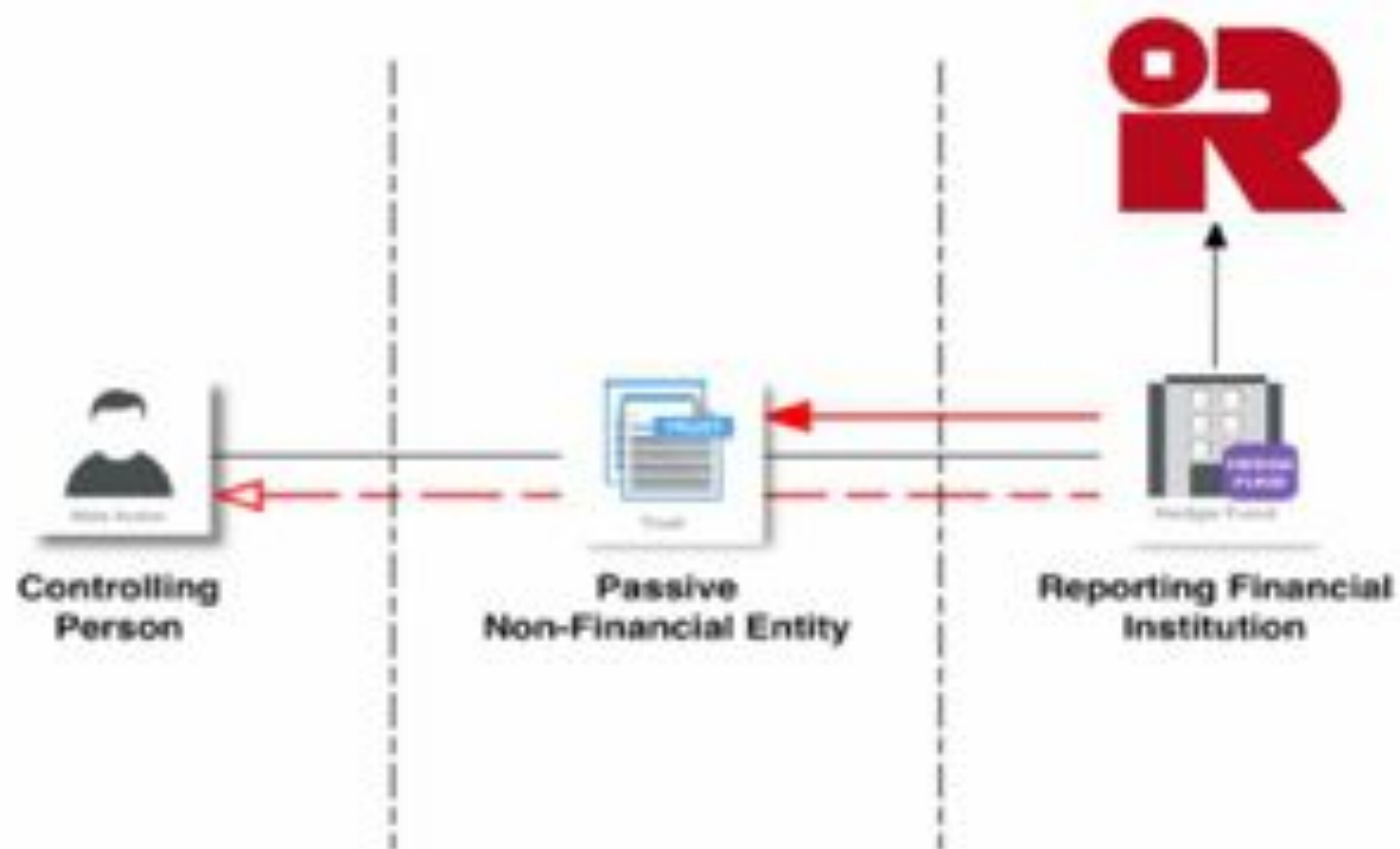


# Account Monitoring: 2<sup>nd</sup> Degree Analysis

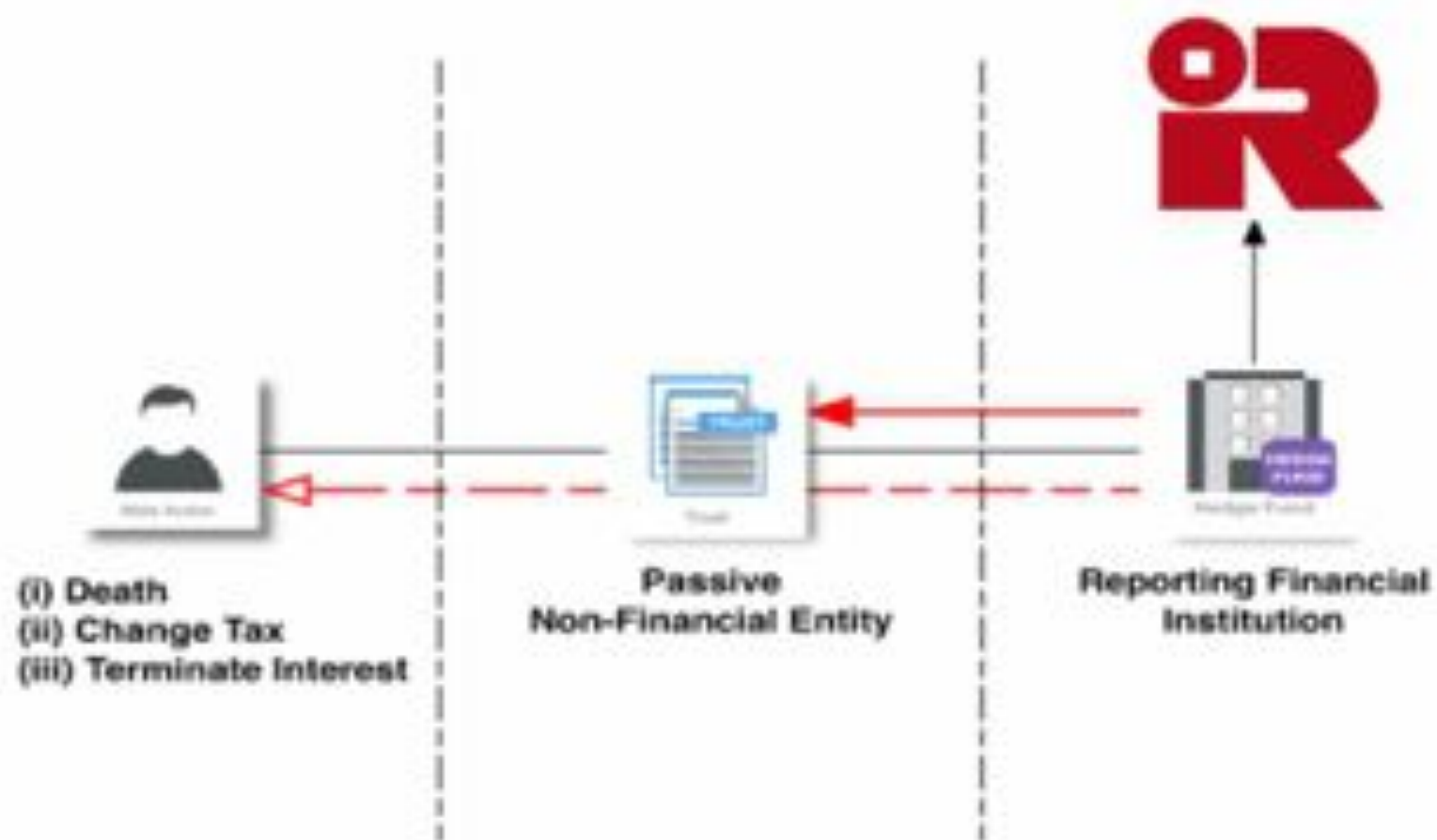


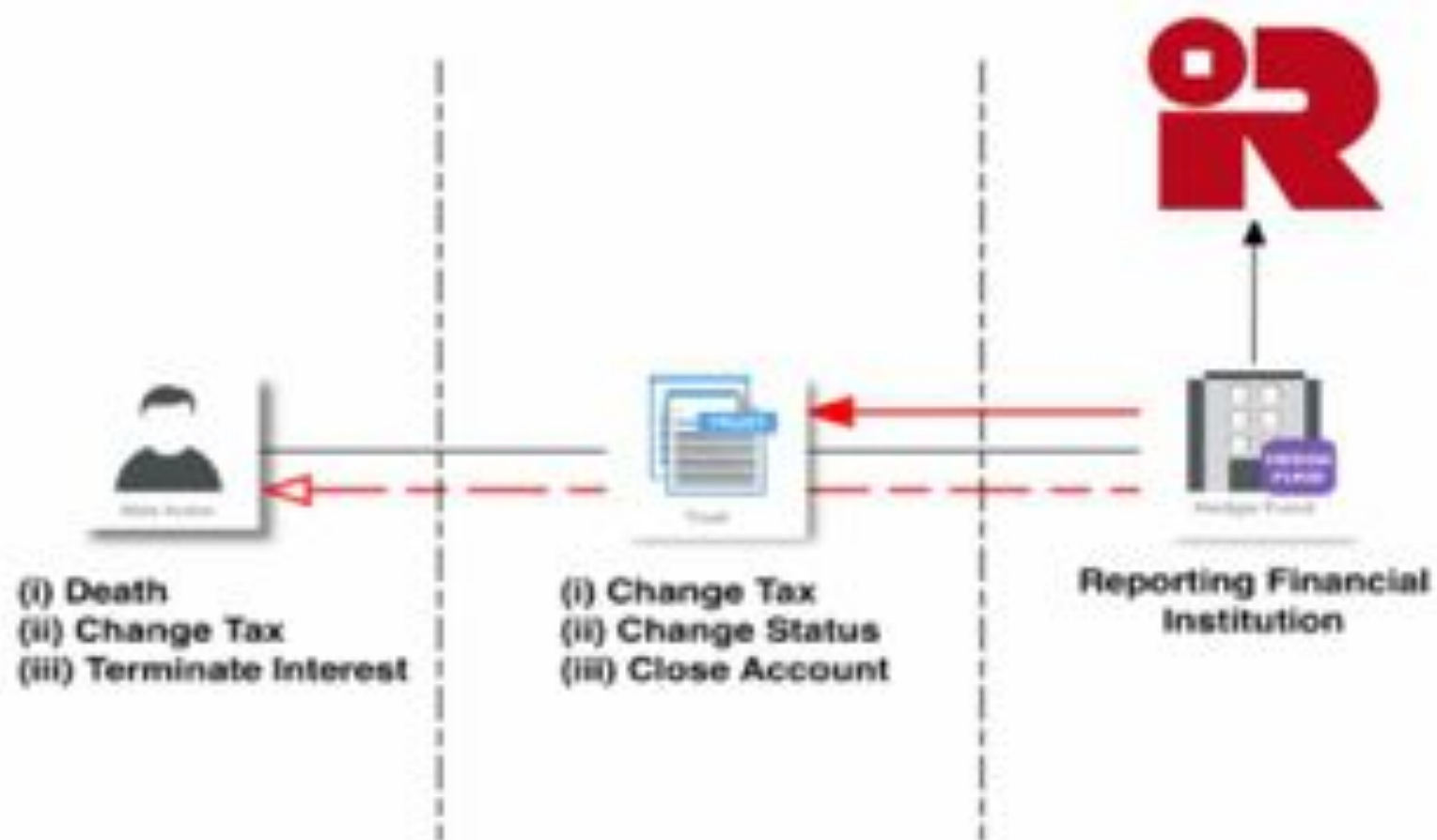


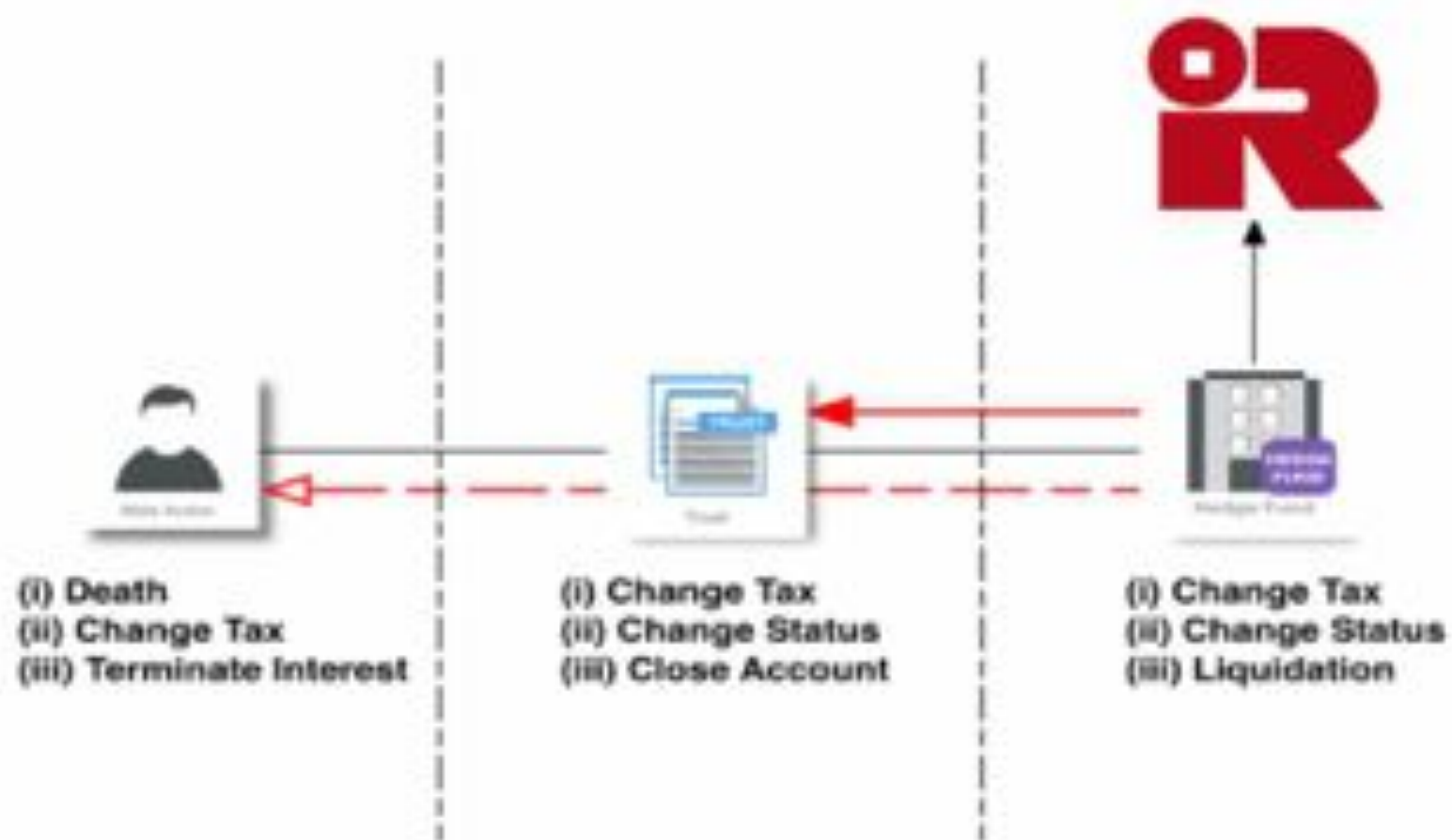




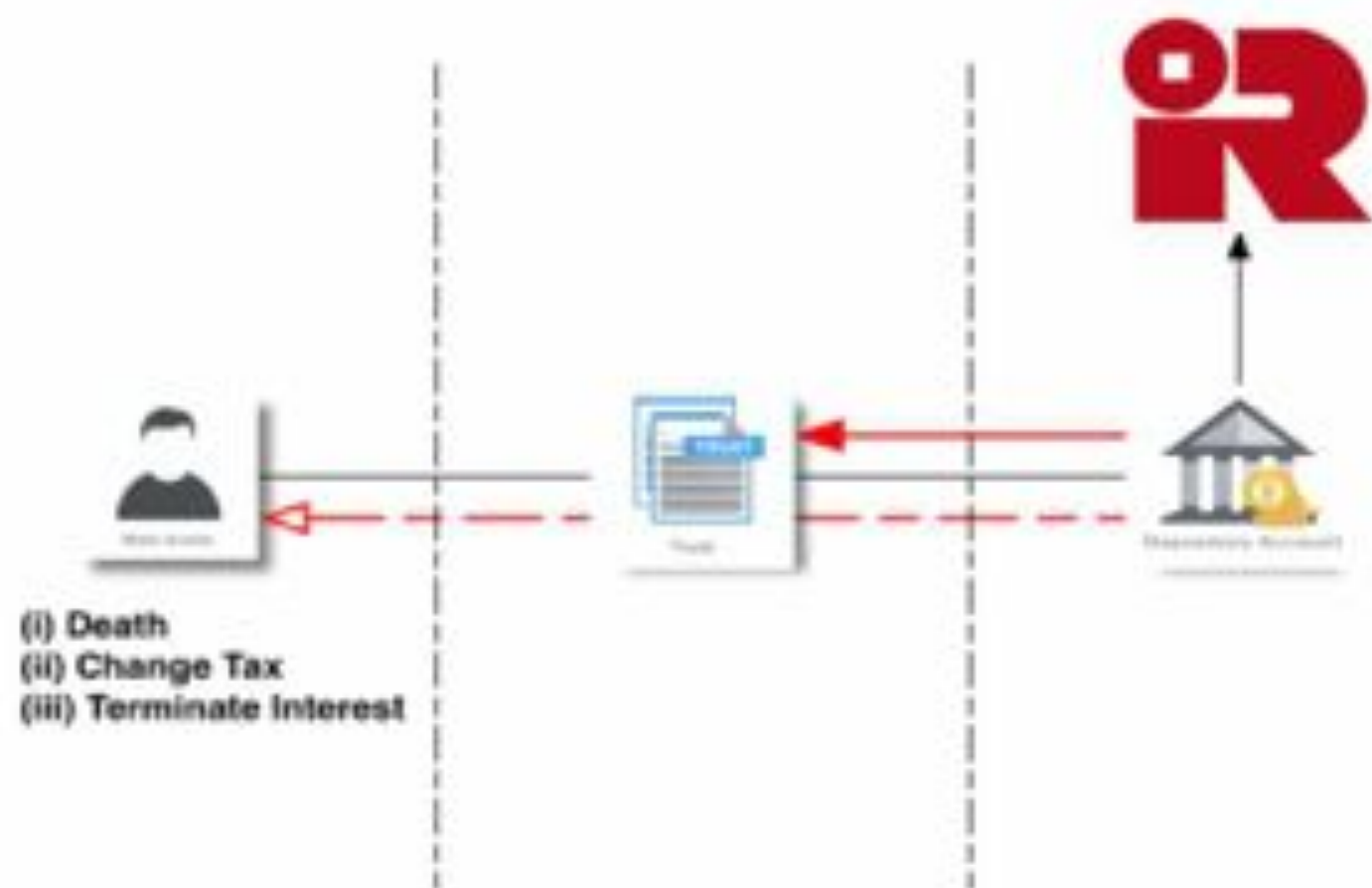




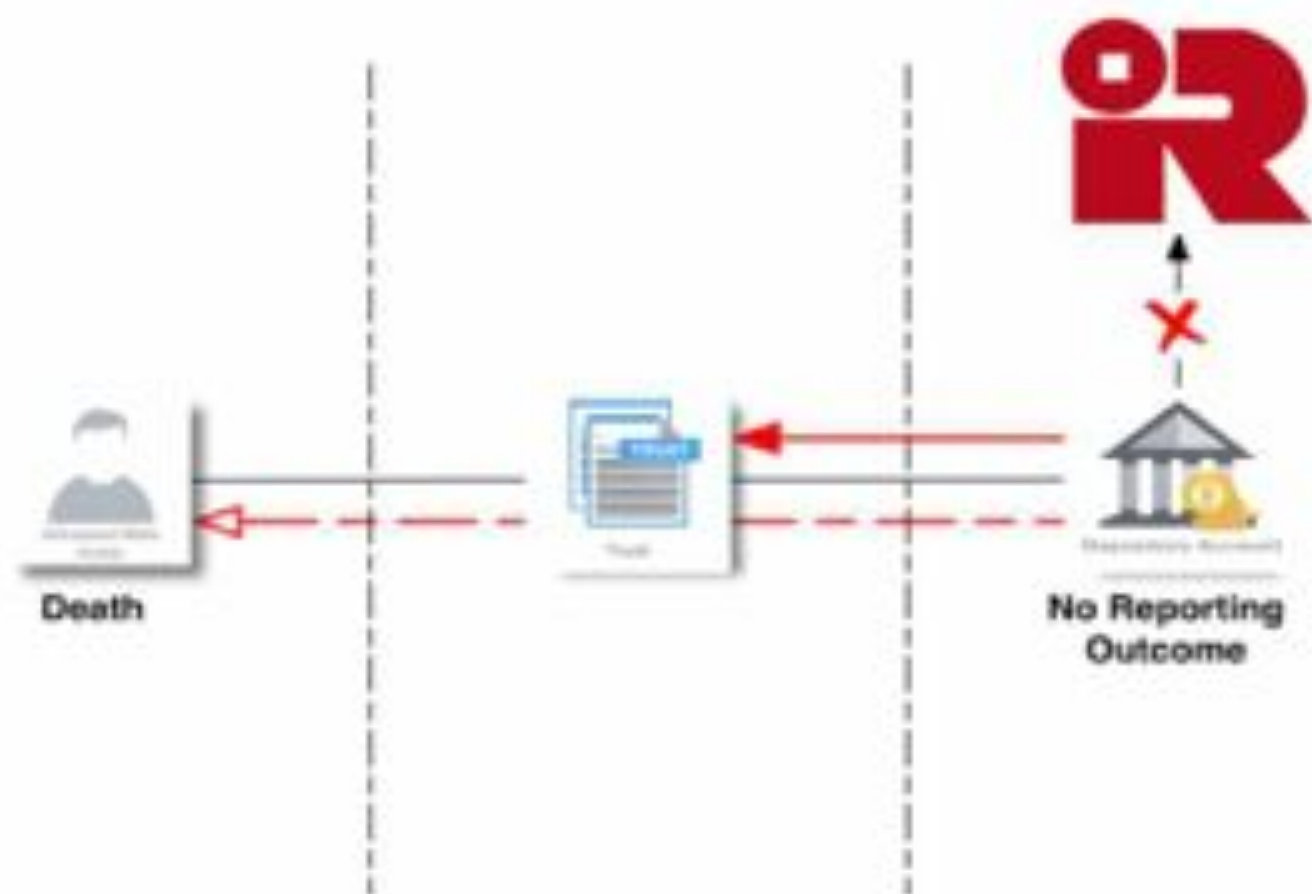


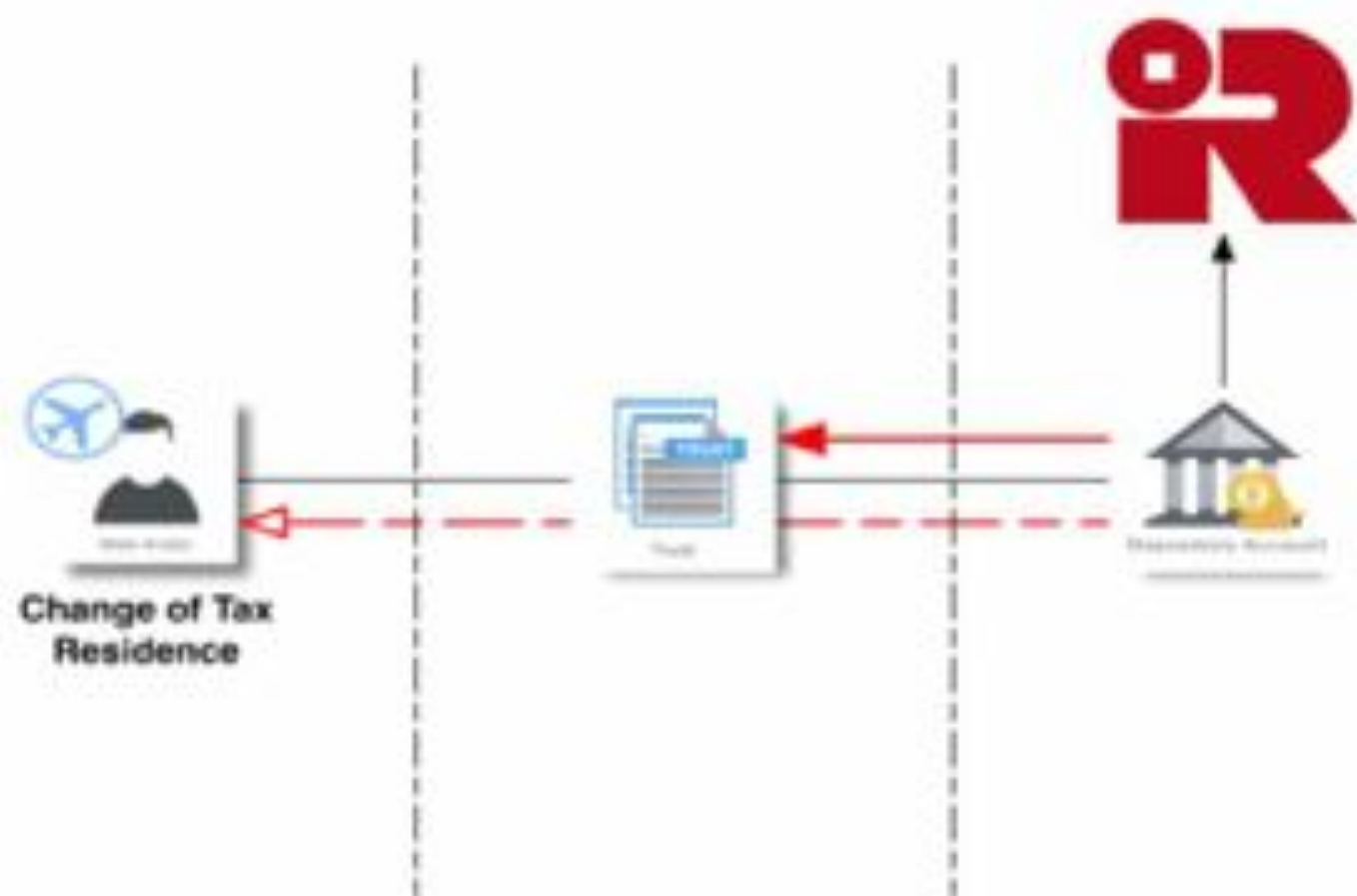


## 2<sup>nd</sup> Degree Analysis Controlling Person



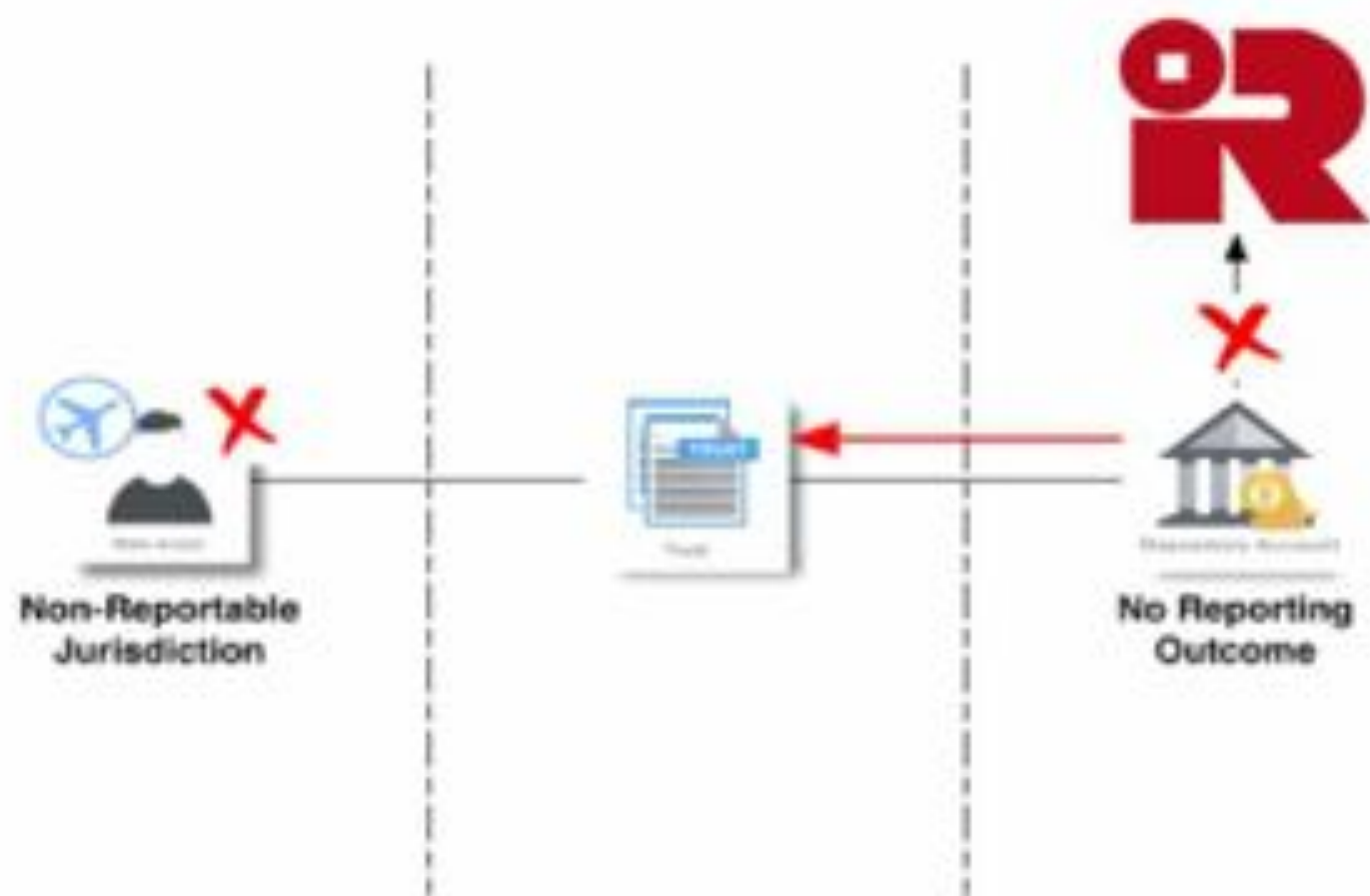




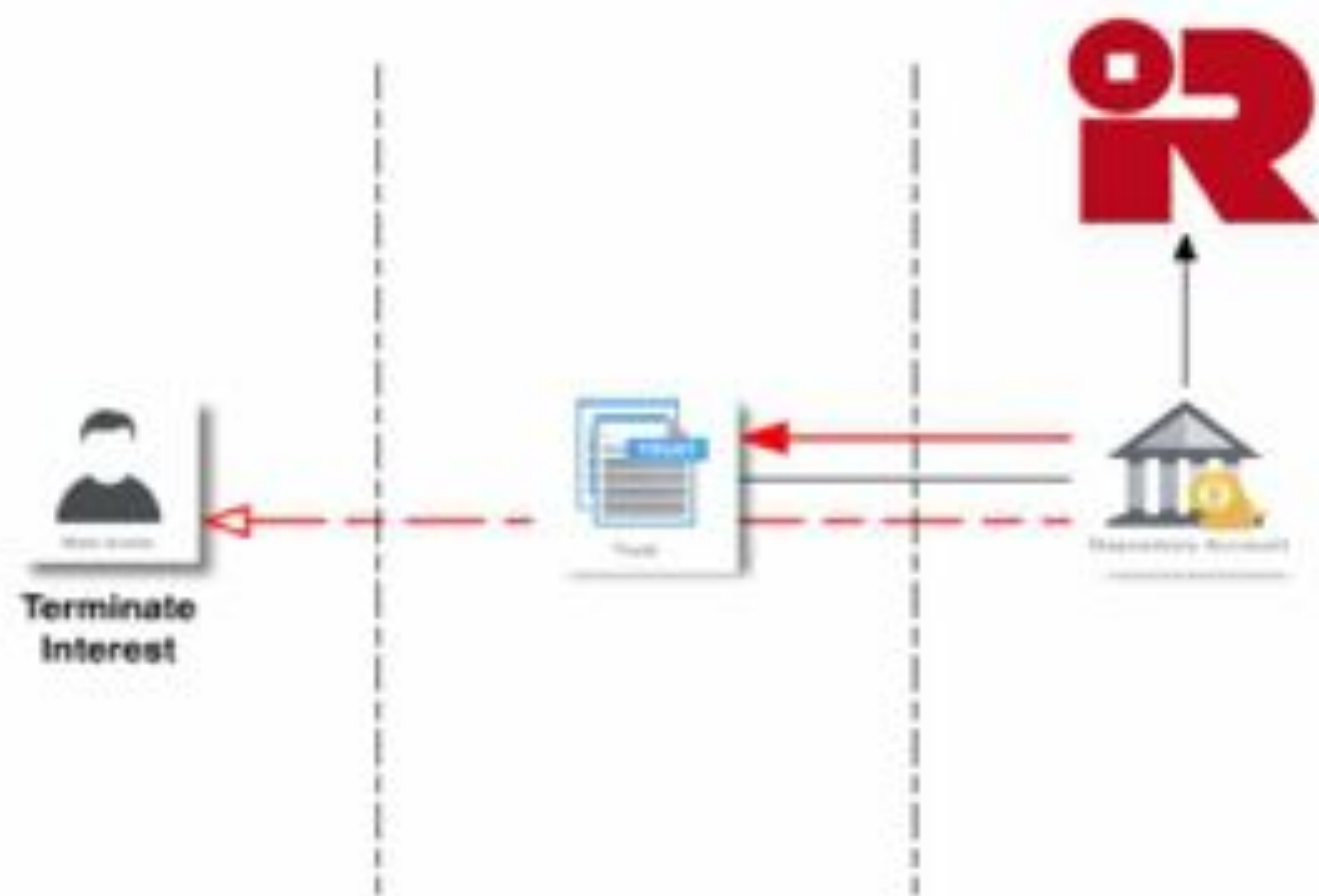








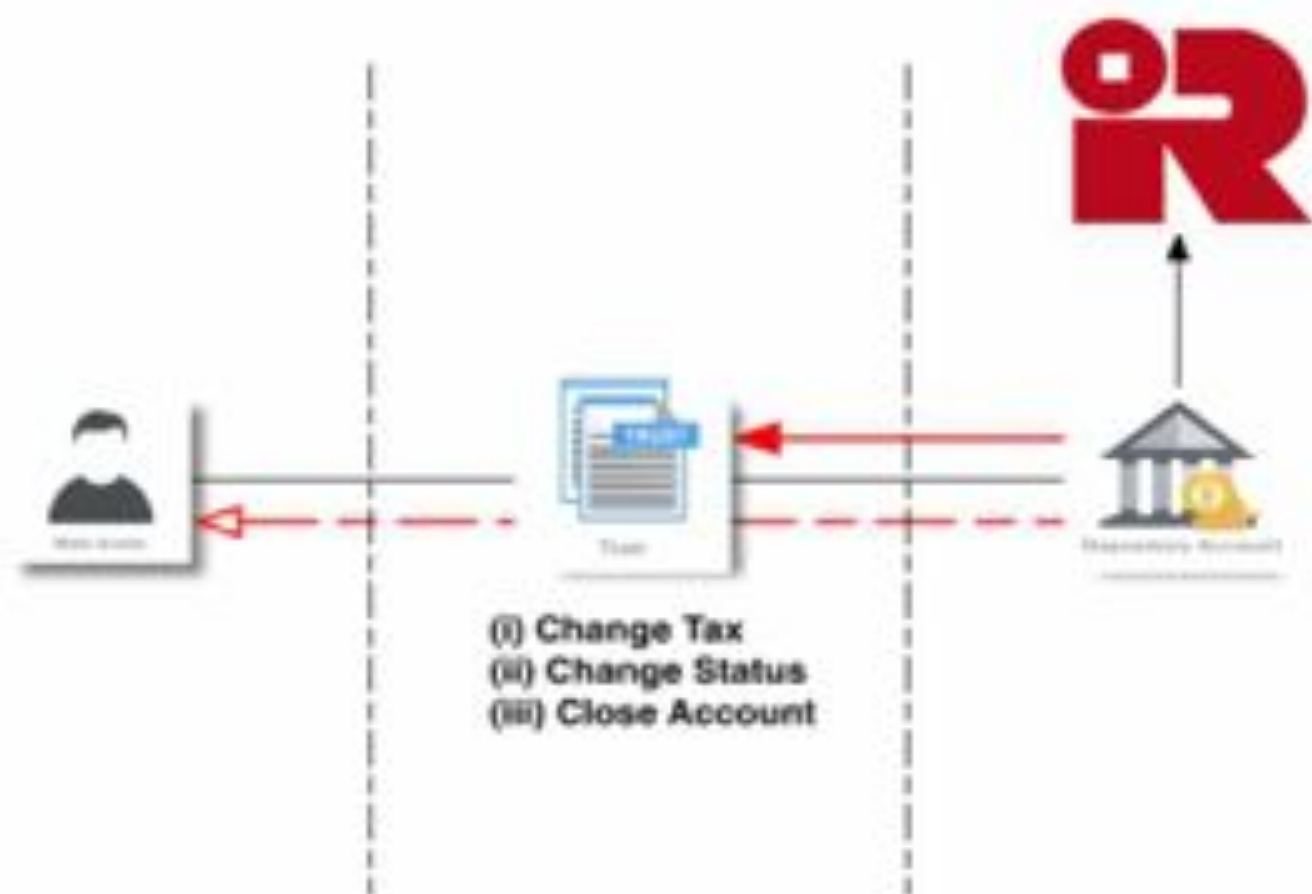


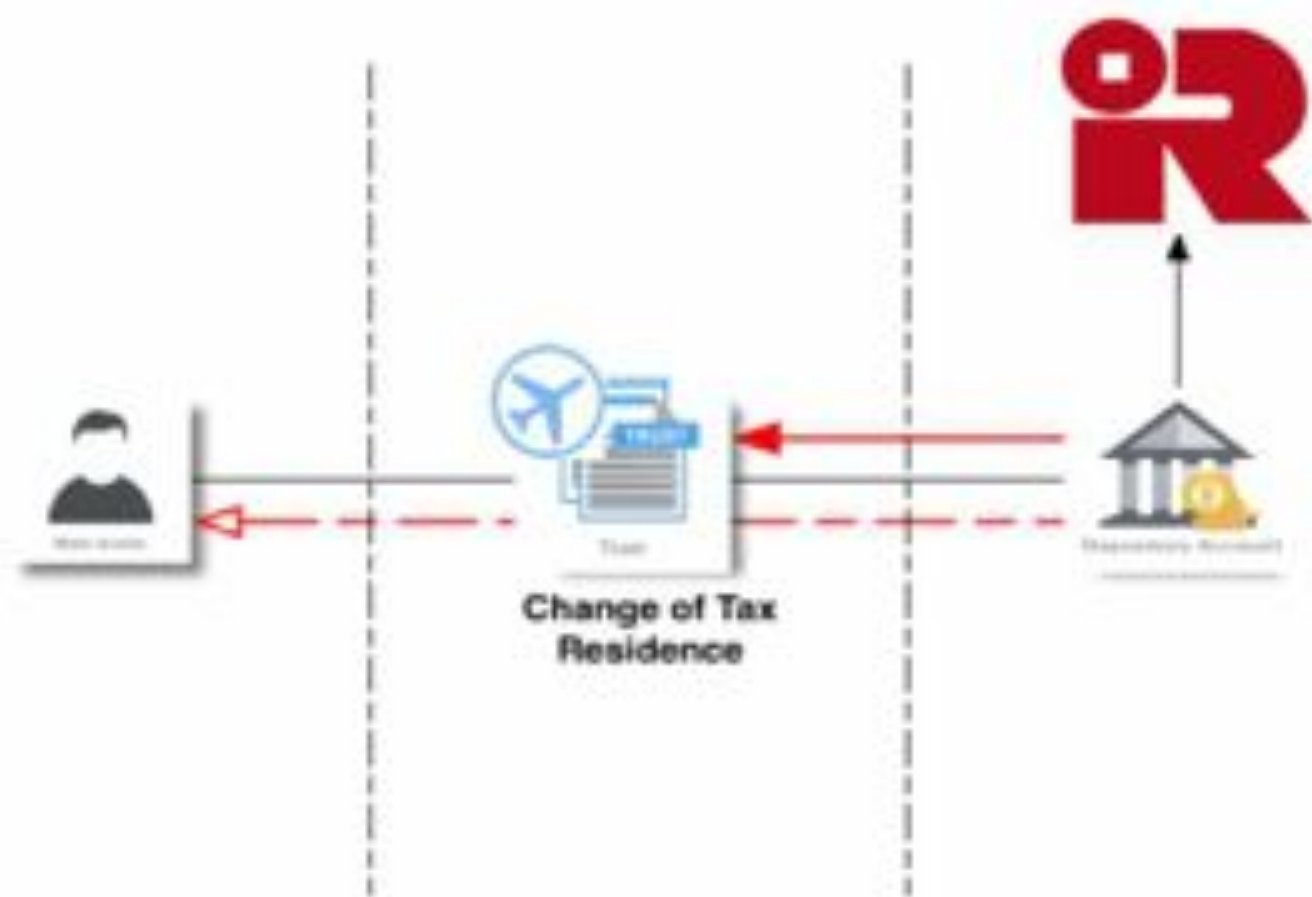




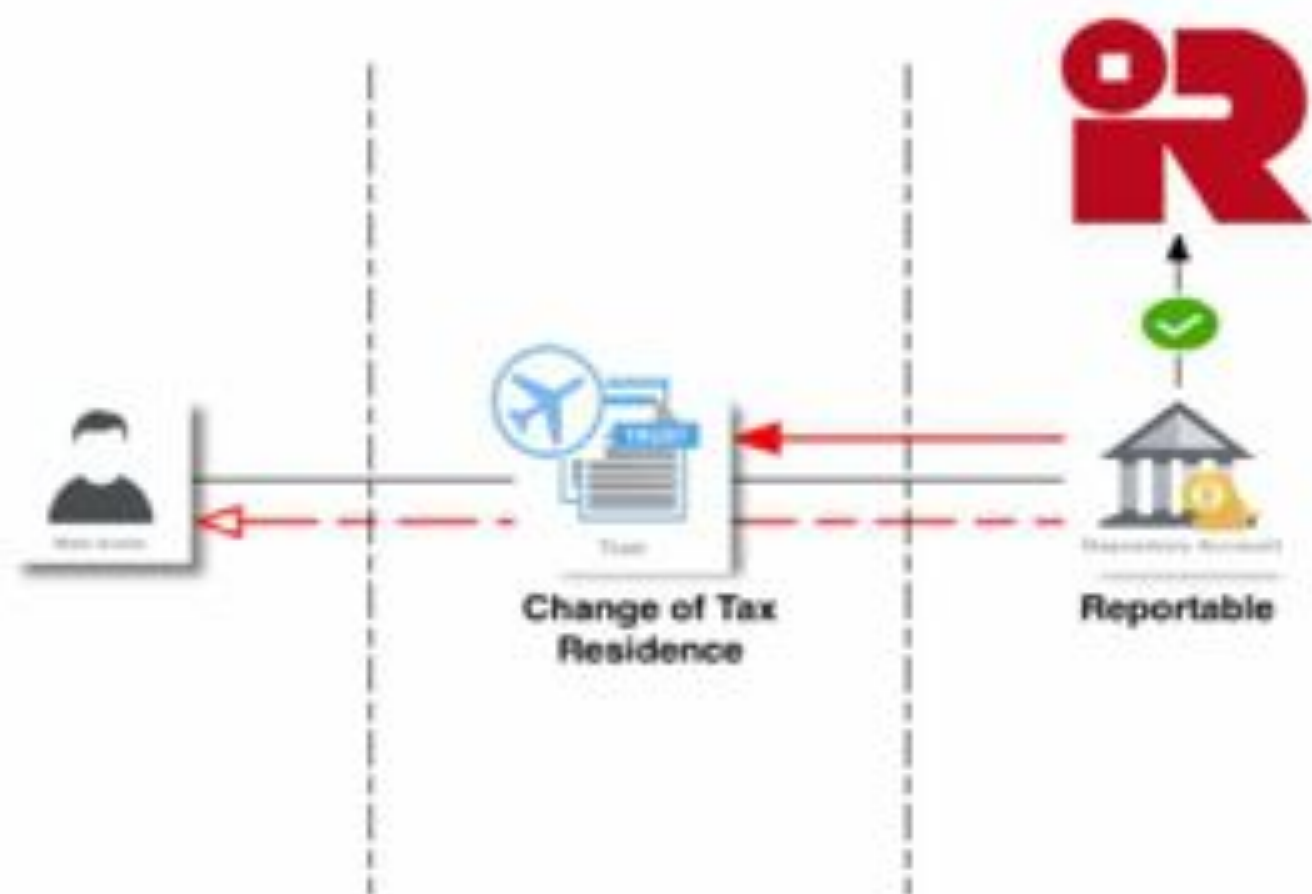
No Reporting Outcome

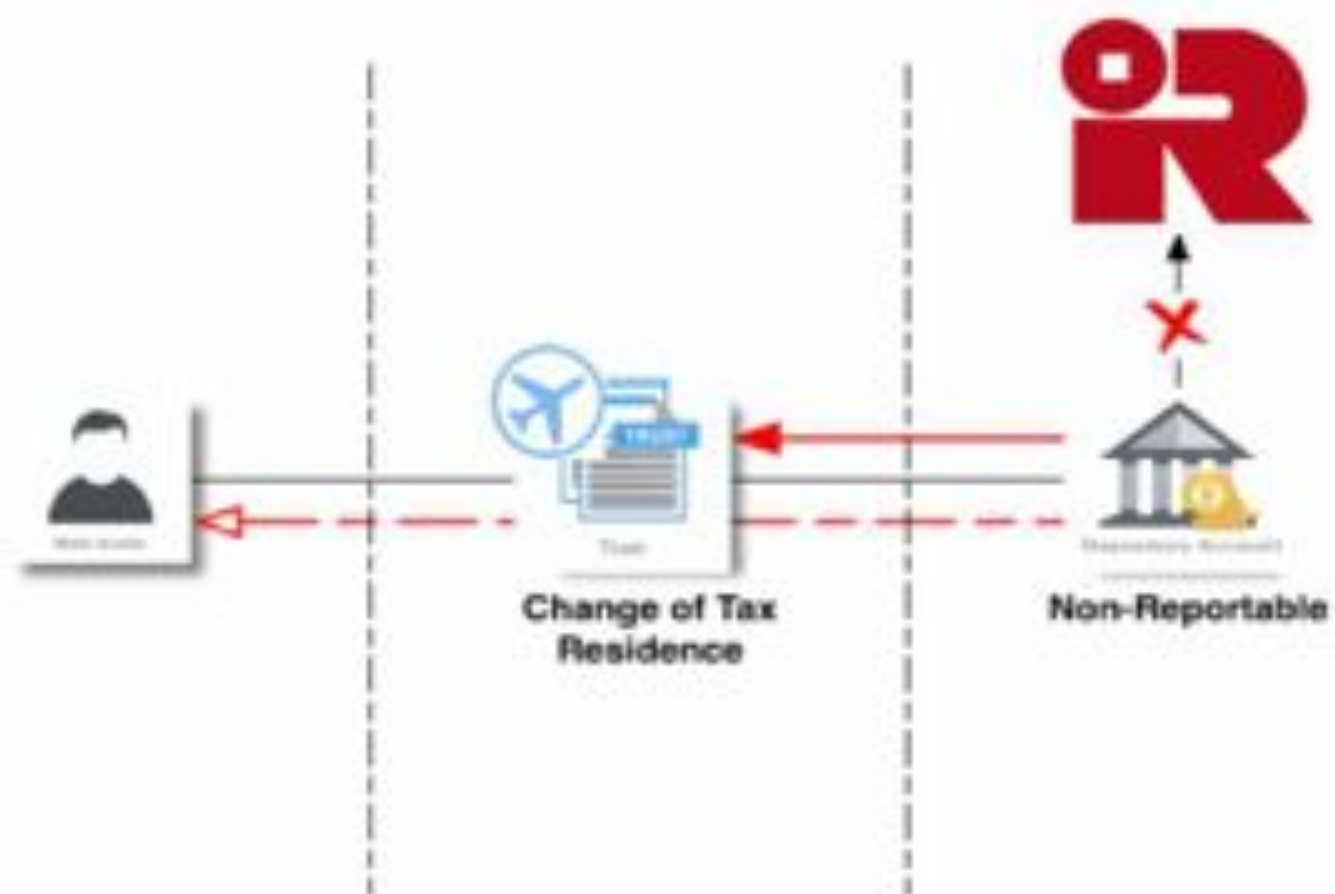
## 2<sup>nd</sup> Degree Analysis Passive NFE Trust

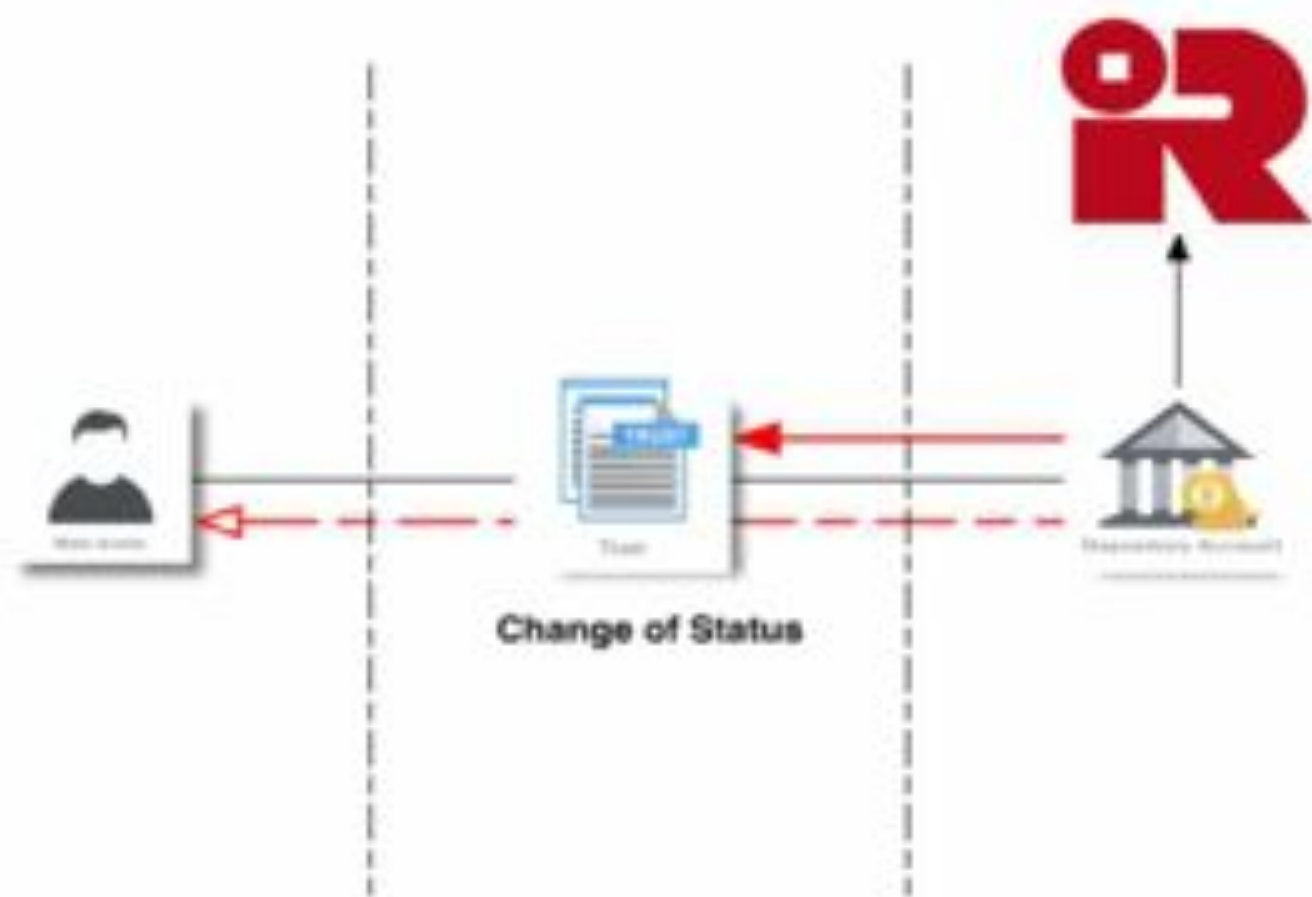


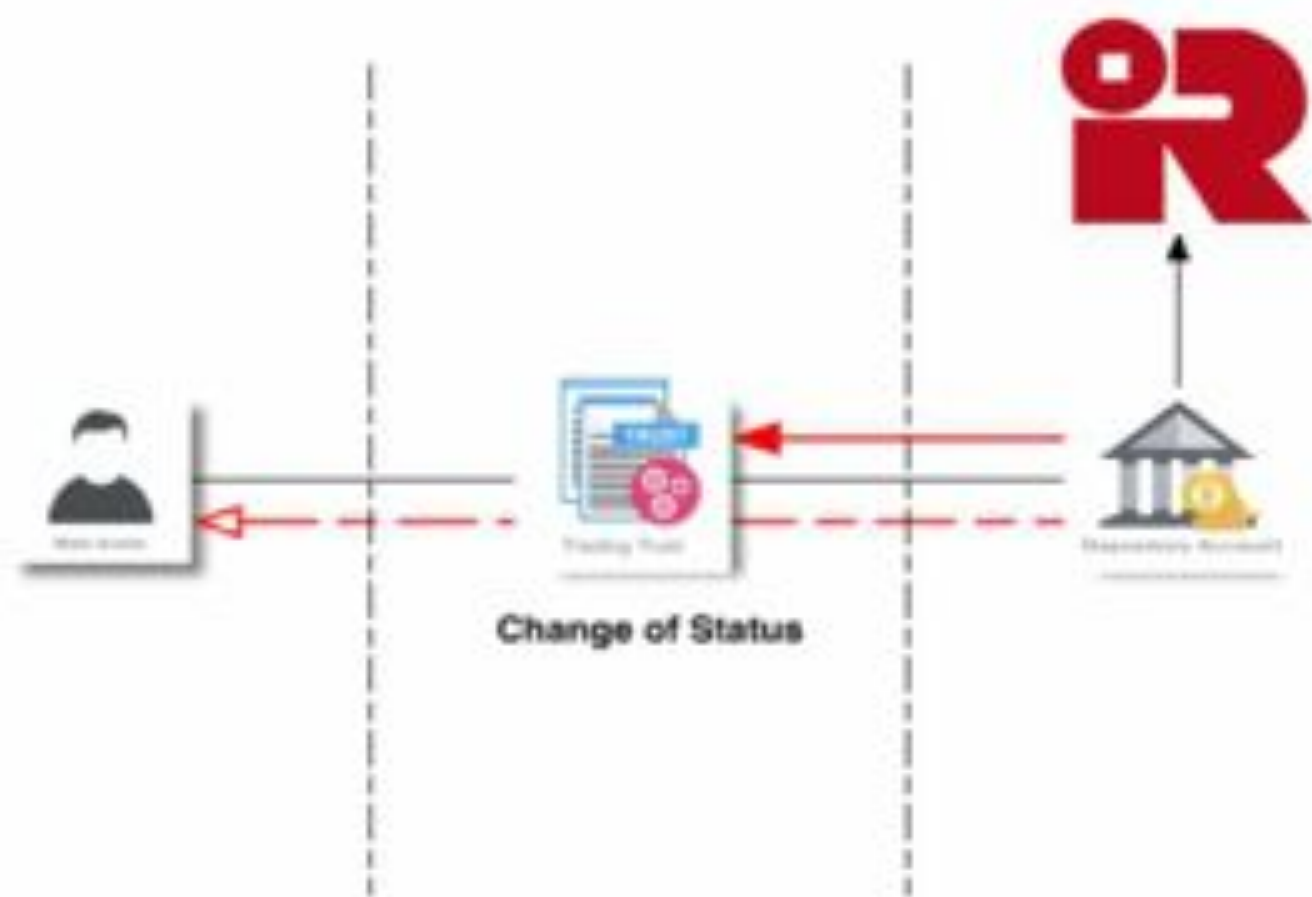


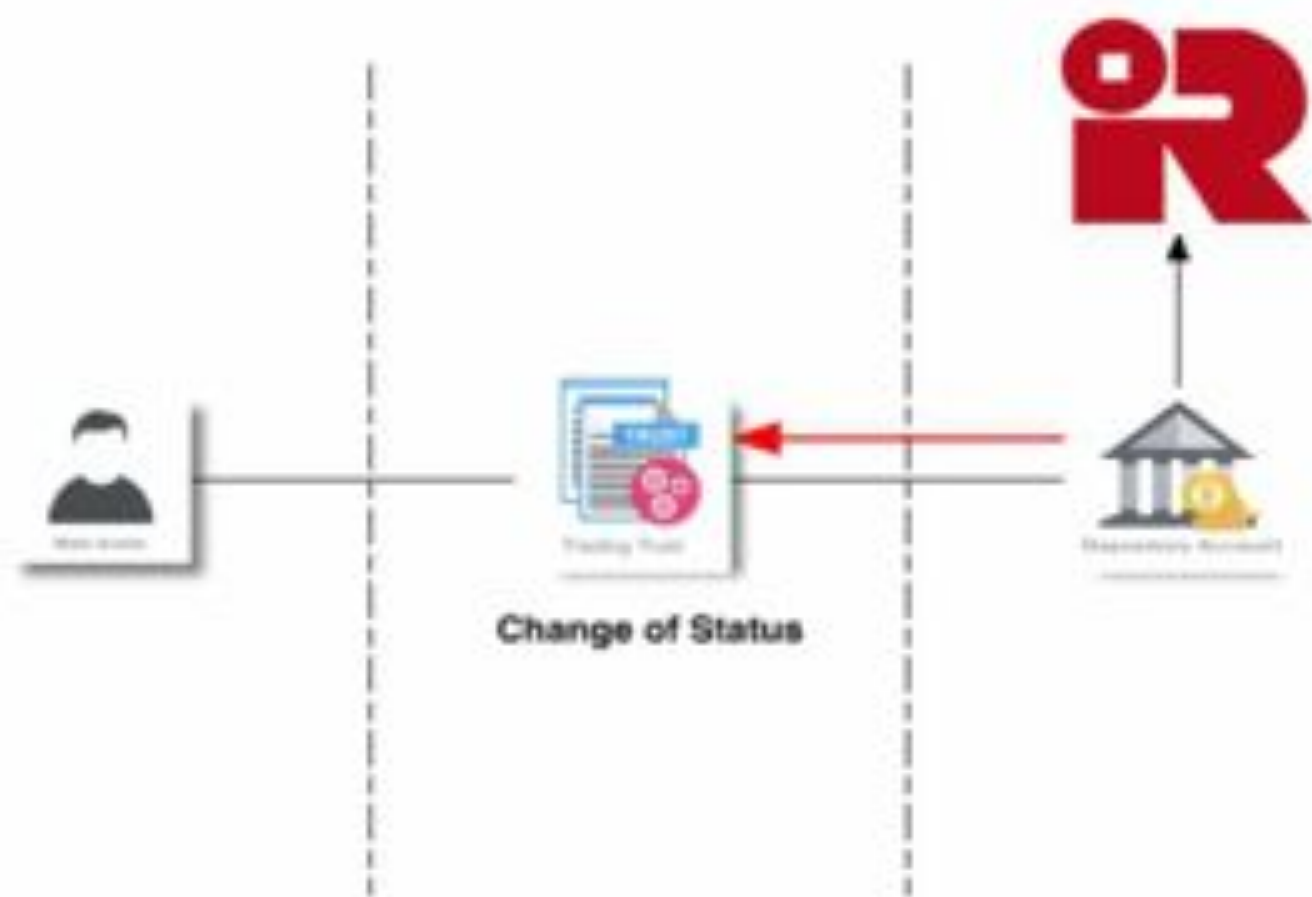


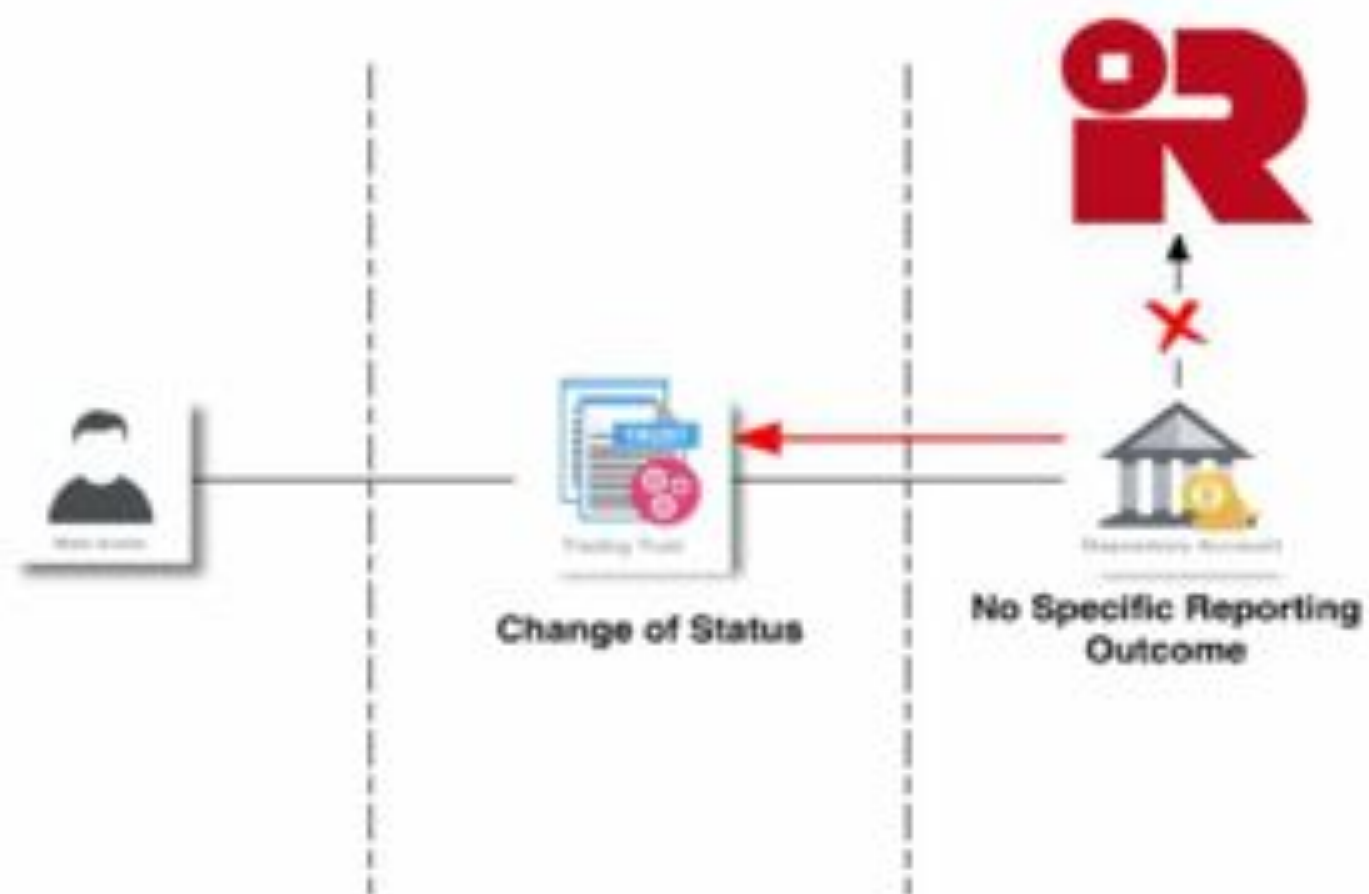


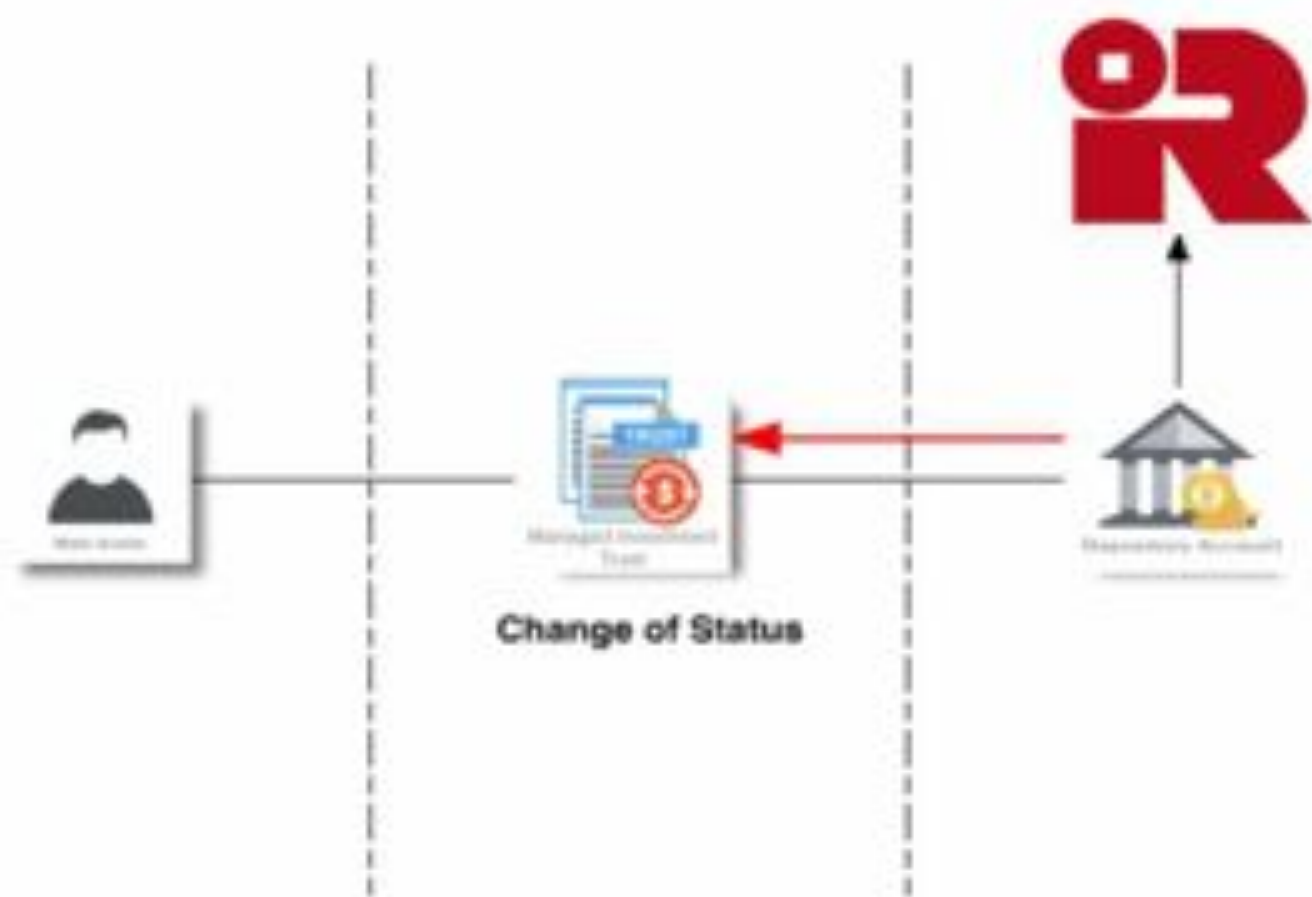


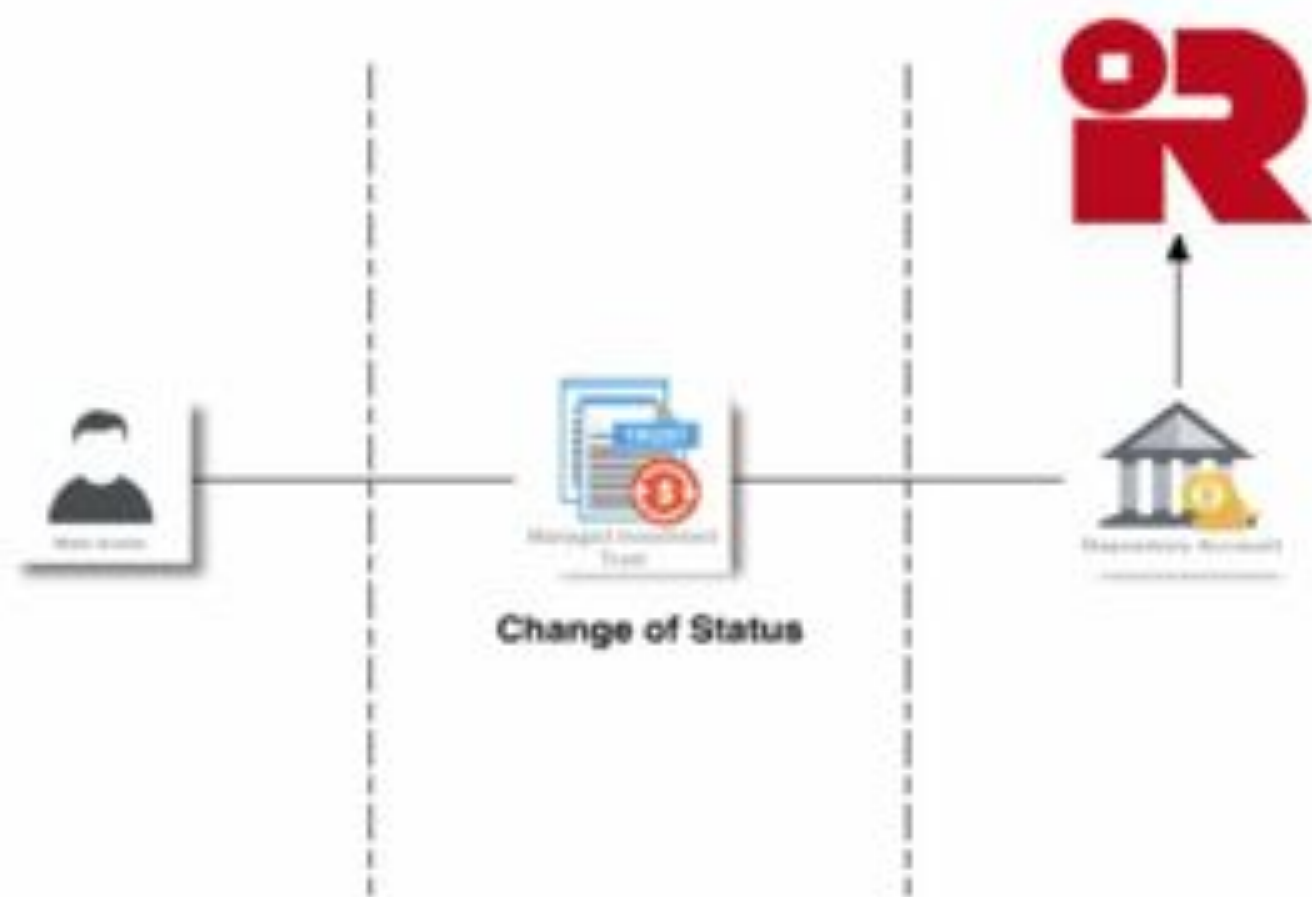




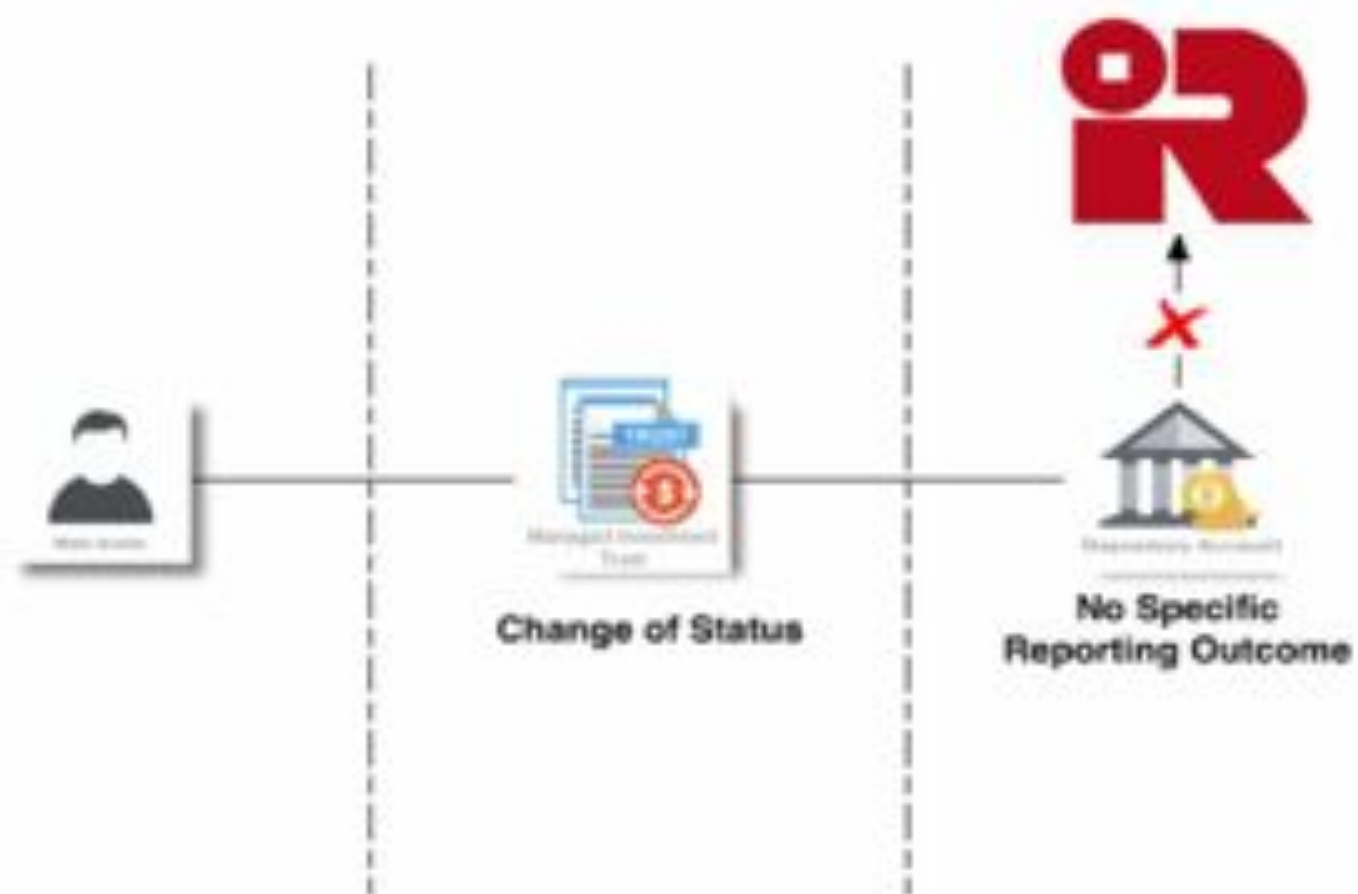


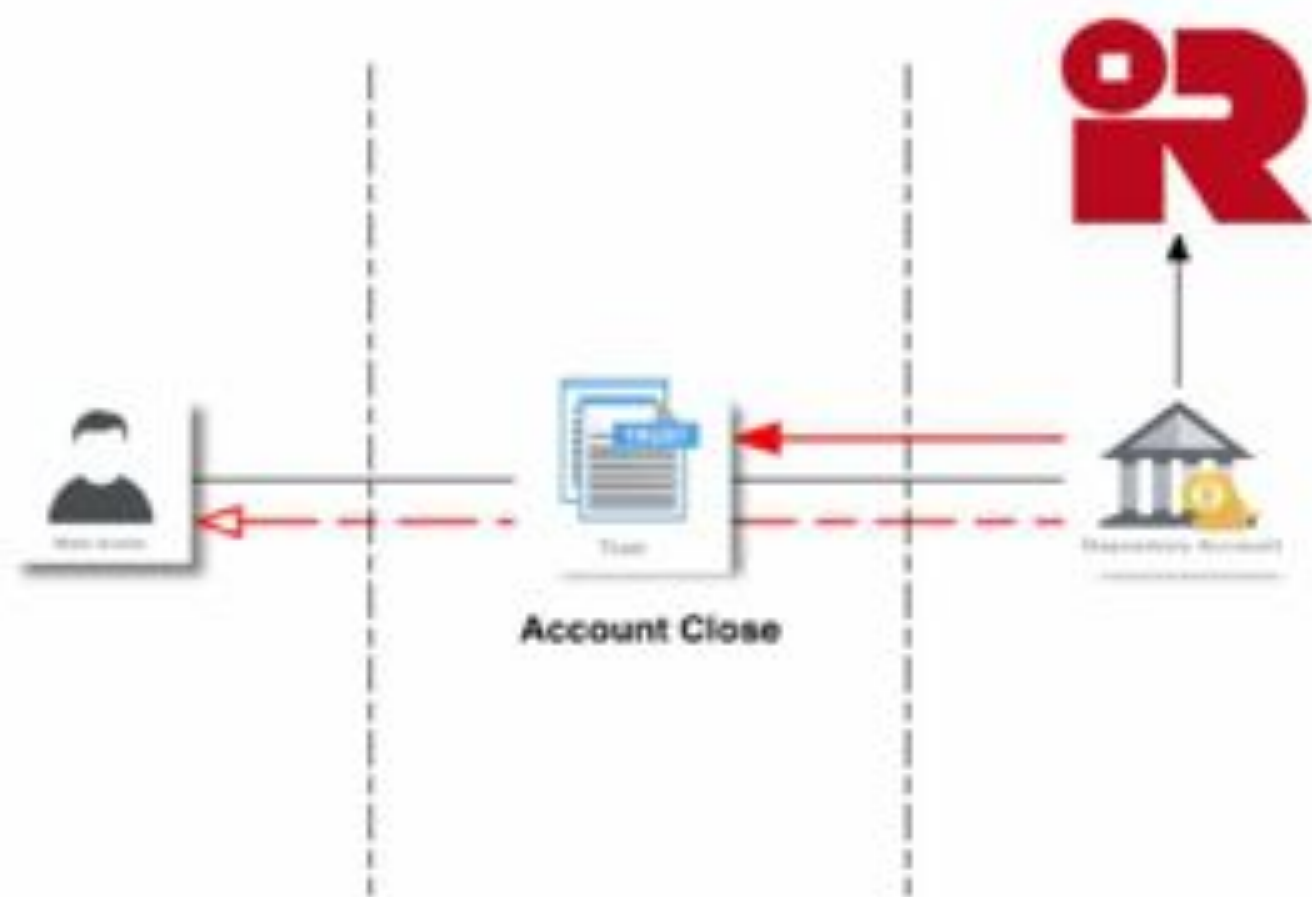


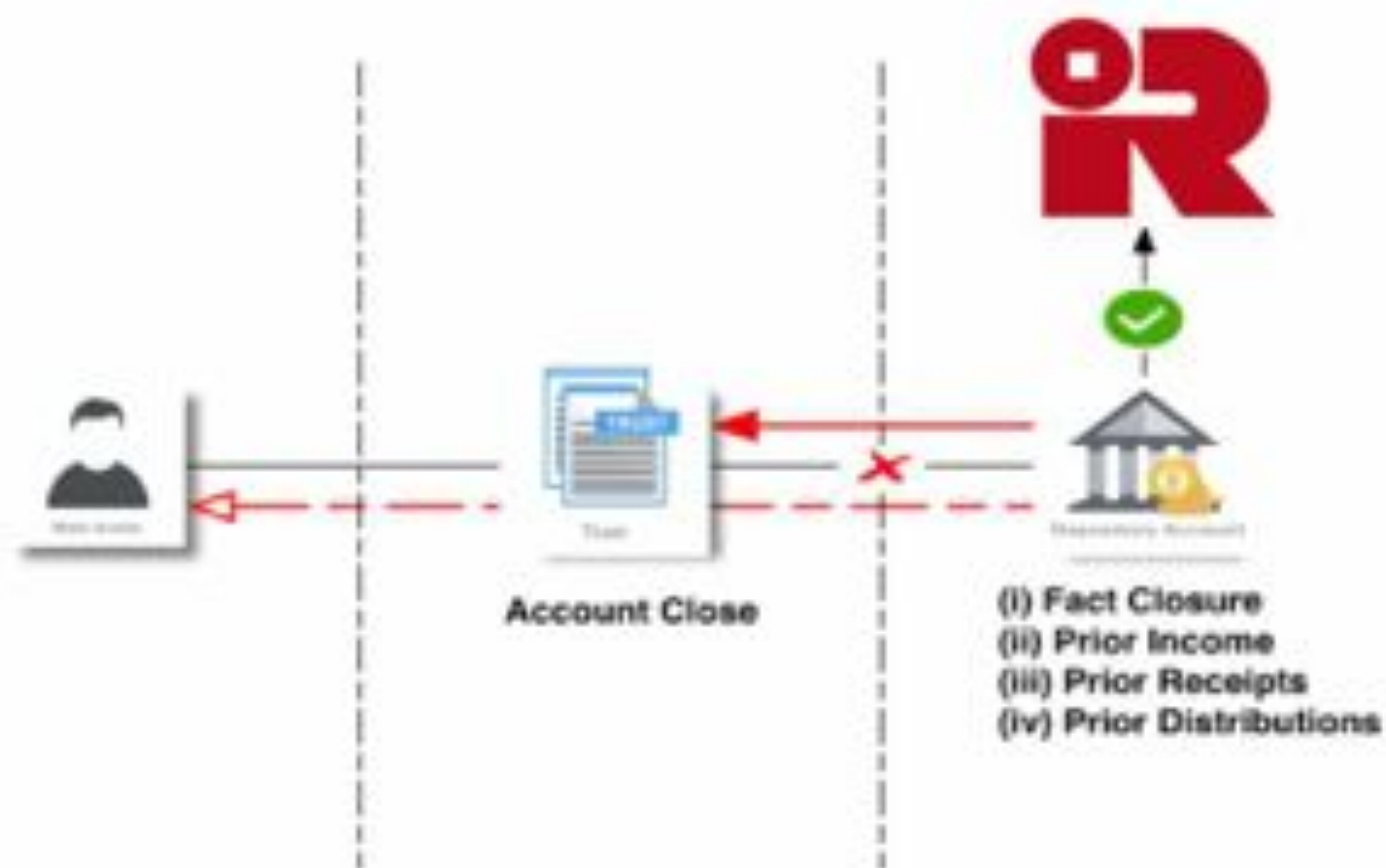




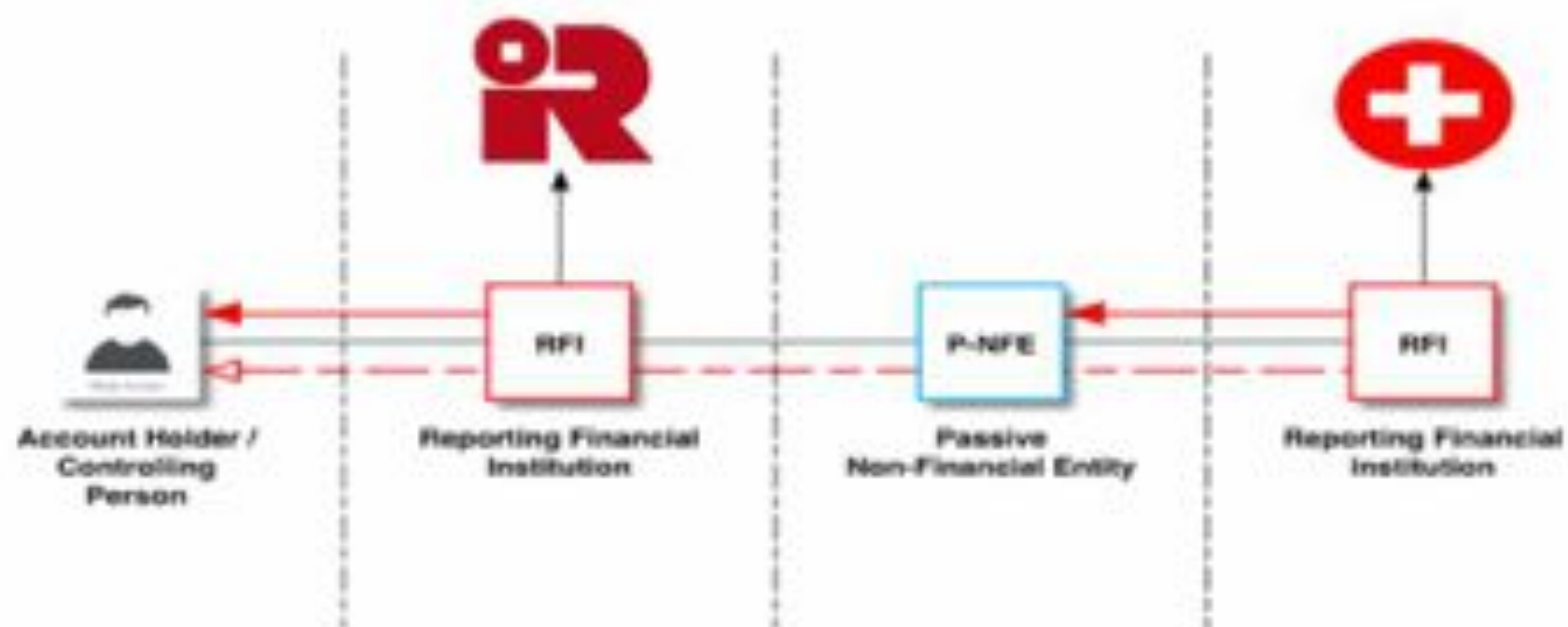


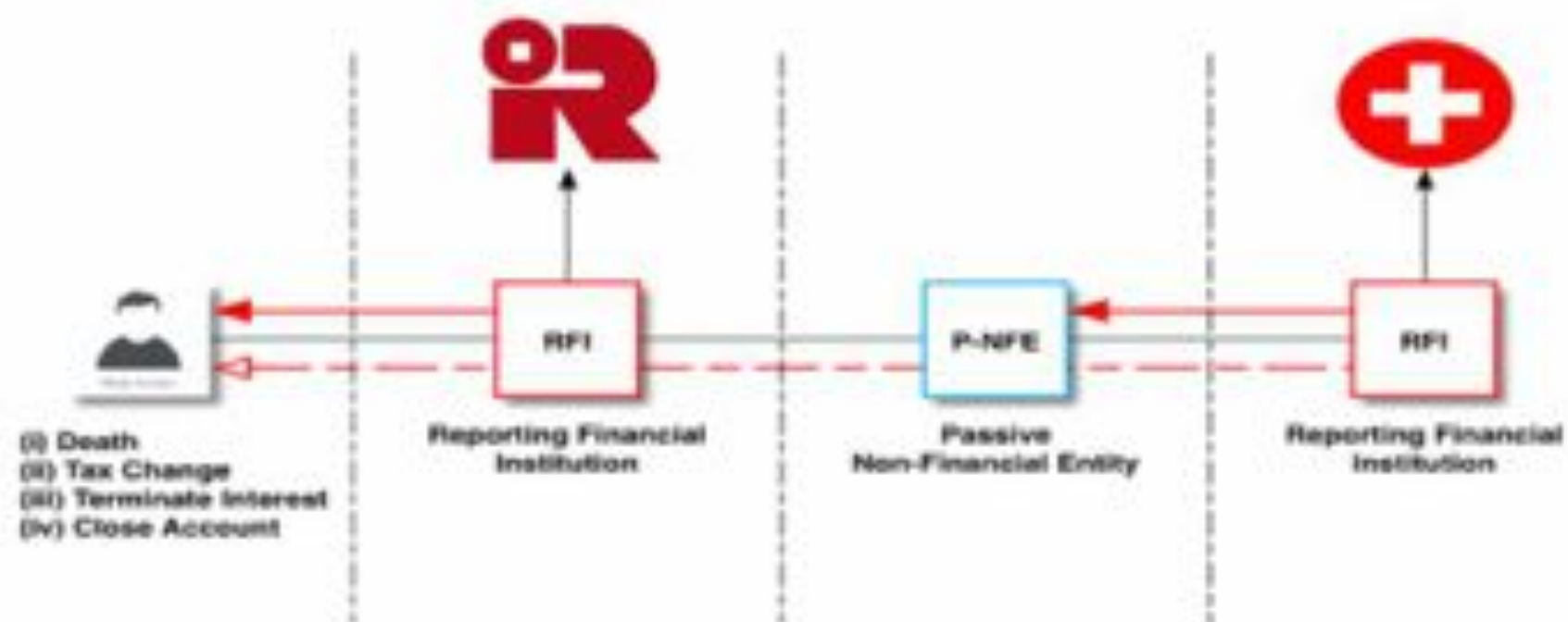


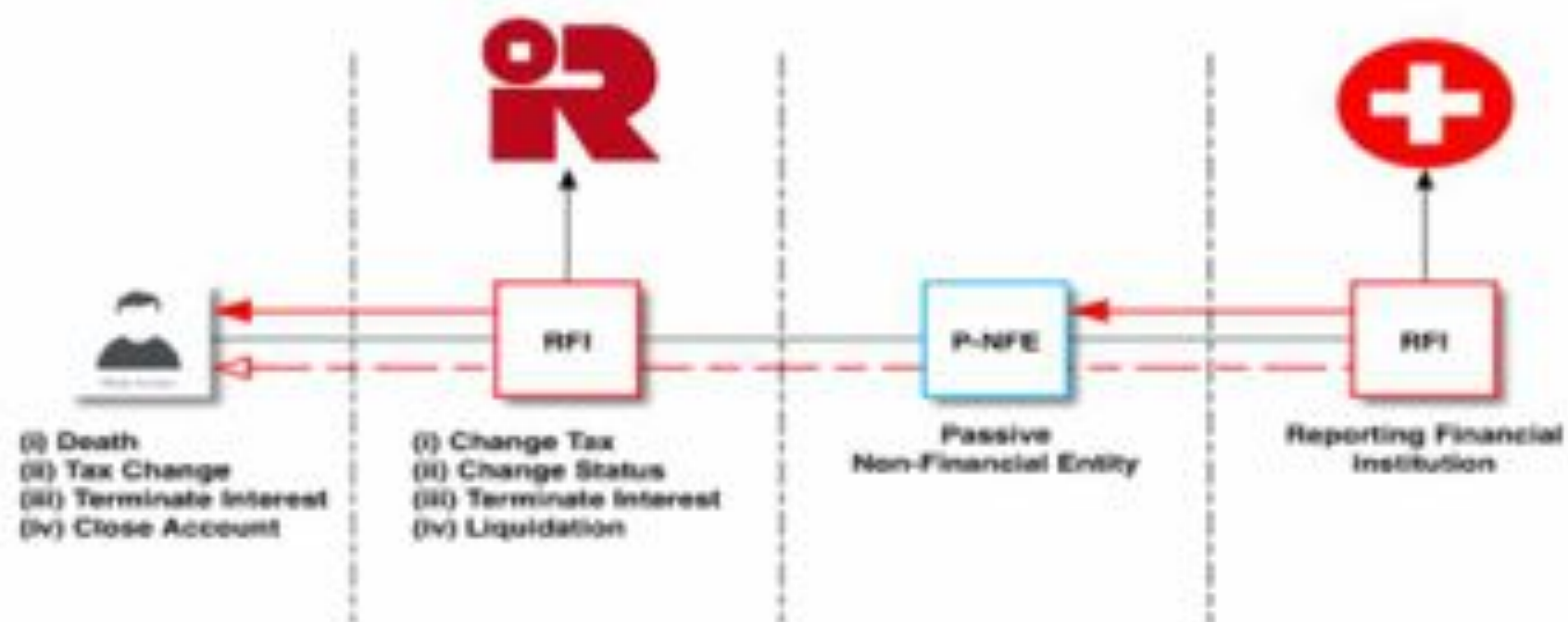


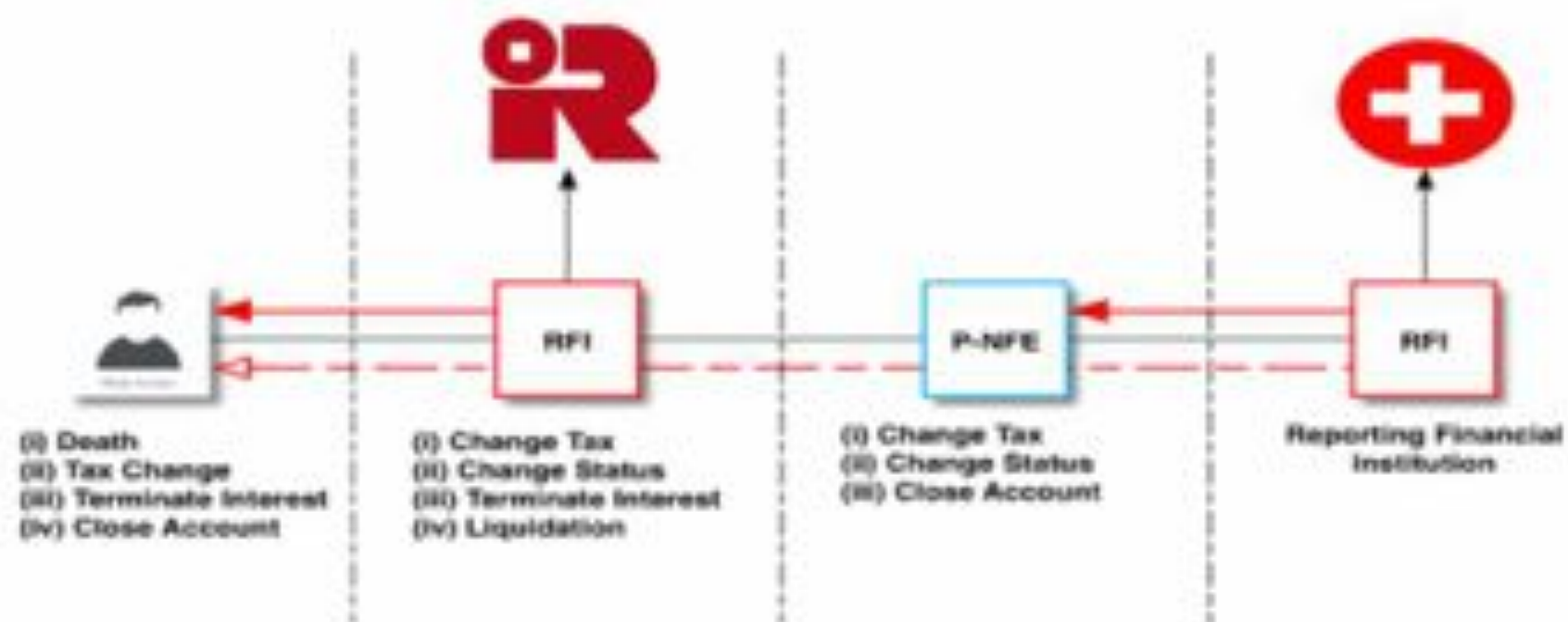


# Account Monitoring: 3<sup>rd</sup> Degree Analysis

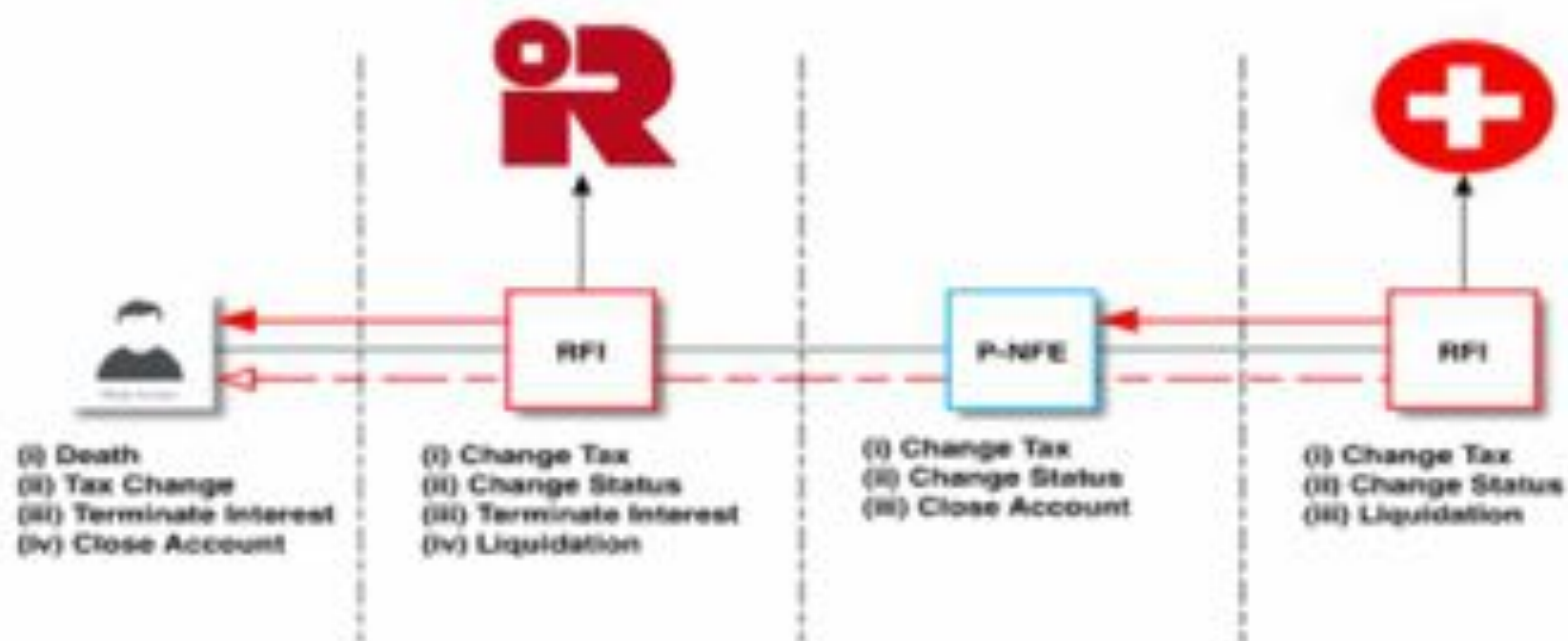


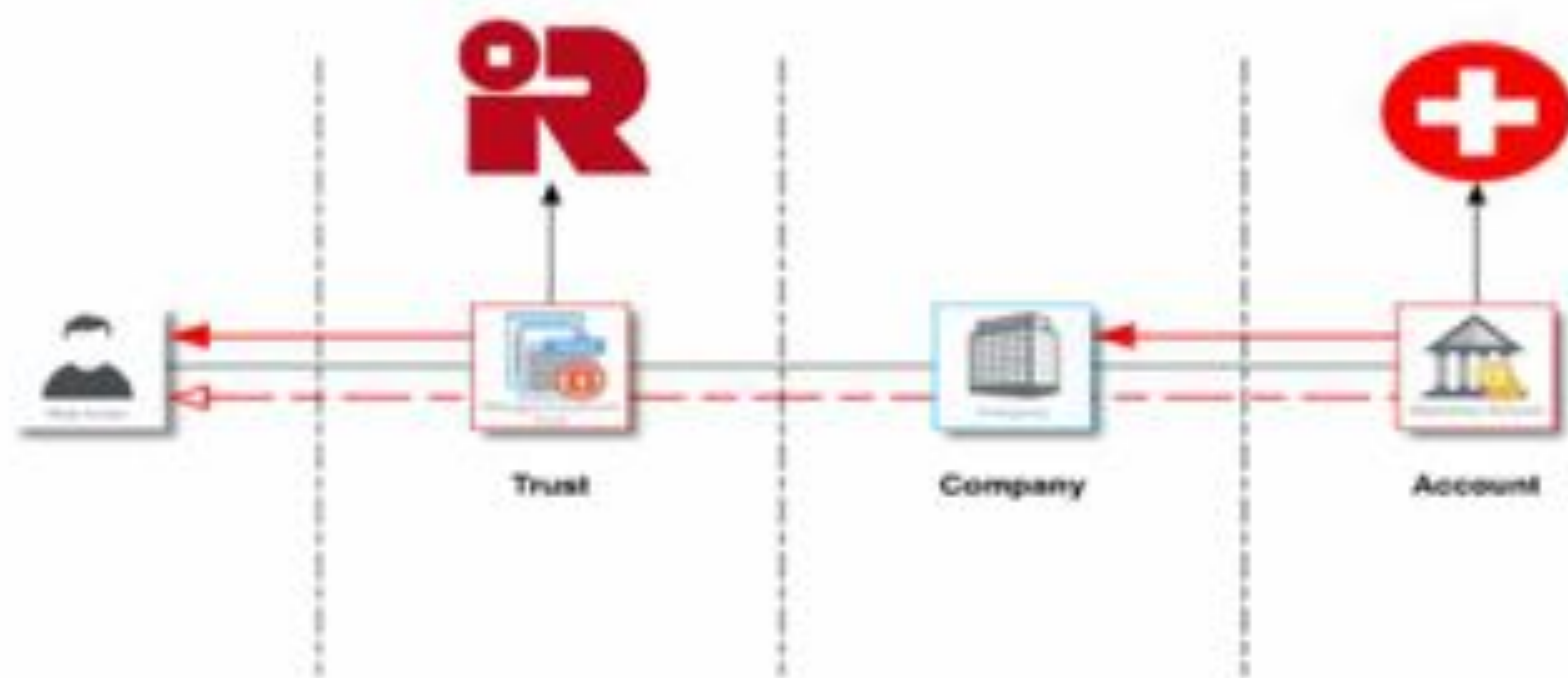


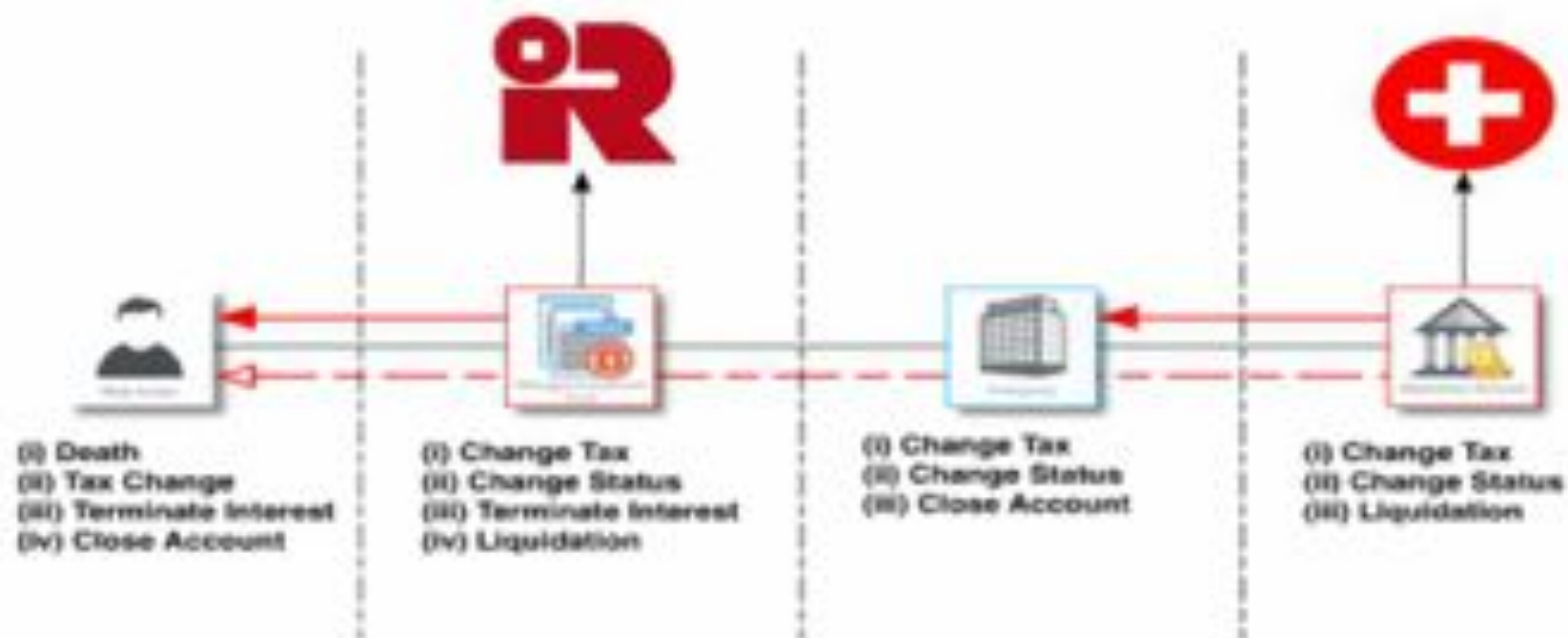








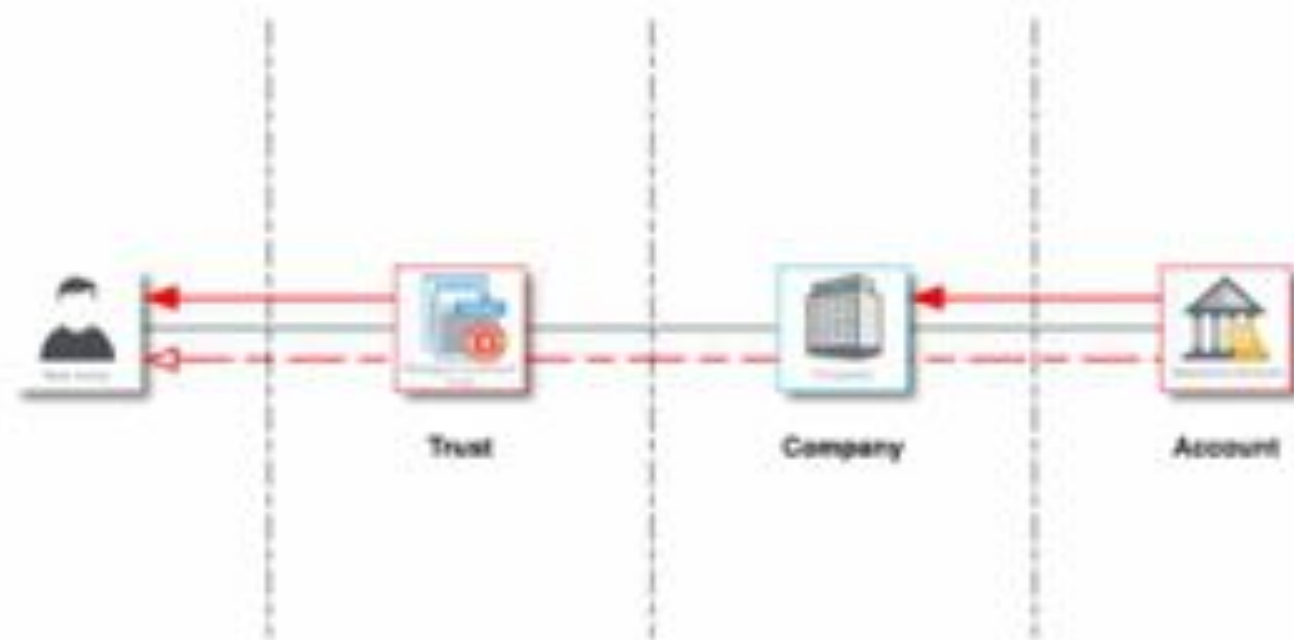


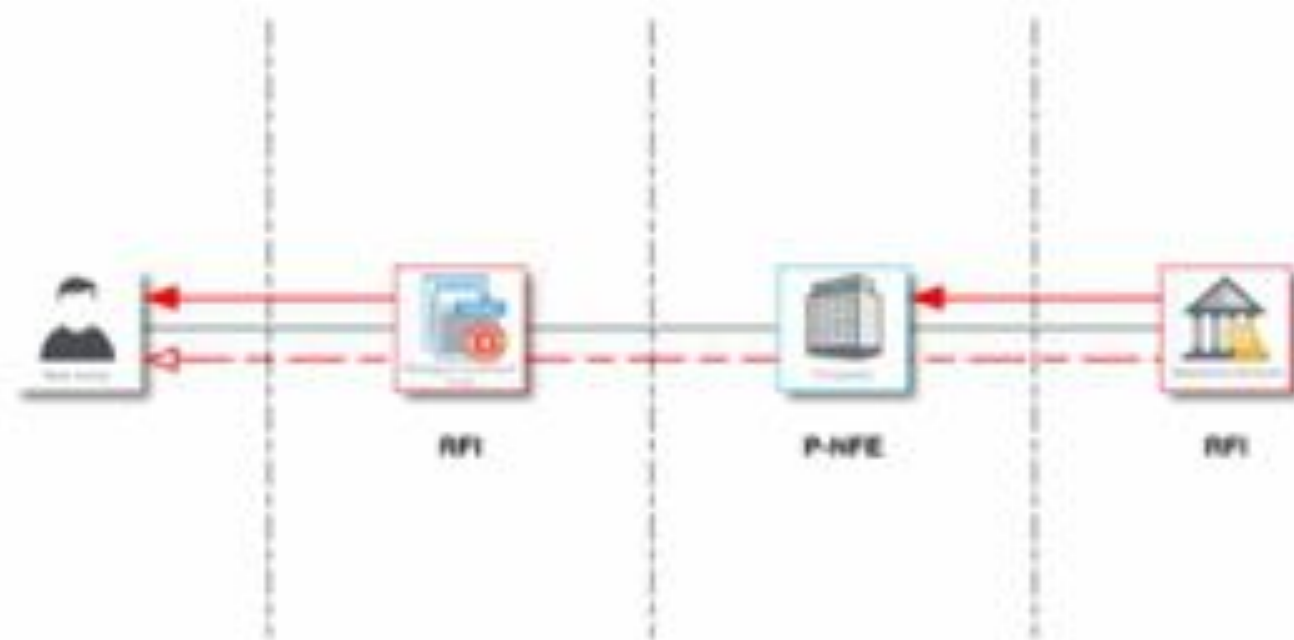


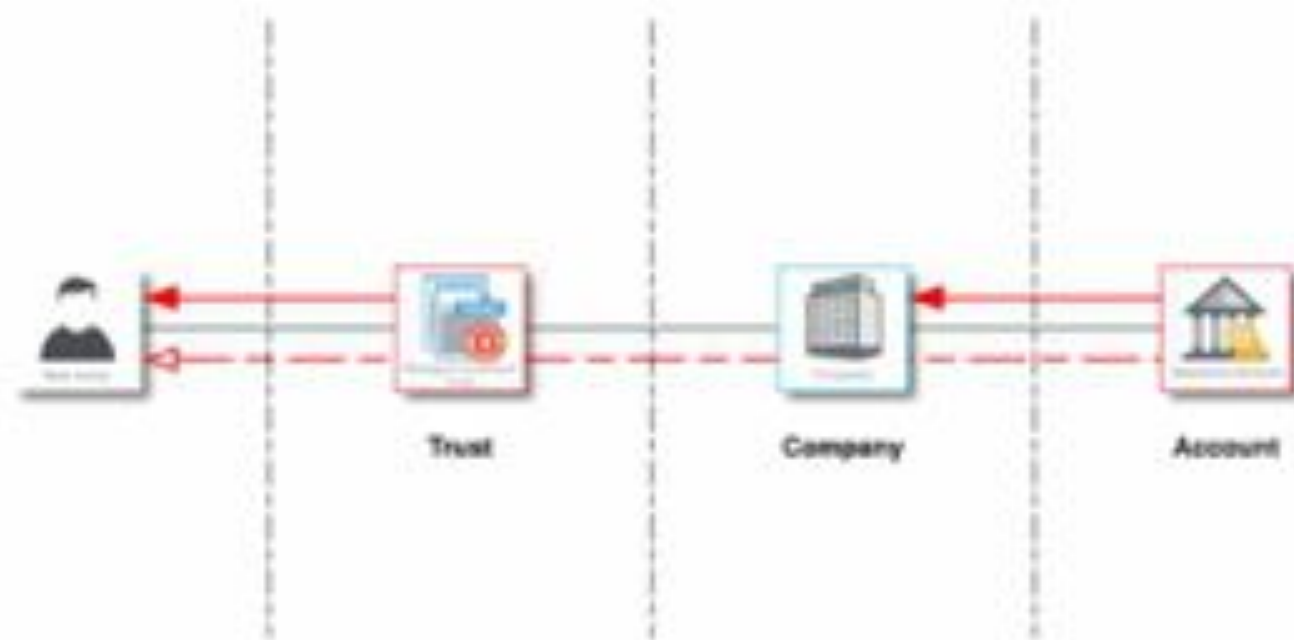
# Practical Examples Workshop Session:

# Example 1

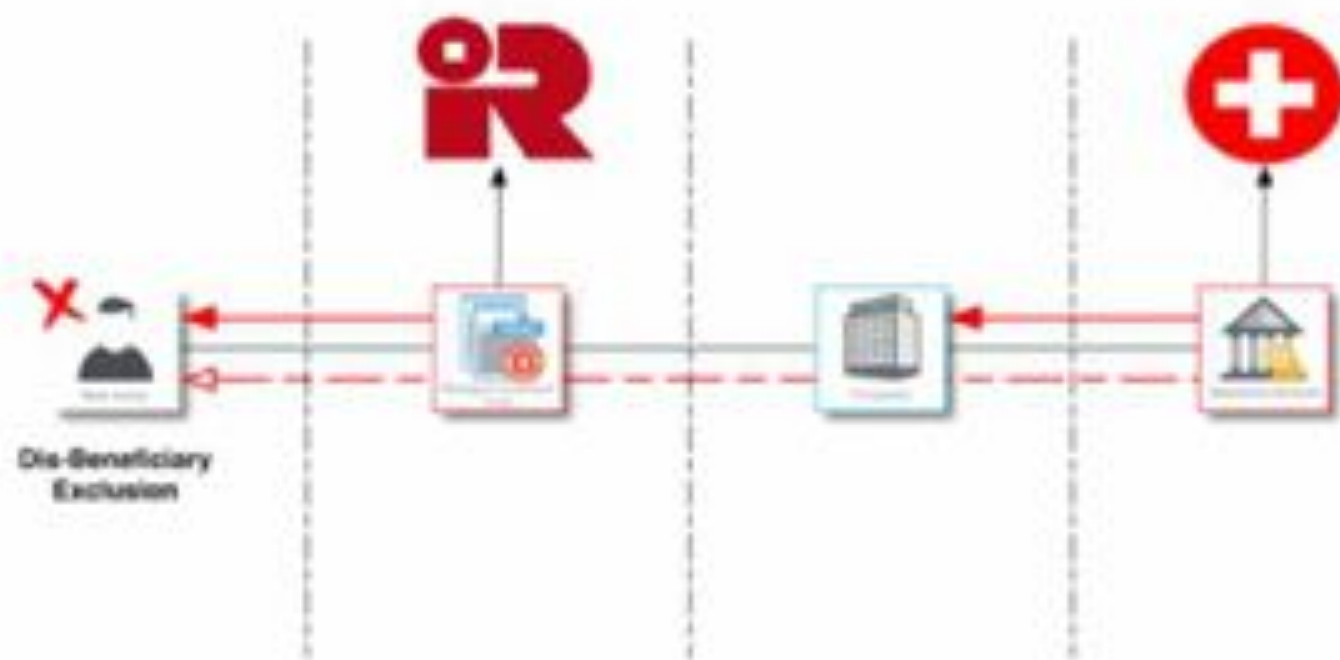
## Investment Entity Trust

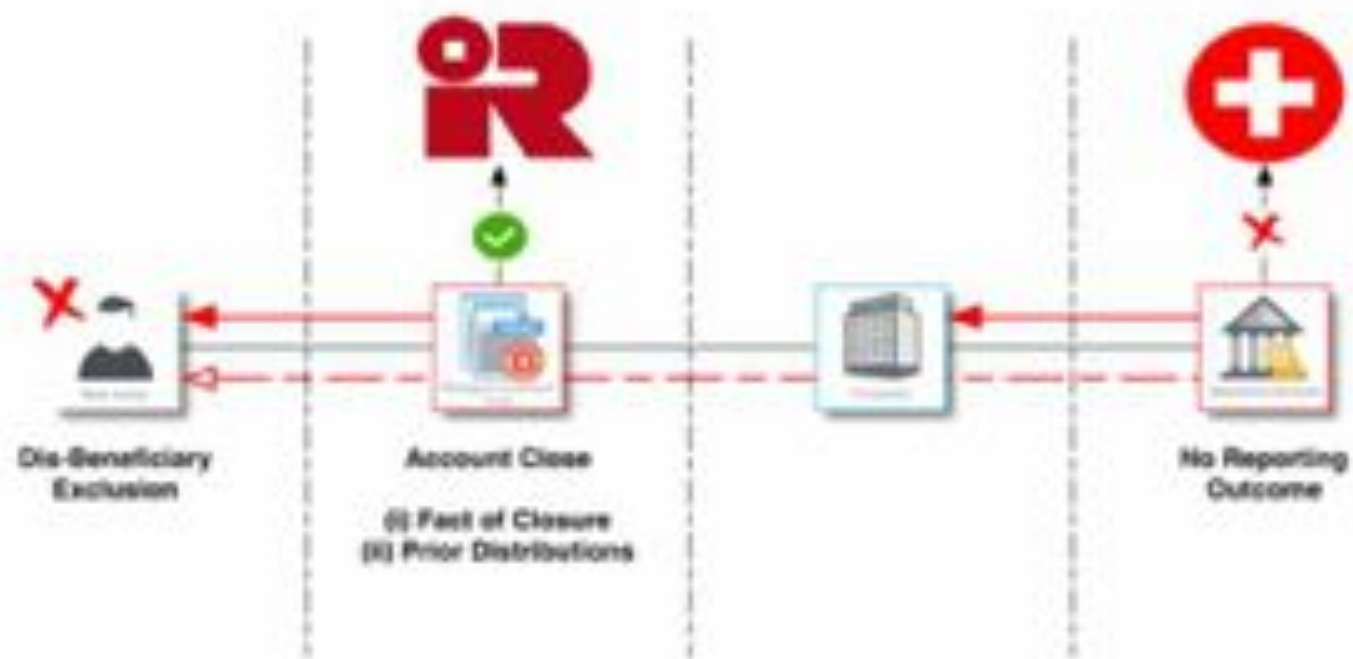


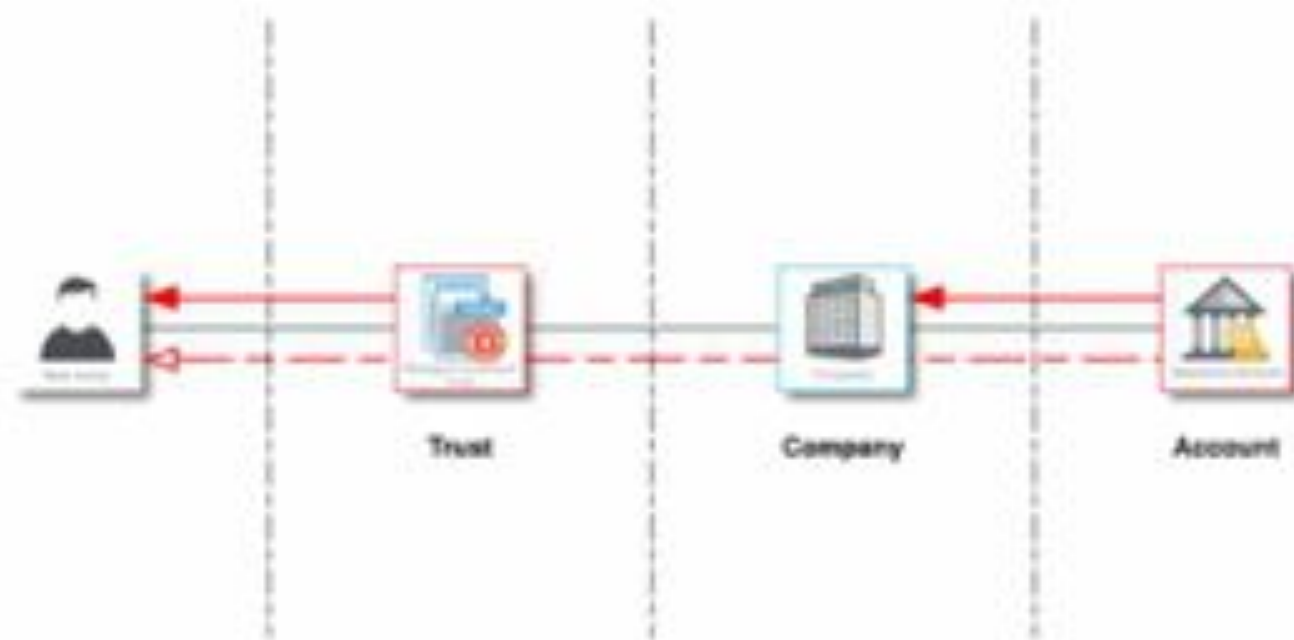




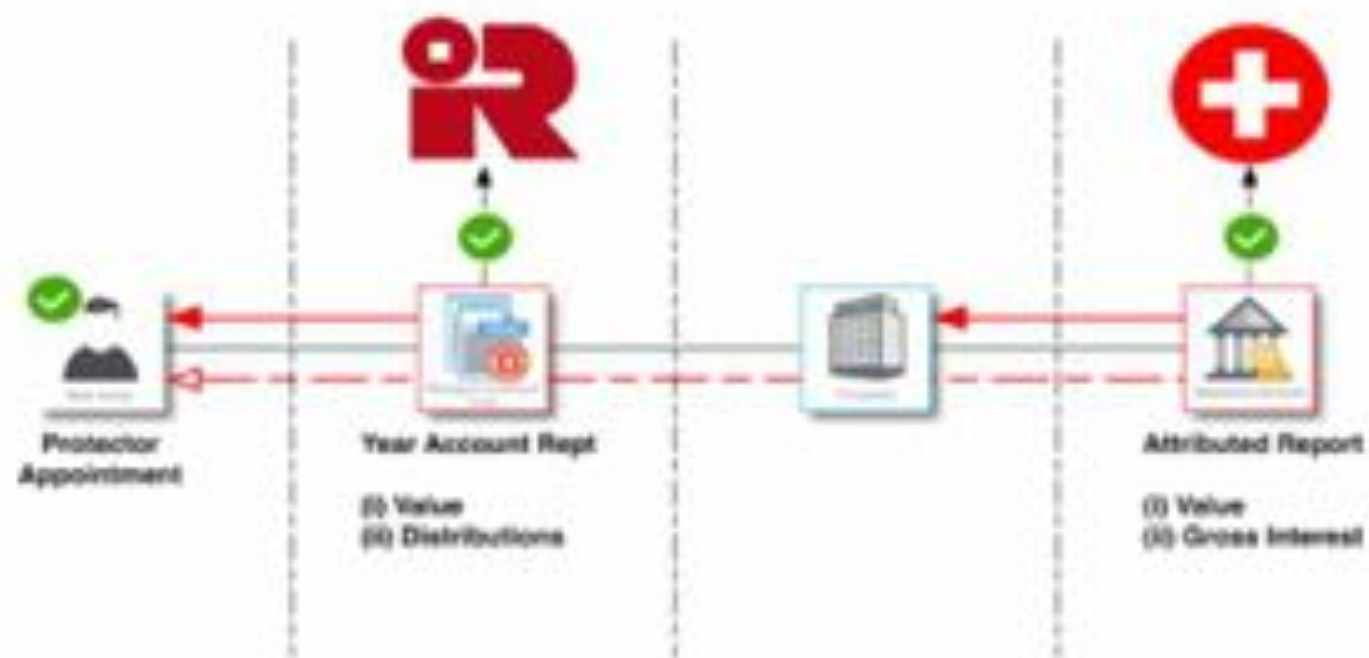


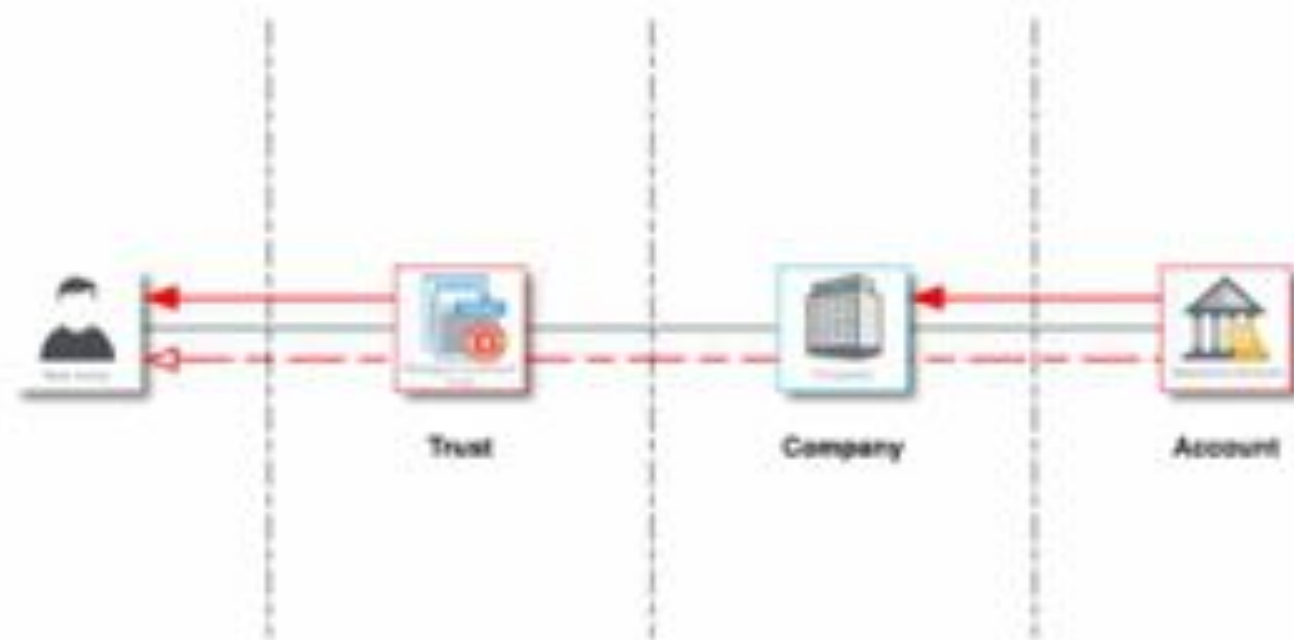


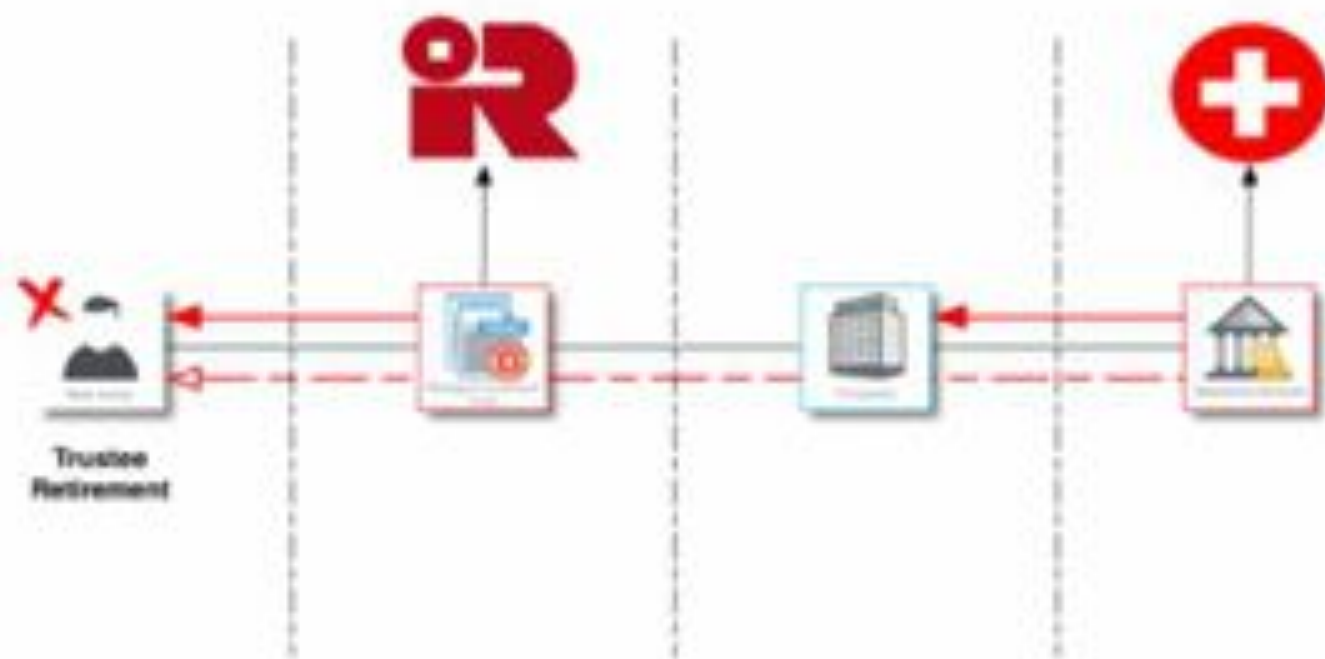


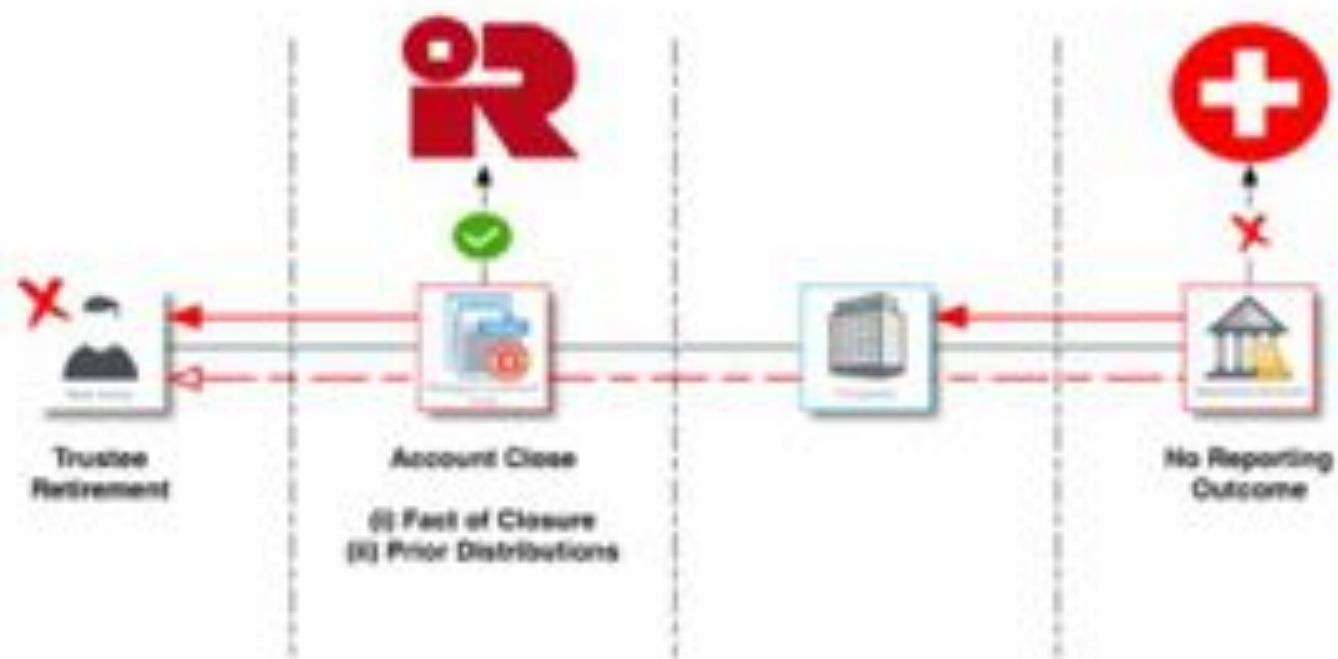




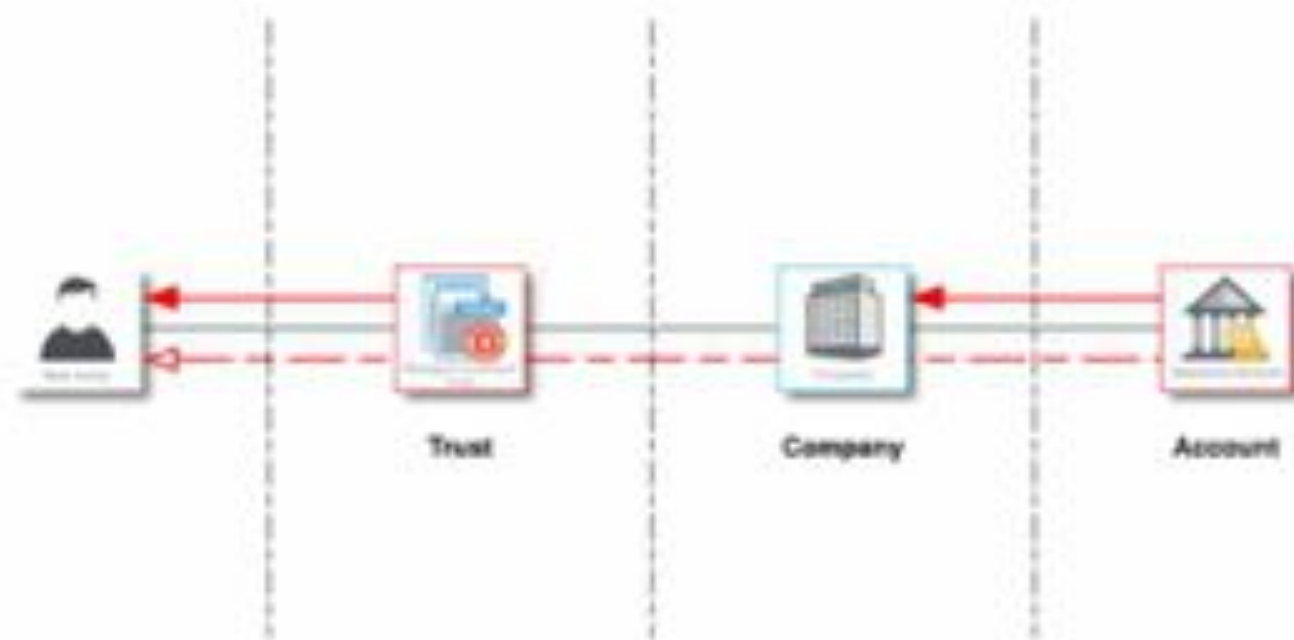






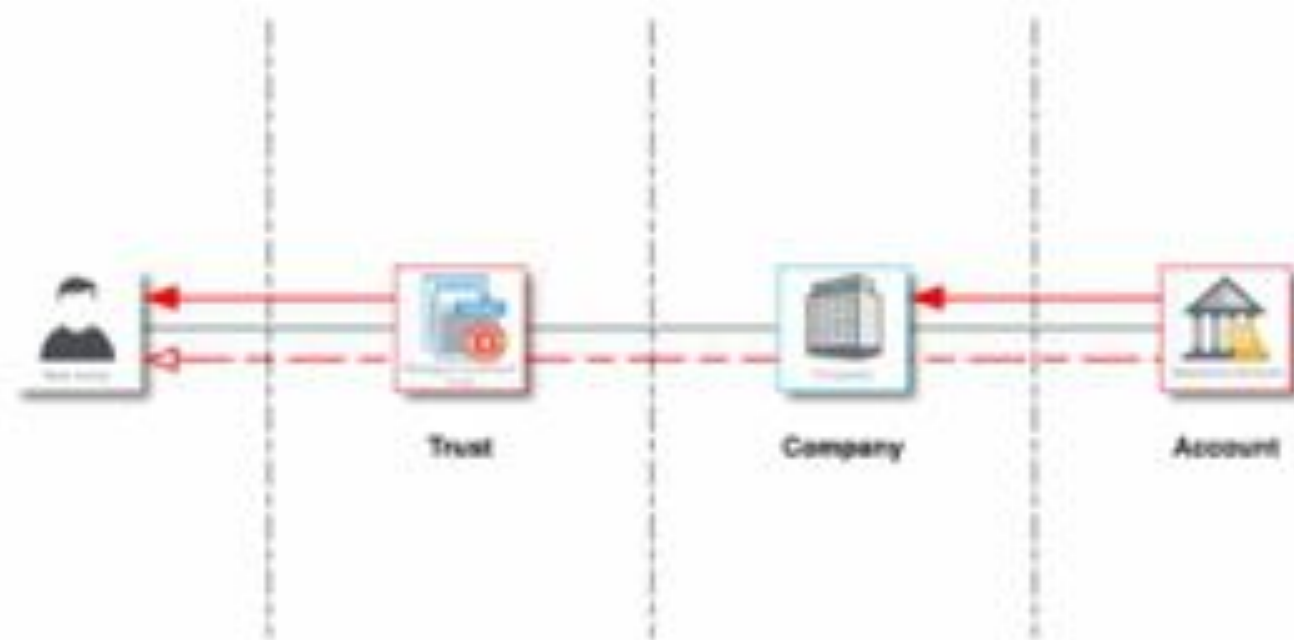


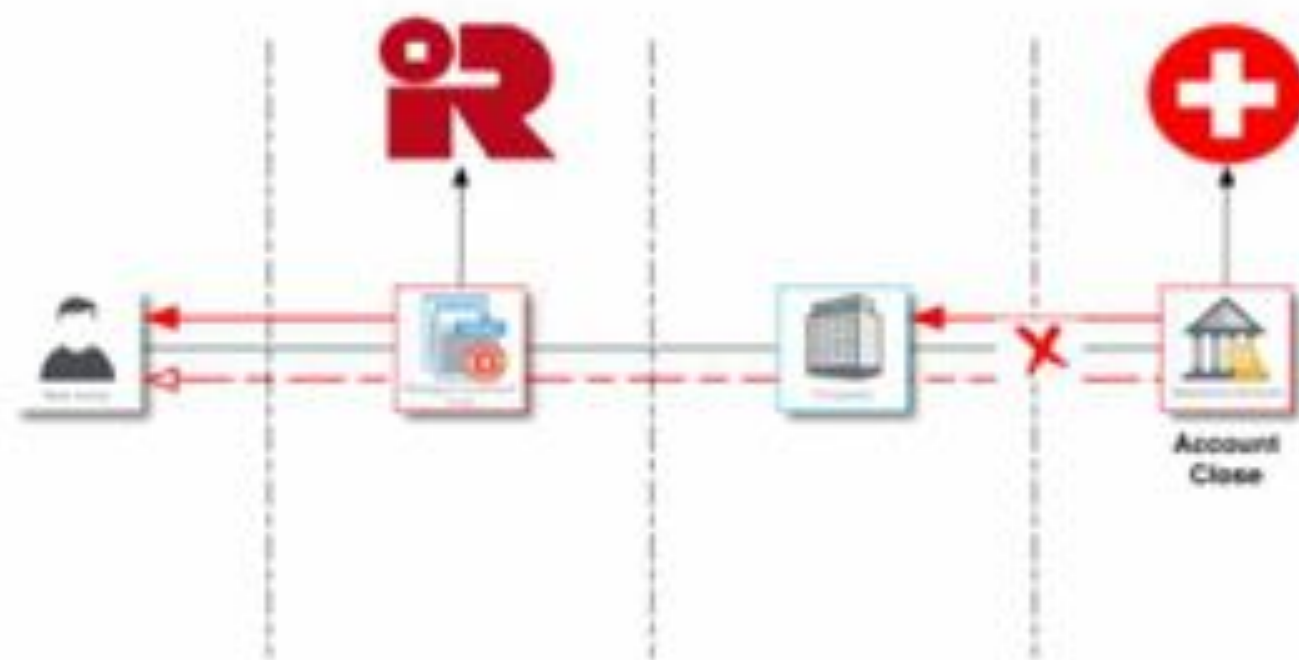


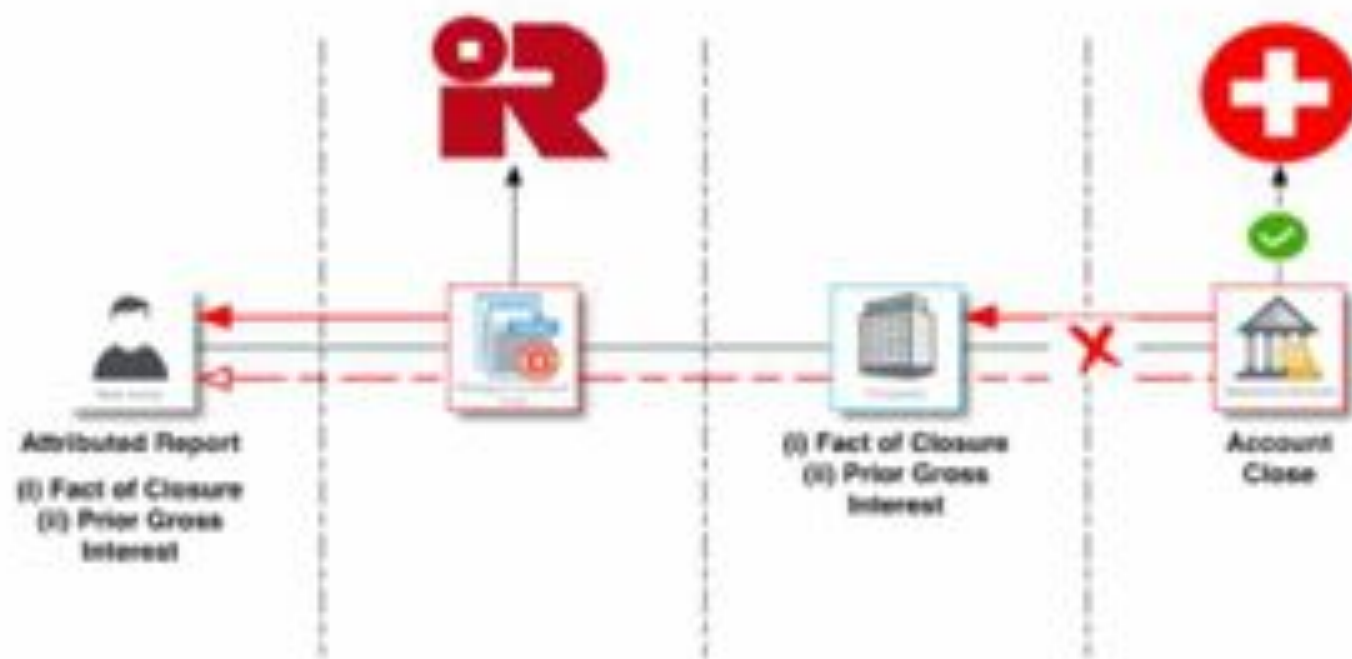










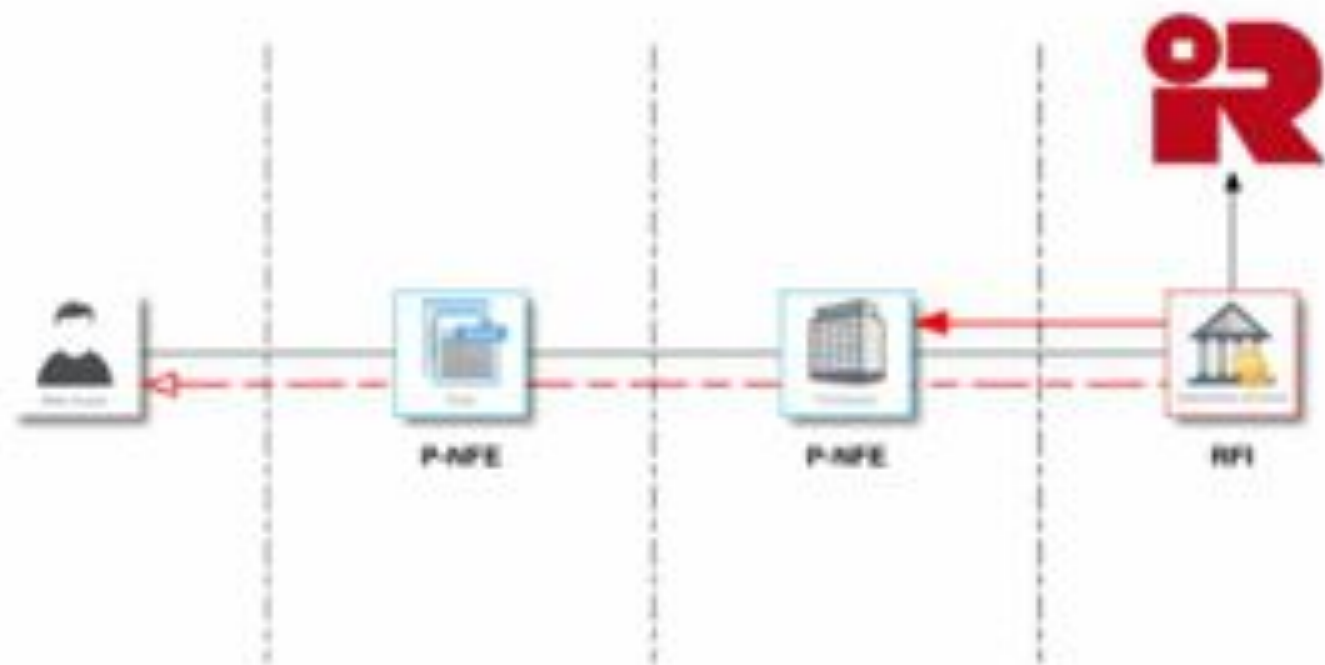


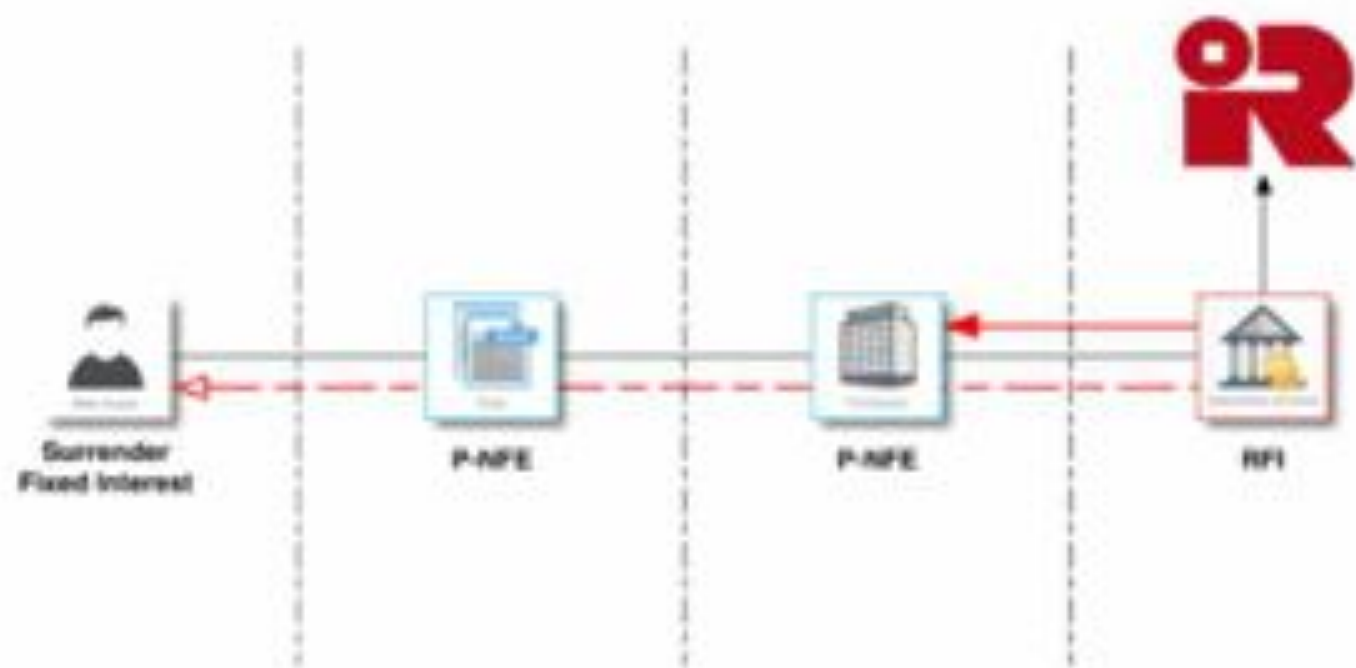


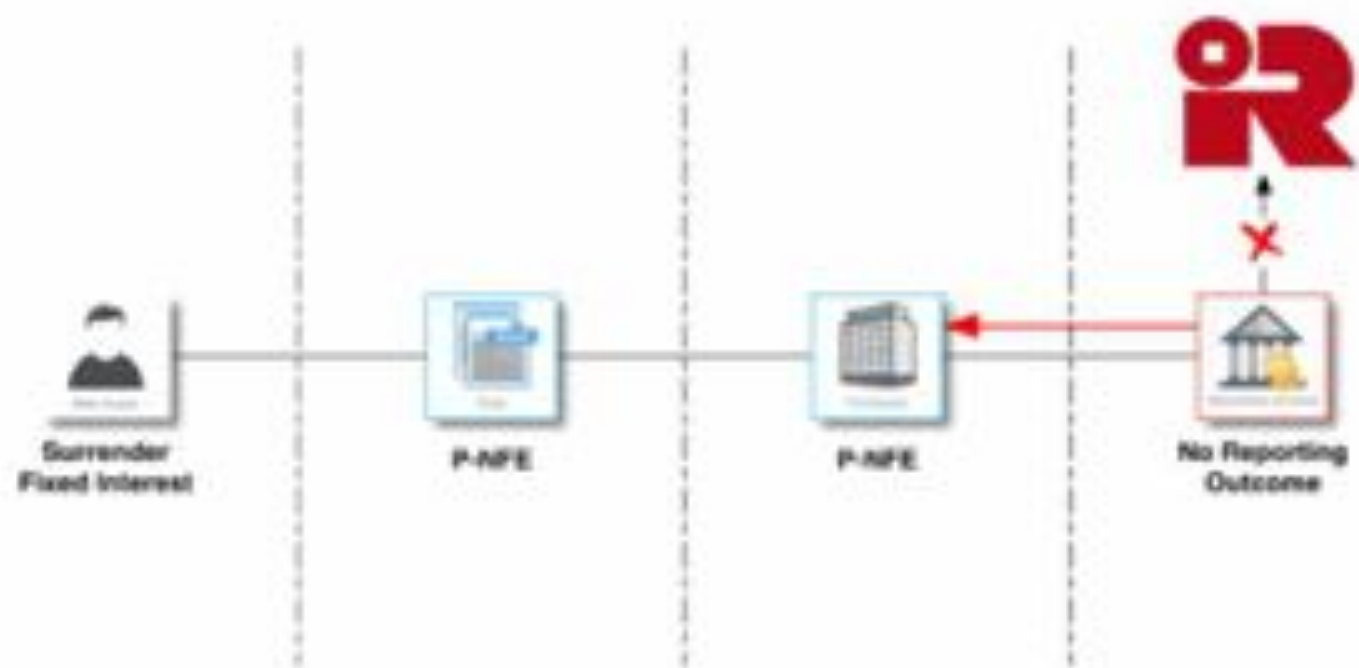
## Example 2

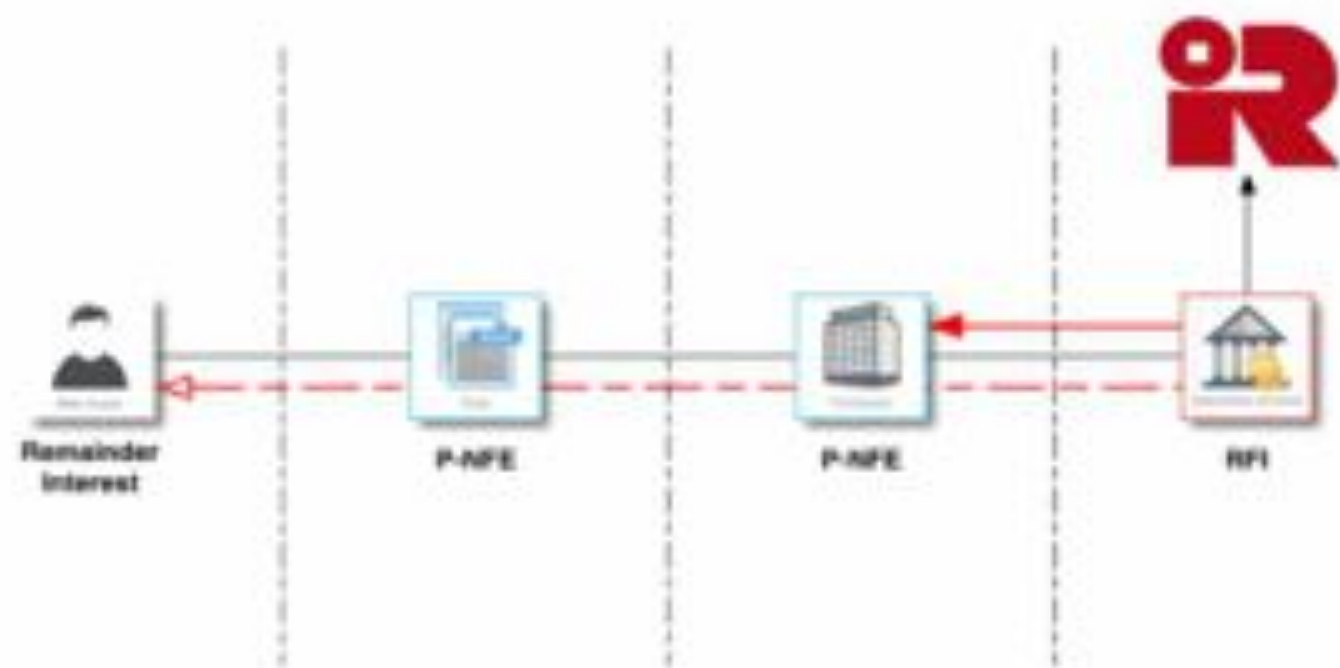
### Fixed Interest Trust, Trust Rearrangement

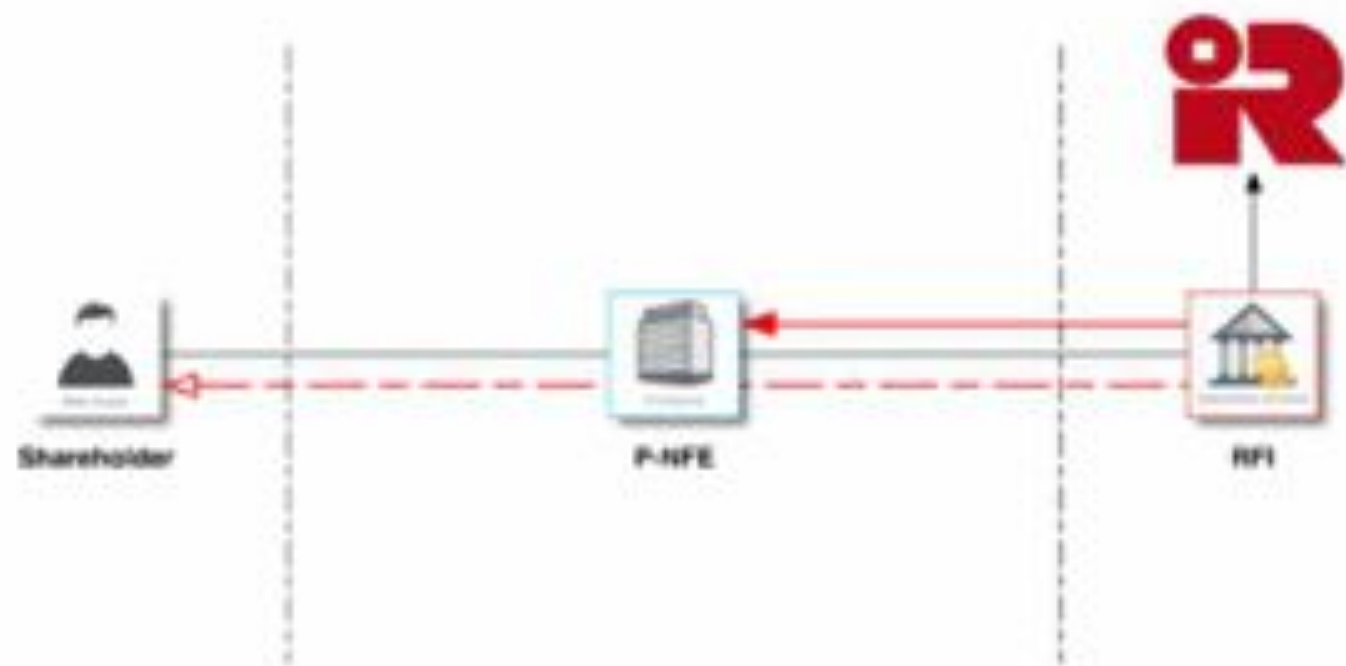


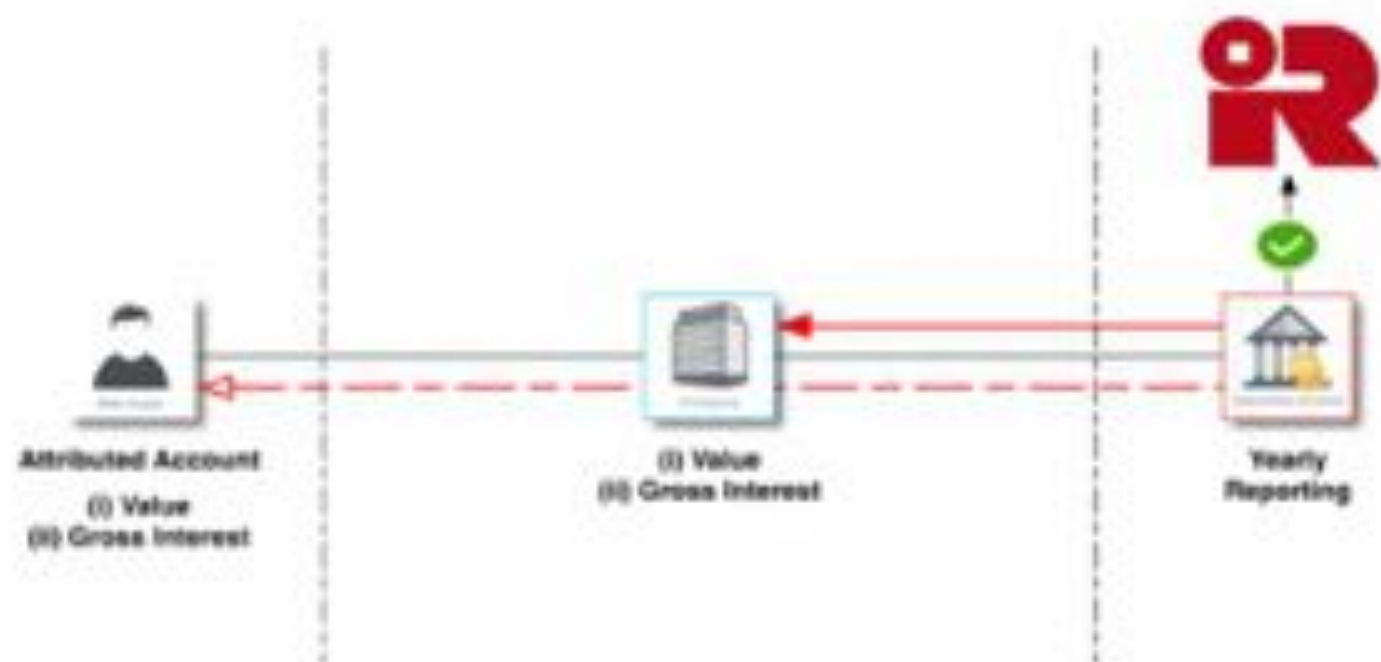










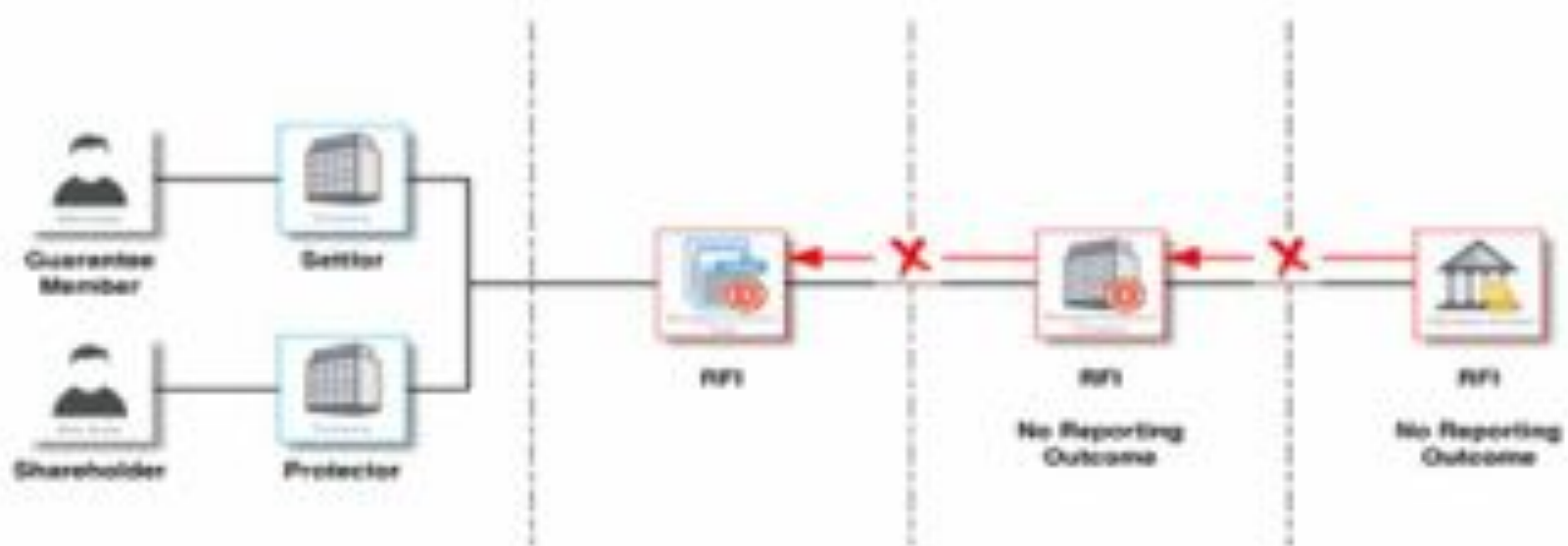


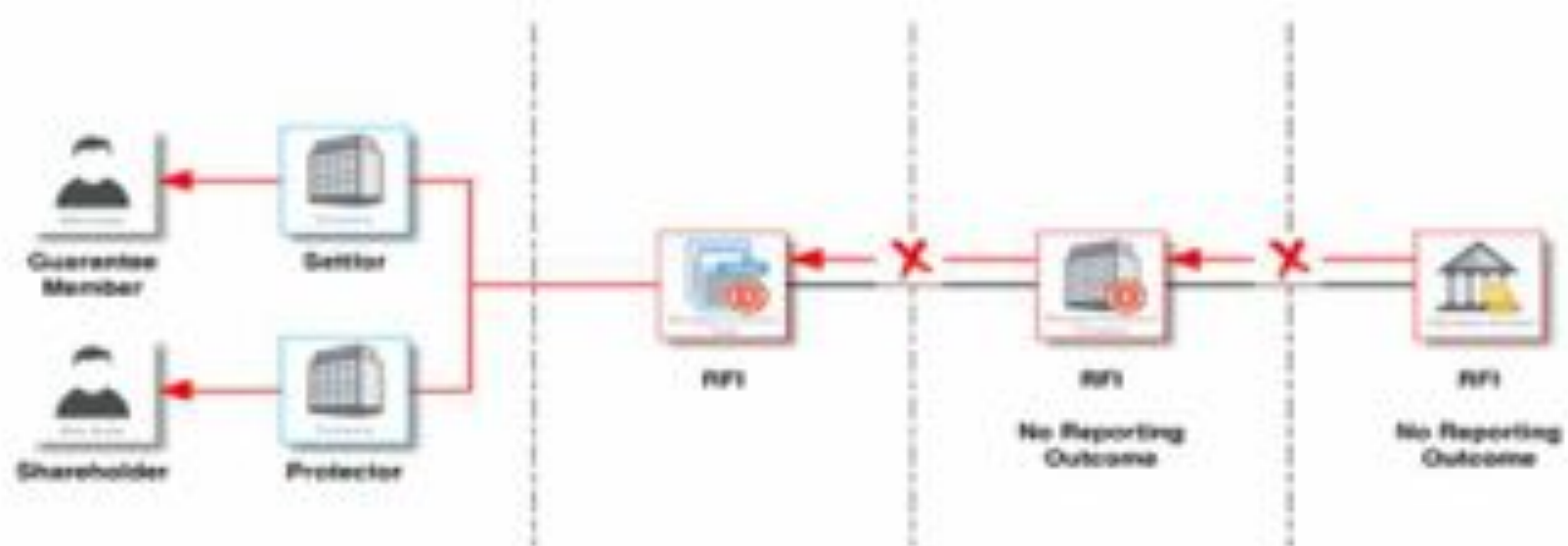
# Example 3

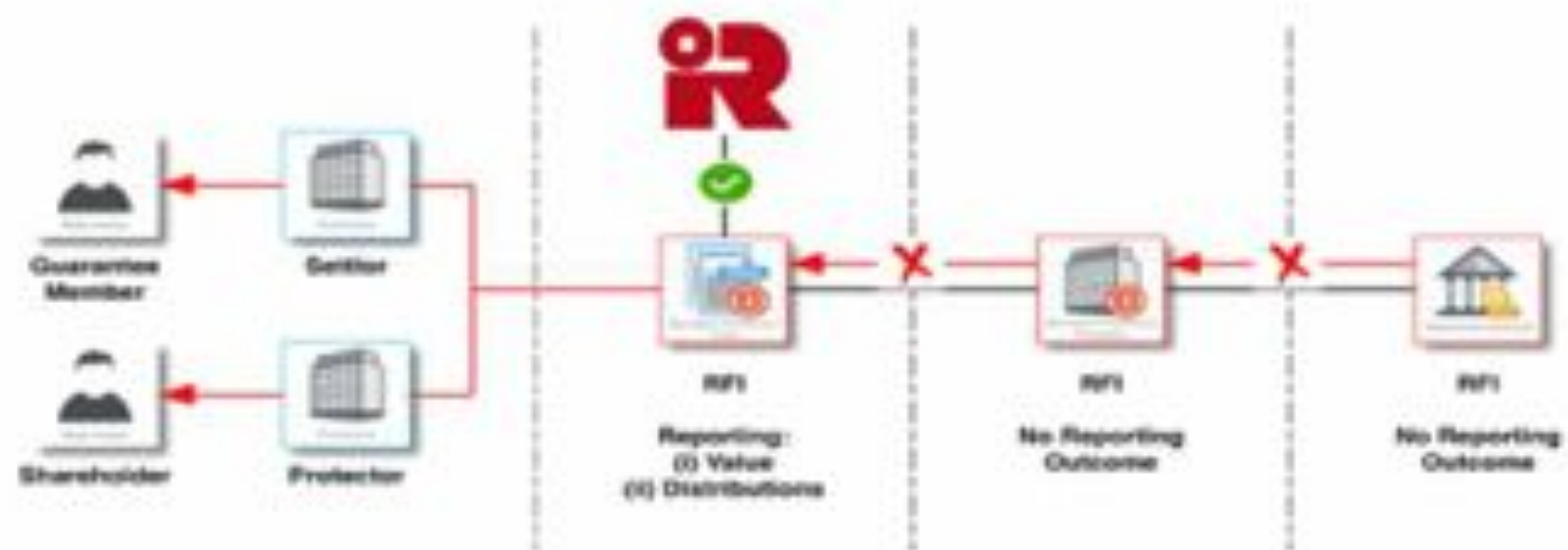
## Corporate Settlor and Protector











Standard for Automatic Exchange of  
Financial Information in Tax Matters

IMPLEMENTATION  
HANDBOOK

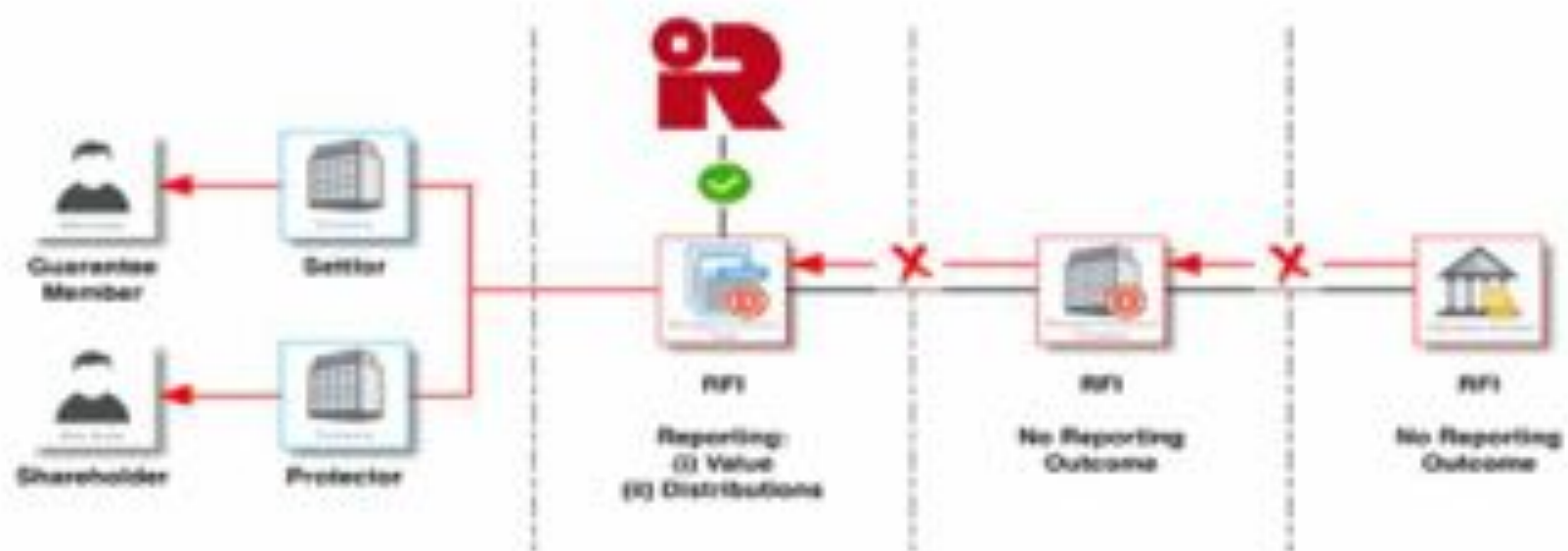
Second edition

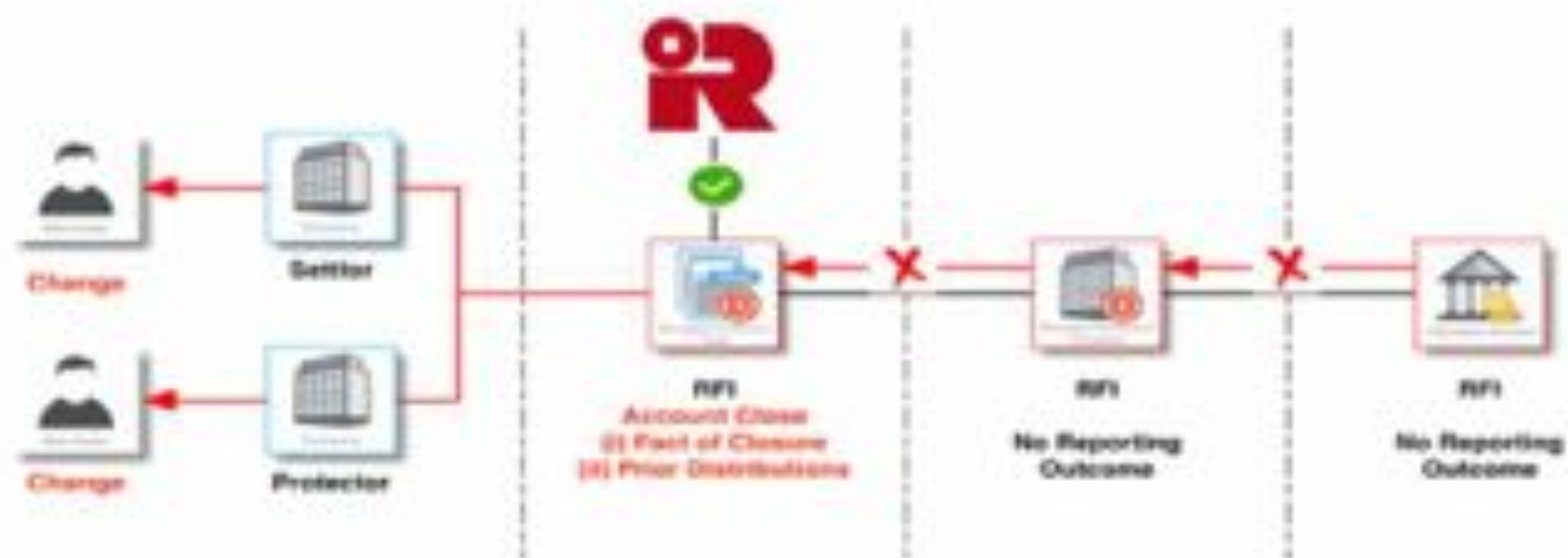


OECD  
ORGANISATION FOR ECONOMIC CO-OPERATION  
AND DEVELOPMENT

256. Where an Equity Interest (such as the interest held by a settlor, beneficiary or any other natural person exercising ultimate effective control over the trust) is held by an Entity, the Equity Interest holder will instead be the Controlling Persons of that Entity. As such, the trust will be required to look through a settlor, trustee, protector or beneficiary that is an Entity to locate the relevant Controlling Person. This look through obligation

CRS p. 51, 38  
and 41,  
Com p. 178,  
140, 147  
and 199

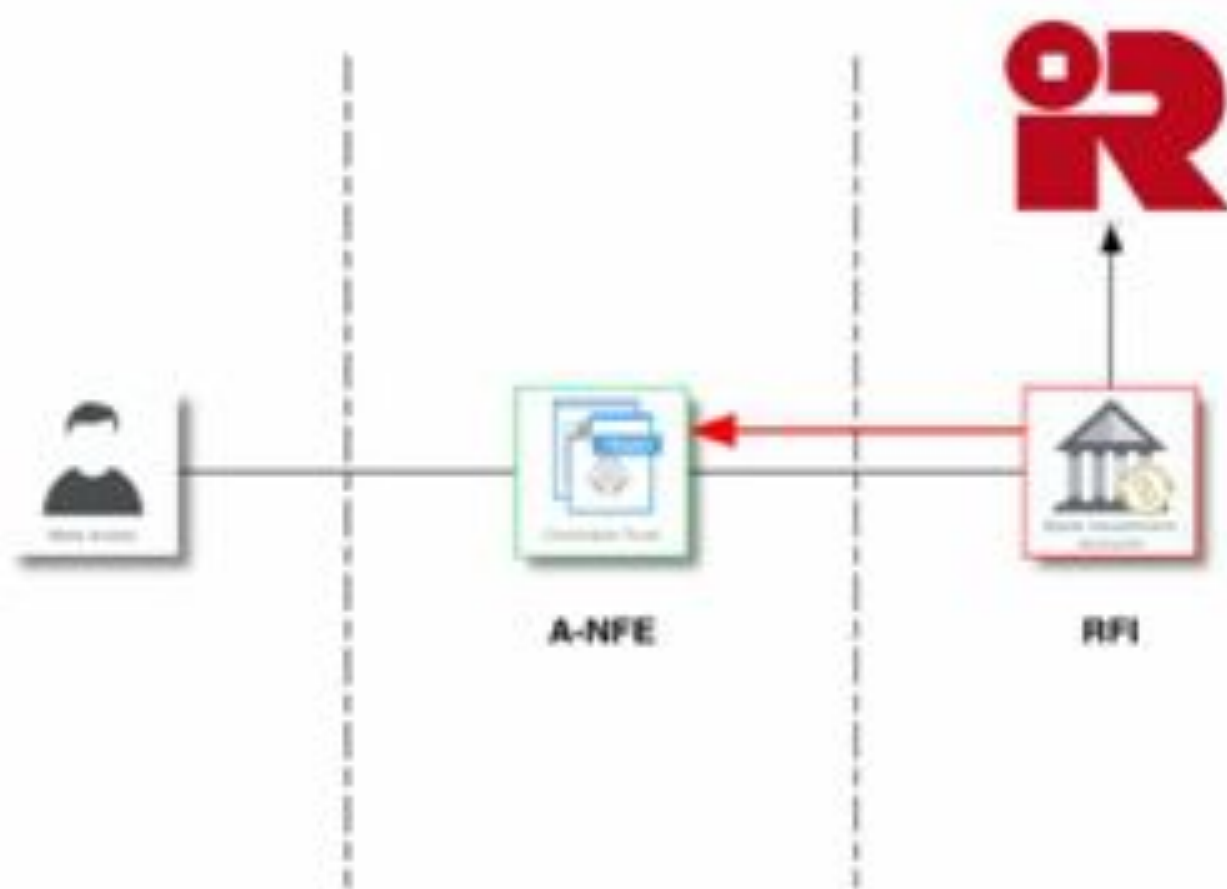


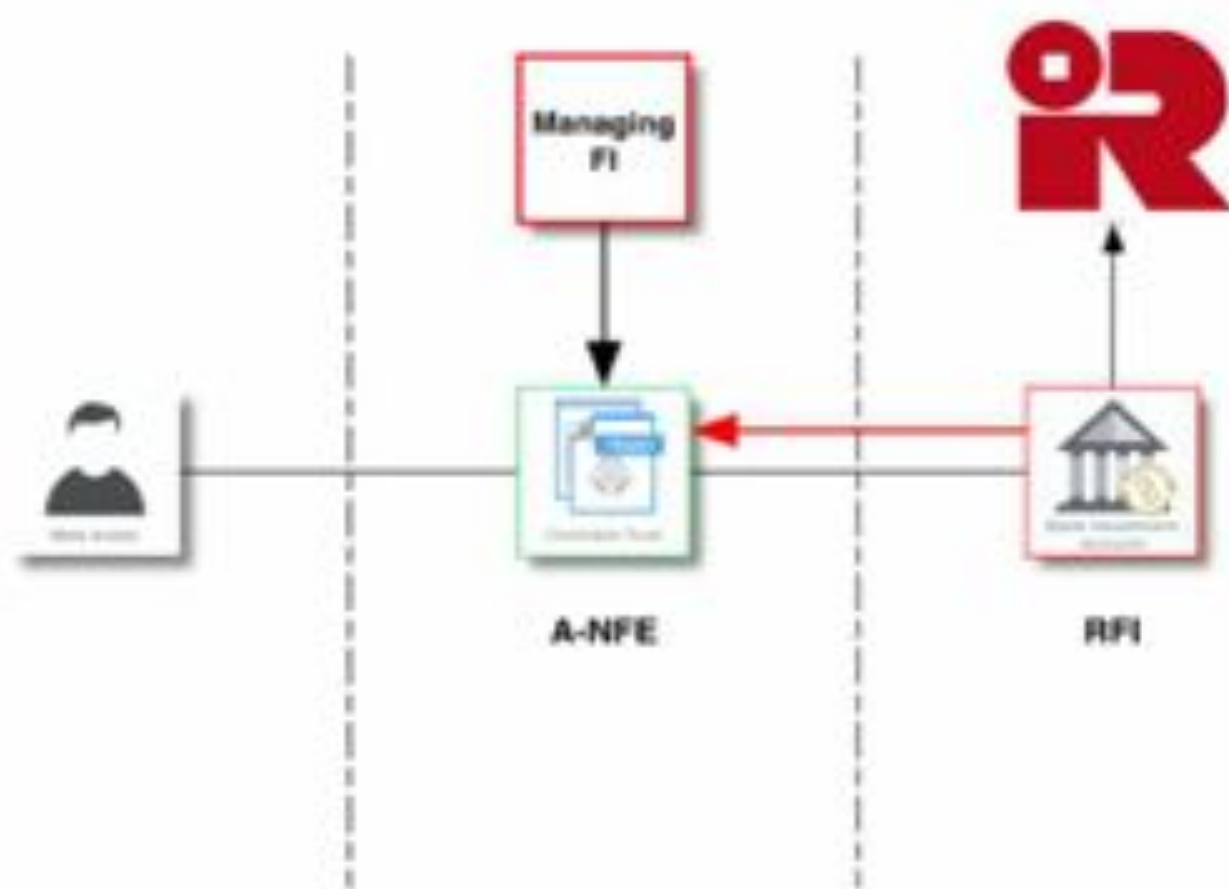


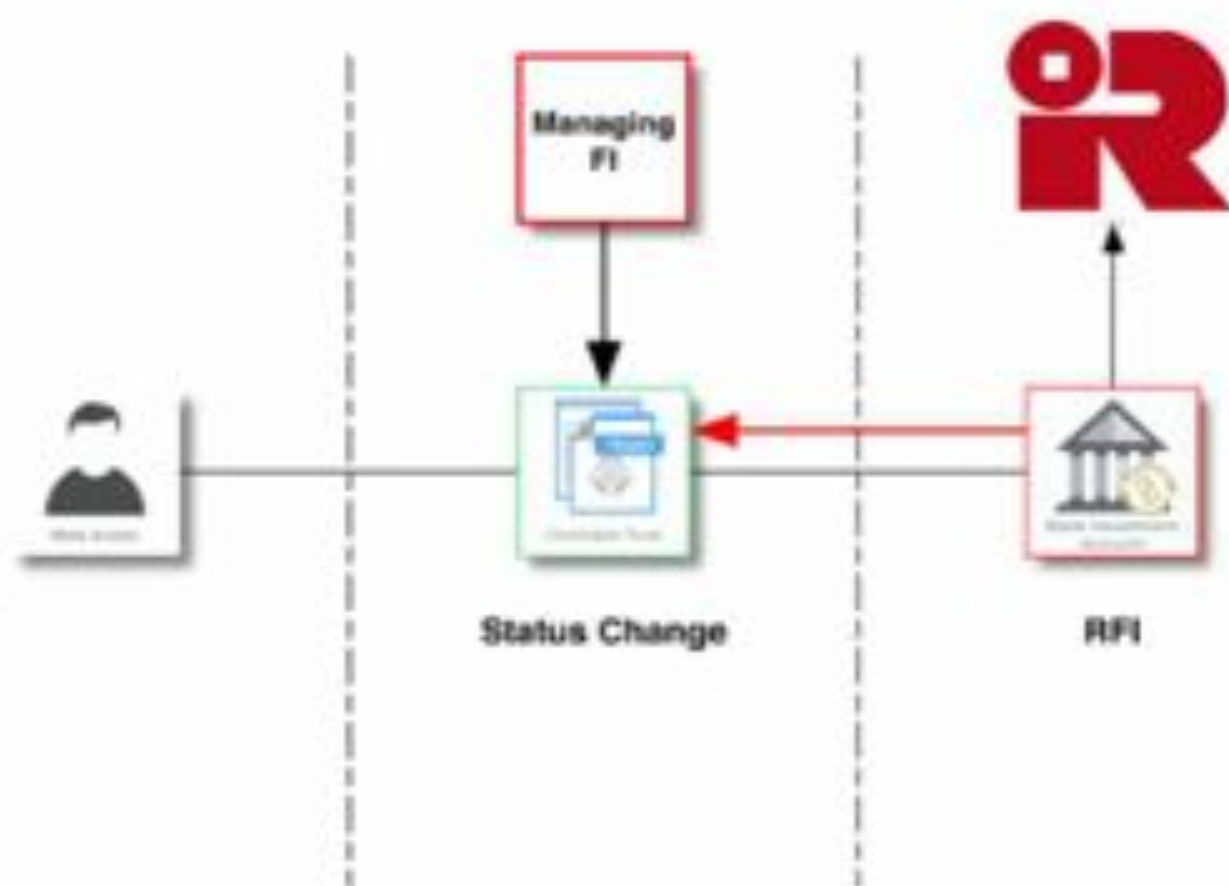
## Example 7

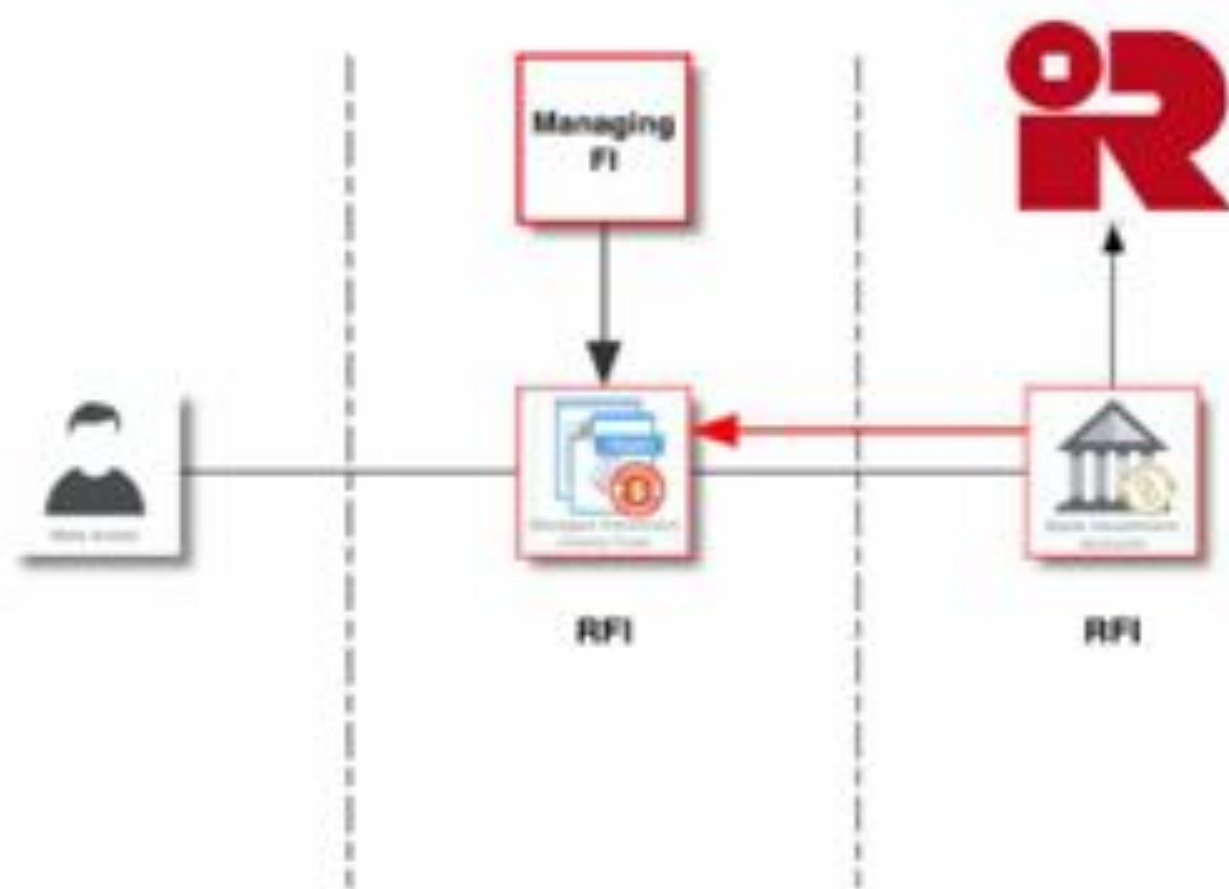
### Charitable Trust RFI Conversion

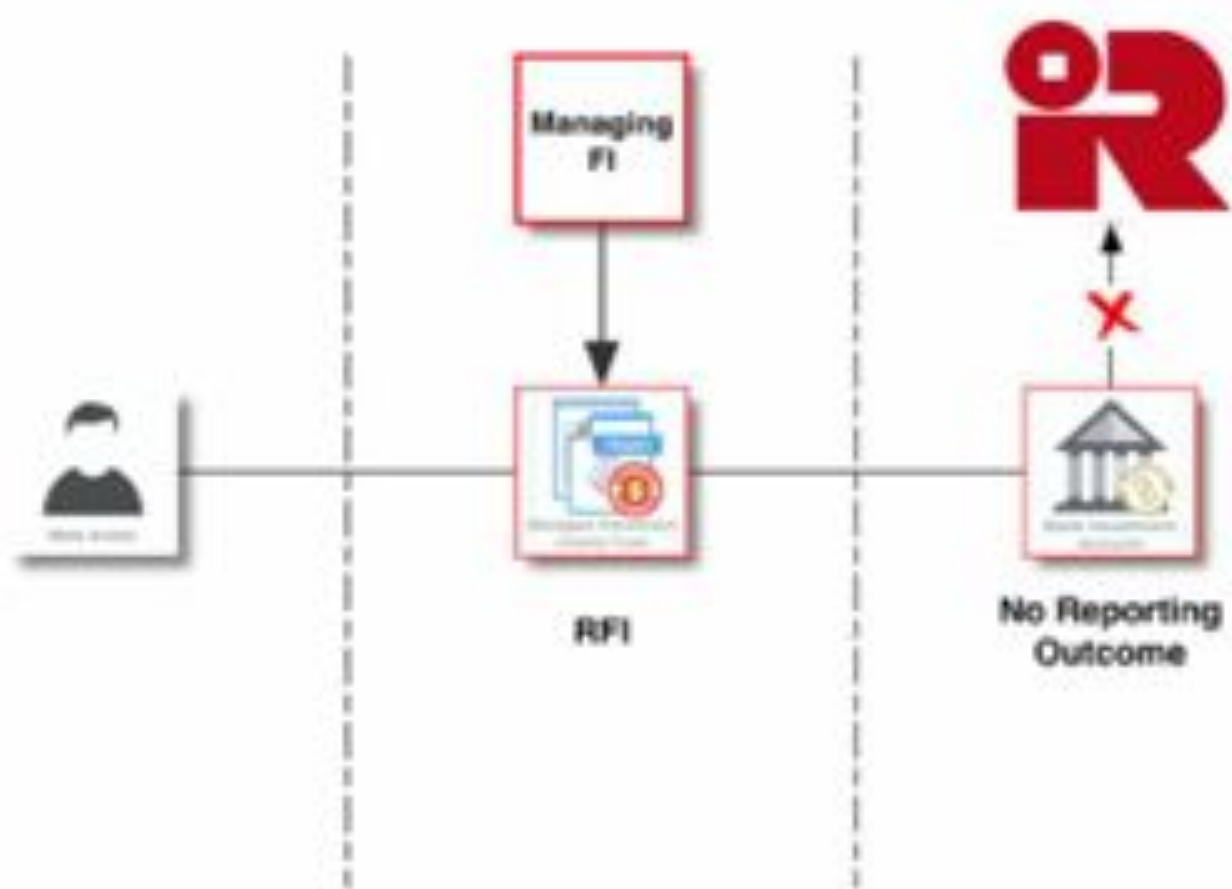


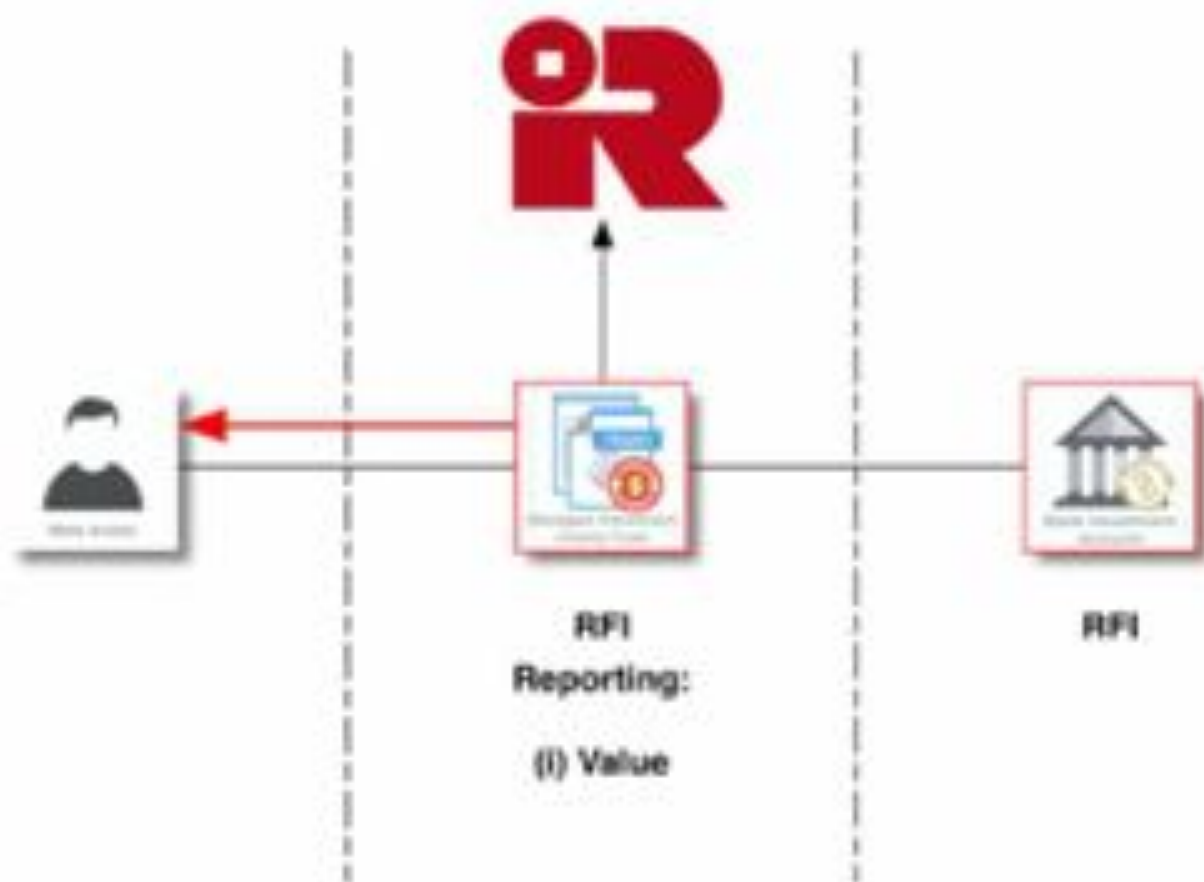






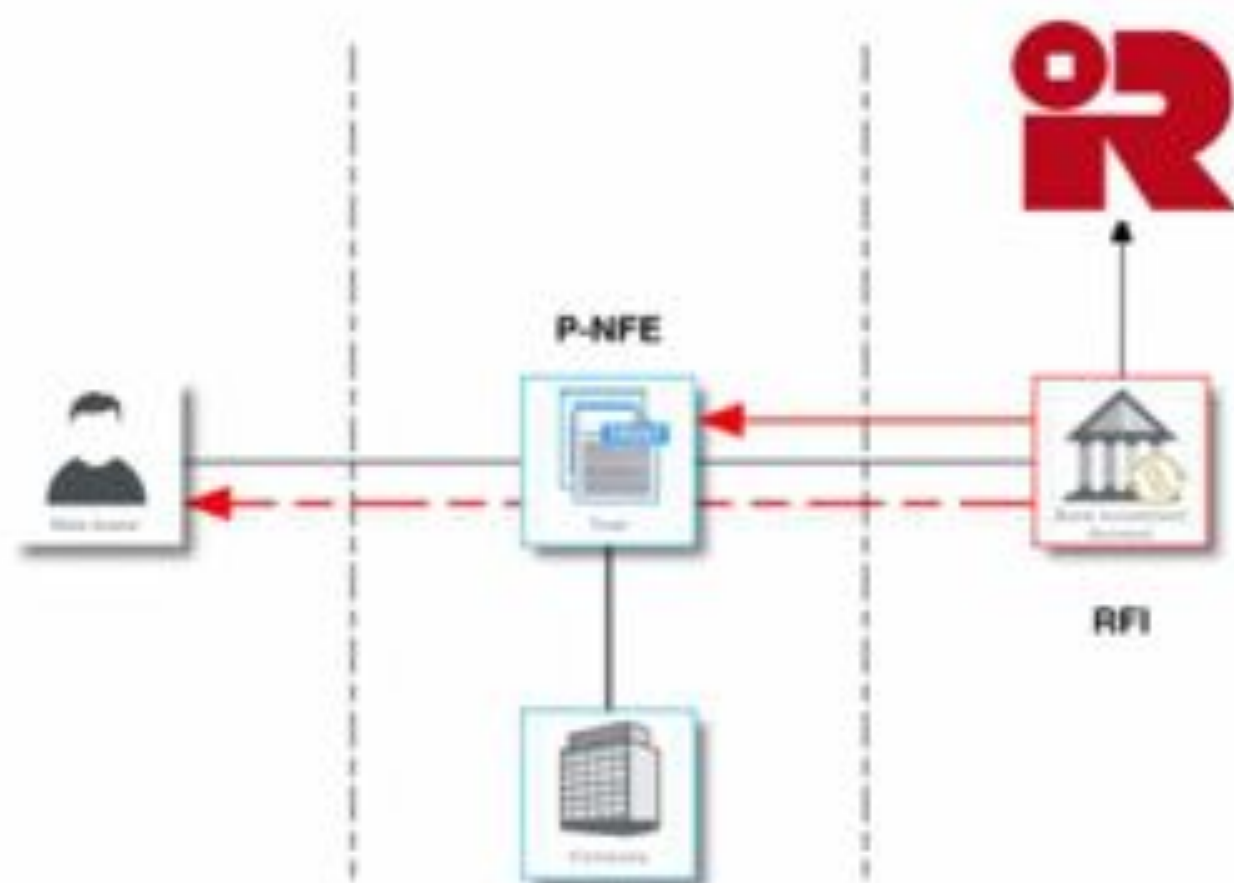




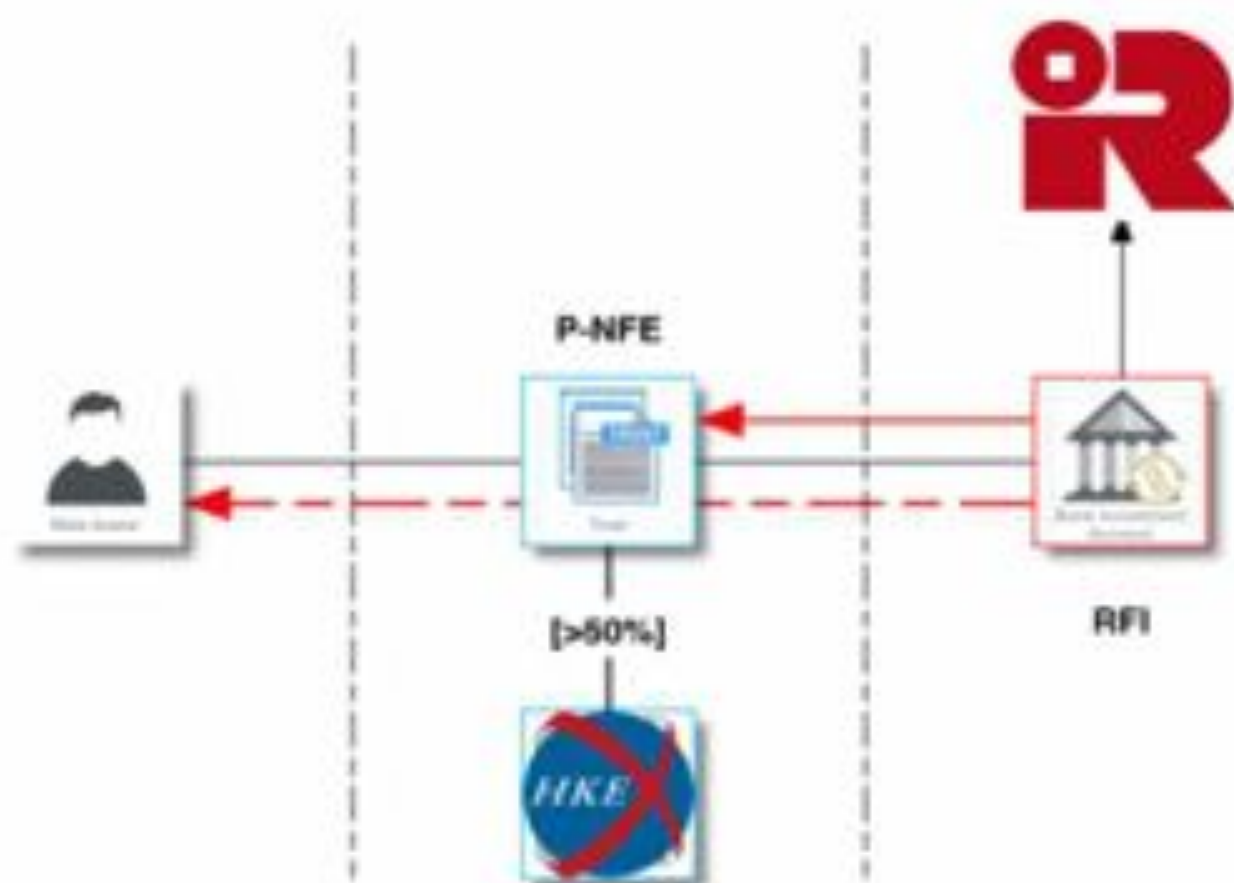


## Example 4

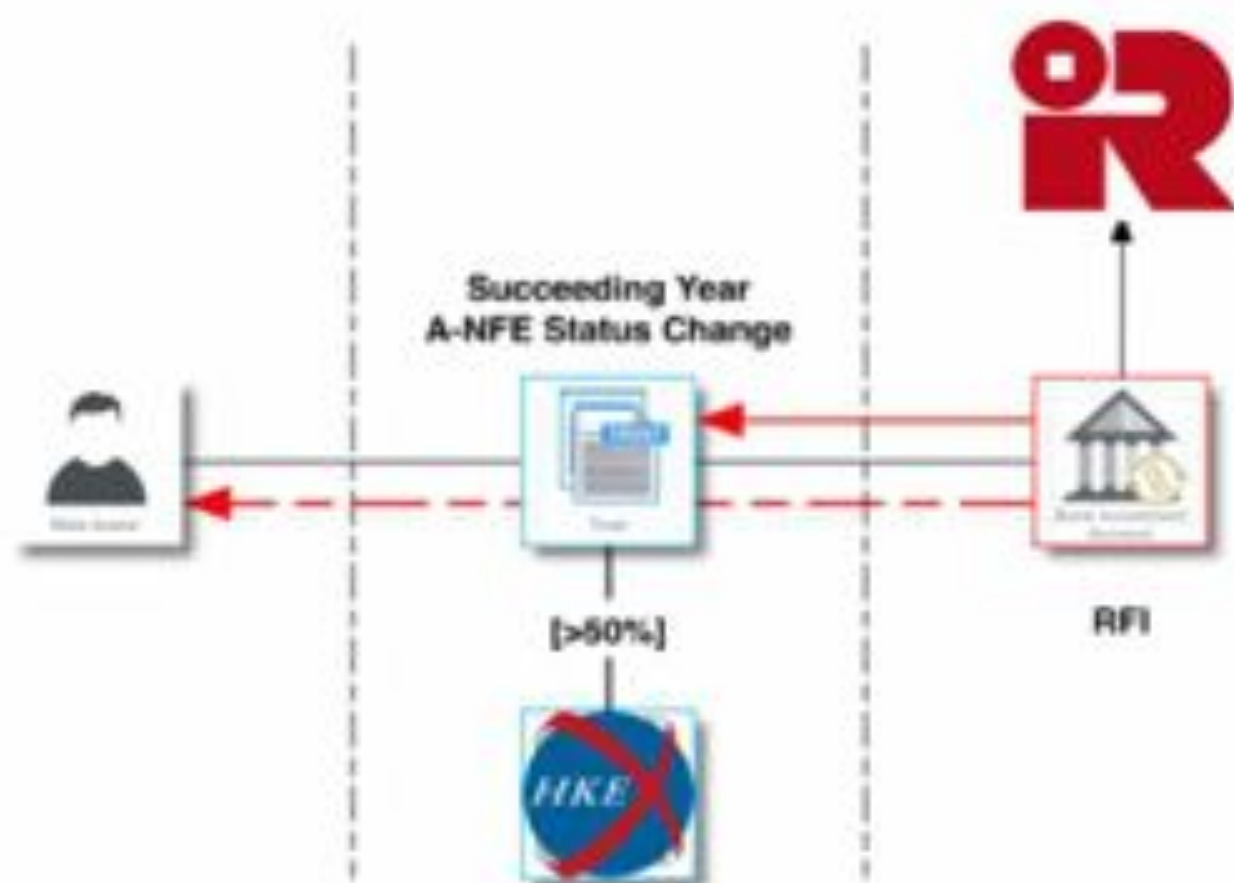
### Trust ListCo Combination Structure

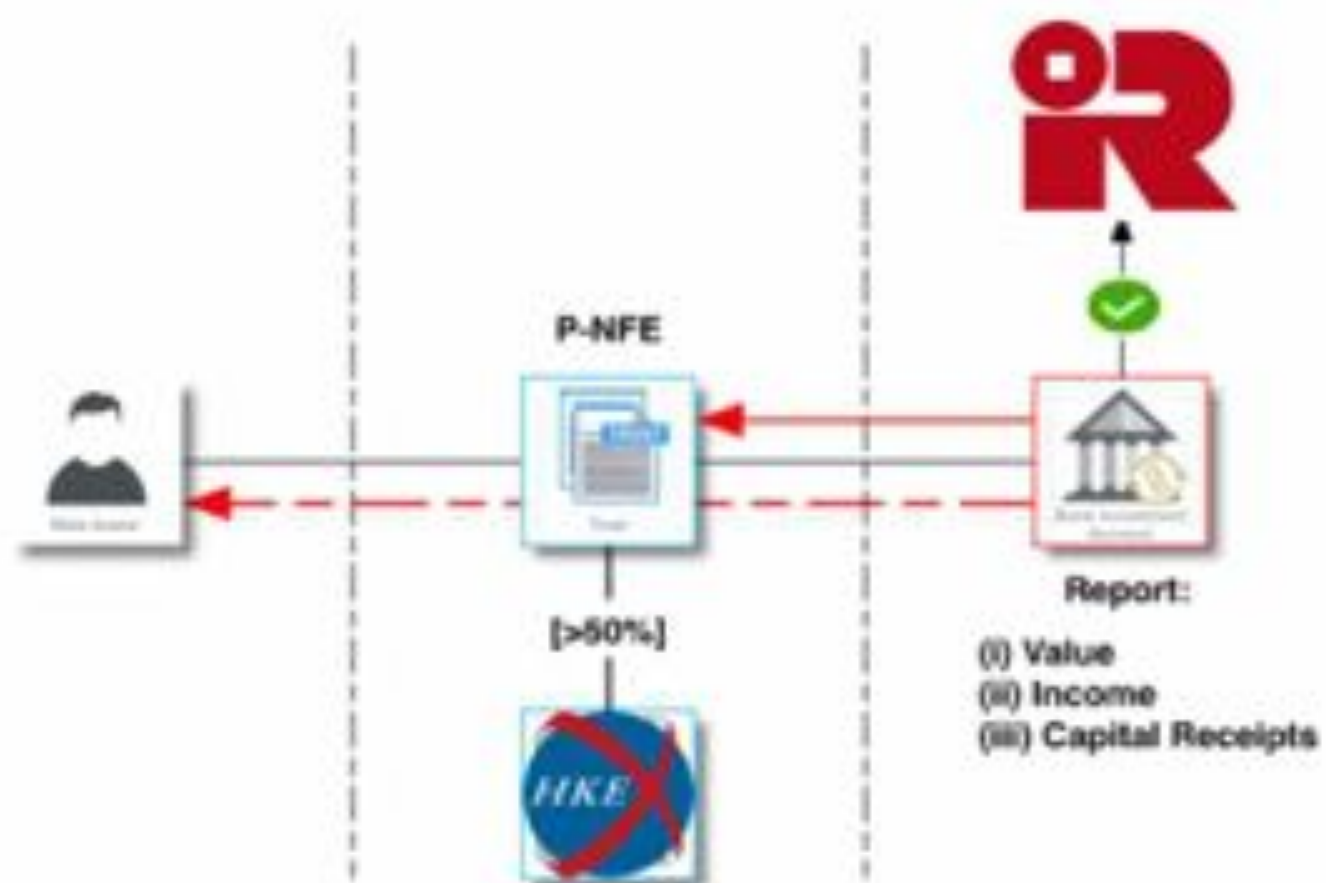






113. With respect to each class of stock of the corporation, there is a “meaningful volume of trading on an on-going basis” if (i) trades in each such class are effected, other than in de minimis quantities, on one or more established securities markets on at least 60 business days during the prior calendar year; and (ii) the aggregate number of shares in each such class that are traded on such market or markets during the prior year are at least 10% of the average number of shares outstanding in that class during the prior calendar year.





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*Advisory*

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